

IN THE SUPREME COURT OF THE STATE OF NEVADA

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND; AND CITY OF
STERLING HEIGHTS POLICE AND FIRE
RETIREMENT SYSTEM, DERIVATIVELY
ON BEHALF OF NOMINAL DEFENDANT
DISH NETWORK CORPORATION,

Appellants,

vs.

CHARLES W. ERGEN; JAMES DEFRANCO;
CANTEY M. ERGEN; STEVEN R.
GOODBARN; DAVID K. MOSKOWITZ; TOM
A. ORTOLF; CARL E. VOGEL; GEORGE R.
BROKAW; JOSEPH P. CLAYTON; GARY S.
HOWARD; DISH NETWORK
CORPORATION, A NEVADA
CORPORATION; AND SPECIAL
LITIGATION COMMITTEE OF DISH
NETWORK CORPORATION,

Respondents.

Electronically Filed
Mar 30 2021 09:53 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court No. 81704

District Court No.
A-17-763397-B

**JOINT APPENDIX
Vol. 45 of 85
[JA010311-JA010558]**

Eric D. Hone (NV Bar No. 8499)
Joel Z. Schwarz (NV Bar No. 9181)
H1 LAW GROUP
701 N. Green Valley Pkwy., Suite 200
Henderson, Nevada 89074
Tel: (702) 608-3720

Liaison Counsel for Appellants

J. Stephen Peek
Robert J. Cassity
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600

*Attorneys for the Special Litigation
Committee of Nominal Defendant
DISH Network Corporation*

[Additional counsel appear on next page.]

<p>Randall J. Baron (<i>Pro Hac Vice</i>) Benny C. Goodman III (<i>Pro Hac Vice</i>) Erik W. Luedeke (<i>Pro Hac Vice</i>) ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway, Suite 1900 San Diego, CA 92101-8498 Tel: (619) 231-1058</p> <p><i>Lead Counsel for Appellants</i></p>	<p>C. Barr Flinn Emily V. Burton YOUNG CONAWAY STARGATT & TAYLOR, LLP Rodney Square 1000 North King Street Wilmington, DE 19801 Tel: (302) 571-6600</p> <p><i>Attorneys for the Special Litigation Committee of Nominal Defendant DISH Network Corporation</i></p>
--	--

TABLE OF CONTENTS FOR VOLUME 45¹

Document	Vol.	Page No.	Date
Report of the Special Litigation Committee of DISH Network Corporation and Appendices of Exhibits Thereto (Exs. 1-792; Appx. Vols. 1-50) Evidentiary Hearing SLC Exhibit 102²	4-73	JA000739- JA016874	11/27/18

¹ Volumes 2-85 of the Joint Appendix include only a per-volume table of contents. Volume 1 of the Joint Appendix includes a full table of contents incorporating all documents in Volumes 1-85.

² The Evidentiary Hearing Exhibits were filed with the District Court on July 6, 2020.

CONFIDENTIAL

EXHIBIT 439

EXHIBIT 439

CONFIDENTIAL

JA010311
009126

TX 102-009573



**Audit Committee Update
Internal Audit & SOX 404**

November 1, 2011



Audit Committee Update

- Sarbanes-Oxley 404 Update
- Operational Audits
- Investigations
- Other Activities

- 2 -



Sarbanes-Oxley 404 Update

Highlights

- SOX 404 testing and remediation is progressing as planned.
- The scope of SOX testing in 2011 is significantly larger than prior years due to the acquisition of Blockbuster.
- As of 10/21, there are a total of 50 open deficiencies, which translates to a deficiency rate of approximately 18%, based upon a total of 281 key controls tested over financial reporting (excluding Blockbuster IT which is currently in progress).
- Management has an action plan in place to remediate all open deficiencies.
- Deficiencies would not, in management's opinion, either individually or in the aggregate, rise to the level of a significant deficiency or material weakness in financial reporting.
- Internal Audit will re-test all controls that management has remediated by January 31, 2012.
- One deficiency will be remediated with Business Transformation, scheduled for completion on March 31, 2012.

- 3 -



Sarbanes-Oxley 404 Update

SOX 404 Testing and Remediation Timeline

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan '11	Feb '11
Scoping & Risk Assessment	COMPLETE										
Walkthroughs/Documentation		COMPLETE									
Operating Effectiveness Testing				COMPLETE							
Remediation & Retesting					IN PROGRESS						
Year-End Testing											



Sarbanes-Oxley 404 Update

The following is a summary of SOX 404 operating effectiveness initial testing (through October 21, 2011):

Department	TOTAL	DISH				Blockbuster
		Acctg / Finance	Ops	Sales / Ops	IT	Acctg / Finance
Controls to be tested by 9/30/11:	281	91	18	37	84	51
Testing Status						
Controls Testing In Progress	0	0	0	0	0	0
Controls Testing Not Started	0	0	0	0	0	0
Controls Tested with No Initial Deficiencies	226	81	18	30	57	40
Controls Tested with Initial Deficiencies	55	10	0	7	27	11
% of Controls Tested	80%	88%	100%	81%	69%	78%

Department	IT Blockbuster
Controls to be tested by 11/30/11:	164
Testing Status	
Controls Testing In Progress	8
Controls Testing Not Started	156
Controls Tested with No Initial Deficiencies	0
Controls Tested with Initial Deficiencies	0
% of Controls Tested	0%



Sarbanes-Oxley 404 Update

The following is a summary of SOX 404 remediation efforts where applicable (through October 20, 2011):

Department	TOTAL	DISH				Blockbuster
		Acctg / Finance	Ops	Sales / Ops	IT	Acctg / Finance
Deficiency Status - Completed Controls						
Total Action Plans Required	55	10	0	7	27	11
No Action Plan Received	0	0	0	0	0	0
Action Plan Received	55	10	0	7	27	11
<i>% of Action Plans Received</i>	100%	100%	N/A	100%	100%	100%
Remediation Testing						
Total Controls to be Retested	55	10	0	7	27	11
Retesting Complete	5	0	0	0	5	0
<i>% of Deficiencies / Exceptions Retested</i>	9%	0%	0%	0%	19%	0%
Remaining Deficiencies	50	10	0	7	22	11

Non-IT deficiencies primarily consist of the following: lack of appropriate documentation and evidence of control performance (such as management review), segregation of duties conflicts, and various controls not being performed as designed due to attrition at Blockbuster.

IT deficiencies are primarily related to the timely termination of users (from an ERP perspective), approvals to access key systems/applications/secured areas or make emergency changes, documentation supporting processes or the scheduling of jobs, and Management's periodic review of users accessing systems/applications.



Sarbanes-Oxley 404 Update

Next Steps

OCTOBER-NOVEMBER

- Complete testing of IT General Controls for Blockbuster. Our approach to testing Blockbuster IT controls is the same as it is for DISH. We will focus on the following:
 - Logical access to operating systems and financial applications
 - Physical access to Data Center
 - SDLC process (change management)
 - Incident response
 - Job monitoring / job scheduling
 - Back-up and storage (recovery)
 - SAS70 review of outsourced IT functions
 - Testing of remediated controls.

DECEMBER - FEBRUARY

- Complete testing of remediated controls.
- Inquiry procedures to validate that all SOX processes and controls have not changed as of 12/31.
- Perform limited sample testing in areas that KPMG will be relying upon.
- Perform controls testing related to critical year-end accounting processes including the year end close, external reporting, cash flow statement preparation, and tax processes.

- 7 -



Operational Audits

Q3 Completed Operational Audit Activity

Operational Audit	Status	Observations/Recommendations
Customer Qualification Process	Complete - Report Issued	Key observations: 1) Identified control issues in the process of validating customer EFT payments and issuing refunds; 2) The verification process for qualifying a customer who uses the same SSN to create a 2 nd account can be improved (i.e., multiple instances were observed where a 2 nd account was created with an existing SSN but the name did not match the 1 st account the SSN was used for); 3) Customers on Pay In Advance (PIA) plans had a high number of EFT payments rejected, and as a result, we recommended no longer accepting EFT payments from PIA customers, which has been implemented and will save the company over \$6.2M per year.
Formers Logic	Complete – Report Issued	Report was based on 18 months of continuous auditing of logic used to identify existing or former customers. This logic ensures retailers are being paid correctly for new activation incentives and upgrades of existing customers. Our recommendations resulted in a much more robust process for identifying existing or former customers, and fraud in this area has steadily declined.
Return Authorization & Equipment Retrieval	Complete – Report Drafted	Although customers are instructed to return LNBFs to DISH upon disconnect, approximately \$45M of LNBF inventory is not returned each year and customers are only charged for the missing LNBF if they don't return their receivers. We are working with DNS, Service and CMO to establish a process where we track the location of the LNBF and begin to charge if it is in an accessible location but not returned. In addition, no process exists to charge customers for non-returned smartcards when a customer disconnects, downgrades or returns a unit through the RA process in an upgrade scenario. This equates to ~ \$4.0M in lost revenue annually.



Operational Audits

Q4 Planned Operational Audit Activity

- **Blockbuster Retail Store Audits**
 - We will perform a standardized operational audit at 1-2 stores per region (11 regions). Focus will be on the following areas:
 - Cash and Inventory Management
 - Staffing & Personnel
 - Safeguarding of Physical Assets
 - IT Security
 - Compliance – Safety & Regulatory

- **Foreign Corrupt Practices Act (FCPA) and UK Anti-Bribery Law**
 - Assess the current policies and procedures at DISH and Blockbuster to comply with anti-bribery and corruption laws. Develop ongoing monitoring activities to ensure fraudulent payments are not being made.

- 9 -



Investigations Update

Internal Audit participated in the following investigations during Q3:

- MSW Related
 - One investigation relating to contractors participating in external training courses was unsubstantiated but identified need for policy development
 - Six investigations where unsubstantiated
- Corporate Compliance
 - One investigation relating to DNS technician in Michigan stealing non-serialized inventory and selling on the internet. The employee was terminated based on HR review.
- Other – Blockbuster Employee Refund Theft
 - Blockbuster employee identified as authorizing 'customer' refunds to multiple bank accounts for approximately \$20,000 since April 4, 2011, the date of the awarding of the Blockbuster bankruptcy auction winning bid to DISH Network, through the use of multiple training IDs. Employee committed suicide prior to any interview.
 - Existing control limited each transaction to \$50. Monitoring report excluded manual refunds and training IDs.
 - New controls planned or implemented
 - Implemented new report to identify any refunds or credit adjustments made by any operator ID and include employee title
 - Develop controls to restrict refunds to the credit card or debit card that made the corresponding payment for the exact amount
 - Generated daily monitoring report to identify any instances where refunds exceed payments year to date
 - Removed credit processing ability from all employee (VIP) accounts

- 10 -



Other Activities

Risk Assessment

- A company-wide risk assessment began in October to develop a risk-based 2012 operational audit plan. The final audit plan will be reviewed with the CFO and CEO and submitted for formal approval to the audit committee at the next meeting.

Recruiting

- Currently hiring for the following positions:
 1. Sr. Investigator
 2. Staff/Sr. IT Auditors (2)
 3. SOX 404 Manager
 4. Staff Auditor
- Hired 2 staff auditors and 2 senior auditors in 2011 – one was promoted to manager.
- Bench strength is improving. Currently have 4 CPAs on staff, 2 CIAs and 2 CISAs.

- 11 -

CONFIDENTIAL

EXHIBIT 440

EXHIBIT 440

CONFIDENTIAL

JA010323
009138

TX 102-009585

CONFIDENTIAL
KELLEY DRYE & WARREN LLP
A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400
3050 K STREET, NW
WASHINGTON, D.C. 20007-5108

(202) 342-8400

NEW YORK, NY
LOS ANGELES, CA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES
MUMBAI, INDIA

FACSIMILE
(202) 342-8451
www.kelleydrye.com

STEVEN A. AUGUSTINO
DIRECT LINE: (202) 342-8612
EMAIL: saugustino@kelleydrye.com

December 9, 2011

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation, DISH Network, LLC
CG Docket No. 11-50
Petition for Declaratory Ruling Concerning The Telephone
Consumers Protection Act (TCPA)

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, the undersigned counsel hereby provides notice that on December 8, 2011, DISH Network LLC ("DISH Network") met with the following FCC personnel in connection with the proceeding identified above: Jessica Almond, Special Counsel, Office of Chairman Julius Genachowski and Jacob Lewis of the Office of General Counsel. In attendance on behalf of DISH Network were Jeffrey Blum, Senior Vice President and Deputy General Counsel, Alison Minea, Corporate Counsel; and Steven A. Augustino, Kelley Drye & Warren LLP.

DISH Network emphasized that a strict liability standard for third party actions would harm the hundreds of small businesses that are authorized to retail DISH Network products. These businesses rely upon lawful telemarketing (such as telemarketing to customers with an established business relationship with the retailer) to market their services. If the Commission were to adopt a strict liability standard, national brands like DISH Network likely would react by prohibiting all telemarketing, including telemarketing methods that are lawful under the TCPA. This, in turn, would make it more costly for retailers to market their products, and likely would lead to a reduction in their businesses and the loss of jobs from retailers that no longer are able to justify the costs of marketing. DISH Network urged the Commission to avoid

DC01/AUGUS/464403.2

CONFIDENTIAL

JA010324
009139

Confidential//

SLC_ DNC_ Investigation_0001068

TX 102-009586

CONFIDENTIAL

KELLEY DRYE & WARREN LLP

Ms. Marlene H. Dortch

December 9, 2011

Page 2

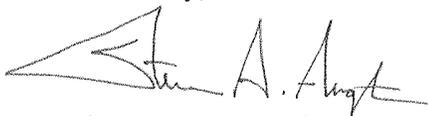
these unintended consequences by refusing to make sellers responsible for the acts of third parties unless they direct and control the telemarketing activities of the retailer.

DISH Network explained that the existing federal common law of agency is sufficient to provide the needed uniformity and predictability for telemarketers and consumers. The FCC should not create a new standard, as urged by the FTC and DOJ, because such a deviation from federal common law would lead to more litigation, not less, and likely would lead to future referrals to the Commission to explain the new standard.

DISH Network was asked about application of the federal agency factors, as articulated by the U.S. Supreme Court in *Community for Creative Non-Violence v. Reid* (“CCNV”), in the telemarketing context. DISH Network stated that, under these factors, liability could attach only if the alleged principal directed and controlled the purported violative conduct. For example, “if the principal directs the retailer’s telemarketing activity by providing call lists for telemarketing, the principal can be held liable for the reseller’s telemarketing based on those lists.” In addition, “if the principal knows that a retailer is repeatedly engaging in violative telemarketing when selling the principal’s products or services, and the principal fails to take reasonable measures to address the unlawful conduct, depending on the facts, that also could be interpreted as directing the unlawful conduct.”

These factors reasonably go to if and how the principal directs and controls the unlawful actions of the third party. As such, they provide a reasonable basis for applying third party liability under federal common law agency principles.

Sincerely,



Steven A. Augustino

SAA:pab

cc: Jessica Almond
Jacob Lewis
Angela Giancarlo
Angela Kronenberg
Mark Stone

DC01/AUGUS/464403.2

CONFIDENTIAL

JA010325
009140

Confidential//

SLC_ DNC_ Investigation_0001069

TX 102-009587

EXHIBIT 441

EXHIBIT 441

JA010326
009141

TX 102-009588

Schedule for 2011 DISH/EchoStar Board of Director Meetings

January

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

March

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

August

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

September

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

October

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Time of Meetings: The DISH and EchoStar Committee Meetings (Audit, Compensation, Non-Interlocking Directors and Nominating) commence at 9:00 a.m. and last until approximately 1 p.m. The DISH and EchoStar Board of Director Meetings commence at 1 p.m. and last until approximately 3 p.m.

Note: The Annual Shareholder Meeting will be held on the same day as the first quarter meetings, May 2, 2011 for DISH and May 3, 2011 for EchoStar.

-  Holidays
-  10-Q Filing Deadline
-  10-K Filing Deadline
-  EchoStar Meetings
-  DISH Meetings

Holidays and Observances:

- Jan 1 New Year's Day
- Jan 17 Martin Luther King Day
- Feb 14 Valentine's Day
- Feb 21 Presidents' Day
- Apr 24 Easter Sunday
- May 8 Mother's Day

- May 30 Memorial Day
- Jun 19 Father's Day
- Jul 3 'Independence Day' observed
- Jul 4 Independence Day
- Sep 5 Labor Day
- Oct 10 Columbus Day

- Oct 31 Halloween
- Nov 11 Veterans Day
- Nov 24 Thanksgiving Day
- Dec 24 Christmas Eve
- Dec 25 Christmas Day

JA010327
009142

Schedule for 2012 DISH/EchoStar Board of Director Meetings

January

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

March

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

April

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

May

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

June

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

July

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

August

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

September

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

October

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

November

Su	Mo	Tu	We	Th	Fr	Sa
					2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

December

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

Time of Meetings: The DISH and EchoStar Committee Meetings (Audit, Compensation, Non-Interlocking Directors and Nominating) commence at 9:00 a.m. and last until approximately 1 p.m. The DISH and EchoStar Board of Director Meetings commence at 1 p.m. and last until approximately 3 p.m.

-  Holidays
-  10-Q Filing Deadline
-  10-K Filing Deadline
-  EchoStar Meetings
-  DISH Meetings

- Jan 1 New Year's Day
- Jan 2 New Year's Day (Observed)
- Jan 16 Martin Luther King Day
- Feb 14 Valentine's Day
- Feb 20 Presidents' Day
- Apr 8 Easter Sunday

Holidays and Observances:

- May 13 Mother's Day
- May 28 Memorial Day
- Jun 17 Father's Day
- Jul 4 Independence Day
- Sep 3 Labor Day
- Oct 8 Columbus Day
- Oct 31 Halloween
- Nov 6 Election Day
- Nov 11 Veterans Day
- Nov 12 Veterans Day (observed)
- Nov 22 Thanksgiving Day
- Dec 24 Christmas Eve
- Dec 25 Christmas Day

JA010328
009143

CONFIDENTIAL

EXHIBIT 442

EXHIBIT 442

CONFIDENTIAL

JA010329
009144

TX 102-009591

CONFIDENTIAL

Message

To: Dudrey, Donald [donald.dudrey@dishnetwork.com]
CC: Kitei, Brett [brett.kitei@dishnetwork.com]
Subject: *Priviledged* RE: Lifeshield Outbound Pilot

Don,

Let me know specifically what you are trying to get to but here's a basic over view.

The Outbound Team owns DNC complince for all lists that the enterprise dials whether we use internal Dish resources or whether the campaign goes to a 3rd Party vendor. Vendors have an obligation to conduct a "secondary" scrub as a safeguard to our primary scrub.

Each campaign is scrubbed indiuidally by the OB Team based on the purpose and type of the initiative. This scrub varies based on the campaign type, (whether its direct sales, collections, upsell, etc.); the type of consumers we are contacting, (existing vs non-subscribers); and the type of product/service or action we are trying to perform, (selling a new service/product, survey, account reminder,etc.).

The rules for FTC/FCC and TSR (telemarketing) compliance are complex, so trying outline them in a email would unproductive. (If you need specific information lets set up a meeting).

As for the Lifeshield campaign, we conduct a full DNC scrub because the services being sold. This means we are removing all consumers that have a wireless number, or are on a Federal, State or Dish Internal do-not-call list.

Lead Counts:

Number of Records Prescrub: 1268

Number of Callable Records (After Scrub): 134

Joey Montano

Resource Manager

CSC Administration & Management

Dish Network, LLC

Meridian: (720)-514-6479

Desk Ext: 46479

Email: joey.montano@dishnetwork.com

From: Dudrey, Donald
Sent: Thursday, February 02, 2012 9:29 AM
To: Bhakta, Rachael
Cc: Montano, Joey; Dexter, Amy
Subject: RE: Lifeshield Outbound Pilot

Thanks Rachael.

Hi Joey,

Let me know if this is something you can help me with. We're meeting with DeFranco this afternoon, so trying to pull everything together we can this morning and he's really interested in how the Do Not Call criteria is applied to our OB campaigns.

Thanks,
-Don

CONFIDENTIAL

JA010330
009145

Confidential.

SLC_ DNC_ Investigation_0006123

TX 102-009592

CONFIDENTIAL

Donald J. Dudrey
Product Manager, Adjacent Markets
DISH Network, LLC
720.514.6185

From: Bhakta, Rachael
Sent: Wednesday, February 01, 2012 5:06 PM
To: Dudrey, Donald
Cc: Montano, Joey; Dexter, Amy
Subject: RE: Lifeshield Outbound Pilot

Donald:

I think Joey may be able to assist better. I am the ERT GM, Amy recently accepted a position on my team.

From: Dudrey, Donald
Sent: Wednesday, February 01, 2012 4:54 PM
To: Bhakta, Rachael
Subject: FW: Lifeshield Outbound Pilot

Hi Rachael,
With Amy out, can you help us with the questions below or point me in the right direction?
Thanks,
-Don

Donald J. Dudrey
Product Manager, Adjacent Markets
DISH Network, LLC
720.514.6185

From: Dudrey, Donald
Sent: Wednesday, February 01, 2012 4:52 PM
To: Dexter, Amy
Cc: Thompson, Donald
Subject: Lifeshield Outbound Pilot

Hi Amy,
We're putting together a LifeShield deck for Jim and he had a couple quick questions I'm hoping you might know the answer to. After Donny delivers the leads list, who scrubs those for Do Not Call before they go to eCreek? Is that on our side or does eCreek do that? If it's us, do you have the criteria for Do Not Call? And the total number of leads we've provided eCreek so far?
Thanks for your help,
-Don

Donald J. Dudrey
Product Manager, Adjacent Markets
DISH Network, LLC
720.514.6185

From: Dexter, Amy
Sent: Monday, December 12, 2011 1:35 PM
To: Dudrey, Donald; Thompson, Donald
Cc: Kuehn, Gerald; Wuorinen, Rachel; Montano, Joey
Subject: RE: Lifeshield Outbound Pilot

CONFIDENTIAL

JA010331
009146

CONFIDENTIAL

Hello -

Are we still on target for launching this outbound campaign next Monday? When were you planning on having the first dialing list delivered to our outbound folder? The requirements for list delivery is below. Let us know - Thanks!

Amy

Delivery location:

\\Pnas01\pdialer-prod

Please keep in mind that this is dedicated outbound space, so no other files or documents should be requested delivered to this location.

File requirements:

- Files should be delivered to the above location in text format only, (file format ending in .txt). Please no .csv, .xls, or .doc files.
- Files should contain a single column consisting of only 16 digit account number. Please no header, footer rows or special characters before or after the account number.
- Each file should be delivered with a "trigger" file, which posts only after the text file finishes. The trigger file is a blank text document that end in the suffix .trg instead of .txt. The trigger file will have date/time stamp newer than the text file and will fire our automated list processing processes.
- Files should be delivered to the above location as early in the day as possible to avoid delays. Any files delivered after 8am MST will be processed at the top of the next hour.

Please name your files Lifeshield_MMDDYYYY.txt and Lifeshield_MMDDYYYY.trg

Amy Dexter

Resource Manager
Outbound Operations
CSC Administration & Management
EchoStar Satellite, LLC
303-723-2484
Amy.Dexter@dishnetwork.com

From: Dudrey, Donald
Sent: Friday, December 02, 2011 1:58 PM
To: Dexter, Amy; Thompson, Donald
Cc: Kuehn, Gerald; Wuorinen, Rachel; Montano, Joey
Subject: RE: Lifeshield Outbound Pilot

Attached is the OB request and script draft.

Donald J. Dudrey
Product Manager, Adjacent Markets
DISH Network, LLC
720.514.6185

From: Dexter, Amy
Sent: Thursday, December 01, 2011 11:07 AM
To: Thompson, Donald

CONFIDENTIAL

JA010332
009147

Confidential/

SLC_ DNC_ Investigation_0006125
TX 102-009594

CONFIDENTIAL

Cc: Kuehn, Gerald; Wuorinen, Rachel; Dudrey, Donald; Montano, Joey
Subject: RE: Lifeshield Outbound Pilot

Hello Team -

We have yet to get a completed OB Request form or a script for this call. We are in jeopardy of not being able to fulfill the 12/15 launch date at this point. Please provide these two pieces of documentation today so we can begin the process of getting the outbound side of the campaign set up. Thanks -

Amy

Amy Dexter

Resource Manager
Outbound Operations
CSC Administration & Management
EchoStar Satellite, LLC
303-723-2484
Amy.Dexter@dishnetwork.com

From: Dexter, Amy
Sent: Monday, November 14, 2011 3:36 PM
To: Thompson, Donald
Cc: Kuehn, Gerald; Wuorinen, Rachel; Dudrey, Donald; Montano, Joey
Subject: RE: Lifeshield Outbound Pilot

Hi Donny,

Are these current Dish subs who have account numbers? If so, below is the format, drop point and other details on what is required for list formatting. I'll need someone to complete the attached Outbound Request Form and provide a copy of the script before we can begin processing lists. I'm assuming we will need to identify some outbound agents who will make these calls on a daily basis? Let me know if you have additional questions. Thanks -

Amy

Files should be delivered here: \\Pnas01\pdialer-prod

Please keep in mind that this is dedicated outbound space, so no other files or documents should be requested delivered to this location.

- Files should be delivered to the above location in text format only, (file format ending in .txt). Please no .csv, .xls, or .doc files.
- Files should contain a single column consisting of only 16 digit account number. Please no header, footer rows or special characters before or after the account number.
- Each file should be delivered with a "trigger" file, which posts only after the text file finishes. The trigger file is a blank text document that end in the suffix .trg instead of .txt. The trigger file will have date/time stamp newer than the text file and will fire our automated list processing processes.
- Files should be delivered to the above location as early in the day as possible to avoid delays. Any files delivered after 8am MST will be processed at the top of the next hour.
- Files should be named:
 - Lifeshield_mmddyyyy.txt
 - Lifeshield_mmddyyyy.trg

Amy Dexter

CONFIDENTIAL

JA010333
009148

Confidential.

SLC_ DNC_ Investigation_0006126

TX 102-009595

CONFIDENTIAL

Resource Manager
Outbound Operations
CSC Administration & Management
EchoStar Satellite, LLC
303-723-2484
Amy.Dexter@dishnetwork.com

From: Thompson, Donald
Sent: Monday, November 14, 2011 3:23 PM
To: Dexter, Amy
Cc: Kuehn, Gerald; Wuorinen, Rachel; Dudrey, Donald
Subject: Lifeshield Outbound Pilot

Amy,

I will be providing daily a list of accounts for an outbound pilot that Donald/Rachel will be running starting early December. I was thinking we would provide the following. Acct #, both phone numbers if available, and customer's name. Do you have a specific folder where you would want these files to be placed at? And what format would be preferred? It appears we will have ~150 accounts per day.

Thank you,

Donny

CONFIDENTIAL

JA010334
009149

Confidential

SLC_ DNC_ Investigation_0006127
TX 102-009596

CONFIDENTIAL

EXHIBIT 443

EXHIBIT 443

CONFIDENTIAL

JA010335
009150

TX 102-009597

CONFIDENTIAL



FCC Amends TCPA

PRESENTER

Ken Sponsler, CIPP, PMP
Vice President and General Manager

February, 2012

0

CONFIDENTIAL

JA010336
009151

Confidential/

SLC_ DNC_ Investigation_0008179
TX 102-009598

Background

- FCC issued NPRM on January 22, 2010 to address differences and harmonize rules with the FTC's TSR.
- FCC has jurisdiction over ALL telemarketing. The new rule significantly impacts every marketer including those not subject to FTC jurisdiction.
- Greatly increases risk as the TCPA provides for private right of action.
- FCC issued final rule on 2-15-12
- Final Rule:
<http://www.fcc.gov/document/fcc-strengthens-consumer-protections-against-telemarketing-robocalls-0>

Final Rules

Autodialed Calls and Prerecorded Messages to Cell Phones:

- No telemarketing call may be made to a consumer's cell phone using an automatic telephone dialing system (including a predictive dialer) or prerecorded message unless the consumer has provided prior written express consent.
- Electronic signature (including a voice recording) may constitute express consent. (E-sign Act)
- Informational and non-sales made to cell phones are allowed as long as the consumer has provided "prior express consent".

Prior Express Written Consent

Defined in the Final Rule as:

- *“an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered.”*

(i) The written agreement shall include a clear and conspicuous disclosure informing the person signing that:

- (A) By executing the agreement, such person authorizes the seller to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and
- (B) The person is not required to sign the agreement (directly or indirectly), or agree to enter into such an agreement as a condition of purchasing any property, goods, or services.

Prior Express Consent

- The current level of consent to call/text any mobile device using an ATDS for ANY purpose is defined as "Prior Express Consent" and it can be oral or in writing.
 - Providing the number during the context of business
 - Required for non-solicitation calls to mobile devices using an ATDS

Final Rules

Prerecorded Messages to Residential Numbers:

- Prerecorded telemarketing messages may no longer be sent to residential numbers without the call recipients prior written express consent.
- Eliminates the previous exemption which allowed prerecorded messages to be sent to a consumer's residential number if the caller had an EBR with the consumer.
- Informational calls and other non-sales calls to residential numbers have not changed. Consent is not required for these types of calls.

Final Rule

Automated Opt-out Requirement:

- All prerecorded telemarketing must include a DNC automated, interactive voice and/or key-press-activated opt-out mechanism and immediately terminate the call.
- If a pre-recorded message is left on an answering machine or voicemail box, the message must provided a toll-free number that enables the consumer to connect to an automated opt-out mechanism.
- All abandoned calls must provide for the non-solicitation message plus the automated opt out mechanism.

Final Rule

Abandoned Call Rate and Messages:

- Harmonizes with the FTC's TSR standards.
- No more than 3% per campaign over a 30 day period.
- Campaign is defined as: *"the offer of the same good or service for the same seller."*

Other Implications

- B to B standards would stay the same with the exception that prerecorded messages to cell phones would require express written consent
- Text messages would also fall under the new prior written express consent standard for autodialed and prerecorded messages.
- Autodialed call and prerecorded messages may continue to be sent for debt collection and other non-solicitation purposes.

Effective Dates

- Prior express written consent requirement is effective 12 months after approval of the FCC order by the federal OMB. (Approximately 2-15-13)
- Automated opt-out requirement is effective 90 days after approval of the FCC order by the federal OMB. (Approximately 5-14-12)
- Call abandonment requirement is effective 30 days after approval by the OMB. (Approximately 3-16-12)

QUESTIONS?

CONFIDENTIAL

EXHIBIT 444

EXHIBIT 444

CONFIDENTIAL

JA010347
009162

TX 102-009609

**MINUTES OF THE AUDIT COMMITTEE OF
THE BOARD OF DIRECTORS OF
DISH NETWORK CORPORATION**

February 13, 2012

A regular meeting of the audit committee (the "Audit Committee") of the board of directors (the "Board of Directors") of DISH Network Corporation (the "Corporation"), a Nevada corporation, was held on February 13, 2012 at 9:00 a.m., prevailing Mountain Time, at the Corporation's offices located at 9601 S. Meridian Blvd., Englewood, Colorado 80112.

The following members of the Audit Committee participated:

Tom A. Ortolf, Chairman

Steven R. Goodbarn

Gary S. Howard

Also participating at various times during the meeting at the invitation of the Chairman of the Audit Committee were: David K. Moskowitz, Senior Advisor to the Corporation and a member of the Board of Directors; R. Stanton Dodge, Executive Vice President, General Counsel and Secretary of the Corporation; Robert E. Olson, Executive Vice President and Chief Financial Officer of the Corporation; Paul W. Orban, Senior Vice President and Controller of the Corporation; Brandon Ehrhart, Vice President, Associate General Counsel and Assistant Secretary of the Corporation; Matt Sheers, Vice President of Tax Administration for the Corporation (*present for Items 10-12 only*); Tim Beggs, Director, Internal Audit for the Corporation (*present for Item 10 only*); Carol MacLeod, Accounting Manager II of the Corporation (*present for Item 8 only*); Jason Waldron, Lead Engagement Partner, KPMG LLP ("KPMG"), independent registered public accounting firm for the Corporation; Arnold Hoy,

Audit Partner, KPMG; Mike Bearup, Audit Partner, KPMG; and Michael Moore, Tax Partner, KPMG.

The meeting was called to order by Mr. Ortolf, who served as Chairman and presided. Mr. Dodge acted as Secretary of the meeting.

Mr. Ortolf advised that as: (i) proper notice was delivered to each member of the Audit Committee; or (ii) each member of the Audit Committee has waived any and all notices that may have been required to be given with respect to a regular meeting of the Audit Committee, by: (a) participating in the meeting without objection to notice; or (b) otherwise communicating waiver of any such notice to the Secretary or Assistant Secretary of the Corporation or their designees, and a quorum was present, the meeting was properly convened.

Executive Session of Nonemployee Directors

The first item of business was an executive session of the nonemployee members of the Board of Directors led by Mr. Ortolf.

Approval of Minutes and Signing of Consents

The second item of business was the approval of the minutes of the Special Meeting of the Audit Committee held on October 27, 2011; the minutes of the Regular Meeting of the Audit Committee held on November 1, 2011; the minutes of the Special Meeting of the Audit Committee held on November 1, 2011; and the minutes of the Special Meeting of the Audit Committee held on February 1, 2012. Mr. Dodge explained that draft minutes of those meetings were attached as Exhibits 2A, 2B, 2C and 2D, respectively, to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the minutes of the Special Meeting of the Audit Committee held on October 27, 2011; the minutes of the Regular Meeting of the Audit Committee held on November 1, 2011; the minutes of the Special Meeting of the Audit Committee held on November 1, 2011; and the minutes of the Special Meeting of the Audit Committee held on February 1, 2012, in substantially the form attached hereto as Exhibits 2A, 2B, 2C and 2D, respectively, to the board book for the meeting be, and they hereby are, approved, ratified and confirmed in all respects.

Review of Fourth Quarter and Year End Financial Performance and Marketable Securities

The third item of business was a report presented by Messrs. Olson and Orban regarding the Corporation's audited financial statements for the year ended December 31, 2011 (the "Financial Statements"). A summary of their presentation was attached as Exhibit 3A to the board book for the meeting.

Mr. Olson reviewed, among other things, certain financial highlights during the fourth quarter and year ended December 31, 2011, including, without limitation, certain subscriber related metrics; the Corporation's Pay TV income statement; the Blockbuster income statement; and the Corporation's consolidated income statement; the statement of cash flows; and the balance sheet. Mr. Orban then reviewed, among other things, gains and losses in certain investment securities; certain strategic purchases; certain long lived and other assets of the Corporation; certain accruals; certain accounting methods and policies; certain financing transactions; and certain metrics for competitors of the Corporation during the fourth quarter and prior periods.

Mr. Orban then led a discussion regarding the draft programming dispute accrual memorandum and the draft late fee analysis that were distributed at the meeting and walked the members of the Audit Committee through the changes made to the draft programming dispute accrual memorandum from the fourth quarter 2011.

Mr. Orban then reviewed the positions held by the Corporation in marketable securities as of December 31, 2011. Mr. Orban noted that, for the reference of the members of the Audit Committee, a summary of the Corporation's marketable securities as of December 31, 2011 was attached as Exhibit 3B to the board book for the meeting.

Mr. Orban also noted that, for the reference of the members of the Audit Committee, a copy of the report regarding the payments in excess of \$5 million made during the fourth quarter, a copy of the portfolio summary for the D&O trust fund as of December 31, 2011, and a breakdown of current assets included in the Corporation's draft Form 10-K were attached as Exhibits 3C, 3D and 3E, respectively, to the board book for the meeting.

The members of the Audit Committee reviewed and discussed the Financial Statements with Messrs. Olson and Orban and the other members of management present at the meeting.

Management's Report on Internal Control Evaluation and Officer Certifications

The fourth item of business was a report presented by Mr. Olson regarding management's evaluation of the effectiveness of its disclosure controls and procedures and internal control over financial reporting. Mr. Olson noted that, under the supervision and with the participation of management, including the Chief Executive Officer and Chief Financial Officer, the Corporation evaluated the effectiveness of its "disclosure controls and procedures" (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934) as of December 31, 2011, and based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Corporation's disclosure controls and procedures are effective.

Mr. Olson further noted that management conducted an evaluation of the effectiveness of the Corporation's internal control over financial reporting, and that based on that evaluation, management concluded that there has been no change in the Corporation's internal control over

financial reporting (as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934) as of December 31, 2011 that has materially affected, or is reasonably likely to materially affect, the Corporation's internal control over financial reporting. As such, Mr. Robert E. Olson (the Chief Financial Officer of the Corporation) and Mr. Joseph P. Clayton (the Chief Executive Officer of the Corporation) do not believe: (i) that there are any significant deficiencies or material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Corporation's ability to record, process, summarize or report financial information; or (ii) that any fraud, whether or not material, has occurred that involves management or other employees who have a significant role in the Corporation's internal control over financial reporting.

Mr. Olson also noted that on April 26, 2011, the Corporation completed the acquisition of substantially all of the assets of Blockbuster, Inc., that the Corporation is currently integrating policies, processes, people, technology and operations for the combined company, and that management will continue to evaluate the Corporation's internal control over financial reporting as it executes integration activities.

Treasury Update

The fifth item of business was an update presented by Mr. Dodge regarding the treasury function of the Corporation. A summary of his presentation was distributed prior to the meeting. Mr. Dodge and other members of management present at the meeting responded to several questions from the members of the Audit Committee.

Reg. S-K Item 404 "Related Person" Transactions

The sixth item of business was a discussion led by Mr. Dodge of all recurring and a certain new potential SEC Reg. S-K, Item 404 "Related Person" transaction, Nevada Revised

Statutes §78.140 transaction and “Sensitive” transactions, as defined by the 2005 Audit Committee Recommendations to generally mean: (i) any non-ordinary course transaction in which the amount involved exceeded \$5,000,000; (ii) related-party transactions; (iii) transactions of a highly confidential nature; (iv) transactions which grant exclusive rights or most favored nations status to any third party; or (v) any other transaction which in the judgment of the Board of Directors should reasonably be considered sensitive.

REDACTED-ATTORNEY-CLIENT PRIVILEGED

Mr. Dodge explained that, during 2011, the Corporation (or one of its subsidiaries) employed Mrs. Cantey Ergen. The Corporation (or one of its subsidiaries) paid Mrs. Cantey Ergen approximately \$100,000 during 2011, and expects to pay her approximately \$100,000 during 2012, although depending on the time and services that will be provided she may earn more than that amount during 2012. During 2012, the Corporation may elect to employ certain Ergen children and expects to pay them approximately \$25,000 in the aggregate, although depending on the time and services that will be provided, they may earn more than that amount during 2012 (collectively, the “Ergen Transaction I”).

Mr. Dodge further explained that Mrs. Ergen is a member of the Board of Directors of The Children’s Hospital of Denver to which the Corporation provides pay-TV services (the “Ergen Transaction II”). The Children’s Hospital of Denver paid the Corporation approximately \$68,000 and \$70,000 for the years ended December 31, 2010 and 2011, respectively.

CONFIDENTIAL

Mr. Dodge further explained that, during 2011, Summit Capital L.L.C. (“Summit Capital”), an entity controlled by Mr. Ergen, subleased approximately 1,100 square feet of office space at 5701 S. Santa Fe Drive. Under the sublease, Summit Capital paid the Corporation approximately \$1,000 during 2011 and is expected to pay the Corporation approximately \$12,000 during 2012 (the “Ergen Transaction III”).

Mr. Dodge further explained that, during 2006, Mr. Carl E. Vogel, Senior Advisor to the Corporation and a member of the Board of Directors, agreed to serve as a director of Shaw Communications Inc. (“Shaw”), a diversified Canadian communications company whose core business is providing broadband cable television, high-speed Internet, digital phone, telecommunications services and satellite direct-to-home services to over three million customers, and Mr. Vogel has beneficial ownership of 70,000 shares of Shaw common stock, options to purchase an additional 70,000 shares of Shaw common stock and 6,000 deferred share distribution units of Shaw common stock (the “Vogel Transaction I”).

Mr. Dodge further explained that, during 2009, Mr. Vogel agreed to serve as a director of NextWave Wireless, Inc. (“NextWave”), which owns certain wireless spectrum licenses in the United States and Canada, and Mr. Vogel has an option to purchase 357,143 shares of NextWave common stock (the “Vogel Transaction II”).

Mr. Dodge further explained that, during 2009, Mr. Vogel agreed to serve as a director of Universal Electronics Inc. (“UEI”), a provider of pre-programmed universal wireless control products and audio-video accessories that are marketed to enhance home entertainment systems, and Mr. Vogel has an option to purchase approximately 10,833 shares of UEI common stock and options to purchase 20,000 shares of UEI common stock (the “Vogel Transaction III”). The Corporation paid UEI approximately \$844,169 and \$0 during the years ended December 31,

2010 and 2011, respectively, for purchases of certain equipment by the Corporation, such as remote controls. SATS paid UEI approximately \$28,000,000 and \$27,500,000 during the years ended December 31, 2010 and 2011, respectively, for purchases of certain equipment by the Corporation, such as remote controls.

Mr. Dodge further explained that, during 2009, Mr. Vogel agreed to serve as a director of Ascent Media Corporation (“Ascent Media”), which provides creative services and content management and delivery services to the media and entertainment industries in the United States, the United Kingdom and Singapore, and Mr. Vogel has beneficial ownership of approximately 4,932 shares of Ascent Media common stock (the “Vogel Transaction IV”). The Corporation paid Ascent Media approximately \$35,000 and \$1,000 during the years ended December 31, 2010 and 2011, respectively, for certain video duplication services. SATS paid Ascent Media approximately \$13,000 and \$0 during the years ended December 31, 2010 and 2011, respectively, for certain video duplication services.

Mr. Dodge further explained that, during 2010, Mr. Vogel agreed to serve as a director of ION Media Networks, Inc. (“ION”), which owns and operates the ION channel and certain local television stations carried by the Corporation and which also owns certain 700 MHz spectrum, and Mr. Vogel has an option to acquire .015% of ION (the “Vogel Transaction V”).

Mr. Dodge further explained that, during 2011, Mr. Vogel agreed to serve as a director of Sirius XM Radio Inc. (“SiriusXM”), a provider of satellite radio (the “Vogel Transaction VI”). The Corporation and its distributors act as authorized distributors and retailers of SiriusXM receivers and related hardware and the Corporation receives certain programming rights from SiriusXM. Mr. Vogel has beneficial ownership of 100,000 shares of SiriusXM common stock and options to purchase an additional 59,905 shares of SiriusXM common stock. The

Corporation paid SiriusXM approximately \$800,000 and \$1,300,000 during the years ended December 31, 2010 and 2011, respectively. SiriusXM paid the Corporation approximately \$3,000 and \$300 during the years ended December 31, 2010 and 2011, respectively. EchoStar Corporation (“SATS”) paid SiriusXM approximately \$1,000 and \$0 during the years ended December 31, 2010 and 2011, respectively.

Mr. Dodge further explained that, during 2011, the Corporation (or one of its subsidiaries) employed Mr. Paul Ortolf (who serves the Corporation as an International Marketing Specialist, which is not a financial reporting role), the son of Mr. Tom A. Ortolf, a member of the Board of Directors (the “Ortolf Transaction I”). The Corporation (or one of its subsidiaries) paid Mr. Paul Ortolf approximately \$46,000 during 2011, and expects to pay him approximately \$46,000 during 2012, although depending on the time and services that will be provided, he may earn more than that amount during 2012.

Mr. Dodge further explained that, during 2011, the Corporation (or one of its subsidiaries) employed Ms. Meaghan Ortolf (who serves the Corporation as an Operations Analyst I in Commercial Services, which is not a financial reporting role), the daughter of Mr. Ortolf (the “Ortolf Transaction II”). The Corporation (or one of its subsidiaries) paid Ms. Ortolf, approximately \$24,000 during 2011, and expects to pay her approximately \$35,000 during 2012, although depending on the time and services that will be provided, she may earn more than that amount during 2012.

Mr. Dodge further explained that, during 2011, Mr. Gary S. Howard, a member of the Board of Directors, agreed to serve as a director of Avail-TVN (“Avail-TVN”), which provides transport, encoding and metadata services for certain of the Corporation’s “Video-On-Demand” (“VOD”) programming (the “Howard Transaction”). The Corporation paid Avail-TVN

approximately \$176,000 and \$323,000 during the years ended December 31, 2010 and 2011, respectively.

Mr. Dodge further explained that, during 2012, Mr. Steven R. Goodbarn, a member of the Board of Directors, agreed to serve as a director of MobiTV, Inc. (“MobiTV”), which provides end-to-end mobile media solutions, including, among other things, the delivery of live TV, video-on-demand, and download-and-store services, for certain of the Corporation’s competitors (the “Goodbarn Transaction”).

Mr. Dodge further explained that the Corporation and/or its subsidiaries and SATS and/or its subsidiaries have entered into respective patent cross-license agreements with International Business Machines (“IBM”) for the use of certain of IBM’s patents, the terms and conditions of which are more fully described in a memorandum that was distributed prior to the meeting (the “IBM Cross-License Agreements”), which was approved by Mr. Joseph P. Clayton, in his capacity as President and Chief Executive Officer of the Corporation, pursuant to the authority delegated to him under the Related Party Transaction Policy approved at the Regular Meeting of the Board of Directors held on August 2, 2011. Mr. Dodge further explained that the IBM Cross-License Agreements each include an option feature that, if exercised, would cause the amount of the IBM Cross-License Agreements to be greater than the authority delegated to Mr. Clayton under the Related Party Transaction Policy (the option feature and the overall IBM Cross-License Agreements, referred to as the “IBM Transaction”).

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

WHEREAS, the Ergen Transaction I, Ergen Transaction II, Ergen Transaction III, Vogel Transaction I, Vogel Transaction II, Vogel Transaction III, Vogel Transaction IV, Vogel Transaction V, Vogel Transaction VI, Ortolf Transaction I,

Ortolf Transaction II, Howard Transaction, Goodbarn Transaction and the IBM Transaction may potentially be considered related party transactions under SEC Regulation S-K, Item 404, Nevada Revised Statutes §78.140 transactions and “Sensitive” transactions and therefore, out of an abundance of caution, the Audit Committee has been asked to review such transactions;

Ergen Transaction I

NOW, THEREFORE, BE IT RESOLVED, that based upon the information received by the Audit Committee, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Audit Committee, the Audit Committee hereby finds, and hereby recommends that the Board of Directors find, that the prior Ergen Transaction I and the continuation of the Ergen Transaction I in 2012, are fair to the Corporation and its subsidiaries; provided that Mrs. Ergen’s employment compensation does not exceed \$100,000 in 2012 and the aggregate employment compensation of the Ergen children does not exceed \$25,000 in 2012; and further

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction I and the continuation of the Ergen Transaction I in 2012; and further

RESOLVED, that the Audit Committee hereby: (a) ratifies and confirms in all respects, and recommends that the Board of Directors ratify and confirm, the prior Ergen Transaction I; and (b) authorizes, ratifies and adopts in all respects, and hereby recommends that the Board of Directors authorize, ratify and adopt, the continuation of the Ergen Transaction I in 2012; provided that Mrs. Ergen’s employment compensation does not exceed \$100,000 in 2012 and the aggregate employment compensation of the Ergen children does not exceed \$25,000 in 2012; and further

Ergen Transaction II

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction II and the continuation of the Ergen Transaction II in 2012; and further

RESOLVED, that, for so long as Mrs. Ergen is a member of the Board of Directors of The Children’s Hospital of Denver, Mrs. Ergen shall recuse herself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve The Children’s Hospital of Denver or any of its affiliates; and further

Ergen Transaction III

NOW, THEREFORE, BE IT RESOLVED, that based upon the information received by the Audit Committee, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Audit Committee, the Audit Committee hereby finds, and hereby recommends that the Board of Directors find, that the prior Ergen Transaction III and the continuation of the Ergen Transaction III in 2012, are fair to the Corporation and its subsidiaries; and further

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction III and the continuation of the Ergen Transaction III in 2012; and further

RESOLVED, that, for so long as Mr. Ergen is a member of the Board of Directors of Summit Capital or retains a significant financial stake in Summit Capital, Mr. Ergen shall recuse himself from any matters presented to the Corporation that directly or indirectly involve Summit Capital; and further

Vogel Transaction I

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction I in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of Shaw or retains a significant financial stake in Shaw, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Shaw or ExpressVu or any of their affiliates; and further

Vogel Transaction II

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction II in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of NextWave or retains a significant financial stake in NextWave, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve NextWave or any of its affiliates; and further

Vogel Transaction III

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction III in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of UEI or retains a significant financial stake in UEI, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve UEI or any of its affiliates; and further

Vogel Transaction IV

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction IV in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of Ascent Media or retains a significant financial stake in Ascent Media, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Ascent Media or any of its affiliates; and further

Vogel Transaction V

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction V in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of ION or retains a significant financial stake in ION, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve ION or any of its affiliates; and further

Vogel Transaction VI

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction VI in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of SiriusXM or retains a significant financial stake in SiriusXM, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve SiriusXM or any of its affiliates; and further

Ortolf Transaction I

RESOLVED, that based upon the information received by the Audit Committee, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Audit Committee, the Audit Committee hereby finds, and hereby recommends that the Board of Directors find, that the prior Ortolf Transaction I and the continuation of the Ortolf Transaction I in 2012 are fair to the Corporation and its subsidiaries; provided that Mr. Paul Ortolf's employment compensation does not exceed \$46,000 in 2012; and further

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ortolf Transaction I and the continuation of the Ortolf Transaction I in 2012; and further

RESOLVED, that the Audit Committee hereby: (a) ratifies and confirms in all respects, and recommends that the Board of Directors ratify and confirm, the prior Ortolf Transaction I; and (b) authorizes, ratifies and adopts in all respects, and hereby recommends that the Board of Directors authorize, ratify and adopt, the continuation of the Ortolf Transaction I in 2012; provided that Mr. Ortolf's employment compensation does not exceed \$46,000 in 2012; and further

Ortolf Transaction II

RESOLVED, that based upon the information received by the Audit Committee, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Audit Committee, the Audit Committee hereby finds, and hereby recommends that the Board of Directors find, that the prior Ortolf Transaction II and the continuation of the Ortolf Transaction II in 2012 are fair to the Corporation and its subsidiaries; provided that Ms. Meaghan Ortolf's employment compensation does not exceed \$35,000 in 2012; and further

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ortolf Transaction II and the continuation of the Ortolf Transaction II in 2012; and further

RESOLVED, that the Audit Committee hereby: (a) ratifies and confirms in all respects, and recommends that the Board of Directors ratify and confirm, the prior Ortolf Transaction II; and (b) authorizes, ratifies and adopts in all respects, and hereby recommends that the Board of Directors authorize, ratify and adopt, the continuation of the Ortolf Transaction II in 2012; provided that Ms. Ortolf's employment compensation does not exceed \$35,000 in 2012; and further

Howard Transaction

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Howard Transaction in 2012; and further

RESOLVED, that, for so long as Mr. Howard is a member of the Board of Directors of Avail-TVN or retains a significant financial stake in Avail-TVN, Mr. Howard shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Avail-TVN or any of its affiliates; and further

Goodbarn Transaction

RESOLVED, that the Audit Committee hereby waives, and hereby recommends that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the Goodbarn Transaction in 2012; and further

RESOLVED, that, for so long as Mr. Goodbarn is a member of the Board of Directors of MobiTV or retains a significant financial stake in MobiTV, Mr. Goodbarn shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve MobiTV or any of its affiliates; and further

IBM Transaction

WHEREAS, (a) management and those members of the Board of Directors who are not also members of the Board of Directors of SATS (the "Non-Interlocking Directors"), have found, and recommended that the Audit Committee and the Board of Directors find, that the IBM Transaction is fair to the Corporation and its subsidiaries; and (b) the Non-Interlocking Directors approved, and recommended that the Audit Committee and the Board of Directors approve, the IBM Transaction on substantially the same terms and conditions described in the memorandum distributed prior to the meeting, with such non-material modifications, changes, or amendments to such terms and conditions as the Chief Executive Officer or Executive Vice President, General Counsel and Secretary of

the Corporation (each, a “proper officer” and collectively, the “proper officers”), or any one of them, shall in their discretion approve;

NOW, THEREFORE, BE IT RESOLVED, that the Audit Committee hereby approves, ratifies and confirms the recommendations of management and the Non-Interlocking Directors regarding the IBM Transaction; and further

RESOLVED, that based upon the information received by the Audit Committee from management, the above-referenced discussions with the General Counsel of the Corporation and other members of management, and upon such other inquiries and other matters as are deemed appropriate or relevant by the Audit Committee, the Audit Committee hereby finds, and recommends that the Board of Directors find, that the IBM Transaction is fair to the Corporation and its subsidiaries; and further

RESOLVED, (a) that the Audit Committee hereby approves, and recommends that the Board of Directors approve, the IBM Transaction on substantially the same terms and conditions described in the memorandum distributed prior to the meeting, with such non-material modifications, changes, or amendments to such terms and conditions as the proper officers, or any one of them, shall in their discretion approve; and (b) that the consummation of such transaction by any proper officer, with such non-material modifications, changes, or amendments to the terms and conditions of the IBM Transaction as any proper officer shall approve, shall constitute conclusive evidence that such transaction has been approved hereby; and further

General Enabling Resolutions

RESOLVED, that the proper officers of the Corporation and its subsidiaries be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries, and under their corporate seals or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

Litigation Update

The seventh item of business was an update presented by Mr. Dodge, in his capacity as General Counsel of the Corporation, regarding significant litigation in which the Corporation and/or its subsidiaries are involved. Mr. Dodge explained that his report and any ensuing discussions were subject to the attorney/client and other applicable privileges.

Review and Approval of Form and Filing of Form 10-K

The eighth item of business was the approval of the form and filing of the Corporation's Annual Report on Form 10-K for the year ended December 31, 2011. After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted, subject to the incorporation of the comments made by the members of the Audit Committee at the meeting:

WHEREAS, the Corporation is required to file with the Securities and Exchange Commission (the "Commission") by February 29, 2012, an Annual Report on Form 10-K for the year ended December 31, 2011 (the "Form 10-K");

WHEREAS, a draft of the Form 10-K proposed to be filed with the Commission was attached as Exhibit 8A to the board book for the meeting (the "Draft Form 10-K"), and each member of the Audit Committee has read the Draft Form 10-K and has provided all comments and responses they deem necessary and appropriate to the General Counsel and Chief Financial Officer of the Corporation (or their designees);

WHEREAS, the Draft Form 10-K contains year-end financial statements of the Corporation that were audited by KPMG; and

WHEREAS, management has recommended that the Audit Committee approve (i) as to form the Draft Form 10-K, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-K (with any such non-material changes) at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine;

NOW, THEREFORE, BE IT RESOLVED, that the Audit Committee hereby (i) approves, ratifies and confirms the recommendation of management concerning

the approval (a) as to form of the Draft Form 10-K, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (b) of the filing with the Commission of the Form 10-K (with any such non-material changes) at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and (ii) based on the review and discussions with management and the independent registered public accounting firm referred to above, recommends to the Board of Directors that (a) the audited financial statements for the year ended December 31, 2011 be included in the Form 10-K, and (b) the Board of Directors approve as to form the Draft Form 10-K, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and the filing with the Commission of the Form 10-K (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine.

Internal Audit/SOX 404 Update

The ninth item of business was an update provided by Mr. Beggs regarding the Corporation's internal audit function and compliance with Section 404 of Sarbanes-Oxley ("SOX 404"). A summary of Mr. Beggs' presentation was attached as Exhibit 9A to the board book for the meeting. Mr. Beggs walked the members of the Audit Committee through his presentation, highlighting, among other things, a 2011 status update on SOX 404 compliance, certain improved disclosure controls and the 2012 Risk Assessment Process and Operational Audit Plan.

Discussion of Annual Audit Procedures and SOX 404 Update

The tenth item of business was a report presented by Mr. Waldron regarding KPMG's audit of the Corporation's Financial Statements and Form 10-K for the year ended December 31, 2011. A summary of Mr. Waldron's presentation was attached as Exhibit 10A to the board book for the meeting.

The discussion with the independent registered public accounting firm included, among other things, a summary of the status of the 2011 audit, during which Mr. Waldron noted that

KPMG had substantially completed its audit procedures and discussed the significant matters still in process.

The discussion with the independent registered public accounting firm also included changes to the initial audit plan, results of the audit and certain required communications, including that, in their professional judgment, KPMG believes that it is independent of the Corporation under applicable rules.

The discussion with the independent registered public accounting firm also included, among other things, a review of the impact of The Dodd–Frank Wall Street Reform and Consumer Protection Act on the Corporation, including without limitation, conflict mineral disclosure and potential changes to the whistle-blower hotline.

The members of the Audit Committee reviewed and discussed the Financial Statements and Draft of the Form 10-K with Mr. Waldron.

Appointment of KPMG as Independent Registered Public Accounting Firm for the Fiscal Year Ending December 31, 2012

The eleventh item of business was a discussion led by Mr. Ortolf regarding the appointment of KPMG as the Corporation’s independent registered public accounting firm for the fiscal year ending December 31, 2012.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Audit Committee hereby determines that it is in the best interests of the Corporation to have KPMG continue to serve as the Corporation's independent registered public accounting firm for the fiscal year ending December 31, 2012, and therefore the Audit Committee hereby: (i) approves, ratifies and adopts the appointment of KPMG LLP as the independent registered public accounting firm of the Corporation for the fiscal year ending December 31, 2012 (subject to reaching an agreement with respect to fees to be charged to the Corporation by KPMG for its services and

subject to ratification by the shareholders); (ii) recommends that the Board of Directors approve, ratify and adopt the appointment of KPMG as the independent registered public accounting firm of the Corporation for the fiscal year ending December 31, 2012 (subject to reaching an agreement with respect to fees to be charged to the Corporation by KPMG for its services and subject to ratification by the shareholders); and (iii) recommends that the Board of Directors submit such appointment to the shareholders of the Corporation for ratification at the 2012 Annual Meeting of Shareholders.

Review of Non-Audit Tax Services, Other Non-Audit Services and Audit-Related Technical Accounting Services Performed by KPMG During the Year Ended December 31, 2011 and Authorization of KPMG to Perform Certain Non-Audit Tax Services, Audit-Related Technical Accounting Services and Other Non-Audit Services During 2012

The twelfth item of business was a discussion led by Mr. Sheers regarding the non-audit tax services previously authorized by the Audit Committee and actually provided by KPMG to the Corporation and its subsidiaries during the year ended December 31, 2011. Mr. Sheers noted that to assist the members of the Audit Committee, a list of such items was included in Exhibit 12A to the board book for the meeting.

Mr. Sheers then led a discussion regarding the audit-related technical accounting services previously authorized by the Audit Committee and actually provided by KPMG to the Corporation and its subsidiaries during the year ended December 31, 2011. A list of such items was attached as Exhibit 12B to the board book for the meeting.

Mr. Sheers then reviewed the other non-audit services previously authorized by the Audit Committee and actually provided by KPMG to the Corporation and its subsidiaries during the year ended December 31, 2011. Mr. Sheers noted that to assist the members of the Audit Committee, a list of such items was included in Exhibit 12A to the board book for the meeting.

Mr. Sheers then led a discussion of the additional non-audit tax services that management believes will be necessary for KPMG to perform during the remainder of the calendar year 2012, and a list of such items was provided by Mr. Sheers during the meeting. Mr. Dodge noted that

the Audit Committee should consider management's proposal in light of any bearing it might have on the independence of KPMG and that management has determined that the additional non-audit tax services that management believes will be necessary for KPMG to perform during the remainder of calendar year 2012 will not impair the independence of KPMG.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the retention of KPMG to provide up to an additional \$410,000 in non-audit tax services (which increases the maximum total amount authorized for KPMG to perform non-audit tax services from \$1,000,000 to \$1,410,000 in 2012) as more fully described in the materials distributed at the meeting, be, and it hereby is, approved, ratified and confirmed in all respects; and further

RESOLVED, that the Chairman, Chief Executive Officer or Executive Vice President, General Counsel and Secretary of the Corporation (each, a "proper officer" and collectively, the "proper officers") be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

Annual Review of Audit Committee Charter and Other Recurring Actions Required Under Audit Committee Charter

The thirteenth item of business was the annual review of the Amended and Restated Charter of the Audit Committee led by Mr. Ortolf. To assist the members of the Audit Committee with their consideration of this item, Mr. Ortolf noted that the current charter was

attached as Exhibit 13A to the board book for the meeting. Mr. Ortolf further noted that a compilation of data about the audit committee charters of comparable corporations was attached as Exhibit 13B to the board book for the meeting.

Mr. Ehrhart then led a discussion regarding, among other things, certain other recurring actions required under the Amended and Restated Charter and compilation of data about the audit committee charters of comparable corporations. Following this discussion, Mr. Ehrhart stated that the compilation of data about the audit committee charters of comparable corporations attached as Exhibit 13B to the board book for the meeting be revised to explain that the Audit Committee does not review earnings releases due, among other things, to the fact that the Corporation's earnings releases simply restate information from the Corporation's public filings.

Review of Items Approved by the Audit Committee Year-to-Date

The fourteenth item of business was a review by Mr. Dodge of certain items approved by the Audit Committee year-to-date that are outside of the ordinary course and have not been consummated, as well as certain items approved by the Audit Committee in prior years that remain active. To assist the members of the Audit Committee, a list of those items was included in the board book for the meeting. Mr. Dodge also noted that his review does not include items approved year-to-date that are ordinary course (whether consummated or not) or that are outside the ordinary course but have been consummated.

Private Discussion with KPMG (Management excused)

The fifteenth item of business was a private discussion between the members of the Audit Committee and KPMG.

Private Discussion with Vice President of Internal Audit (Management and KPMG excused)

The sixteenth item of business was a private discussion between the members of the Audit Committee and the Vice President of Internal Audit.

Private Discussion with Management (KPMG excused)

The seventeenth item of business was a private discussion between the members of the Audit Committee and management.

Adjournment

There being no further business to come before the Audit Committee, upon motion duly made, seconded and unanimously approved, the meeting was adjourned at 1:00 p.m., prevailing Mountain Time.

Tom A. Ortolf
Chairman of the Audit Committee

We, the undersigned, who together with Mr. Ortolf constitute all members of the Audit Committee, hereby waive any and all formal notice of the above meeting and hereby ratify and approve the foregoing minutes.

Steven R. Goodbarn

Gary S. Howard

FILED

NOV 28 2018

Alvin B. ...
CLERK OF COURT

1 **APEN**
2 J. Stephen Peek, Esq. (1758)
3 Robert J. Cassity, Esq. (9779)
4 HOLLAND & HART LLP
5 9555 Hillwood Drive, 2nd Floor
6 Las Vegas, Nevada 89134
7 Tel: (702) 669-4600
8 Fax: (702) 669-4650
9 speak@hollandhart.com
10 bcassity@hollandhart.com

7 C. Barr Flinn (*Admitted pro hac vice*)
8 Emily V. Burton (*Admitted pro hac vice*)
9 YOUNG CONAWAY STARGATT & TAYLOR, LLP
10 Rodney Square, 1000 North King Street
11 Wilmington, DE 19801
12 Tel: (302) 571-6600
13 Fax: (302) 571-1253

11 *Attorneys for Special Litigation Committee of*
12 *Nominal Defendant DISH Network*
13 *Corporation*

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

DISTRICT COURT

CLARK COUNTY, NEVADA

16 PLUMBERS LOCAL UNION NO. 519 PENSION
17 TRUST FUND and CITY OF STERLING
18 HEIGHTS POLICE AND FIRE RETIREMENT
19 SYSTEM, derivatively on behalf of nominal
20 defendant DISH NETWORK CORPORATION,

Plaintiffs,

v.

21 CHARLES W. ERGEN; JAMES DEFRANCO;
22 CANTEY M. ERGEN; STEVEN R.
23 GOODBARN; DAVID MOSKOWITZ; TOM A.
24 ORTOLF; CARL E. VOGEL; GEORGE R.
25 BROKAW; JOSEPH P. CLAYTON; and GARY
26 S. HOWARD,

Defendants,

26 DISH NETWORK CORPORATION, a Nevada
27 corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**VOLUME 21 OF APPENDIX TO
THE REPORT OF THE SPECIAL
LITIGATION COMMITTEE OF
DISH NETWORK CORPORATION**

<u>Ex.</u>	<u>Date</u>	<u>Description</u>	<u>Page No.</u>
445	02/13/2012	DISH Minutes of Regular Board Meeting	9187
446	05/02/2012	Audit Committee Update Internal Audits & SOX 404	9215
447	05/02/2012	DISH Minutes of Annual Board Meeting	9234
448	07/23/2012	Audit Committee Update Internal Audit & SOX 404	9257
449	07/30/2012	Letter from Coblenz, Patch, Duffy & Bass LLP to KPMG LLP	9272
450	08/28/2012	Email from C. Ergen to S. Dodge	9276
451	10/16/2012	Highlights from Retailer Chat	9278
452	11/01/2012	Letter from Kelley Drye to KPMG	9287
453	11/02/2012	DISH Minutes of Regular Board Meeting	9292
454	11/27/2012	DISH Network Corporation Insider Trading Policy and Related Conduct	9312
455	12/03/2012	Email from E. Pagels to R. Rosales	9318
456	12/31/2012	Form DISH Network Retailer Agreement	9321

DATED this 28th day of November 2018.

By 
 J. Stephen Peek, Esq. (1738)
 Robert J. Cassity, Esq. (9779)
 HOLLAND & HART LLP
 9555 Hillwood Drive, 2nd Floor
 Las Vegas, Nevada 89134

C. Barr Flinn (*Admitted pro hac vice*)
 Emily V. Burton (*Admitted pro hac vice*)
 YOUNG CONAWAY STARGATT & TAYLOR, LLP
 Rodney Square, 1000 North King Street
 Wilmington, DE 19801

*Attorneys for the Special Litigation Committee of
 Nominal Defendant DISH Network Corporation*

HOLLAND & HART LLP
 9555 Hillwood Drive, 2nd Floor
 Las Vegas, NV 89134
 Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of November 2018, a true and correct copy of the foregoing **VOLUME 21 OF APPENDIX TO THE REPORT OF THE SPECIAL LITIGATION OF DISH NETWORK CORPORATION** was served by the following method(s):

Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

David C. O'Mara, Esq.
THE O'MARA LAW FIRM, PC.
311 East Liberty Street
Reno, NV 89501

Mark E. Ferrario, Esq.
Chris Miltenberger, Esq.
GREENBERG TRAURIG LLP
10845 Griffith Peak Drive, Ste 600
Las Vegas, NV 89135

Travis E. Downs, III, Esq.
Benny C. Goodman III, Esq.

Attorneys for Nominal Defendants DISH Network Corporation

Erik W. Luedeke, Esq.
Timothy Z. Lacombe, Esq.
ROBBINS GELLER RUDMAN & DOWD, LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498

J. Randall Jones, Esq.
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Pkwy, 17th Floor
Las Vegas, NV 89169

Howard S. Susskind, Esq.
SUGARMAN & SUSSKIND
100 Miracle Mile, Suite 300
Coral Gables, FL 33134

Brian T. Frawley, Esq.
Maya Krugman, Esq.
Yevgeniy Zilberman, Esq.
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004

Attorneys for Plaintiff Plumbers Local Union No. 519 Pension Trust Fund

Attorneys for Defendants

By: 
An Employee of Holland & Hart, LLP

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

CONFIDENTIAL

EXHIBIT 445

EXHIBIT 445

CONFIDENTIAL

JA010375
009187

TX 102-009637

CONFIDENTIAL

DISH NETWORK CORPORATION

Regular Meeting of the Board of Directors

February 13, 2012

A regular meeting of the board of directors (the "Board of Directors") of DISH Network Corporation (the "Corporation"), was held on February 13, 2012 at 1:00 p.m., prevailing Mountain Time, at the Corporation's headquarters located at 9601 S. Meridian Blvd., Englewood, Colorado 80112.

The following members of the Board of Directors participated:

Charles W. Ergen
Cantey M. Ergen
James DeFranco
David K. Moskowitz
Carl E. Vogel
Joseph P. Clayton
Steven R. Goodbarn
Tom A. Ortolf
Gary S. Howard

Also participating at various times during the meeting at the invitation of the Chairman of the Board of Directors were: R. Stanton Dodge, Executive Vice President, General Counsel and Secretary of the Corporation; Robert E. Olson, Executive Vice President and Chief Financial Officer of the Corporation (*present for Item 10 only*); Roger J. Lynch, Executive Vice President, Advanced Technologies of the Corporation (*present for Item 11 only*); Michael Kelly, President, Blockbuster L.L.C., a wholly-owned subsidiary of the Corporation (*present for Item 12 only*); Brandon Ehrhart, Vice President, Associate General Counsel and Assistant Secretary of the Corporation; and Brian McIntyre, Vice President, Broadband of the Corporation (*present for Item 13 only*).

Call to Order

Mr. Charles W. Ergen, Chairman of the Board of Directors, called the meeting to order and presided as Chairman of the meeting. Mr. Dodge acted as Secretary of the meeting.

Notice and Quorum

Mr. Ergen advised that as: (i) proper notice was delivered to each member of the Board of Directors; or (ii) each member of the Board of Directors has waived any and all notices that may have been required to be given with respect to a regular meeting of the Board of Directors, by: (a) participating in the meeting without objection to notice; or (b) otherwise communicating waiver of any such notice to the Secretary or Assistant Secretary of the Corporation or their designees, and a quorum was present, the meeting was properly convened.

Discussion Matters

ITEM 1. APPROVAL OF MINUTES AND SIGNING OF CONSENTS

Mr. Dodge explained that draft minutes of the Special Meeting of the Board of Directors held on October 27, 2011 and the Regular Meeting of the Board of Directors held on November 1, 2011, were attached as Exhibits 1A and 1B, respectively, to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the minutes of the Special Meeting of the Board of Directors held on October 27, 2011 and the Regular Meeting of the Board of Directors held on November 1, 2011, in substantially the form attached as Exhibits 1A and 1B, respectively, to the board book for the meeting be, and they hereby are, approved, ratified and confirmed in all respects, subject to incorporation of the comments made by members of the Board of Directors at the meeting.

ITEM 2. REG. S-K ITEM 404 "RELATED PERSON" TRANSACTIONS

Mr. Dodge reviewed certain new potential SEC Reg. S-K, Item 404 "Related Person" transactions, Nevada Revised Statutes §78.140 transactions and "Sensitive" transactions, as defined by the 2005 Audit Committee Recommendations to generally mean: (i) any non-ordinary course transaction in which the amount involved exceeded \$5,000,000; (ii) related party transactions; (iii) transactions of a highly confidential nature; (iv) transactions which grant exclusive rights or most favored nations status to any third party; or (v) any other transaction which in the judgment of the Board of Directors should reasonably be considered sensitive.

Mr. Dodge explained that, during 2011, the Corporation (or one of its subsidiaries) employed Mrs. Cantey Ergen. The Corporation (or one of its subsidiaries) paid Mrs. Ergen approximately \$100,000 during 2011, and expects to pay her approximately \$100,000 during 2012, although depending on the time and services that will be provided she may earn more than that amount during 2012. During 2012, the Corporation may elect to employ certain Ergen children and expects to pay them approximately \$25,000 in the aggregate, although depending on the time and services that will be provided, they may earn more than that amount during 2012 (collectively, the "Ergen Transaction I").

Mr. Dodge further explained that Mrs. Ergen is a member of the Board of Directors of The Children's Hospital of Denver to which the Corporation provides pay-TV services (the "Ergen Transaction II"). The Children's Hospital of Denver paid the Corporation approximately \$68,000 and \$70,000 for the years ended December 31, 2010 and 2011, respectively.

Mr. Dodge further explained that, during 2011, Summit Capital L.L.C. ("Summit Capital"), an entity controlled by Mr. Ergen, subleased approximately 1,100 square feet of office

space at 5701 S. Santa Fe Drive. Under the sublease, Summit Capital paid the Corporation approximately \$1,000 during 2011 and is expected to pay the Corporation approximately \$12,000 during 2012 (the "Ergen Transaction III").

Mr. Dodge further explained that, during 2006, Mr. Carl E. Vogel, Senior Advisor and a member of the Board of Directors, agreed to serve as a director of Shaw Communications Inc. ("Shaw"), a diversified Canadian communications company whose core business is providing broadband cable television, high-speed Internet, digital phone, telecommunications services and satellite direct-to-home services to over three million customers, and Mr. Vogel has beneficial ownership of 70,000 shares of Shaw common stock, options to purchase an additional 70,000 shares of Shaw common stock and 6,000 deferred share distribution units of Shaw common stock (the "Vogel Transaction I").

Mr. Dodge further explained that, during 2009, Mr. Vogel agreed to serve as a director of NextWave Wireless, Inc. ("NextWave"), which owns certain wireless spectrum licenses in the United States and Canada, and Mr. Vogel has an option to purchase 357,143 shares of NextWave common stock (the "Vogel Transaction II").

Mr. Dodge further explained that, during 2009, Mr. Vogel agreed to serve as a director of Universal Electronics Inc. ("UEI"), a provider of pre-programmed universal wireless control products and audio-video accessories that are marketed to enhance home entertainment systems, and Mr. Vogel has an option to purchase approximately 10,833 shares of UEI common stock and options to purchase 20,000 shares of UEI common stock (the "Vogel Transaction III"). The Corporation paid UEI approximately \$844,169 and \$0 during the years ended December 31, 2010 and 2011, respectively, for purchases of certain equipment by the Corporation, such as remote controls. SATS has paid UEI approximately \$28,000,000 and \$27,500,000 during the years ended December 31, 2010 and 2011, respectively, for purchases of certain equipment by the Corporation, such as remote controls.

Mr. Dodge further explained that, during 2009, Mr. Vogel agreed to serve as a director of Ascent Media Corporation ("Ascent Media"), which provides creative services and content management and delivery services to the media and entertainment industries in the United States, the United Kingdom and Singapore, and Mr. Vogel has beneficial ownership of approximately 4,932 shares of Ascent Media common stock (the "Vogel Transaction IV"). The Corporation paid Ascent Media approximately \$35,000 and \$1,000 during the years ended December 31, 2010 and 2011, respectively, for certain video duplication services. SATS paid Ascent Media approximately \$13,000 and \$0 during the years ended December 31, 2010 and 2011, respectively, for certain video duplication services.

Mr. Dodge further explained that, during 2010, Mr. Vogel agreed to serve as a director of ION Media Networks, Inc. ("ION"), which owns and operates the ION channel and certain local television stations carried by the Corporation and which also owns certain 700 MHz spectrum, and Mr. Vogel has an option to acquire .015% of ION (the "Vogel Transaction V").

Mr. Dodge further explained that, during 2011, Mr. Vogel agreed to serve as a director of Sirius XM Radio Inc. ("SiriusXM"), a provider of satellite radio (the "Vogel Transaction VI").

The Corporation and its distributors act as authorized distributors and retailers of SiriusXM receivers and related hardware and the Corporation receives certain programming rights from SiriusXM. Mr. Vogel has beneficial ownership of 100,000 shares of SiriusXM common stock and options to purchase an additional 59,905 shares of SiriusXM common stock. The Corporation paid SiriusXM approximately \$800,000 and \$1,300,000 during the years ended December 31, 2010 and 2011, respectively. SiriusXM paid the Corporation approximately \$3,000 and \$300 during the years ended December 31, 2010 and 2011, respectively. EchoStar Corporation (“SATS”) paid SiriusXM approximately \$1,000 and \$0 during the years ended December 31, 2010 and 2011, respectively.

Mr. Dodge further explained that, during 2011, the Corporation (or one of its subsidiaries) employed Mr. Paul Ortolf (who serves the Corporation as an International Marketing Specialist, which is not a financial reporting role), the son of Mr. Tom A. Ortolf, a member of the Board of Directors (the “Ortolf Transaction I”). The Corporation (or one of its subsidiaries) paid Mr. Paul Ortolf, approximately \$46,000 during 2011, and expects to pay him approximately \$46,000 during 2012, although depending on the time and services that will be provided, he may earn more than that amount during 2012.

Mr. Dodge further explained that, during 2011, the Corporation (or one of its subsidiaries) employed Ms. Meaghan Ortolf (who serves the Corporation as an Operations Analyst I in Commercial Services, which is not a financial reporting role), the daughter of Mr. Ortolf (the “Ortolf Transaction II”). The Corporation (or one of its subsidiaries) paid Ms. Ortolf, approximately \$24,000 during 2011, and expects to pay her approximately \$35,000 during 2012, although depending on the time and services that will be provided, she may earn more than that amount during 2012.

Mr. Dodge further explained that, during 2011, Mr. Gary S. Howard, a member of the Board of Directors, agreed to serve as a director of Avail-TVN (“Avail-TVN”), which provides transport, encoding and metadata services for certain of the Corporation’s “Video-On-Demand” (“VOD”) programming (the “Howard Transaction”). The Corporation paid Avail-TVN approximately \$176,000 and \$323,000 during the years ended December 31, 2010 and 2011, respectively.

Mr. Dodge further explained that, during 2012, Mr. Steven R. Goodbarn, a member of the Board of Directors, agreed to serve as a director of MobiTV, Inc. (“MobiTV”), which provides end-to-end mobile media solutions, including, among other things, the delivery of live TV, video-on-demand, and download-and-store services, for certain of the Corporation’s competitors (the “Goodbarn Transaction”).

Mr. Dodge further explained that the Corporation and/or its subsidiaries and SATS and/or its subsidiaries have entered into respective patent cross-license agreements with International Business Machines (“IBM”) for the use of certain of IBM’s patents, the terms and conditions of which are more fully described in a memorandum that was distributed prior to the meeting (the “IBM Cross-License Agreements”), which was approved by Mr. Joseph P. Clayton, in his capacity as President and Chief Executive Officer of the Corporation, pursuant to the authority delegated to him under the Related Party Transaction Policy approved at the Regular Meeting of

the Board of Directors held on August 2, 2011. Mr. Dodge further explained that the IBM Cross-License Agreements each include an option feature that, if exercised, would cause the amount of the IBM Cross-License Agreements to be greater than the authority delegated to Mr. Clayton under the Related Party Transaction Policy (the option feature and the overall IBM Cross-License Agreements, the "IBM Transaction").

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted (with Mr. Ergen and Mrs. Ergen abstaining with respect to the Ergen Transaction I, the Ergen Transaction II and the Ergen Transaction III, Mr. Vogel abstaining with respect to the Vogel Transaction I, the Vogel Transaction II, the Vogel Transaction III, the Vogel Transaction IV, the Vogel Transaction V and the Vogel Transaction VI, Mr. Ortolf abstaining with respect to the Ortolf Transaction I and the Ortolf Transaction II, Mr. Goodbarn abstaining with respect to the Goodbarn Transaction, and Mr. Howard abstaining with respect to the Howard Transaction):

WHEREAS, the Ergen Transaction I, Ergen Transaction II, Ergen Transaction III, Vogel Transaction I, Vogel Transaction II, Vogel Transaction III, Vogel Transaction IV, Vogel Transaction V, Vogel Transaction VI, Ortolf Transaction I, Ortolf Transaction II, Howard Transaction, Goodbarn Transaction and the IBM Transaction may potentially be considered related party transactions under SEC Regulation S-K, Item 404, Nevada Revised Statutes §78.140 transactions or "Sensitive" transactions and therefore, out of an abundance of caution, the Board of Directors has been asked to review such transactions;

Ergen Transaction I

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the prior Ergen Transaction I and the continuation of the Ergen Transaction I in 2012 are fair to the Corporation and its subsidiaries; provided that Mrs. Ergen's employment compensation does not exceed \$100,000 in 2012 and the aggregate employment compensation of the Ergen children does not exceed \$25,000 in 2012; (b) the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction I and the continuation of the Ergen Transaction I in 2012; and (c) the Audit Committee: (i) ratified and confirmed in all respects, and recommended that the Board of Directors ratify and confirm, the prior Ergen Transaction I; and (ii) authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt, the continuation of the Ergen Transaction I in 2012; provided that Mrs. Ergen's employment compensation does not exceed \$100,000 in 2012 and the aggregate employment compensation of the Ergen children does not exceed \$25,000 in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Ergen Transaction I; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussion with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Board of Directors, the Board of Directors hereby finds that the prior Ergen Transaction I and the continuation of the Ergen Transaction I in 2012 are fair to the Corporation and its subsidiaries; provided that Mrs. Ergen's employment compensation does not exceed \$100,000 in 2012 and the aggregate employment compensation of the Ergen children, does not exceed \$25,000 in 2012; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction I and the continuation of the Ergen Transaction I in 2012; and further

RESOLVED, that the Board of Directors hereby: (a) ratifies and confirms in all respects the prior Ergen Transaction I; and (b) authorizes, ratifies and adopts in all respects the continuation of the Ergen Transaction I in 2012, provided that Mrs. Ergen's employment compensation does not exceed \$100,000 in 2012 and the aggregate employment compensation of the Ergen children, does not exceed \$25,000 in 2012; and further

Ergen Transaction II

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Ergen Transaction II in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Ergen Transaction II; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Ergen Transaction II in 2012; and further

RESOLVED, that, for so long as Mrs. Ergen is a member of the Board of Directors of The Children's Hospital of Denver, Mrs. Ergen shall recuse herself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve The Children's Hospital of Denver or any of its affiliates; and further

Ergen Transaction III

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the prior Ergen Transaction III and the continuation of the Ergen Transaction III in 2012 are fair to the Corporation and its subsidiaries; (b) the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction III and the continuation of the Ergen Transaction III in 2012; and (c) the Audit Committee: (i) ratified and confirmed in all respects, and recommended that the Board of Directors ratify and confirm, the prior Ergen Transaction III; and (ii) authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt, the continuation of the Ergen Transaction III in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Ergen Transaction III; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussion with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Board of Directors, the Board of Directors hereby finds that the prior Ergen Transaction III and the continuation of the Ergen Transaction III in 2012 are fair to the Corporation and its subsidiaries; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the prior Ergen Transaction III and the continuation of the Ergen Transaction III in 2012; and further

RESOLVED, that the Board of Directors hereby: (a) ratifies and confirms in all respects the prior Ergen Transaction III; and (b) authorizes, ratifies and adopts in all respects the continuation of the Ergen Transaction III in 2012; and further

RESOLVED, that, for so long as Mr. Ergen is a member of the Board of Directors of Summit Capital or retains a significant financial stake in Summit Capital, Mr. Ergen shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Summit Capital; and further

Vogel Transaction I

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction I in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Vogel Transaction I; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction I in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of Shaw or retains a significant financial stake in Shaw, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Shaw or Bell ExpressVu or any of their affiliates; and further

Vogel Transaction II

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction II in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Vogel Transaction II; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction II in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of NextWave or retains a significant financial stake in NextWave, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve NextWave or any of its affiliates; and further

Vogel Transaction III

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction III in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Vogel Transaction III; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction III in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of UEI or retains a significant financial stake in UEI, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve UEI or any of its affiliates; and further

Vogel Transaction IV

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction IV in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Vogel Transaction IV; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction IV in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of Ascent Media or retains a significant financial stake in Ascent Media, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Ascent Media or any of its affiliates; and further

Vogel Transaction V

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction V in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Vogel Transaction V; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction V in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of ION or retains a significant financial stake in ION, Mr. Vogel shall recuse

himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve ION or any of its affiliates; and further

Vogel Transaction VI

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction VI in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Vogel Transaction VI; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Vogel Transaction VI in 2012; and further

RESOLVED, that, for so long as Mr. Vogel is a member of the Board of Directors of SiriusXM or retains a significant financial stake in SiriusXM, Mr. Vogel shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve SiriusXM or any of its affiliates; and further

Ortolf Transaction I

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the prior Ortolf Transaction I and the continuation of the Ortolf Transaction I in 2012 is fair to the Corporation and its subsidiaries; provided that Mr. Paul Ortolf's employment compensation does not exceed \$46,000 in 2012; (b) the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ortolf Transaction I and the continuation of the Ortolf Transaction I in 2012; and (c) the Audit Committee: (i) ratified and confirmed in all respects, and recommended that the Board of Directors ratify and confirm, the prior Ortolf Transaction I; and (ii) authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt, the continuation of the Ortolf Transaction I in 2012; provided that Mr. Paul Ortolf's employment compensation does not exceed \$46,000 in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Ortolf Transaction I; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Ortolf Transaction I in 2012; and further

RESOLVED, that the Board of Directors hereby: (a) ratifies and confirms in all respects the prior Ortolf Transaction I; and (b) authorizes, ratifies and adopts in all respects the continuation of the Ortolf Transaction I in 2012; provided that Mr. Ortolf's employment compensation does not exceed \$46,000 in 2012; and further

Ortolf Transaction II

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the prior Ortolf Transaction II and the continuation of the Ortolf Transaction II in 2012 is fair to the Corporation and its subsidiaries; provided that Ms. Meaghan Ortolf's employment compensation does not exceed \$35,000 in 2012; (b) the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the prior Ortolf Transaction II and the continuation of the Ortolf Transaction II in 2012; and (c) the Audit Committee: (i) ratified and confirmed in all respects, and recommended that the Board of Directors ratify and confirm, the prior Ortolf Transaction II; and (ii) authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt, the continuation of the Ortolf Transaction II in 2012; provided that Ms. Meaghan Ortolf's employment compensation does not exceed \$35,000 in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Ortolf Transaction II; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Ortolf Transaction II in 2012; and further

RESOLVED, that the Board of Directors hereby: (a) ratifies and confirms in all respects the prior Ortolf Transaction II; and (b) authorizes, ratifies and adopts in all respects the continuation of the Ortolf Transaction II in 2012; provided that Ms. Ortolf's employment compensation does not exceed \$35,000 in 2012; and further

Howard Transaction

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Howard Transaction in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Howard Transaction; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Howard Transaction in 2012; and further

RESOLVED, that, for so long as Mr. Howard is a member of the Board of Directors of Avail-TVN or retains a significant financial stake in Avail-TVN, Mr. Howard shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve Avail-TVN or any of its affiliates; and further

Goodbarn Transaction

WHEREAS, the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the continuation of the Goodbarn Transaction in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Goodbarn Transaction; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the continuation of the Goodbarn Transaction in 2012; and further

RESOLVED, that, for so long as Mr. Goodbarn is a member of the Board of Directors of MobiTV or retains a significant financial stake in MobiTV, Mr. Goodbarn shall recuse himself from any matters presented to the Board of Directors (or its committees) that directly or indirectly involve MobiTV or any of its affiliates; and further

IBM Transaction

WHEREAS, (a) management, those members of the Board of Directors who are not also members of the Board of Directors of SATS (the "Non-Interlocking Directors), and the Audit Committee have found, and recommended that the Board of Directors find, that the IBM Transaction is fair to the Corporation and its subsidiaries; and (b) the Non-Interlocking Directors and the Audit Committee have approved, and recommended that the Board of Directors approve, the IBM Transaction on substantially the same terms and conditions described in the memorandum distributed prior to the meeting with such non-material modifications, changes, or amendments to such terms and conditions as the Chief Executive Officer or Executive Vice President, General Counsel and Secretary of the Corporation (each, a "proper officer" and collectively, the "proper officers"), or any one of them, shall in their discretion approve;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of management, the Non-Interlocking Directors and the Audit Committee regarding the IBM Transaction; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussions with the General Counsel of the Corporation and other members of management, and upon such other inquiries and other matters as are deemed appropriate or relevant by the Board of Directors, the Board of Directors hereby finds that the IBM Transaction is fair to the Corporation and its subsidiaries; and further

RESOLVED, (a) that the IBM Transaction be, and it hereby is, approved on substantially the same terms and conditions described in the memorandum distributed prior to the meeting, with such non-material modifications, changes, or amendments to such terms and conditions as the proper officers, or any one of them, shall in their discretion approve; and (b) that the consummation of such transaction by any proper officer, with such non-material modifications, changes, or amendments to the terms and conditions of the IBM Transaction as any proper officer shall approve, shall constitute conclusive evidence that such transaction has been approved hereby; and further

General Enabling Resolutions

RESOLVED, that the proper officers of the Corporation and its subsidiaries be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries, and under their corporate seals or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 3. LITIGATION UPDATE

Mr. Dodge, in his capacity as General Counsel of the Corporation, presented a report on the status of the significant litigation in which the Corporation and/or its affiliates are presently involved. Mr. Dodge explained that his report and any ensuing discussions were subject to the attorney/client and other applicable privileges.

ITEM 4. APPROVAL OF FORM AND FILING OF ANNUAL REPORT ON FORM 10-K AND REPORT ON ACTIVITIES OF AUDIT COMMITTEE

Mr. Tom A. Ortoff, Chairman of the Audit Committee, presented a report on the general activities of the Audit Committee and the Audit Committee's review of the Corporation's financial statements and Form 10-K for the year ended December 31, 2011.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted, subject to incorporation of the comments received at the Audit Committee meeting held earlier:

WHEREAS, the Corporation is required to file with the Securities and Exchange Commission (the "Commission") by February 29, 2012, an Annual Report on Form 10-K for the year ended December 31, 2011 (the "Form 10-K");

WHEREAS, a draft of the Form 10-K proposed to be filed with the Commission is attached hereto as Exhibit 7A (the "Draft Form 10-K"), and each member of the Board of Directors has read the Draft Form 10-K and has provided all comments and responses they deem necessary and appropriate to the General Counsel and Chief Financial Officer of the Corporation (or their designees);

WHEREAS, the Draft Form 10-K contains year-end financial statements of the Corporation that were audited by KPMG;

WHEREAS, management has recommended that the Audit Committee approve (i) as to form the Draft Form 10-K, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-K (with any such non-material changes) at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and

WHEREAS, the Audit Committee has (a) approved, ratified and confirmed the recommendation of management concerning the approval (i) as to form of the Draft Form 10-K, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) of the filing with the Commission of the Form 10-K (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and (b) recommended that the Board of Directors approve (i) as to form the Draft Form 10-K, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-K (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine;

CONFIDENTIAL

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendation of the Audit Committee concerning the approval as to form and filing of the Form 10-K; and further

RESOLVED, that the Draft Form 10-K, in substantially the form attached as Exhibit 7A to the board book for the meeting, be, and it hereby is, approved as to form with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate; and further

RESOLVED, that the Form 10-K, in substantially the form attached as Exhibit 7A to the board book for the meeting, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, be filed with the Commission at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and further

RESOLVED, that the General Counsel and Chief Financial Officer be, and they collectively hereby are, authorized, empowered and directed to prepare or cause to be prepared, to execute or cause to be executed, and to file or cause to be filed with the Commission such non-material amendments and supplements to the Form 10-K as they, collectively, may deem necessary or desirable, or as may be required by the Commission; and further

RESOLVED, that, in the event that such an amendment or supplement to the Form 10-K is filed, the members of the Board of Directors shall be provided with redline copies of the revised Form 10-K showing the changes that were made; and further

RESOLVED, that the proper officers of the Corporation be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 5. QUARTERLY REVIEW OF OPTION GRANTS TO EMPLOYEES OTHER THAN EXECUTIVE OFFICERS AND REPORT ON ACTIVITIES OF THE EXECUTIVE COMPENSATION COMMITTEE

Mr. Steven R. Goodbarn, Chairman of the Executive Compensation Committee, presented a report on the general activities of the Executive Compensation Committee and the Executive Compensation Committee's review of the option grants made to employees other than executive officers during the fourth quarter of 2011, a list of which was attached as Exhibit 8A to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the Corporation adopted the 2009 Stock Incentive Plan (the "Plan"), which Plan provides for the grant of stock options, among other stock-based performance awards, to key employees of the Corporation and its subsidiaries;

WHEREAS, eighty million (80,000,000) shares of Class A Common Stock, \$0.01 par value per share ("Common Stock"), of the Corporation have been reserved for issuance under the Plan;

WHEREAS, the Board of Directors has established the Executive Compensation Committee to administer the Plan;

WHEREAS, management believes: (i) that officers and other key employees, who are in a position to make a substantial contribution to the long-term success of the Corporation and to build stockholder value, should have a stake in the Corporation's ongoing success; and (ii) that this focuses attention on managing the Corporation as an owner with an equity position in the Corporation's business and seeks to align the officers' and key employees' interests with the long-term interests of stockholders;

WHEREAS, the Plan was adopted by the Board of Directors and approved by stockholders in recognition of management's belief;

WHEREAS, (i) awards under the Plan follow a review of the individual employee's performance, position in the Corporation, long-term potential contribution to the Corporation and the number of options previously granted to the employee; and (ii) neither management nor the Board of Directors assigns specific weights to these factors, although the employee's position and a subjective evaluation of his or her performance are considered most important;

WHEREAS, generally, the number of options granted to an employee reflect his or her level of responsibility, position in the Corporation and potential to contribute to the long-term success of the Corporation or otherwise achieve significant corporate goals;

WHEREAS, however, the number of options granted to specific employees are not based on any objective criteria;

WHEREAS, options are generally granted to director level and above employees, although in certain circumstances options are granted to certain other employees based on length of service or contribution to the Corporation;

WHEREAS, Charles W. Ergen, Chairman of the Board of Directors desires to: (i) incentivize certain new employees and/or certain employees receiving promotions who are in a position to make a substantial contribution to the long-term success of the Corporation and to build stockholder value; and/or (ii) reward certain key employees of the Corporation and its subsidiaries, in connection with their efforts during the past year, and provide them with an incentive to continue to help build the success of the Corporation, which rewards and incentives add value to the Corporation that is at least equal to the fair market value of the shares of the Corporation's Common Stock that these employees will receive through the Plan;

WHEREAS, at the Annual Meeting of the Board of Directors, held on May 2, 2011, (i) the Board of Directors delegated the authority to Mr. Ergen, as Chairman of the Board of Directors, to make grants of options to purchase the Common Stock, effective at the end of each quarter, to new employees and existing employees of the Corporation or its subsidiaries who are not executive officers in connection with hiring, promotion or other recognition, as Mr. Ergen deems appropriate, without further need to consult with or seek prior approval from the Board of Directors or the Executive Compensation Committee, consistent with the criteria established in the Plan, and that the actions taken by Mr. Ergen in connection therewith shall be deemed approved, ratified and confirmed by the Board of Directors and the Executive Compensation Committee as of the date such action is taken; provided however, that no authority was granted to Mr. Ergen to make grants to: (a) executive officers or directors of the Corporation (executive officers of the Corporation are those persons identified as executive officers in the Corporation's annual report on Form 10-K); (b) "affiliates" of the Corporation, as such term is used in Section 16 of the Securities Exchange Act of 1934, and as interpreted by the General Counsel of the Corporation; (c) in excess of one hundred thousand (100,000) shares to an individual employee at or below the Vice President level; or (d) in excess of five hundred thousand (500,000) shares to an individual employee at or above the Senior Vice President level, without advance approval of the Executive Compensation Committee;

WHEREAS, the Chairman has made the grant of options to purchase shares of the Corporation's Common Stock ("Options") to those employees of the Corporation and its subsidiaries who are not executive officers set forth in the list attached as Exhibit 8A to the board book for the meeting, and in such amounts as set forth opposite each employee's name on such list under the terms of the Plan and an

incentive stock option agreement to be approved by the Chairman of the Corporation; and

WHEREAS, (i) the date of grant of such Options is December 31, 2011 (the "Grant Date"); (ii) such Options vest at the rate of 20% per year, with the first 20% of such Options vesting on the date which is one year after the Grant Date and 20% thereafter on the anniversary of the Grant Date for each of the following four years; (iii) the exercise price for each share of Common Stock shall be equal to the closing price, as reported on the National Association of Securities Dealers Automated Quotation System, for shares of the Common Stock on the Grant Date, or the last business day prior to such date in the event that such date falls on a weekend or holiday; and (iv) such Options expire ten years from the Grant Date;

NOW, THEREFORE, BE IT RESOLVED, that, after due consideration, the Board of Directors hereby determines that the grant of such Options is consistent with the authority delegated to the Chairman at the Annual Meeting of the Board of Directors, held on May 2, 2011.

ITEM 6. DETERMINATION OF NONEMPLOYEE DIRECTOR INDEPENDENCE, FINANCIAL LITERACY AND OTHER QUALIFICATIONS AND DESIGNATION OF "AUDIT COMMITTEE FINANCIAL EXPERT"

Mr. Dodge led a discussion on the independence, financial literacy and other requirements for nonemployee directors and the qualifications necessary for designation as an "audit committee financial expert" pursuant to Item 401(h) of Regulation S-K. Mr. Dodge noted that a copy of the relevant requirements was included on pages 16-18 of Exhibit 9A to the board book for the meeting. Mr. Dodge explained that, **REDACTED-ATTORNEY-CLIENT PRIVILEGED**

REDACTED-ATTORNEY-CLIENT PRIVILEGED
determined that Mr. Steven R. Goodbarn, Mr. Tom A. Ortolf and Mr. Gary S. Howard each meet the applicable independence, financial literacy and other requirements and that Mr. Goodbarn possesses the applicable qualifications necessary for designation as an "audit committee financial expert" pursuant to Item 401(h) of Regulation S-K, based upon, among other things, their respective qualifications as set forth in the draft Proxy Statement distributed prior to the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted (with Messrs. Goodbarn, Ortolf and Howard abstaining with respect to the resolutions applicable to themselves):

Nonemployee Director Independence

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors after due deliberation has determined that Messrs. Goodbarn, Ortolf and Howard each meet the applicable independence, financial literacy and other requirements of the charters, laws, rules, and regulations applicable to the Corporation, including without limitation, the Audit Committee Charter; the Executive Compensation

Committee Charter; the Nominating Committee Charter; Rule 4200(a)(15) of the NASDAQ Stock Market; Section 10A(m)(3) of the Securities Exchange Act of 1934, as amended; Item 407 of Regulation S-K; Rules 10A-3 and 16b-3 of the rules and regulations of the Securities and Exchange Commission; Section 162(m) of the Internal Revenue Code; and Treasury Regulation 1.162-27(e);

Audit Committee Expert

WHEREAS, Mr. Goodbarn has expressed his willingness and desire to be designated as an "audit committee financial expert" pursuant to Item 401(h) of Regulation S-K;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors after due deliberation has determined that Mr. Goodbarn possesses the applicable qualifications necessary for designation as an "audit committee financial expert" pursuant to Item 401(h) of Regulation S-K; and further

RESOLVED, that Mr. Goodbarn be, and he hereby is, designated as an "audit committee financial expert" pursuant to Item 401(h) of Regulation S-K until the 2012 Annual Meeting of the Board of Directors and until his respective successor is duly designated and qualified.

ITEM 7. APPROVAL OF ANNUAL SHAREHOLDERS MEETING DATE AND RELATED MATTERS

Mr. Dodge proposed that the 2012 Annual Meeting of Shareholders (the "Annual Shareholders Meeting") be held on Wednesday, May 2, 2012, at 1:00 p.m., prevailing Mountain Time, at the Corporation's offices located at 9601 S. Meridian Blvd., Englewood, Colorado 80112 to consider and vote upon: (a) the election of the members of the Board of Directors to serve until the next annual shareholders meeting or until their successors are duly elected and qualified; (b) a proposal to ratify the appointment by the Board of Directors of KPMG LLP ("KPMG") as the Corporation's independent registered public accounting firm for the fiscal year ending December 31, 2012; (c) approval of vote against shareholder proposal; and (d) to consider and act upon any other business that may properly come before the Annual Shareholders Meeting or any adjournment of the meeting.

Mr. Dodge noted that the Corporation's Bylaws require that notice of the Annual Shareholders Meeting be given to shareholders of record on such date as is established by the Board of Directors not less than ten nor more than sixty days before the date of the Annual Shareholders Meeting. Mr. Dodge then proposed that the record date for determining those shareholders entitled to notice of and to vote at the Annual Shareholders Meeting or any adjournment thereof be March 7, 2012.

Mr. Dodge then reviewed the draft Proxy Statement distributed prior to the meeting with the members of the Board of Directors.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

Approval of Meeting Date and Record Date for the 2012 Annual Meeting of Shareholders

NOW, THEREFORE, BE IT RESOLVED, that the 2012 Annual Meeting of Shareholders (the "Annual Shareholders Meeting") shall be held on Wednesday, May 2, 2012 at 1:00 p.m., prevailing Mountain Time, at the Corporation's offices located at 9601 S. Meridian Blvd., Englewood, Colorado 80112, or on such other date and/or at such other location as management shall determine; and further

RESOLVED, that March 7, 2012, be, and it hereby is, established as the record date for determining shareholders of the Corporation entitled to notice of and to vote at the Annual Shareholders Meeting or any adjournment thereof, or on such other date as management shall determine; and further

RESOLVED, that Broadridge Financial Services, Inc., be, and it hereby is, appointed as Election Judge at the Annual Meeting; and further

Establishment of Number of Independent Director Positions for which the Nominating Committee Shall Recommend Independent Director Nominees

RESOLVED, that, in connection with the Annual Meeting of Shareholders, the number of independent director positions for which the Nominating Committee shall recommend independent director nominees for selection by the Board of Directors be, and it hereby is, established to be three (3); and further

ADJOURNMENT

Upon motion duly made and seconded, the meeting was adjourned at 3:30 p.m. in order for Mr. Mr. Steven R. Goodbarn, Mr. Tom A. Ortolf and Gary S. Howard to attend a meeting of the Nominating Committee.

CONTINUATION

Following completion of the Nominating Committee meeting, upon motion duly made and seconded, the meeting was reconvened at 3:35 p.m.

Approval of Nominees for Election to the Board of Directors

WHEREAS, management has recommended that the Board of Directors nominate Charles W. Ergen, Cantey M. Ergen, James DeFranco, David K. Moskowitz, Carl E. Vogel and Joseph P. Clayton for election to the Board of Directors in connection with the Annual Meeting of Shareholders, based upon, among other things, their respective qualifications as set forth in the draft Proxy Statement distributed prior to the meeting; and

WHEREAS, the Nominating Committee has recommended Tom A. Ortolf, Steven R. Goodbarn and Gary S. Howard for selection by the Board of Directors as independent director nominees for election to the Board of Directors in connection with the Annual Meeting of Shareholders, based upon, among other things, their respective qualifications as set forth in the draft Proxy Statement distributed prior to the meeting;

NOW, THEREFORE, BE IT RESOLVED, (a) that Charles W. Ergen, Cantey M. Ergen, James DeFranco, David K. Moskowitz, Carl E. Vogel, Joseph P. Clayton, Tom A. Ortolf, Steven R. Goodbarn and Gary S. Howard be, and they hereby are, selected as nominees for election to the Board of Directors; (b) that the Board of Directors unanimously recommends a vote FOR the election of all the nominees named herein; and (c) that such nominees be presented to the shareholders of the Corporation for election at the Annual Shareholders Meeting; and further

Appointment of KPMG as Independent Registered Public Accounting Firm for the Fiscal Year Ending December 31, 2012

RESOLVED, (a) that the Board of Directors hereby determines that it is in the best interests of the Corporation to have KPMG continue to serve as the Corporation's independent registered public accounting firm for the fiscal year ending December 31, 2012, and therefore, as recommended by the Audit Committee, the Board of Directors hereby approves, ratifies and adopts the appointment of KPMG as the independent registered public accounting firm of the Corporation for the fiscal year ending December 31, 2012 (subject to ratification by the shareholders); (b) that the Board of Directors unanimously recommends a vote FOR ratification of such appointment; and (c) that such appointment be presented to the shareholders of the Corporation for ratification at the Annual Shareholders Meeting; and further

Approval of the Proposal Recommending a Vote Against the Shareholder Proposal

RESOLVED, (a) that the Board of Directors hereby determines that it is in the best interests of the Corporation to recommend a vote AGAINST the shareholder proposal from the City of New York Office of the Comptroller to publish a report by September 2012, excluding proprietary information disclosing the Corporation's actions in addressing: (i) increasing public concern about high costs from inefficient consumption of electricity by the set-top boxes; and (ii) evolving regulatory policies such as the EPA's new Energy Star requirements for cable and satellite TV converter boxes, and therefore, the Board of Directors hereby approves as to form the proposal describing the shareholder proposal, in substantially the form as it appears in the draft Proxy Statement distributed prior to the meeting, with such changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate; (b) that the Board of Directors unanimously recommends a vote AGAINST the shareholder

proposal; and (c) that such proposal be presented to the shareholders of the Corporation at the Annual Shareholders Meeting; and further

Approval of Form, Filing and Distribution of the Proxy Statement

RESOLVED, that the draft Proxy Statement, in substantially the form as distributed prior to the meeting, be, and it hereby is, approved as to form with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate; and further

RESOLVED, that the Proxy Statement, in substantially the form as distributed prior to the meeting, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, be filed with the Securities and Exchange Commission (the "Commission") pursuant to Section 14(a) of the Securities Exchange Act of 1934, as amended, at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and further

RESOLVED, that the General Counsel and Chief Financial Officer be, and they collectively hereby are, authorized, empowered and directed to prepare or cause to be prepared, to execute or cause to be executed, and to file or cause to be filed with the Commission such amendments and supplements to the Proxy Statement as they, collectively, may deem necessary or desirable, or as may be required by the Commission; and further

RESOLVED, that, in the event that an amendment or supplement to the Proxy Statement is filed, the members of the Board of Directors shall be provided with redline copies of the revised Proxy Statement showing the changes that were made; and further

RESOLVED, that the Corporation be, and it hereby is, directed to distribute the Proxy Statement, in substantially the form previously distributed to the members of the Board of Directors, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, to each shareholder owning the Corporation's voting securities on the record date of March 7, 2012; and further

General Enabling Resolutions

RESOLVED, that the Chief Executive Officer or Executive Vice President, General Counsel and Secretary of the Corporation (each, a "proper officer" and collectively, the "proper officers") be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates,

instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 8. REVIEW OF SCHEDULE FOR NEXT REGULAR MEETINGS OF THE BOARD OF DIRECTORS, AUDIT COMMITTEE AND EXECUTIVE COMPENSATION COMMITTEE

Mr. Dodge reviewed the schedule for the upcoming regular meetings of the Board of Directors, Audit Committee and Executive Compensation Committee. To assist the members of the Board of Directors with their review of the dates for such meetings, calendars for each of the months from January 2012 through December 2012 were attached as Exhibit 12A to the board book for the meeting.

ITEM 9. QUARTERLY REVIEW OF CERTAIN INVESTMENTS

Mr. Ergen provided an update on certain investments made by the Corporation during the fourth quarter. A copy of the investment policy of the Corporation and a summary of the investments made by the Corporation during the fourth quarter were attached as Exhibit 13A to the board book for the meeting.

ITEM 10. CHIEF EXECUTIVE OFFICER'S REPORT AND 2012 BUDGET REVIEW

Mr. Clayton presented a report on his observations as President and Chief Executive Officer of the Corporation, including, among other things, a discussion and review of the 2012 budget for the Corporation and its subsidiaries. A copy of Mr. Clayton's presentation was attached as Exhibit 14A to the board book for the meeting. Mr. Clayton and Mr. Olson then reviewed the 2012 budget for the Corporation and its subsidiaries with the members of the Board of Directors. Messrs. Clayton and Olson then responded to questions from the members of the Board of Directors.

ITEM 11. UPDATE ON IPTV

Mr. Lynch provided an update on internet protocol television ("IPTV"). A copy of Mr. Lynch's presentation was distributed prior to the meeting. Mr. Lynch then responded to questions from the members of the Board of Directors. Mr. Dodge then discussed alternative structures for a possible arrangement between the Corporation and SATS for the creation of an IPTV video service referred to as "BlockbusterTV". A copy of Mr. Dodge's presentation was distributed prior to the meeting. Mr. Dodge then responded to questions from the members of

the Board of Directors. After discussion and deliberation, no resolutions were proposed with respect to BlockbusterTV.

ITEM 12. UPDATE ON BLOCKBUSTER

Mr. Kelly provided an update regarding operation of Blockbuster's business. A copy of Mr. Kelly's presentation was distributed prior to the meeting. Mr. Kelly discussed, among other things, Blockbuster store operations and expected store closings during 2012; studio relationships; the kiosk business; the DVD by mail business; reductions in corporate overhead; the international businesses; potential sales of DISH services at Blockbuster domestic stores; and the domestic operational cash plan for 2012. Mr. Kelly then responded to questions from the members of the Board of Directors.

ITEM 13. DISCUSSION OF BROADBAND STRATEGIES

Mr. Clayton and Mr. McIntyre led a discussion of the Corporation's broadband strategies. A copy of Messrs. Clayton's and McIntyre's presentation was distributed prior to the meeting. Messrs. Clayton and McIntyre discussed, among other things, DISH broadband solutions; satellite broadband offerings provided by ViaSat; pricing for satellite broadband offerings; possible satellite broadband offerings provided by Hughes; and the development of certain satellite broadband antennas. Messrs. Clayton and McIntyre then responded to questions from the members of the Board of Directors.

ITEM 14. CHAIRMAN'S REPORT

Mr. Ergen presented a report on the general state of the business of the Corporation and other matters, including, among other things, upcoming satellite launches, potential strategic transactions and the Corporation's spectrum and wireless strategies. A copy of Mr. Ergen's presentation was distributed at the meeting. To further assist the members of the Board of Directors with their consideration of this item, a memorandum regarding upcoming satellite launches was attached as Exhibit 15A to the board book for the meeting. Mr. Ergen then responded to questions from the members of the Board of Directors.

ITEM 15. REVIEW OF CERTAIN ITEMS PREVIOUSLY APPROVED BY THE BOARD OF DIRECTORS

Mr. Dodge reviewed certain items approved by the Board of Directors year-to-date that are outside of the ordinary course and have not been consummated and the status of each such item, as well as certain items approved by the Board of Directors in prior years that remain active. Mr. Dodge noted that to assist the members of the Board of Directors a list of such items was included in the board book for the meeting. Mr. Dodge then noted that his review did not include items approved year-to-date that are ordinary course (whether consummated or not) or that are outside of the ordinary course but have been consummated.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

Rescission of Lease of Clone of AMC-14 Satellite Authorization

NOW, THEREFORE, BE IT RESOLVED, that any and all unexecuted outstanding authorizations of the Corporation or any of its subsidiaries to lease a clone of the AMC-14 Satellite be, and hereby are, rescinded to the extent that such outstanding authorizations have not previously been executed; and further

Rescission of Coinstar Authorization

RESOLVED, that any and all unexecuted outstanding authorizations of the Corporation or any of its subsidiaries to acquire all of the stock of Coinstar, Inc. ("Coinstar") up to an amount not to exceed \$59.40 per share be, and hereby are, rescinded to the extent that such outstanding authorizations have not previously been executed.

ITEM 16. AUTHORIZATION TO PURCHASE ADDITIONAL DEBT SECURITIES OF CLEARWIRE CORPORATION

Mr. Ergen led a discussion regarding a proposal by management to authorize the Corporation to purchase additional debt securities issued by Clearwire Corporation ("Clearwire") up to an aggregate principal amount of \$400 million. Mr. Ergen then responded to questions from the members of the Board of Directors.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

WHEREAS, the Board of Directors has determined that it is in the best interests of the Corporation for it to authorize the purchase of additional debt securities issued by Clearwire (the "Clearwire Debt") up to an aggregate principal amount of \$400 million;

NOW, THEREFORE, BE IT RESOLVED, that the Corporation be, and it hereby is, authorized to purchase additional Clearwire Debt up to an aggregate principal amount of \$400 million, at such time and on such terms and conditions as the Chairman, the Chief Executive Officer and Executive Vice President, General Counsel and Secretary (each, a "proper officer" and collectively, the "proper officers") shall determine; and further

RESOLVED, that the proper officers be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs

CONFIDENTIAL

and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent of the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers within the terms of the foregoing resolutions be, and the same hereby are, ratified and confirmed in all respects.

Termination

There being no further business to come before the meeting, the meeting was, upon motion duly made and seconded, terminated at 6:30 p.m., prevailing Mountain Time.

R. Stanton Dodge
Secretary

CONFIDENTIAL

EXHIBIT 446

EXHIBIT 446

CONFIDENTIAL

JA010403
009215

TX 102-009665



**Audit Committee Update
Internal Audit & SOX 404**

May 2, 2012



Audit Committee Update

- SOX 404 Update
- Audit Updates
- Investigation Updates
- 2012 IA Department Goals
- Planned Future Changes
- Appendix



SOX 404 Update

2011 Deficiencies

SOX 404 Deficiencies	DISH	Blockbuster	Totals
Open as of 12/31/11	4	3	7
Remediated as of 5/2/12	(1)	(1)	(2)
New Tax Sig. Deficiency*	1	0	1
Remaining Open Deficiencies	4	2	6

The remaining open deficiencies all have compensating controls which mitigate their impact. All remaining deficiencies are scheduled to be remediated by 6/30/12 with the exception of the tax deficiency which can't be fully tested until the 2012 10-K cycle.

- * In February 2012, while finalizing the DISH Form 10-K, KPMG noted a significant SOX deficiency related to the Accounting for income taxes:
 - "During the course of our audit...we noted a significant control deficiency relating to the proper accounting and disclosure of income taxes. In our view, the matter arises principally as a result of the need for additional resources with appropriate expertise to accurately and completely prepare the income tax accrual and related disclosure in a timely manner so that effective review and approval of that work can occur timely."

- 3 -



SOX 404 Update

Tax Accounting Provision Significant Deficiency: During Q2 of 2012, Internal Audit completed a review of the tax provision process in order to gain an understanding of the factors contributing to the significant deficiency. Key observations and remediation plans are noted below:

<u>Observation</u>	<u>Remediation Plan</u>	<u>Due Date</u>
<ul style="list-style-type: none"> • Tax accounting provision staff has been operating short-handed in key positions. In addition, staff level positions need more FAS 109 experience <ul style="list-style-type: none"> - Additional workload associated with the Blockbuster, TerreStar, DBSD, and Hughes acquisitions exasperated the already compromised staffing situation 	<ul style="list-style-type: none"> • Move search from Human Resources to external search firms to fill key vacancies at both DISH and SATS. 	7/31/12
<ul style="list-style-type: none"> • Lack of documented policies and procedures, strong project management, and an integrated project plan with Corporate Accounting make monitoring milestones and progress challenging <ul style="list-style-type: none"> -Multiple adjusting entries past soft-close -Lack of staffing compromised segregation of duties controls and process 	<ul style="list-style-type: none"> • Provide FAS 109 training for less experienced staff 	7/31/12
	<ul style="list-style-type: none"> • Create detailed project plan including business process documentation for 2012 tax accounting provision process 	9/30/12
	<ul style="list-style-type: none"> • Develop a project plan with Corporate Accounting outlining expectations and due dates to mitigate changes 	9/30/12



SOX 404 Update

Tax Accounting Provision Significant Deficiency - continued:

<u>Observation</u>	<u>Remediation Plan</u>	<u>Due Date</u>
<ul style="list-style-type: none"> • Depreciation calculations out of Oracle system do not meet tax accounting needs requiring extensive manual calculations by tax staff during critical close timeframe 	<ul style="list-style-type: none"> • Improve existing tools to the extent possible. 	9/30/12
<ul style="list-style-type: none"> -Complicated book/tax differences for set top box depreciation calculations 	<ul style="list-style-type: none"> • Explore need for separate fixed asset depreciation application for set top boxes 	9/30/12
<ul style="list-style-type: none"> • ONESOURCE tax provision system implemented in 2011 is not being fully utilized due to lack of knowledgeable staff -Majority of provision process being accomplished outside of ONESOURCE using Excel spreadsheets. 	<ul style="list-style-type: none"> • Train new and existing staff in functionality and features of ONESOURCE system 	7/31/12



Audit Updates

Audit	Status	Observations
Blockbuster Store Closing Procedures	Audit Complete – Report Issued	Issues were identified in the following areas: petty cash management, inventory management (pricing, shrink), fixed asset tracking, and employee incentives.
Business Transformation (Billing System Conversion)	Audit Complete – Report Issued	No significant issues were identified that would prevent conversion on 3/31/12. Data migration was successful.
Tax Significant Deficiency Review	Review Complete – Report Issued	(See slides 4 and 5 for details).



Investigation Updates

Area	Concern	Findings
Media Gravity (International Marketing Vendor)	Former contractor of Media Gravity (also a former DISH employee) reported concerns related to improper billing practices.	No evidence of improper billing identified, although several opportunities for enhanced controls by DISH Marketing team were noted.
DNS Fuel Card Misuse (Salisbury, MD)	Warehouse employee reportedly stole company fuel cards for personal use.	Allegations were substantiated. Total theft identified was approximately \$3100 over 18 months. Lack of management monitoring of weekly fuel reports and control of PIN numbers was determined to be the root cause.
Blockbuster Mexico Whistleblower Complaint	Reporting party expressed concerns regarding potential conflicts of interest related to vendor relationships.	IA did not identify any inappropriate financial transactions as a result of the perceived conflicts of interest. Lack of defined processes related to receipt of goods and services were identified and corrective actions were implemented.



2012 IA Department Goals

- **Increase audit coverage by improving efficiency and effectiveness (see Appendix A: Audit Plan).**
 - Implement hours objectives and tracking for all projects.
 - Standardize procedures and templates.
 - Eliminate low-value work.
 - Perform follow-up audits.

- **Continue to develop positive partnerships with internal business owners.**
 - Create audit liaison roles (see Appendix B: Organization Chart).
 - Develop client feedback tool.

- **Develop necessary process and competencies to comply with IIA Quality Assurance Standards.**
 - Year 1 – Evaluate current policies and practices against IIA Standards.
 - Year 2 – Coordinate external review evaluation.

- **Ensure organization provides incremental value to business.**

- **Invest in continuing professional development of audit staff.**

- 8 -



Planned Future Changes (July 2012 Meeting)

- Establish audit rating system
- Audit Scorecard – new reporting package



**Appendix A:
2012 Audit Plan**



2012 Audit Plan

(Changes from 2/13/12 in yellow)

Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Business Transformation	Q1	Assess readiness of business applications to go live with CSG upgrade at the end of March, 2012.	1,400	Customer Experience; Process/System Maturity; Corporate Profitability
Blockbuster store closing procedures	Q1	Review of processes used to close retail outlets, including a review of inventory and fixed asset procedures, termination of leases, reconciliation of cash/inventory/assets subsequent to store closing.	1,800	Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud
2011 Year End SOX 404 Testing	Q1	Testing of year end financial processes and completion of remediation testing on controls that failed at interim.	1,000	Susceptibility to Fraud; Laws and Regulations
Investigations	Q1	Ongoing internal and 3 rd party fraud investigations.	350	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Outsourced Call Center Operations – <i>Audit 1</i>	Q2	Review of corporate processes used to manage outsourced call centers	500	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability
Outsourced Call Center Operations – <i>Audit 2</i>	Q2	Comprehensive review of call center processes at SPI (vendor) in the Philippines	300	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability

- 11 -



2012 Audit Plan

Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Outsourced Call Center Operations – <i>Audit 3</i>	Q2	Comprehensive review of call center processes at Concentrix (vendor) in the Philippines	300	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability
Outsourced Call Center Operations – <i>Audit 4</i>	Q2	Comprehensive review of call center processes at Stream (vendor) in the Philippines	300	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability
Co-op Advertising / Marketing Development Funds	Q2	Analysis of processes and controls to disburse advertising and marketing development funds to business partners	300	Brand Perception; Reliance on External Parties; Corporate Profitability; Susceptibility to Fraud
Related Party Billing (EchoStar)	Q2	Analysis of invoicing processes with EchoStar for compliance with Transition Services Agreements	300	Corporate Profitability
Corporate Tax	Q2	Review of factors leading to a significant deficiency related to the income tax provision calculation.	200	Corporate Profitability; Laws and Regulations
Commercial Services Operations	Q2	Follow-up of 2010 audit due to changes in key management personnel. Focus will be on contract adherence, qualification process, delinquencies/charge-offs, and commissions.	500	Customer Experience; Brand Perception; Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud



2012 Audit Plan

Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Disaster Recovery / Business Continuity Plan	Q2	Review of disaster recovery and business continuity plans, procedures and readiness.	300	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Gift Card Program	Q2	Review of corporate processes to manage the use of gift cards for employee recognition and new sales generation.	250	Corporate Profitability; Susceptibility to Fraud
Terminated Employee Payroll	Q2	Review of processes and controls to ensure payroll payments cease to terminated salaried exempt employees in a timely manner.	200	Corporate Profitability; Susceptibility to Fraud
SOX 404 Interim Testing	Q2	Begin interim testing of 2012 SOX 404 financial and IT controls and complete scoping exercise.	2,150	Susceptibility to Fraud; Laws and Regulations
Investigations	Q2	Ongoing internal and 3 rd party fraud investigations.	600	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Blockbuster Systems Production Environment Integration	Q3	Review of plans and testing procedures to ensure efficient and effective production environment integration.	300	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Blockbuster Retail Store Operations	Q3	Continued onsite reviews of 2 retail stores per region (currently 7 regions); review compliance with policies regarding inventory and cash management, security, safety, membership management, and customer satisfaction. Follow up on Q4 2011 audit.	500	Customer Experience; Brand Perception; Corporate Profitability; Budget/Capital Constraints; Susceptibility to Fraud; Organizational Staff Continuity

- 13 -



2012 Audit Plan

Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Customer Refund Processes – <i>Audit 1</i>	Q3	Comprehensive review of DISH policies, procedures, and financial controls related to issuing customer refunds, including fraud controls related to open credit balances and compliance with state escheatment laws.	400	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Customer Refund Processes – <i>Audit 2</i>	Q3	Comprehensive review of Blockbuster policies, procedures, and financial controls related to issuing customer refunds, including fraud controls related to open credit balances and compliance with state escheatment laws.	400	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Cash and Investments: <i>Follow-Up Audit</i>	Q3	Follow-up on audit recommendations from February 2011.	60	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Oracle ERP System Implementation	Q3	Review plan and testing procedures to ensure efficient and effective ERP implementation.	300	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Pay-Per-View (PPV): <i>Follow-Up Audit</i>	Q3	Follow-up on audit recommendations from June 2011.	60	Corporate Profitability; Laws and Regulations
Customer Qualification Process: <i>Follow-Up Audit</i>	Q3	Follow-up on audit recommendations from October 2011.	60	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Programming Payments	Q3	Comprehensive review of accuracy of payments made to programming content providers.	300	Corporate Profitability; Laws and Regulations

- 14 -



2012 Audit Plan

Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
SOX 404 Interim Testing	Q3	Testing of 333 financial and IT general controls for DISH and Blockbuster.	2,500	Susceptibility to Fraud; Laws and Regulations
Investigations	Q3	Ongoing internal and 3 rd party fraud investigations.	600	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Inventory Management – <i>Audit 1</i>	Q4	Review of processes used to forecast inventory needs and procure product; assessment of inventory management practices including storage and distribution.	500	Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud; Budget/Capital Constraints
Inventory Management – <i>Audit 2</i>	Q4	Review of inventory valuation procedures including reserve for excess/obsolete inventory, standard costing procedures, and Internal Review Board (IRB)	400	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations; Reliance on External Parties; Budget/Capital Constraints
Compensation/ Incentive Plans – <i>Audit 1</i>	Q4	Analysis of the Direct Sales self-administered compensation/incentive plan for accuracy, segregation of duties, alignment with corporate goals, and appropriate approvals and financial controls.	300	Corporate Profitability; Susceptibility to Fraud; Time/Volume Pressures
Compensation/ Incentive Plans – <i>Audit 2 (Follow-Up)</i>	Q4	Analysis of the DNS self-administered compensation/incentive plan for accuracy, segregation of duties, alignment with corporate goals, and appropriate approvals and financial controls.	200	Corporate Profitability; Susceptibility to Fraud; Time/Volume Pressures



2012 Audit Plan

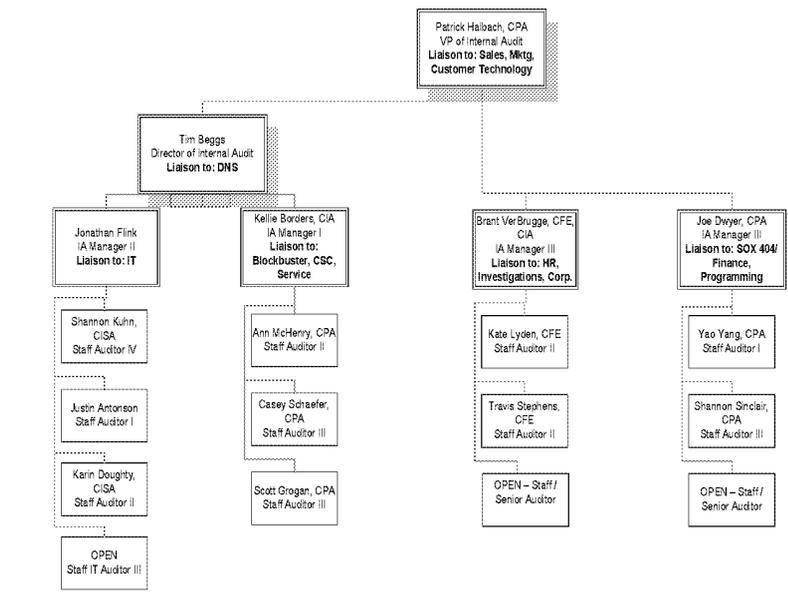
Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Compensation/ Incentive Plans – <i>Audit 3 (Follow-Up)</i>	Q4	Analysis of the CSC self-administered compensation/incentive plan for accuracy, segregation of duties, alignment with corporate goals, and appropriate approvals and financial controls.	200	Corporate Profitability; Susceptibility to Fraud; Time/Volume Pressures
DNS Site Reviews	Q4	Continued onsite reviews of 6 different DNS LSCs – 1 in each region.	500	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud
SOX 404 Remediation Testing	Q4	Restesting of controls that failed interim testing; follow-up on testing of controls that passed interim testing through inquiry and observation.	2,500	Susceptibility to Fraud; Laws and Regulations
Investigations	Q4	Ongoing internal and 3 rd party fraud investigations.	600	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability



**Appendix B:
IA Organization Chart**



IA Organization Chart



CONFIDENTIAL

EXHIBIT 447

EXHIBIT 447

CONFIDENTIAL

JA010422
009234

TX 102-009684

DISH NETWORK CORPORATION

Annual Meeting of the Board of Directors

May 2, 2012

The annual meeting of the board of directors (the "Board of Directors") of DISH Network Corporation (the "Corporation"), was held on May 2, 2012 at 2:00 p.m., prevailing Mountain Time, at the Corporation's headquarters located at 9601 S. Meridian Blvd., Englewood, Colorado 80112.

The following members of the Board of Directors participated:

Charles W. Ergen (*present for Items 12 through 19 only*)
Candy M. Ergen (*present for Items 12 through 19 only*)
James DeFranco
David K. Moskowitz
Carl E. Vogel
Joseph P. Clayton
Steven R. Goodbarn
Tom A. Ortolf
Gary S. Howard

Also participating at various times during the meeting at the invitation of the Chairman of the Board of Directors were: R. Stanton Dodge, Executive Vice President, General Counsel and Secretary of the Corporation; Robert E. Olson, Executive Vice President and Chief Financial Officer of the Corporation (*present for Items 1 through 14 only*); Roger J. Lynch, Executive Vice President, Advanced Technologies of the Corporation (*present for Items 1 through 12 and Item 14 only*); and Brandon Ehrhart, Vice President, Associate General Counsel and Assistant Secretary of the Corporation.

Call to Order

Mr. Joseph P. Clayton, the Chief Executive Officer of the Corporation and a member of the Board of Directors, called the meeting to order and presided as Chairman of the meeting. Mr. Dodge acted as Secretary of the meeting.

Notice and Quorum

Mr. Clayton advised that as: (i) proper notice was delivered to each member of the Board of Directors; or (ii) each member of the Board of Directors has waived any and all notices that may have been required to be given with respect to the annual meeting of the Board of Directors, by: (a) participating in the meeting without objection to notice; or (b) otherwise communicating waiver of any such notice to the Secretary or Assistant Secretary of the Corporation or their designees, and a quorum was present, the meeting was properly convened.

Discussion Matters

ITEM 1. APPROVAL OF MINUTES AND SIGNING OF CONSENTS

Mr. Dodge explained that draft minutes of the Regular Meeting of the Board of Directors held on February 13, 2012, were attached as Exhibit 1A to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the minutes of the Regular Meeting of the Board of Directors held on February 13, 2012, in substantially the form attached as Exhibit 1A, to the board book for the meeting be, and they hereby are, approved, ratified and confirmed in all respects.

ITEM 2. DESIGNATION OF CHAIRMAN OF THE BOARD OF DIRECTORS

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that Charles W. Ergen be, and he hereby is, designated as the Chairman of the Board of Directors until the next Annual Meeting of the Board of Directors and until his respective successor is duly designated and qualified.

ITEM 3. DESIGNATION OF MEMBERS OF COMMITTEES OF THE BOARD OF DIRECTORS

Mr. Dodge explained that the Board of Directors currently has an Audit Committee, an Executive Compensation Committee and a Nominating Committee.

Mr. Dodge further explained that the duties of the Audit Committee include, without limitation: (a) selecting the Corporation's independent registered public accountants; (b) reviewing management's plan for engaging the Corporation's independent registered public accountants during the year to perform non-audit services (if any) and considering what effect (if any) these services may have on the independence of the accountants; (c) reviewing the annual and quarterly financial statements and other financial reports that require approval by the Board of Directors; (d) reviewing the adequacy of the Corporation's system of internal accounting controls; (e) reviewing the scope of the independent registered public accountants' audit plans and the results of their audits; and (f) reviewing the Audit Committee Charter and recommending proposed changes (if any) to the Board of Directors.

Mr. Dodge further explained that the principal functions of the Executive Compensation Committee are to: (a) make and approve all option grants and other issuances of the Corporation's equity securities to executive officers and members of the Board of Directors other than nonemployee directors; (b) approve all other option grants and issuances of the

CONFIDENTIAL

Corporation's equity securities, and recommend that the full Board of Directors make and approve such grants and issuances; (c) establish in writing all performance goals for performance-based compensation, which together with other compensation to senior executive officers could exceed \$1 million annually, other than standard Stock Incentive Plan options that may be paid to executive officers, and certify achievement of such goals prior to payment; and (d) set the compensation of the Chairman.

Mr. Dodge further explained that the principal function of the Nominating Committee is to recommend independent director nominees for selection by the Board of Directors to fill the number of independent director positions established by resolution of the Board of Directors from time to time.

Mr. Dodge noted that the members of the Audit Committee are currently Messrs. Tom A. Ortolf (*Chairman*), Steven R. Goodbarn and Gary S. Howard.

Mr. Dodge further noted that the members of the Executive Compensation Committee are currently Messrs. Steven R. Goodbarn (*Chairman*), Tom A. Ortolf and Gary S. Howard.

Mr. Dodge further noted that the members of the Nominating Committee are currently Messrs. Gary S. Howard (*Chairman*), Steven R. Goodbarn, and Tom A. Ortolf.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted (with Messrs. Goodbarn, Ortolf and Howard abstaining therefrom with regards to their respective nominations):

WHEREAS, each of Messrs. Steven R. Goodbarn, Tom A. Ortolf, and Gary S. Howard has expressed their willingness and desire to serve on the Audit Committee, the Executive Compensation Committee and the Nominating Committee;

NOW, THEREFORE, BE IT RESOLVED, that Messrs. Steven R. Goodbarn, Tom A. Ortolf and Gary S. Howard be, and they hereby are, reappointed to serve as members of the Audit Committee, the Executive Compensation Committee and the Nominating Committee until the next Annual Meeting of the Board of Directors and until their respective successors are duly appointed and qualified.

ADJOURNMENT

Upon motion duly made and seconded, the meeting was adjourned at 2:15 p.m. in order for Messrs. Steven R. Goodbarn, Tom A. Ortolf, and Gary S. Howard to attend the annual meetings of the Audit Committee, Executive Compensation Committee and Nominating Committee.

CONTINUATION

Following completion of the annual meeting of the Nominating Committee, upon motion duly made and seconded, the meeting was reconvened at 2:30 p.m.

ITEM 4. ELECTION OF EXECUTIVE OFFICERS

Mr. Dodge reviewed the table of Executive Officers set forth in Item 6 of the board book for the meeting. Mr. Dodge explained that management proposes the election of the individuals listed in such table to the executive officer positions indicated to serve until the next Annual Meeting of the Board of Directors and until their respective successors are duly elected and qualified.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the individuals whose names are set forth below be, and they hereby are, elected as executive officers of the Corporation to serve in the capacities indicated below until the next Annual Meeting of the Board of Directors and until their respective successors are duly elected and qualified.

<u>Officer</u>	<u>Position</u>
Charles W. Ergen	Executive Chairman
W. Erik Carlson	Executive Vice President, DNS and Service Operations
Joseph P. Clayton	President and Chief Executive Officer
Thomas A. Cullen	Executive Vice President, Corporate Development
James DeFranco	Executive Vice President
R. Stanton Dodge	Executive Vice President, General Counsel and Secretary
Bernard L. Han	Executive Vice President and Chief Operating Officer
Michael Kelly	President, Blockbuster L.L.C.
Roger J. Lynch	Executive Vice President, Advanced Technologies
Robert E. Olson	Executive Vice President and Chief Financial Officer
Stephen W. Wood	Executive Vice President, Human Resources

ITEM 5. APPROVAL OF ANNUAL COMPENSATION OF EXECUTIVE OFFICERS

Mr. Dodge led a discussion regarding the proposed 2012 salaries for the Executive Officers of the Corporation other than Mr. Ergen. Materials setting forth the proposed 2012 salaries for such Executive Officers of the Corporation were distributed at the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, Mr. Ergen has proposed the 2012 salaries for the Executive Officers set forth in the materials distributed at the meeting and those salaries are generally at levels below amounts paid to executive officers with comparable experience and responsibilities at other companies engaged in the same or similar business as the Corporation and with other companies of similar size; and

WHEREAS, management has recommended that the Board of Directors approve the proposed 2012 salaries for the Executive Officers set forth in the materials distributed at the meeting;

NOW, THEREFORE, BE IT RESOLVED, after due deliberation, the Board of Directors hereby approves, ratifies and confirms the 2012 salaries for the Executive Officers set forth in the materials distributed at the meeting; and further

RESOLVED, that the Chairman, Chief Executive Officer or Executive Vice President, General Counsel, and Secretary of the Corporation (each, a "proper officer" and collectively, the "proper officers") of the Corporation be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolution be, and the same hereby is, ratified, and confirmed in all respects.

ITEM 6. IDENTIFICATION OF SECTION 16 REPORTING OFFICERS

Mr. Dodge briefly reviewed the insider trading and reporting requirements of Section 16 of the Securities Exchange Act of 1934 (including, among other things, the factors for determining who is an insider for purposes of Section 16).

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that, for purposes of complying with Section 16 of the Securities Exchange Act of 1934 for the fiscal year ending December 31, 2012, the following individuals be, and they hereby are, designated as Section 16 reporting officers of the Corporation: W. Erik Carlson, Joseph P. Clayton, Thomas A. Cullen, James DeFranco, R. Stanton Dodge, Charles W. Ergen, Bernard L. Han, Michael Kelly, Jason Kiser, Roger J. Lynch, Robert E. Olson, Paul W. Orban and Stephen W. Wood; and further

RESOLVED, that the Chairman, Chief Executive Officer or Executive Vice President, General Counsel, and Secretary of the Corporation (each, a “proper officer” and collectively, the “proper officers”) be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolution; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolutions be, and the same hereby are, approved, ratified and confirmed in all respects.

ITEM 7. REAUTHORIZATION OF CHARLES W. ERGEN TO MAKE CERTAIN GRANTS OF STOCK OPTIONS

Mr. Dodge led a discussion regarding the proposal to reauthorize Mr. Ergen to make certain grants of options to purchase shares of the Corporation's Class A Common Stock, \$0.01 par value per share (the “Class A Common Stock”). Mr. Dodge explained, among other things, that it is necessary and desirable for Mr. Ergen to be reauthorized, as Chairman of the Board of Directors, to make grants of options to purchase shares of Class A Common Stock, effective at the end of each quarter, to new employees and existing employees who are not executive officers in connection with promotion or other recognition, as Mr. Ergen deems appropriate, without further need to consult with or seek prior approval from the Board of Directors or the Executive Compensation Committee, consistent with the criteria established in the 2009 Stock Incentive Plan (the “Stock Incentive Plan”).

Mr. Dodge further explained, among other things, that absent such delegation of authority, whenever management proposed to issue stock options to new or existing employees who are not executive officers under the Stock Incentive Plan, a list of those employees, the number of shares of the Class A Common Stock underlying the options proposed to be issued to

each, and additional information regarding the specific grants must be provided to each director prior to or during a meeting of the Board of Directors and each member of the Executive Compensation Committee prior to or during a meeting of the Executive Compensation Committee.

Mr. Dodge further explained, among other things, that when management needs to make a quick hiring or promotion decision below the executive officer level that involves the granting of stock options, the time required to organize and convene a meeting of the Executive Compensation Committee and a meeting of the Board of Directors might cause undue delay in extending an offer of employment or granting a promotion, and that as a result the Corporation would run the risk of losing good employees and potential employees to competitors of the Corporation.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the Board of Directors has determined that it is necessary and desirable for the Board of Directors to reauthorize Mr. Charles W. Ergen, as Chairman of the Board of Directors, to make grants of options to purchase shares of the Corporation's Class A Common Stock, \$0.01 par value per share (the "Class A Common Stock"), effective at the end of each quarter, to new employees and existing employees who are not executive officers in connection with promotion or other recognition, as Mr. Ergen deems appropriate, without further need to consult with or seek prior approval from the Board of Directors or the Executive Compensation Committee, consistent with the criteria established in the 2009 Stock Incentive Plan;

WHEREAS, the Board of Directors has duly noted that absent such delegation of authority, whenever management proposed to issue stock options to new or existing employees who are not executive officers under the Stock Incentive Plan, a list of those employees, the number of shares of the Class A Common Stock underlying the options proposed to be issued to each, and additional information regarding the specific grants must be provided to each director prior to or during a meeting of the Board of Directors and each member of the Executive Compensation Committee prior to or during a meeting of the Executive Compensation Committee; and

WHEREAS, the Board of Directors has also duly noted that when management needs to make a quick hiring or promotion decision below the executive officer level that involves the granting of stock options, the time required to organize and convene a meeting of the Executive Compensation Committee and a meeting of the Board of Directors might cause undue delay in extending an offer of employment or granting a promotion, and that as a result the Corporation would run the risk of losing good employees and potential employees to competitors of the Corporation;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby delegates the authority to Mr. Ergen, as Chairman of the Board, to make grants of options to purchase the Class A Common Stock, effective at the end of each quarter, to new employees and existing employees of the Corporation or its subsidiaries who are not executive officers in connection with promotion or other recognition, as Mr. Ergen deems appropriate, without further need to consult with or seek prior approval from the Board of Directors or the Executive Compensation Committee, consistent with the criteria established in the Stock Incentive Plan, and that the actions taken by Mr. Ergen in connection therewith shall be deemed approved, ratified and confirmed by the Board of Directors and the Executive Compensation Committee as of the date such action is taken; provided however, that no authority is hereby granted to Mr. Ergen to make grants to: (a) executive officers or directors of the Corporation (executive officers of the Corporation are those persons identified as executive officers in the Corporation's annual report on Form 10-K); (b) "affiliates" of the Corporation, as such term is used in Section 16 of the Securities Exchange Act of 1934, and as interpreted by the General Counsel of the Corporation; (c) in excess of one hundred thousand (100,000) shares to an individual employee at or below the Vice President level; or (d) in excess of five hundred thousand (500,000) shares to an individual employee at or above the Senior Vice President level, without further approval of the Executive Compensation Committee.

ITEM 8. REG. S-K ITEM 404 "RELATED PERSON" TRANSACTIONS

Mr. Dodge reviewed certain new potential SEC Reg. S-K, Item 404 "Related Person" transactions, Nevada Revised Statutes §78.140 transactions and "Sensitive" transactions, as defined by the 2005 Audit Committee Recommendations to generally mean: (i) any non-ordinary course transaction in which the amount involved exceeded \$5,000,000; (ii) related party transactions; (iii) transactions of a highly confidential nature; (iv) transactions which grant exclusive rights or most favored nations status to any third party; or (v) any other transaction which in the judgment of the Board of Directors should reasonably be considered sensitive.

Mr. Dodge explained that the Corporation (or one of its subsidiaries) is considering employing one member of the family of Mr. David Moskowitz, a member of the Board of Directors, (the "Moskowitz Transaction"). The Corporation (or one of its subsidiaries) expects to pay Mr. Alexander Moskowitz, approximately \$10,000 during 2012, although depending on the time and services that will be provided, he may earn more than that amount during 2012.

Mr. Dodge will further explain that the Corporation (or one of its subsidiaries) is proposing to make a charitable donation to Miracles on Ice, a charitable organization founded by Mr. Gary Howard, a member of the Board of Directors, consisting of \$2,500 for general purposes plus a satellite receiver complete with installation and 12 months of pre-paid programming to be a prize in a raffle (the "Howard Transaction").

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted (with Mr. Moskowitz abstaining with respect to the Moskowitz Transaction and Mr. Howard abstaining with respect to the Howard Transaction):

WHEREAS, the Moskowitz Transaction and the Howard Transaction may potentially be considered related person transactions under SEC Regulation S-K, Item 404, Nevada Revised Statutes §78.140 transactions and/or "Sensitive" transactions and therefore, out of an abundance of caution, the Board of Directors has been asked to review such transactions; and

Moskowitz Transaction

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the Moskowitz Transaction is fair to the Corporation and its subsidiaries, provided that Mr. Alexander Moskowitz' employment compensation does not exceed \$10,000 in 2012; (b) the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the Moskowitz Transaction; and (c) the Audit Committee authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt the Moskowitz Transaction; provided Mr. Alexander Moskowitz' employment compensation does not exceed \$10,000 in 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Moskowitz Transaction; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Board of Directors, the Board of Directors hereby finds that the Moskowitz Transaction is fair to the Corporation and its subsidiaries; provided Mr. Alexander Moskowitz' employment compensation does not exceed \$10,000 in 2012, is fair to the Corporation and its subsidiaries; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the Moskowitz Transaction; and further

RESOLVED, that the Board of Directors hereby authorizes, ratifies and adopts in all respects the Moskowitz Transaction; provided Mr. Alexander Moskowitz' employment compensation does not exceed \$10,000 in 2012; and further

Howard Transaction

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the Howard Transaction is fair to the Corporation and its subsidiaries; (b) the Audit Committee has waived, and recommended that the Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the Howard Transaction; and (c) the Audit Committee authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt the Howard Transaction; and further

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Howard Transaction; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Board of Directors, the Board of Directors hereby finds that the Howard Transaction is fair to the Corporation and its subsidiaries; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the Howard Transaction; and further

RESOLVED, that the Board of Directors hereby authorizes, ratifies and adopts in all respects the Howard Transaction; and further

General Enabling Resolutions

RESOLVED, that the Chief Executive Officer, Executive Vice President, General Counsel and Secretary or Executive Vice President and Chief Financial Officer of the Corporation (each, a "proper officer" and collectively, the "proper officers") be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 9. APPROVAL OF FORM AND FILING OF QUARTERLY REPORT ON FORM 10-Q AND REPORT ON ACTIVITIES OF AUDIT COMMITTEE

Mr. Tom A. Ortoff, Chairman of the Audit Committee, presented a report on the general activities of the Audit Committee and the Audit Committee's review of the Corporation's financial statements and Form 10-Q for the quarter ended March 31, 2012.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted, subject to incorporation of the comments received at the Audit Committee meeting held earlier:

WHEREAS, the Corporation is required to file with the Securities and Exchange Commission (the "Commission") by March 10, 2012, a Quarterly Report on Form 10-Q for the quarter ended March 31, 2012 (the "Form 10-Q");

WHEREAS, a draft of the Form 10-Q proposed to be filed with the Commission was attached as Exhibit 12A to the board book for the meeting (the "Draft Form 10-Q"), and each member of the Board of Directors has read the Draft Form 10-Q and has provided all comments and responses they deem necessary and appropriate to the General Counsel and Chief Financial Officer of the Corporation (or their designees);

WHEREAS, the Draft Form 10-Q contains quarter-end financial statements of the Corporation that were reviewed by KPMG;

WHEREAS, management has recommended that the Audit Committee and the Board of Directors approve (i) as to form the Draft Form 10-Q, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-Q (with any such non-material changes) at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and

WHEREAS, the Audit Committee has (a) approved, ratified and confirmed the recommendation of management concerning the approval (i) as to form of the Draft Form 10-Q, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) of the filing with the Commission of the Form 10-Q (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and (b) recommended that the Board of Directors approve (i) as to form the Draft Form 10-Q, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-Q (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine;

CONFIDENTIAL

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendation of management and the Audit Committee concerning the approval as to form and filing of the Form 10-Q; and further

RESOLVED, that the Draft Form 10-Q, in substantially the form attached as Exhibit 12A to the board book for the meeting, be, and it hereby is, approved as to form with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate; and further

RESOLVED, that the Form 10-Q, in substantially the form attached as Exhibit 12A to the board book for the meeting, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, be filed with the Commission at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and further

RESOLVED, that the General Counsel and Chief Financial Officer be, and they collectively hereby are, authorized, empowered and directed to prepare or cause to be prepared, to execute or cause to be executed, and to file or cause to be filed with the Commission such non-material amendments and supplements to the Form 10-Q as they, collectively, may deem necessary or desirable, or as may be required by the Commission; and further

RESOLVED, that, in the event that such an amendment or supplement to the Form 10-Q is filed, the members of the Board of Directors shall be provided with redline copies of the revised Form 10-Q showing the changes that were made; and further

RESOLVED, that the Chairman, Chief Executive Officer, Executive Vice President, General Counsel and Secretary or Executive Vice President and Chief Financial Officer of the Corporation (each, a "proper officer" and collectively, the "proper officers") be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 10. QUARTERLY REVIEW OF OPTION GRANTS TO EMPLOYEES OTHER THAN EXECUTIVE OFFICERS AND REPORT ON ACTIVITIES OF THE EXECUTIVE COMPENSATION COMMITTEE

Mr. Steven R. Goodbarn, Chairman of the Executive Compensation Committee, presented a report on the general activities of the Executive Compensation Committee and the Executive Compensation Committee's review of the option grants made to employees other than executive officers during the first quarter of 2012, a list of which was distributed prior to the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the Corporation adopted the 2009 Stock Incentive Plan (the "Stock Incentive Plan"), which Stock Incentive Plan provides for the grant of stock options, among other stock-based performance awards, to key employees of the Corporation and its subsidiaries;

WHEREAS, eighty million (80,000,000) shares of Class A Common Stock, \$0.01 par value per share ("Common Stock"), of the Corporation have been reserved for issuance under the Stock Incentive Plan;

WHEREAS, the Board of Directors has established the Executive Compensation Committee to administer the Stock Incentive Plan;

WHEREAS, management believes: (i) that officers and other key employees, who are in a position to make a substantial contribution to the long-term success of the Corporation and to build stockholder value, should have a stake in the Corporation's ongoing success; and (ii) that this focuses attention on managing the Corporation as an owner with an equity position in the Corporation's business and seeks to align the officers' and key employees' interests with the long-term interests of stockholders;

WHEREAS, the Stock Incentive Plan was adopted by the Board of Directors and approved by stockholders in recognition of management's belief;

WHEREAS, (i) awards under the Stock Incentive Plan follow a review of the individual employee's performance, position in the Corporation, long-term potential contribution to the Corporation and the number of options previously granted to the employee; and (ii) neither management nor the Board of Directors assigns specific weights to these factors, although the employee's position and a subjective evaluation of his or her performance are considered most important;

WHEREAS, generally, the number of options granted to an employee reflect his or her level of responsibility, position in the Corporation and potential to

CONFIDENTIAL

contribute to the long-term success of the Corporation or otherwise achieve significant corporate goals;

WHEREAS, however, the number of options granted to specific employees are not based on any objective criteria;

WHEREAS, options are generally granted to director level and above employees, although in certain circumstances options are granted to certain other employees based on length of service or contribution to the Corporation;

WHEREAS, Charles W. Ergen, Chairman of the Board of Directors, desires to: (i) incentivize certain new employees and/or certain employees receiving promotions who are in a position to make a substantial contribution to the long-term success of the Corporation and to build stockholder value; and/or (ii) reward certain key employees of the Corporation and its subsidiaries, in connection with their efforts during the past year, and provide them with an incentive to continue to help build the success of the Corporation, which rewards and incentives add value to the Corporation that is at least equal to the fair market value of the shares of the Corporation's Common Stock that these employees will receive through the Stock Incentive Plan;

WHEREAS, at this Annual Meeting of the Board of Directors, held on May 2, 2012, (i) the Board of Directors delegated the authority to Mr. Ergen, as Chairman of the Board of Directors, to make grants of options to purchase the Common Stock, effective at the end of each quarter, to new employees and existing employees of the Corporation or its subsidiaries who are not executive officers in connection with hiring, promotion or other recognition, as Mr. Ergen deems appropriate, without further need to consult with or seek prior approval from the Board of Directors or the Executive Compensation Committee, consistent with the criteria established in the Stock Incentive Plan, and that the actions taken by Mr. Ergen in connection therewith shall be deemed approved, ratified and confirmed by the Board of Directors and the Executive Compensation Committee as of the date such action is taken; provided however, that no authority was granted to Mr. Ergen to make grants to: (a) executive officers or directors of the Corporation (executive officers of the Corporation are those persons identified as executive officers in the Corporation's annual report on Form 10-K); (b) "affiliates" of the Corporation, as such term is used in Section 16 of the Securities Exchange Act of 1934, and as interpreted by the General Counsel of the Corporation; (c) in excess of one hundred thousand (100,000) shares to an individual employee at or below the Vice President level; or (d) in excess of five hundred thousand (500,000) shares to an individual employee at or above the Senior Vice President level, without advance approval of the Executive Compensation Committee;

WHEREAS, the Chairman has made the grant of options to purchase shares of the Corporation's Common Stock ("Options") to those employees of the Corporation

and its subsidiaries who are not executive officers set forth in the list attached as Exhibit 13A to the board book for the meeting, and in such amounts as set forth opposite each employee's name on such list under the terms of the Stock Incentive Plan and an incentive stock option agreement to be approved by the Chairman of the Corporation; and

WHEREAS, (i) the date of grant of such Options is March 31, 2012 (the "Grant Date"); (ii) such Options vest at the rate of 20% per year, with the first 20% of such Options vesting on the date which is one year after the Grant Date and 20% thereafter on the anniversary of the Grant Date for each of the following four years or upon achievement of certain performance criteria (as applicable); (iii) the exercise price for each share of Common Stock shall be equal to the closing price, as reported on the National Association of Securities Dealers Automated Quotation System, for shares of the Common Stock on the Grant Date, or the last business day prior to such date in the event that such date falls on a weekend or holiday; and (iv) such Options expire ten years from the Grant Date;

NOW, THEREFORE, BE IT RESOLVED, that, after due consideration, the Board of Directors hereby determines that the grant of such Options is consistent with the authority delegated to the Chairman at this Annual Meeting of the Board of Directors, held on May 2, 2011.

ITEM 11. QUARTER REVIEW OF CERTAIN INVESTMENTS

Mr. Dodge provided an update on certain investments made by the Corporation during the first quarter. A copy of the investment policy of the Corporation and a summary of the investments made by the Corporation during the first quarter were attached as Exhibit 14A to the board book for the meeting.

ITEM 12. CHIEF EXECUTIVE OFFICER'S REPORT

Mr. Clayton presented a report on his observations as President and Chief Executive Officer of the Corporation.

ITEM 13. REVIEW OF POTENTIAL BUSINESS TRANSACTION WITH CENTURYLINK

Mr. Olson reviewed a potential business transaction with CenturyLink (the "CenturyLink Agreement"). To assist the members of the Board of Directors, a memorandum summarizing the CenturyLink Agreement was attached as Exhibit 3A to the board book for the meeting. Mr. Olson discussed, among other things, the benefits to be derived from and risks associated with the CenturyLink Agreement.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that: (a) the Corporation and its subsidiaries be, and they hereby are, authorized to consummate the CenturyLink Agreement upon substantially the terms and conditions attached as Exhibit 3A to the board book for the meeting, with such non-material modifications, changes, or amendments to such terms and conditions as the Chairman, Chief Executive Officer or Executive Vice President, General Counsel, and Secretary of the Corporation and its subsidiaries (each, a “proper officer” and collectively, the “proper officers”), or any one of them, shall in their discretion approve; and (b) the execution and delivery of the CenturyLink Agreement consistent with such terms and conditions and the consummation of the transactions contemplated thereby by any proper officer, with such non-material modifications, changes, or amendments to such terms and conditions as any proper officer shall approve, shall constitute conclusive evidence: (i) of such approval; and (ii) that the transaction has been authorized, ratified, and adopted hereby; and further

RESOLVED, that the proper officers of the Corporation and its subsidiaries be and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries, and under their corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries, to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries, within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 14. IPTV JOINT VENTURE

Mr. Lynch provided an update on the proposed joint venture (“BBTV”) between the Corporation (or one of its subsidiaries) and EchoStar Corporation (“SATS”) (or one of its subsidiaries) for provision of internet protocol television services. To assist the members of the Board of Directors, a summary of Mr. Lynch’s presentation was distributed prior to the meeting, which included, among other things, an overview of the terms of the formation of BBTV (collectively, the “BBTV Transaction”).

Mr. Ergen led a discussion regarding the competitive landscape for internet protocol television services. Mr. Lynch then walked the Board of Directors through the presentation distributed prior to the meeting. Mr. Olson then led a discussion regarding management’s valuation of the Corporation and its subsidiaries’ and SATS and its subsidiaries’ relative contributions to. Messrs. Lynch and Olson then responded to several questions by the members of the Board of Directors.

ADJOURNMENT

Upon motion duly made and seconded, the meeting was adjourned at 4:15 p.m. in order for the members of the Board of Directors who are not also members of the Board of Directors of SATS (the "Non-Interlocking Directors") to attend a special meeting of the Non-Interlocking Directors and for the members of the Audit Committee to attend a special meeting of the Audit Committee.

CONTINUATION

Following completion of a special meeting of the Audit Committee, upon motion duly made and seconded, the meeting was reconvened at 4:30 p.m.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

BBTV Transaction

WHEREAS, the BBTV Transaction may potentially be considered a related party transaction under SEC Regulation S-K, Item 404, a Nevada Revised Statutes §78.140 transaction or a "Sensitive" transaction and therefore, out of an abundance of caution, the Board of Directors has been asked to review such transaction; and

WHEREAS, (a) management, the Non-Interlocking Directors, and the Audit Committee have found, and recommended that the Board of Directors find, that the BBTV Transaction is fair to the Corporation and its subsidiaries; and (b) the Non-Interlocking Directors and the Audit Committee have approved, and recommended that the Board of Directors approve, the BBTV Transaction, on substantially the same terms and conditions described in the presentation distributed prior to the meeting with such non-material modifications, changes, or amendments to such terms and conditions as the Chief Executive Officer or Executive Vice President, General Counsel and Secretary of the Corporation and its subsidiaries (each, a "proper officer" and collectively, the "proper officers"), or any one of them, shall in their discretion approve;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of management, the Non-Interlocking Directors and the Audit Committee regarding the BBTV Transaction; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussions with the General Counsel of the Corporation and other members of management, and upon such other inquiries and other matters as are deemed appropriate or relevant by the Board of Directors, the Board of

Directors hereby finds that the BBTV Transaction is fair to the Corporation and its subsidiaries; and further

RESOLVED, (a) that the BBTV Transaction be, and it hereby is, approved, on substantially the same terms and conditions described in the presentation distributed prior to the meeting with such non-material modifications, changes, or amendments to such terms and conditions as the proper officers, or any one of them, shall in their discretion approve; and (b) that the consummation of such transaction by any proper officer, with such non-material modifications, changes, or amendments to the terms and conditions of the BBTV Transaction as any proper officer shall approve, shall constitute conclusive evidence that such transaction has been approved hereby; and further

RESOLVED, that the proper officers of the Corporation and its subsidiaries be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries, and under their corporate seals or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 15. INVESTMENTS; INCREASE IN THE APPROVAL AMOUNT FOR NEW UNSECURED HIGH-YIELD DEBT SECURITIES

Mr. Ergen led a discussion regarding a proposal by management to increase the amount of new unsecured high-yield debt securities that the Corporation (or one its wholly-owned subsidiaries) may issue and sell, from an aggregate principal amount of up to \$2 billion, with an interest rate not to exceed 8% per annum, to an aggregate principal amount of up to \$3 billion, with an interest rate not to exceed 8% per annum for the existing authorization of up to \$2 billion and an interest rate not to exceed 7% per annum for the increase in authorization of up to \$1 billion (collectively, the "Rates"). Mr. Ergen then responded to several questions from the members of the Board of Directors.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

Issuance of Debt Securities

WHEREAS, on May 27, 2011, the Board of Directors authorized the Corporation (or one of its wholly-owned subsidiaries) to issue and sell up to an additional \$500 million aggregate principal amount of new unsecured high-yield debt securities (the "Additional Notes") with an interest rate not to exceed 8% per annum and with the proceeds of the Additional Notes offering to be used for general corporate purposes; and

WHEREAS, on August 2, 2011, the Board of Directors authorized the Corporation (or one of its wholly-owned subsidiaries) to issue and sell up to an additional \$500 million aggregate principal amount of Additional Notes with an interest rate not to exceed 8% per annum and with the proceeds of the Additional Notes offering to be used for general corporate purposes; and

WHEREAS, on November 1, 2011, the Board of Directors authorized the Corporation (or one of its wholly-owned subsidiaries) to issue and sell up to an additional \$1 billion aggregate principal amount of Additional Notes with an interest rate not to exceed 8% per annum and with the proceeds of the Additional Notes offering to be used for general corporate purposes; and

WHEREAS, the Board of Directors has determined that it is in the best interests of the Corporation for it (or one of its wholly-owned subsidiaries) to increase the authorization of the aggregate principal amount of the Additional Notes by up to an additional \$1 billion with an interest rate not to exceed 7% per annum (for an aggregate principal amount of up to \$3 billion in Additional Notes), and to issue and sell up to \$3 billion aggregate principal amount of Additional Notes with an interest rate not to exceed the Rates and with the proceeds of the Additional Notes offering to be used for general corporate purposes;

NOW, THEREFORE, BE IT RESOLVED, that the Corporation (or one of its wholly-owned subsidiaries) be, and it (or one of its wholly-owned subsidiaries) hereby is, authorized to: (i) increase the aggregate principal amount of the Additional Notes by up to an additional \$1 billion (for an aggregate principal amount of up to \$3 billion in Additional Notes); and (ii) issue and sell the Additional Notes at such time and on such terms and conditions as the Chairman, the Chief Executive Officer and Executive Vice President, General Counsel and Secretary (each, a "proper officer" and collectively, the "proper officers") shall determine up to \$3 billion aggregate principal amount with an interest rate not to exceed the Rates and with the proceeds of the Additional Notes to be used for general corporate purposes; and further

General Enabling Resolutions

RESOLVED, that the Corporation (or one of its wholly-owned subsidiaries) is hereby authorized to enter into agreements with such entities to act as initial

purchasers of the Additional Notes, and upon such terms and provisions, as the proper officers, or any one of them, shall in their discretion approve; and further

RESOLVED, that the proper officers be, and they hereby are, authorized to take all appropriate and customary actions as any one of them shall deem necessary or desirable in connection with the issuance of the Additional Notes, including without limitations all actions necessary or desirable to consummate a registered exchange offer for the Additional Notes; and further

RESOLVED, that the Corporation hereby adopts the form of any and all resolutions required by the SEC, the trustee, the depositary, the registrar, the paying agent, the notice agent, the exchange agent (each, as specified in the indenture), the DTC and any state authority, jurisdiction, institution, person or agency in connection with the issuance of the Additional Notes if: (i) in the opinion of the proper officers (or any one of them) the adoption of such resolutions is necessary and desirable; and (ii) the Secretary or Assistant Secretary of the Corporation evidences such adoption by filing with the minutes of the Corporation copies of such resolutions, in which case those resolutions shall be deemed to be adopted by the Board of Directors and incorporated herein by reference with the same force and effect as if expressly contained herein; and further

RESOLVED, that the proper officers be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation (or, if applicable, one of its wholly-owned subsidiaries) and under its (or, if applicable, one of its wholly-owned subsidiaries') corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation (or, if applicable, one of its wholly-owned subsidiaries) to accomplish the purposes and to carry out the intent of the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers within the terms of the foregoing resolutions (including, without limitation, any and all actions taken in furtherance of the issuance, offering and sale of the Additional Notes) be, and the same hereby are, ratified and confirmed in all respects.

ITEM 16. DISCUSSION OF POTENTIAL PURCHASE OF CERTAIN DEBT SECURITIES

Mr. Ergen discussed the strategic reasons for the Corporation to purchase debt securities issued by Clearwire Corporation ("Clearwire"). Mr. Ergen then reviewed the anticipated

benefits to be derived from, and the anticipated risks associated with, purchasing Clearwire debt securities.

ITEM 17. LITIGATION UPDATE

Mr. Dodge, in his capacity as General Counsel of the Corporation, presented a report on the status of the significant litigation in which the Corporation and/or its affiliates are presently involved. Mr. Dodge explained that his report and any ensuing discussions were subject to the attorney/client and other applicable privileges.

ITEM 18. REVIEW OF CERTAIN ITEMS PREVIOUSLY APPROVED BY THE BOARD OF DIRECTORS

Mr. Dodge reviewed certain items approved by the Board of Directors year-to-date that are outside of the ordinary course and have not been consummated and the status of each such item, as well as certain items approved by the Board of Directors in prior years that remain active. Mr. Dodge noted that to assist the members of the Board of Directors a list of such items was included in the board book for the meeting. Mr. Dodge then noted that his review did not include items approved year-to-date that are ordinary course (whether consummated or not) or that are outside of the ordinary course but have been consummated.

ITEM 19. REVIEW OF SCHEDULE FOR NEXT REGULAR MEETINGS OF THE BOARD OF DIRECTORS, AUDIT COMMITTEE AND EXECUTIVE COMPENSATION COMMITTEE

Mr. Dodge reviewed the schedule for the upcoming regular meetings of the Board of Directors, Audit Committee and Executive Compensation Committee. To assist the members of the Board of Directors with their review of the dates for such meetings, calendars for each of the months from January 2012 through December 2012 were attached as Exhibit 16A to the board book for the meeting.

ITEM 20. CHAIRMAN'S REPORT

Mr. Ergen presented a report on the general state of the business of the Corporation and other matters, including, among other things, upcoming satellite launches. To assist the members of the Board of Directors with their consideration of this item, a memorandum regarding upcoming satellite launches was attached as Exhibit 18A to the board book for the meeting.

Termination

There being no further business to come before the meeting, the meeting was, upon motion duly made and seconded, terminated at 5:00 p.m., prevailing Mountain Time.

R. Stanton Dodge
Secretary

CONFIDENTIAL

EXHIBIT 448

EXHIBIT 448

CONFIDENTIAL

JA010445
009257

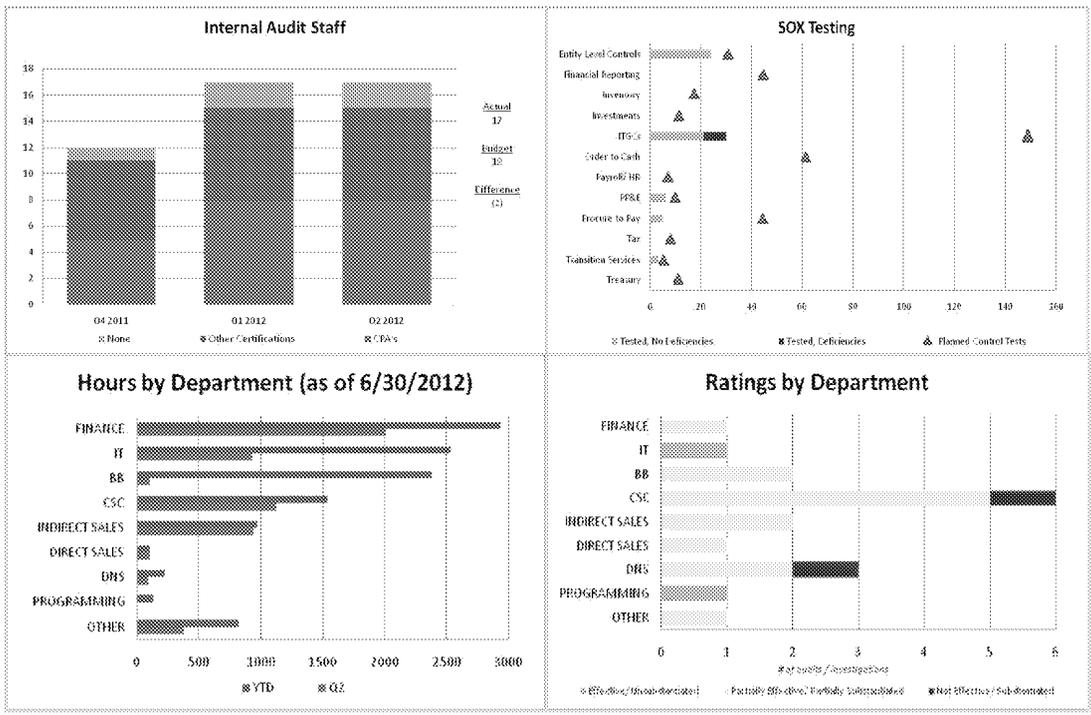
TX 102-009707



Audit Committee Update
Internal Audit & SOX 404

July 23, 2012

Internal Audit Scorecard



KB – Will re-run hours once Q2 is complete.

Internal Audit Projects



<u>PROJECTS – 1Q, 2012</u>	<u>Status</u>	<u>Rating</u>	<u>Comments</u>
<u>Audits</u>			
Blockbuster Store Closing	Complete	Partially Effective	Management taking action
Business Transformation (BT)	Complete	Fully Effective	No further action required
<u>Follow-Up Audits</u>			
N/A	N/A	N/A	N/A
<u>Investigations</u>			
Media Gravity	Complete	Unsubstantiated	N/A
DNS Fuel Card Misuse – Salisbury Depot	Complete	Substantiated	Follow Up Audit in 4Q
DNS Inventory Theft – Ashland LSC	Complete	Partially Substantiated	Follow Up Audit in 4Q
El Paso ERT Credit Card Theft	Complete	Substantiated	Follow Up Audit in 4Q

Internal Audit Projects



<u>PROJECTS – 2Q, 2012</u>	<u>Status</u>	<u>Rating</u>	<u>Comments</u>
<u>Audits</u>			
Tax Significant Deficiency	Complete	N/A	Follow Up Audit in 4Q
Gift Card Audit	Complete	Partially Effective	Follow Up Audit in 4Q
Commercial Services	Complete	Partially Effective	Management taking action
Outsourced Call Center – Corporate	Complete	Partially Effective	Management taking action
Outsourced Call Center – Concentrix	Complete	Partially Effective	Management taking action
Outsourced Call Center – Stream	Complete	Partially Effective	Management taking action
Outsourced Call Center – SPi	Complete	Partially Effective	Management taking action
Anti-Bribery & Corruption	Drafted	Partially Effective	Report in Review
Terminated Employee Payroll	In Progress	TBD	Report in Review
Marketing Development Fund / Co-op Marketing	Complete	Partially Effective	Management taking action
Related Party Billing	Complete	Partially Effective	Management taking action
<u>Follow-Up Audits</u>			
N/A	N/A	N/A	N/A
<u>Investigations</u>			
Blockbuster Mexico Whistleblower	Complete	Partially Substantiated	Management taking action
DNS Inventory Theft – Augusta Depot	In Progress	TBD	Recently initiated
DNS Inventory Theft – Florida LSC	Complete	Partially Substantiated	Management taking action
Retail Services – Puerto Rico Virtual Credit Cards	Complete	Unsubstantiated	N/A

Audit / Investigation Details (Not Effective / Substantiated) 

Audit	Finding(s)	Corrective Action(s)
Investigation	Finding(s)	Corrective Action(s)

Nothing new
in 2Q

Audit and Investigation Ratings



AUDITS	FULLY EFFECTIVE	Existing controls and processes <u>are</u> adequate to minimize risk to acceptable levels. Minimal or no action is required.
	PARTIALLY EFFECTIVE	Existing controls and processes <u>do not fully</u> mitigate risk to acceptable levels. Action is required to improve controls.
	NOT EFFECTIVE	Existing controls and processes <u>are not</u> adequate to mitigate risk to acceptable levels. Immediate action is required to improve controls.

INVESTIGATIONS	UNSUBSTANTIATED	None of the claims made were validated. Minimal or no action is required.
	PARTIALLY SUBSTANTIATED	Some of the claims made were validated or control issues were identified. Action is required to improve controls.
	SUBSTANTIATED	Most or all of the claims made were validated. Immediate action is required to improve controls.



Appendix

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Business Transformation	Q1	Assess readiness of business applications to go live with CSG upgrade at the end of March, 2012.	1,400	Customer Experience; Process/System Maturity; Corporate Profitability
Blockbuster store closing procedures	Q1	Review of processes used to close retail outlets, including a review of inventory and fixed asset procedures, termination of leases, reconciliation of cash/inventory/assets subsequent to store closing.	1,800	Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud
2011 Year End SOX 404 Testing	Q1	Testing of year end financial processes and completion of remediation testing on controls that failed at interim.	1,000	Susceptibility to Fraud; Laws and Regulations
Investigations	Q1	Ongoing internal and 3 rd party fraud investigations.	350	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Outsourced Call Center Operations – <i>Audit 1</i>	Q2	Review of corporate processes used to manage outsourced call centers	500	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability
Outsourced Call Center Operations – <i>Audit 2</i>	Q2	Comprehensive review of call center processes at SPI (vendor) in the Philippines	300	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Outsourced Call Center Operations – <i>Audit 3</i>	Q2	Comprehensive review of call center processes at Concentrix (vendor) in the Philippines	300	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability
Outsourced Call Center Operations – <i>Audit 4</i>	Q2	Comprehensive review of call center processes at Stream (vendor) in the Philippines	300	Customer Experience; Brand Perception; Reliance on External Parties; Time and Volume Pressures; Corporate Profitability
Co-op Advertising / Marketing Development Funds	Q2	Analysis of processes and controls to disburse advertising and marketing development funds to business partners	300	Brand Perception; Reliance on External Parties; Corporate Profitability; Susceptibility to Fraud
Related Party Billing (EchoStar)	Q2	Analysis of invoicing processes with EchoStar for compliance with Transition Services Agreements	300	Corporate Profitability
Corporate Tax	Q2	Review of factors leading to a significant deficiency related to the income tax provision calculation.	200	Corporate Profitability; Laws and Regulations
Commercial Services Operations	Q2	Follow-up of 2010 audit due to changes in key management personnel. Focus will be on contract adherence, qualification process, delinquencies/charge-offs, and commissions.	500	Customer Experience; Brand Perception; Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Gift Card Program	Q2	Review of corporate processes to manage the use of gift cards for employee recognition and new sales generation.	250	Corporate Profitability; Susceptibility to Fraud
Terminated Employee Payroll	Q2	Review of processes and controls to ensure payroll payments cease to terminated salaried exempt employees in a timely manner.	200	Corporate Profitability; Susceptibility to Fraud
SOX 404 Interim Testing	Q2	Begin interim testing of 2012 SOX 404 financial and IT controls and complete scoping exercise.	2,150	Susceptibility to Fraud; Laws and Regulations
Investigations	Q2	Ongoing internal and 3 rd party fraud investigations.	600	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Disaster Recovery / Business Continuity Plan	Q3	Audit will include a review of disaster recovery and business continuity plans, procedures and readiness. (Moved from Q2 to Q3 as business is still in planning phase.)	300	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Blockbuster Systems Production Environment Integration	Q3	Review of plans and testing procedures to ensure efficient and effective production environment integration.	250	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Blockbuster Retail Store Operations: Follow-Up Audit	Q3	Continued onsite reviews of 2 retail stores per region (currently 7 regions); review compliance with policies regarding inventory and cash management, security, safety, membership management, and customer satisfaction. Follow up on Q4 2011 audit.	500	Customer Experience; Brand Perception; Corporate Profitability; Budget/Capital Constraints; Susceptibility to Fraud; Organizational Staff Continuity

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Cash and Investments: <i>Follow-Up Audit</i>	Q3	Follow-up on audit recommendations from February 2011.	60	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Unclaimed Property	Q3	Review of subscriber credit balances, uncashed checks and 3 rd party/retailer credits for compliance with escheatment procedures.	200	Laws and Regulations
Advertising Spend	Q3	Review of purchasing controls in place for procurement of advertising; review of invoicing for accuracy.	300	Corporate Profitability; Brand Perception
Programming Payments	Q3	Comprehensive review of accuracy of payments made to programming content providers.	300	Corporate Profitability; Laws and Regulations
Service Scrap/Salvage Processes	Q3	Review of Service's internal processes for salvaging material; Review of 3 rd party scrap vendor's processes and payments to DISH	300	Corporate Profitability
Gift Card Program: <i>Follow-Up</i>	Q3	Follow up on recommendations from Q2 audit.	60	Corporate Profitability; Susceptibility to Fraud

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Corporate Tax: <i>Follow-Up</i>	Q4	Follow up on Q2 review of factors leading to a significant deficiency related to the income tax provision calculation.	60	Corporate Profitability; Laws and Regulations
Pay-Per-View (PPV): <i>Follow-Up Audit</i>	Q3	Follow-up on audit recommendations from June 2011. (Moved from Q3 to Q4 as PPV will be tested as part of SOX in Q3.)	60	Corporate Profitability; Laws and Regulations
SOX 404 Interim Testing	Q3	Testing of financial and IT general controls for DISH and Blockbuster.	2,500	Susceptibility to Fraud; Laws and Regulations
Investigations	Q3	Ongoing internal and 3 rd party fraud investigations.	600	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Inventory Management – <i>Audit 1</i>	Q4	Review of processes used to forecast inventory needs and procure product; assessment of inventory management practices including storage and distribution.	500	Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud; Budget/Capital Constraints
Inventory Management – <i>Audit 2</i>	Q4	Review of inventory valuation procedures including reserve for excess/obsolete inventory, standard costing procedures, and Internal Review Board (IRB)	400	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations; Reliance on External Parties; Budget/Capital Constraints
Compensation/ Incentive Plans – <i>Audit 1</i>	Q4	Analysis of the Direct Sales self-administered compensation/incentive plan for accuracy, segregation of duties, alignment with corporate goals, and appropriate approvals and financial controls.	300	Corporate Profitability; Susceptibility to Fraud; Time/Volume Pressures

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Compensation/ Incentive Plans – <i>Audit 2 (Follow-Up)</i>	Q4	Analysis of the DNS self-administered compensation/incentive plan for accuracy, segregation of duties, alignment with corporate goals, and appropriate approvals and financial controls.	200	Corporate Profitability; Susceptibility to Fraud; Time/Volume Pressures
Compensation/ Incentive Plans – <i>Audit 3 (Follow-Up)</i>	Q4	Analysis of the CSC self-administered compensation/incentive plan for accuracy, segregation of duties, alignment with corporate goals, and appropriate approvals and financial controls.	200	Corporate Profitability; Susceptibility to Fraud; Time/Volume Pressures
DNS Site Reviews	Q4	Continued onsite reviews of 6 different DNS LSCs – 1 in each region.	500	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud
Customer Refund Processes – <i>Audit 1</i>	Q4	Comprehensive review of DISH policies, procedures, and financial controls related to issuing customer refunds, including fraud controls related to open credit balances. (Moved from Q3 to Q4 while business redesigns refund controls.)	400	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Customer Refund Processes – <i>Audit 2</i>	Q4	Comprehensive review of Blockbuster policies, procedures, and financial controls related to issuing customer refunds, including fraud controls related to open credit balances. (Moved from Q3 to Q4 while business redesigns refund controls.)	200	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud; Laws and Regulations

2012 Audit Plan



Audit	Qtr	Focus	Est. Hours	Risk Factor(s)
Customer Qualification Process: <i>Follow-Up Audit</i>	Q4	Follow-up on audit recommendations from October 2011. (Moved from Q3 to Q4 as business continues to implement action items.)	60	Customer Experience; Brand Perception; Corporate Profitability; Susceptibility to Fraud; Laws and Regulations
Commercial Services Operations: <i>Follow-Up</i>	Q4	Follow-up on audit recommendations from Q2 audit.	60	Customer Experience; Brand Perception; Corporate Profitability; Reliance on External Parties; Susceptibility to Fraud
Employee Credit Card Theft (El Paso ERT): <i>Investigation Follow-Up</i>	Q4	Follow-up on control recommendations from Q1.	60	Corporate Profitability; Susceptibility to Fraud; Customer Experience; Brand Perception
SOX 404 Remediation Testing	Q4	Retesting of controls that failed interim testing; follow-up on testing of controls that passed interim testing through inquiry and observation.	2,500	Susceptibility to Fraud; Laws and Regulations
Investigations	Q4	Ongoing internal and 3 rd party fraud investigations.	600	Susceptibility to Fraud; Laws and Regulations; Corporate Profitability
Oracle ERP System Implementation	Q2 2013	Review plan and testing procedures to ensure efficient and effective ERP implementation. (Business plans to test and go live in May 2013. Audit date changed from plan of Q3 to Q2 of 2013).	300	Corporate Profitability; Susceptibility to Fraud; Laws and Regulations

CONFIDENTIAL

EXHIBIT 449

EXHIBIT 449

CONFIDENTIAL

JA010460
009272

TX 102-009722

Our File No. 09617

July 30, 2012

KPMG LLP
707 Seventeenth Street, Suite 2700
Denver, CO 80202
Attention: Stephen Taylor

Re: DISH Network Corporation

Ladies and Gentlemen:

By letter dated January 19, 2012, Carol MacLeod, Senior Manager, SEC Reporting for DISH Network Corporation ("DISH"), requested that we provide you certain information in connection with your audit of the financial statements of DISH and its subsidiaries (collectively, the "Company") as of December 31, 2011, and for the year then ended. Our initial response to Ms. MacLeod's request was dated February 17, 2012, and was effective as of January 30, 2012. We subsequently updated our initial response by letter dated May 1, 2012 and effective as of April 20, 2012.

Pursuant to the Company's request, we hereby confirm, effective as of July 20, 2012, that since the effective date of our previous response, we have not been engaged to perform legal services for the Company with respect to new matters involving material loss contingencies coming within the scope of clause (a) of paragraph 5 of the ABA Statement of Policy referred to in our previous response, and no information has come to our attention that would otherwise necessitate a revision or supplement to our previous response, except as set forth below:

Brantley, et. al. v. NBC Universal, Inc., et. al., U.S. District Court, Central District of California, Case No. CV 07-06101-CAS-VBK. The Plaintiffs' Petition for Rehearing and Rehearing En Banc was denied by the Court of Appeals for the Ninth Circuit. The deadline for the Plaintiffs to file a Petition for Certiorari to the United States Supreme Court is August 2, 2012.

REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT

Padberg v. DISH Network L.L.C., U.S. District Court for the Western District of Missouri, Case No. 2:11-cv-04035 NKL. On June 8, 2012, on Plaintiff's motion, the Court lifted the stay of discovery and ordered the parties to engage in further discovery, both as to class certification and on the merits, prior to any hearing on Plaintiff's motion for class certification. The Company's

KPMG LLP
July 30, 2012
Page 2

opposition to Plaintiff's class certification motion is currently due on November 14, 2012, following the completion of class discovery. On June 11, 2012, the Court entered an order granting in part and denying in part the Company's motion to dismiss. On July 12, 2012, Plaintiff sought leave to file an amended complaint.

REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT
AC/WP

AC/WP The Court has not yet ruled on Plaintiff's motion for leave to amend the complaint. AC/WP
REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT

Anthony v. DISH Network Corporation, et al., U.S. District Court, Western District of Missouri, Case No. 6:11-cv-03459-RED. Discovery in this matter has commenced. Pursuant to the Court's Scheduling Order, the Plaintiffs are expected to file their motion for class certification on or before September 17, 2012.

REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT
AC/WP

Warnick v. DISH Network LLC, U.S. District Court, District of Colorado, Case No. 1:12-cv-01952-WYD. This case was filed on July 26, 2012, and appears substantially identical to a prior case (Warnick v. DISH Network Corporation, U.S. District Court, District of Colorado, Case No. 1:11-cv-00615-MSK-CBS) that was dismissed in May, 2011, without prejudice, at the Plaintiff's request. The case is a putative class action alleging

AC/WP
REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT

Ferrer, et al. v. DISH Network Corporation, et al., American Arbitration Association. At the Company's request, we have been consulting in connection with this matter, a class action and Private Attorney General Act complaint currently pending before the American Arbitration Association. The action was initially filed in the California Superior Court, Los Angeles County, as Case No. BC441354. Pursuant to a stipulation between the parties, the Court stayed proceedings and issued an order compelling arbitration with the American Arbitration Association.

REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT

KPMG LLP
July 30, 2012
Page 3

AC/WP You should contact the Company's lead counsel, Buchanan Ingersoll & Rooney PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219, for further information.

This letter supplements our prior responses dated February 17, 2012 and May 1, 2012, and is subject to the conditions and limitations expressed therein.

Very truly yours,

COBLENTZ, PATCH, DUFFY & BASS, LLP

By: 
Richard R. Patch, Partner

cc: Carol MacLeod (Carol.MacLeod@dish.com)
Lynsey Barnes (Lynsey.Scavarda@dish.com)
Wendy Priester (Wendy.Priester@dish.com)
Mikayla Paulson (mikayla.paulson@dish.com)
Stephen Taylor (sbtaylor@KPMG.com)

EXHIBIT 450

EXHIBIT 450

JA010464
009276

Message

From: Ergen, Charlie [/O=ECHOSTAR COMMUNICATIONS CORP/OU=ECHOSTAR/CN=RECIPIENTS/CN=CHARLIE ERGEN]
Sent: 8/28/2012 10:50:15 PM
To: Dodge, Stanton [stanton.dodge@dish.com]
Subject: Fwd: FTC Lawsuit

Sent from my iPhone

Begin forwarded message:

From: John Williams <john@utahdish.com>
Date: August 28, 2012 10:03:32 PM EDT
To: "Ergen, Charlie" <Charlie.Ergen@dish.com>
Subject: **FTC Lawsuit**
Reply-To: John Williams <john@utahdish.com>

Charlie,

FYI. Just wanted to give you a heads-up that your former retailer, Claude Greiner is reporting on his Dishretailer.com site he is meeting with the FTC on Sept 10 in regards to their lawsuit over telemarketing. Claude noted that "I followed the rules, but Dish allowed and showed other retailers how to bend the rules." That's all the info I have on this and I thought you might want to know. Will let you know if I hear more.

Sincerely,

John Williams

JA010465
009277

SLC_ DNC_ Investigation_0004596

TX 102-009727

CONFIDENTIAL

EXHIBIT 451

EXHIBIT 451

CONFIDENTIAL

JA010466
009278

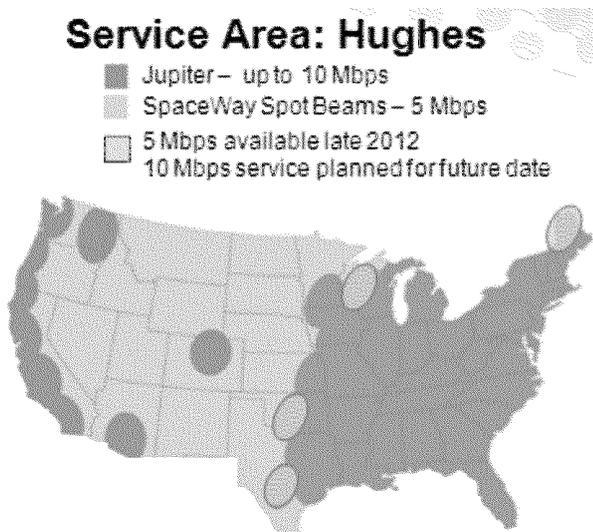
TX 102-009728

All,

Below you will find the highlights from today's Retailer Chat. Please keep in mind that information contained in this email is subject to change. Do not release this information to anyone outside the company as it contains confidential information.

dishNET™ with Brian McIntyre, VP Broadband

- **October 1, 2012, DISH launched our own satellite Broadband Internet service to our customers and we're excited about the feedback we've received so far.**
- **dishNET offers customers:**
 - Up to 10Mbps download speeds and up to 2Mbps uploads.
 - When bundled with qualifying DISH video services, dishNET is discounted \$10 per month and this discount continues as long as the subscriber maintains both services.
 - Prices start as low as \$39.99 when bundled with DISH video.
 - Single bill for video and data.
 - All the bandwidth that is available in the US:
 - DISH has wholesale relationships with both Hughes and ViaSat, so we can offer dishNET anywhere Hughes or ViaSat are sold.
- **dishNET is sold much the same way that the cell phone companies sell their 4G data service – in data plans. DISH offers:**
 - 10GB, 20GB and 30GB data plans
 - To put this in perspective, the TYPICAL home in America uses about 9GB of data monthly and has a 6Mbps Internet service
 - dishNET is a competitive, well-priced service
- **Sales are going great, but we have had a few questions come in about dishNET:**
 - **Question 1 – Are there areas in the country where only one or the other service is available?**
 - Yes. If you look at a map where Hughes offers service today you will note that there are a few gaps, most notably in Wisconsin, Maine, Eastern Oklahoma and South Texas.



- dishNET is still offered in virtually all of these areas, but it requires ViaSat equipment to be installed.
 - In Texas on the west side and Maine on the northernmost side only the 5Mbps dishNET service is available.
 - In MOST of these four areas, where the Jupiter beams failed to launch, the 10Mbps dishNET service IS available.

CONFIDENTIAL

- Hughes plans on launching a 5Mb service using Spaceway equipment that will be sold as dishNET 5Mbps service later this year
 - The 5Mbps service with Hughes will be available in the yellow areas shown on the map, but again, TODAY we have these same areas covered with dishNET 10Mbps service using our ViaSat equipment.
 - So, there is no reason to wait to sell in these areas!
- Spokane: We are very excited to announce that the Spokane, Washington area, which ran out of bandwidth back in March shortly after we launched with ViaSat now has a fully operational Jupiter beam. That means you can sell your customers an even better 10Mbps service than was available last spring.
- o **Question 2 – What do Retailers need to do in order to be trained on installing dishNET?**
 - Retailers need to make sure their technicians are trained on installing BOTH ViaSat and Hughes equipment in order to ensure that customers have a great installation and service experience.
 - **Hughes equipment:** The installation of dishNET Hughes equipment is similar to, but a little different from, installing dishNET ViaSat equipment. Hughes is a two-step process that involves first setting up and provisioning the modem and next activating the service on the modem.
 - Please visit DISH Portal > DISH U where we have put step-by-step instructions in the form of job aids and even videos.
 - When you go to DISH U, you will also see that we already have training materials available for the Spaceway-based services that will launch later this year. So, take advantage of these materials and get ready to go!
 - There is nothing quite like “hands-on” experience. So, we HIGHLY recommend that you install one or two systems at your own home or office using the resources we have provided to make sure that you understand the entire process, including how to provision the modem and activate the service on that modem.
 - Like anything else, there are steps that you should be sure to take before you arrive at the customer’s home, like printing out the customer agreement when you made the sale and taking it with you to the install. The customer agreement for dishNET includes a User ID and Install Password. For **Hughes**, the **User ID equals the “SAN”** and the **Install Password is the PIN**; for **ViaSat**, the **User ID is your login** and the **Install Password is the password to be used during provisioning**. *You will need these codes to finish the job and close the work order.*
 - Once the job is complete and the customer is successfully surfing the Internet, be sure that you call the Retailer Care Line to close the work order so you get paid for the installation and the customer starts receiving their bill!
 - **ViaSat equipment:** In order to install dishNET using ViaSat equipment, you MUST be certified by ViaSat. You CANNOT provision the modem and activate the dishNET service without having a ViaSat **technician certification number**. This code must be entered into the software as part of the installation process.
 - We have worked closely with ViaSat to make sure there are training classes available throughout the US. Here is a list of all the cities where ViaSat has training scheduled.
 - **October 23, 2012:** Bonham, TX; Flagstaff, AZ; Lewisburg, WV; McCormick, SC; Palmer, AK; Englewood, CO; Clanton, AL; Clackamas, OR; Roclin, CA; West Corinth, MS; Kennewick, WA
 - **October 25, 2012:** Monroeville, PA; Evansville, IN
 - **October 30, 2012:** Seymour, WI
 - **November 5, 2012:** Redding, CA
 - **November 6, 2012:** Homestead, FL
 - **November 8, 2012:** Houston, TX; West Covina, CA
 - **November 11, 2012:** Tampa, FL; Scranton, PA
 - **November 15, 2012:** Normal, IL; Johnson, IA
 - **November 27, 2012:** Bonham, TX; Flagstaff, AZ; Lewisburg, WV; McCormick, SC; Palmer, AK; Englewood, CO; Clanton, AL; Clackamas, OR; Roclin, CA; West Corinth, MS; Kennewick, WA

- **November 29, 2012:** Lansing, MI; Honolulu, HI; Seymour, WI
- **December 4, 2012:** Atlanta, GA; Tulsa, OK
- **December 6, 2012:** Cincinnati, OH; Little Rock, AR
- **December 11, 2012:** Lafayette, LA
- **December 13, 2012:** Nashville, TN; Minneapolis, MN
- **December 18, 2012:** Bonham, TX; Flagstaff, AZ; Lewisburg, WV; McCormick, SC; Palmer, AK; Englewood, CO; Clanton, AL; Clackamas, OR; Roclin, CA; West Corinth, MS; Kennewick, WA
- **December 19, 2012:** Seymour, WI
- In addition, please note that for those Retailers in the Wisconsin area that may be affected by the areas where Hughes has not yet lit up some of the Jupiter beams, ViaSat maintains a regional training center in Green Bay and conducts classes in this area on a regular basis.
- Retailers who work through DISH Authorized Distributors should also check with those distributors as they often have classes available for Retailers or can provide direction.
- Also, we have heard from many installers that apartment buildings can present unique challenges.
 - So, when selling to apartment dwellers Retailer should be sure to ask a lot of questions so that they are confident that the second satellite dish required for dishNET will not be a problem to install.
 - Some apartment complexes have a single dish restriction, and, since the actual dish is 69cm, it's a bit larger and heavier than a normal video dish. Putting both on a banister could be an issue.
- **Question 3 – Are there any tips on selling dishNET that Retailers should keep in mind?**
 - Yes. dishNET is a great product. In some respects it is truly revolutionary in that it provides true high-speed Internet to rural areas at speeds that rival most cities. Even so, because dishNET does have data caps, it isn't the best service for:
 - Action games,
 - A lot of heavy video downloads – which if you have sold the subscriber DISH, and especially Hopper, they shouldn't need in any event, or
 - Heavy travelers who use Sling extensively
 - But, it works well with:
 - VoIP – voice over IP services like Ooma
 - Social media
 - Viewing YouTube clips
 - Online banking
 - Email
 - Most other common Internet use
 - AND, YES, it does support streaming – customers just need to be careful to use the bandwidth monitoring tools that come with the service so they can adjust their use to the data plan they have selected.
 - When it comes to selecting the appropriate data plan for customers, Retailers should check out the plan selector tool at dish.com. It is very helpful. dishNET was never designed to take the place of cable or DSL services that can give customers 5Mbps or higher speeds with unlimited data caps. If that is what the customer needs, use Digital Landing to help them sign up for these services.

• **Question 4: Why sell dishNET?**

- The short answer is MONEY! With dishNET, you can take a video installation that normally pays you around \$350 and turn it into a bundle installation that pays double that amount!

dishNET – Retailer Economics – Effective October 1, 2012							
Customer	Customer Activation Fee (Collected by Retailer)	Activation Incentive*	Installation Incentive**	dishNET Launch Bonus***	Equipment Discount±	dishNET Monthly Incentive‡	Co-op Accrual
New DISH Video and dishNET Customers	\$0	\$180	\$200	\$30	\$299	\$1.00/mo.	\$80
Existing DISH Video Customer Adding dishNET	\$0	\$180	\$200	\$30	\$299	\$1.00/mo.	\$80
New dishNET Only Customers	\$99	\$180	\$200	\$30	\$200	\$1.00/mo.	\$80
Existing DISH Network High-Speed Internet powered by WildBlue Customers Upgrading to dishNET	\$199	\$180	\$200	\$0	\$100	None	\$0
<p align="center">*Subject to a 180-day chargeback period ** No chargeback period *** Effective October 1, 2012, through January 31, 2013. Subject to a 180-day chargeback period. ± Effective October 1, 2012, the dishNET Equipment Discount is subject to a 30-day chargeback period. ‡For 36 months</p>							

Not only do we fully expect that you can use dishNET to increase your video sales, we know that with a small investment in training and a bit of experience, you can install both systems efficiently in a single trip. Selling both products creates a stickier customer that will result in lower churn and a longer payout.

- **\$0 Activation Fee for customers who subscribe to DISH video service.**
- **\$10/mo Bundle Discount – Only satellite provide to offer this.**
- **Video and Internet on ONE bill.**
- **Flexibility and opportunity.**

Axiom – New Order Entry Tool

- As you know, we launched a new order entry tool, Axiom, which will completely replace R*Connect on November 1st.
- Axiom gives Retailers the flexibility to customize the sales flow the way they need for each customer. So they can start by selecting the programming the customer wants or they can qualify the customer first, or select the equipment first, it's all up to the Retailer and their customer.
 - Axiom's flexibility isn't just for new customer sales; it applies to existing customer upgrades and lead management as well.
- Here are just a few advantages Axiom has over R*Connect:
 - The Retailer decides where to start in the flow – customer information and qualification, programming or equipment.
 - Retailers can go back in the flow without losing information previously selected.
 - Customer account info is not lost if the Retailer needs to complete account creation days later.
 - Running summary on the right of each page provides the Retailer with all customer information completed to that point.

- If returning to a lead to complete the sales, you will need to input the customer's SSN and credit card info again as info used for qualifying a customer is not available indefinitely.
- **Frequently Asked Questions about Axiom:**
 - **Question 1 – I have noticed that when building an account in the new Axiom, you do not see if the customer is a premium customer or not. Any reason why?**
 - Axiom will indicate if a customer is a Premium Customer in the running summary on the right-side of the page (after you enter the Household Info and then the Eligibility tabs).
 - **Question 2 – Where will the agreement/contract appear so that we can print it for customer signature?**
 - Near the end of the process of creating a customer agreement in Axiom, there will be a Confirmation Page where an agreement link will be indicated. If you select this link, you can access and print the customer agreement.
 - If after the account has been created you need to go back to reprint or update an agreement, or access additional agreement reporting, just like you do today, you can go to the Promotions Center.
 - But keep in mind that when R*Connect goes away after October 31st, the Promotions Center will go away as well. Instead of going to the Promotions Center, you will go to the Agreement Center which will be available starting October 25th. It will be its own tab on the Retailer Care Site.
 - **Question 3 – It appears that you have to enter in all the info regarding programming and equipment before you qualify the customer. Is that correct?**
 - That is not correct. Unlike R*Connect, with Axiom, you can start anywhere you want.
 - You can start with the "Programming" tab to discuss what the customer wants to watch on TV, the "TV" tab to discuss the customer's rooms and equipment needs, or with "Household Info" to fill in the customer's name, address, phone number, etc.
 - In order to start out seeing what the customer qualifies for, you need to put in the name, address and phone in the Household Info tab, and then enter the Social Security number and credit card in the "Eligibility" tab.
 - **Question 4 – We are unable to change the margins and the claims are printing on 4 pages versus 3 pages on R*Connect claims.**
 - We are trying to make the agreement process as easy as possible for our Retailers! Now, the margins are set and cannot be changed – that way, no important information can be lost if the margins are too small. This also helps Retailers get paid on time if we can process your claims more quickly.
 - **Question 5 – Do I have to log into Axiom even after being logged into the Retailer Care Site?**
 - Yes. At this time, we do not have "single sign-on" yet and you must log into the Retailer Care Site and then log into Axiom – we hope to have "single sign-on" with Axiom as soon as possible.
- **Make sure that you are using Axiom because R*Connect goes away after October 31, 2012**
- **And also make sure to take the training available on DISH Portal and DISH U.**

DISH Sales App – Demo Version – Launching October 23, 2012

- On October 23rd, we are launching a unique version of the DISH Sales App—a version that is solely for the purpose of training employees to use the app.
- This demo version will be available on Android and Apple devices, as well as on a PC.
- Retailers can download the demo app from the Mobile Marketplace.
- This version is intended to be used for training purposes only and is clearly marked to be a demo on all screens.
 - The Demo Version is not intended for selling purposes.
 - Pricing and promotions may not be up-to-date.
- More on the DISH Sales App Demo Version:
 - It closely imitates all DSA functionality so that potential users can get a feel for the app before investing in tablets.
 - Estimates, Order Entry, Leads Management, and Paperless Agreements are represented in the Demo by dummy data and will not touch live services at any time.
 - Leads Management and Paperless Agreement search functionality works by entering any random 10 digit phone number.

- Any login more than one character and password seven or more characters will allow someone to log into the demo app.

Retail Services

Reminder – Thirty Day Chargeback on Equipment Discounts

- On last month's chat we announced that starting October 1st the chargeback period for equipment discounts would be decreasing from 180 days to 30 days.
- This chargeback period change includes new customer promotional programs such as DHA/DHA24 and our DishMOVER and Antenna Upgrade existing customer promotional programs.
- This change does not affect DISH'n It Up or DishMOVER Receiver Upgrade, because they already have a zero-day chargeback period.
- This new 30-day chargeback period for Equipment Discounts includes all applicable new equipment activations effective October 1st, and also includes customer account activations prior to October 1st, regardless of whether or not the equipment on the customer's account has previously been deactivated (and was subject to a chargeback) then reactivated on the customer's account.
- There is a new 30-Day Chargeback on Equipment Discounts Job Aid posted on DISH Portal.

Blogs and Social Media, and Trademark Usage

- Please remember that if you participate in any social media, you are accountable for any publication or posting you make on a social media site.
- Moreover, you must not represent yourself as a spokesperson for DISH Network or for any of DISH's products and services, and you must disclose yourself as an "authorized DISH Network retailer" in any profile or information sections on a site, including using the proper DISH Network Authorized Retailer logo.
- **Any comments directly or indirectly relating to DISH Network must include the following disclaimer:**
 - "The postings on this site are my own and do not represent DISH Network's positions, strategies or opinions."
- Furthermore, you must not make disparaging or defamatory comments about DISH Network, its employees, officers, directors, vendors, customers, partners, Affiliates or our, or their, products/services. Remember to use good judgment.
- Unless you are specifically authorized to do so, you may not use any DISH Network resources to participate in social media.
- Should you have questions regarding what is appropriate conduct regarding social media or other related policies, contact vendorinquiries@dish.com.
- **Trademark Usage:** Also remember that Retailers CANNOT use DISH, DISH Network or ANY trademarked name in their domain names. We are monitoring these requests and will immediately request that they take it down.
 - There are Retailers who have been granted consent to use trademarked terms because they had the sites prior to our line in the sand, however, they do know that DISH reserves the right at any time to withdraw that permission and request discontinuance or transfer.
 - Update all websites with accurate and current information paying particular attention to the new authorized retailer logos.

Retailer Compliance with AVC

- Back in 2009 we entered into an agreement with 46 state Attorneys General resolving a dispute about advertising, telemarketing and customer issues. That agreement (known as the Assurance of Voluntary Compliance or AVC) is still in effect. Retailers as well as DISH are subject to the Assurance and must comply.

CONFIDENTIAL

- What does that mean for Retailers?
 - There are certain fees for DISH services and equipment that Retailers may not charge a customer. For instance, we set the customer price for a receiver and that's what the customer will be charged. We also provide for free standard professional installation so Retailers normally will not charge a customer an installation fee, but if it is a non-standard installation then they may charge the customer a fee.
 - Retailer can NOT charge customers a "cancellation fee" for instance. But they may, in some instances, charge the customer for unreturned DISH equipment. However, Retailers will have to meet certain requirements. Here are some of the requirements that you'll have to meet.
 - Basically you can't charge any fees that aren't in compliance with all agreements the customer has signed and representations you've made to the customer.
 - There is some information Retailers must disclose to the customer including:
 - Amount of fee to be charged in connection with unreturned DISH equipment
 - Each item of unreturned DISH equipment and the charge associated with it
 - How fees will be charged to the customer
 - Terms and conditions under which the customer must return any DISH equipment
 - Procedure(s) the customer may follow to avoid incurring fees
 - And finally Retailers can only charge the customer either the lesser of the MSRP or the amount of chargeback the Retailer received for the applicable DISH equipment.
 - If DISH receives the applicable equipment back from the customer and reverses the chargeback to the Retailer's account, the Retailer must reverse any fee for unreturned equipment that they charged the customer.
 - ***The AVC is posted on DISH Portal or your convenience, and on August 31st we sent out a RetailerNews reminding you of the AVC.***
- **Reminder – New DISH Retailer Agreement Process Coming Soon to the Retailer Care Site**
 - Those Retailers who purchase some or all of their equipment from Echosphere will need to enter into a new agreement with DISH if they wish to continue purchasing equipment from us.
 - The Retailer agreement tool will be available soon on the Retailer Care Site – please look for more specific information in a RetailerNews coming soon.

2013 Retailer Incentive Trip – Caribbean Cruise

Remember that Retailer activations are now counting toward winning a spot in the Retailer Incentive Trip planned for March 2013!

- **Caribbean Cruise on a Silverseas luxury cruise ship – March 15 – 22, 2013**
 - Ship – MV Silver Wind
 - Embarkation port (depart) – San Juan, Puerto Rico
 - Disembarkation Port (arrival) – San Juan, Puerto Rico
 - Contest Period – December 1, 2011 through November 30, 2012
- **Ports to visit:**
 - Spanish Town/Virgin Gorda – British Virgin Islands
 - Bridgetown, Barbados
 - Bequia, St. Vincent & Grenadines
 - Les Saintes, Guadeloupe
 - St. John's, Antigua
- **Ways to win:**
 - Top 75 Retailers
 - **Top 75 Pace is 1,385 activations**
 - Annual Random Retailers – 3
 - Random Summit Advantage Retailers – 3
 - Periodic Random Retailers – 4 periods with 3 winners each
 - Long Term Retailers – 3
 - Team Summit Retailers – 1
 - DISH Business Retailers – 1

Upcoming Shows

Retailer Chat

Wednesday

November 14, 2012

12:00 (Noon) ET

Channel 999

CONFIDENTIAL

EXHIBIT 452

EXHIBIT 452

CONFIDENTIAL

JA010475
009287

TX 102-009737

CONFIDENTIAL
KELLEY DRYE & WARREN LLP
A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, D.C. 20007-5108

(202) 342-8400

NEW YORK, NY
LOS ANGELES, CA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE
MUMBAI, INDIA

FACSIMILE
(202) 342-8451
www.kelleydrye.com

ALYSA Z. HUTNIK
DIRECT LINE: (202) 342-8603
EMAIL: Ahutnik@kelleydrye.com

November 1, 2012

Stephen Taylor
KPMG
707 17th Street, Ste. 2700
Denver, CO 80202-3499

Re: Audit of DISH Network

Dear Mr. Taylor:

Brett Kitei of DISH Network Corporation (the "Company," "DISH," or "DISH Network") has directed us to provide you with updated information about pending or threatened matters and unasserted claims or assessments in connection with your audit of the Company's financial statements (but excluding information as to unpaid fees and disbursements or unbilled fees and disbursements). This response contains all information relevant to such matters as of the date of this letter.

Pending or Threatened Litigation

DISH Network is a defendant in the following cases for which we provide representation:

- *United States et al. v. DISH Network*, Case No.: 3:09-cv-03073 (MPM) (BGC)(C.D. Ill.).

On March 25, 2009, plaintiffs United States of America ("Federal Plaintiff") and the States of California, Illinois, North Carolina, and Ohio (collectively, "State Plaintiffs") (together, the "Plaintiffs") filed an initial Complaint and Demand for Jury Trial, which was later amended by Plaintiffs on April 30, 2009 (the "Complaint"), in the United States District Court for the Central District of Illinois. **REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT**

REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT

DC01\ZELTA\492413.1

Confidential

CONFIDENTIAL

JA010476
009288

SLC_DNC_Investigation_0008851

TX 102-009738

Stephen Taylor
August 6, 2012
Page 2

REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT



On December 21, 2010, DISH moved the District Court to apply the primary jurisdiction doctrine to State Plaintiffs' TCPA claims. On February 4, 2011, the District Court granted the motion. The court ruled that "considerations of uniformity, discretion and expertise all militate in favor of primary jurisdiction" in this case. The court suspended proceedings related to the "on behalf of" TCPA claims and directed the parties to "jointly file an administrative complaint with the FCC seeking the FCC's interpretation of the phrase "on behalf of" within the context of the TCPA. On February 18, 2011, DISH and Plaintiffs filed a Joint Petition before the FCC, which requests that the FCC interpret the do-not-call and prerecorded voice call provisions of the TCPA and the FCC's implementing regulations to determine whether they create liability for a person or entity by virtue of telephone calls made by an independent third party retailer. The Petition has been subject to public comment and continues to remain pending before the FCC.

Discovery in the case closed as June 30, 2012. On July 20, 2012, the Court granted and denied in part the Plaintiffs' Third Motion to Compel. The Court denied plaintiffs' requests seeking telephone records from 2002 through 2007, finding that such request would impose an undue burden on DISH that will result in an undue delay of the case. The Court granted plaintiffs' request to produce additional documents regarding specific calling campaigns by August 24, 2012, and to produce certain electronic information stored in two DISH systems (Salescomm and Seibel) by September 28, 2012. The Court also ordered DISH to designate an additional representative to testify on behalf of DISH under Rule 30(b)(6) regarding whether the Company shares or shared lead lists with retailers, and ordered the deposition to occur by or before September 15, 2012.

Stephen Taylor
August 6, 2012
Page 3

Also on July 20, 2012, in response to DISH's motion for leave to conduct certain depositions after the close of discovery, the Court granted DISH leave to depose an FTC employee who had previously been out on leave, and granted DISH leave to depose a representative of AT&T Government Solutions, Inc. by September 30th.

The parties submitted their initial expert reports on July 27, 2012, and their rebuttal expert reports on October 15, 2012. The deadline for identifying reply experts and submitting reply expert reports is November 12, 2012. The deadline for completing expert discovery is December 14, 2012. Dispositive motions are due by January 18, 2013. Trial is scheduled for June 4, 2012.

- *FTC v. DISH Network LLC*, Civil Action No.: 3:12-CV-03221-RM-BGC (N.D. Ill.).

The Federal Trade Commission filed a lawsuit against DISH Network in the Northern District of Illinois. [REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT]

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT]

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT] On September 25,

2012, DISH Network filed a motion to dismiss the FTC's lawsuit, [REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT]

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT]

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT] The FTC filed its opposition to DISH Network's Motion to Dismiss on October 26, 2012. While DISH Network does not have a right to a reply, it is preparing a reply brief and will be filing it later this week.

- *Padilla v. DISH Network, LLC*, Case No.: 12-cv-7350 (N.D. Ill.)

Ray Padilla filed his Class Action Complaint on September 13, 2012 in the Northern District of Illinois on behalf of himself and all others similarly situated.

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT]

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT]

[REDACTED-ATTORNEY-CLIENT PRIVILEGED/WORK-PRODUCT] The Plaintiff has also filed a Motion to Certify the Class. DISH Network's responsive pleading is due on November 16, 2012.

CONFIDENTIAL

KELLEY DRYE & WARREN LLP

Stephen Taylor
August 6, 2012
Page 4

We call your attention to the fact our engagement by the Company has been limited to specific matters as to which we were consulted by the Company. With the exception of the two cases noted above, and subject to the foregoing and to the limitations set forth elsewhere in this letter, we advise you that as of the end of the third quarter of 2012, we have not been engaged to give substantive attention to, or represent the Company in connection with, overtly threatened or pending litigation.

This response is limited by, and in accordance with, the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information (December 1975); without limiting the generality of the foregoing, the limitations set forth in such Statement on the scope and use of this response are specifically incorporated herein by reference, and any description herein of "loss contingencies" is qualified in its entirety by Paragraph 5 of the Statement and the accompanying commentary (which is an integral part of the Statement). There being no matter specifically identified in the Company's letter upon which comment has been specifically requested as contemplated by clauses (b) and (c) of Paragraph 5 of the Statement, we are not commenting to you upon any representation the Company may have made with respect to such matters. Consistent with the last sentence of Paragraph 6 of the ABA Statement of Policy and pursuant to the Company's request, this will confirm as correct the Company's understanding as set forth in its audit inquiry letter to us that whenever, in the course of performing legal services for the Company with respect to a matter we have recognized to involve an unasserted possible claim or assessment that may call for financial statement disclosure, and we have formed a professional conclusion that the Company must disclose or consider disclosure concerning such possible claim or assessment, we, as a matter of professional responsibility to the Company will so advise the Company and will consult with the Company concerning the question of such disclosure and applicable requirements of Statement of Financial Accounting Standards No. 5.

Sincerely,



Alysa Hutnik

cc: Ms. Carol MacLeod
Ms. Mikayla Paulson
Ms. Lynsey Barnes

DC01\ZELTA\492413.1

Confidential

CONFIDENTIAL

JA010479
009291

SLC_ DNC_ Investigation_0008854

TX 102-009741

CONFIDENTIAL

EXHIBIT 453

EXHIBIT 453

CONFIDENTIAL

JA010480
009292

TX 102-009742

CONFIDENTIAL

DISH NETWORK CORPORATION

Regular Meeting of the Board of Directors

November 2, 2012

A regular meeting of the board of directors (the "Board of Directors") of DISH Network Corporation (the "Corporation"), was held on November 2, 2012 at 1:45 p.m., prevailing Mountain Time, at the Corporation's headquarters located at 9601 S. Meridian Blvd., Englewood, Colorado 80112.

The following members of the Board of Directors participated:

Charles W. Ergen
Candy M. Ergen
James DeFranco
David K. Moskowitz (*via teleconference*)
Carl E. Vogel (*via teleconference*)
Joseph P. Clayton
Steven R. Goodbarn
Tom A. Ortolf
Gary S. Howard

Also participating at various times during the meeting at the invitation of the Chairman of the Board of Directors were: R. Stanton Dodge, Executive Vice President, General Counsel and Secretary of the Corporation; Thomas Cullen, Executive Vice President, Corporate Development of the Corporation (*present for Items 1 through 7 only*); Robert E. Olson, Executive Vice President and Chief Financial Officer of the Corporation (*present for Items 1 through 8 only*); Roger Lynch, Chief Executive Officer of DISH Digital Holding L.L.C. (*present for Item 7 only*); Jason Kiser, Vice President and Treasurer of the Corporation (*present for Items 1 through 6 only*); and Brandon Ehrhart, Vice President, Associate General Counsel and Assistant Secretary of the Corporation.

Call to Order

Mr. Charles W. Ergen, Chairman of the Board of Directors, called the meeting to order and presided as Chairman of the meeting. Mr. Dodge acted as Secretary of the meeting.

Notice and Quorum

Mr. Ergen advised that as: (i) proper notice was delivered to each member of the Board of Directors; or (ii) each member of the Board of Directors has waived any and all notices that may have been required to be given with respect to a regular meeting of the Board of Directors, by: (a) participating in the meeting without objection to notice; or (b) otherwise communicating waiver of any such notice to the Secretary or Assistant Secretary of the Corporation or their designees, and a quorum was present, the meeting was properly convened.

Discussion Matters

ITEM 1. APPROVAL OF MINUTES AND SIGNING OF CONSENTS

Mr. Dodge explained that draft minutes of the Regular Meeting of the Board of Directors held on July 23, 2012, and the Special Meeting of the Board of Directors held on October 9, 2012, were attached as Exhibits 1A and 1B to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted, subject to incorporation of any comments made by the members of the Board of Directors at the meeting:

NOW, THEREFORE, BE IT RESOLVED, that the minutes of the Regular Meeting of the Board of Directors held on July 23, 2012, and the minutes of the Special Meeting of the Board of Directors held on October 9, 2012, in substantially the form attached as Exhibits 1A and 1B, respectively, to the board book for the meeting be, and they hereby are, approved, ratified and confirmed in all respects, subject to incorporation of any comments made by the members of the Board of Directors at the meeting.

ITEM 2. REG. S-K ITEM 404 "RELATED PERSON" TRANSACTIONS

Mr. Dodge reviewed certain new potential SEC Reg. S-K, Item 404 "Related Person" transactions, Nevada Revised Statutes §78.140 transactions and "Sensitive" transactions, as defined by the 2005 Audit Committee Recommendations to generally mean: (i) any non-ordinary course transaction in which the amount involved exceeded \$5,000,000; (ii) related party transactions; (iii) transactions of a highly confidential nature; (iv) transactions which grant exclusive rights or most favored nations status to any third party; or (v) any other transaction which in the judgment of the Board of Directors should reasonably be considered sensitive.

Mr. Dodge explained that the Corporation and/or its subsidiaries are considering amending or entering into the following agreements with EchoStar Corporation ("SATS") and/or its subsidiaries: (i) an amendment to that certain Remanufactured Receiver Agreement by and between SATS and DISH Network L.L.C. dated December 31, 2007, to extend the term thereof through December 31, 2013; (ii) exercise of DISH's unilateral right to extend the term of that certain DISHOnline.com Services Agreement dated January 1, 2010 through December 31, 2013, along with a reduction of pricing DISH pays under the agreement and the assignment of the agreement to EchoStar Technologies L.L.C.; (iii) a new satellite capacity lease agreement for the EchoStar XV satellite pursuant to which the Corporation will lease to SATS the entire communications capacity thereof for use in connection with SATS' proposed DTH joint venture in Brazil; (iv) an amendment to the satellite capacity lease agreement for the QuetzSat satellite to provide the Corporation the entire communications capacity thereof until such time as the EchoSta XVI satellite, or its replacement, becomes commercially operational; (v) an agreement regarding the development of certain spectrum at the 103 W.L. orbital position; (vi) a new satellite capacity lease agreement for the Ciel-6 payload on the SES 3 satellite at the 103 W.L. orbital position; (vii) a new satellite capacity lease agreement for the D1 satellite pursuant to

which the Corporation will lease to SATS one transponder thereon; and (viii) an agreement pursuant to which SATS will construct a satellite base station subsystem for the Corporation, the terms and conditions of which were more fully described in the memorandum attached as Exhibit 2A to the board book for the meeting and a presentation distributed prior to the meeting, (collectively, the "SATS Transactions").

Mr. Dodge then explained that the Corporation is considering entering into a transaction to sell a 2007 Chevy Suburban 1500 LTZ, acquired as part of the Corporation's acquisition of 100% of the equity of reorganized DBSD North America, Inc., to Mr. Ergen for an amount equal to \$27,000 (the "Ergen Transaction"). Mr. Dodge then noted that the Corporation had received a quote of \$27,000 from a local Chevy dealership for the purchase of the vehicle from the Corporation.

Mr. Dodge reviewed the transactions between the Corporation and/or its subsidiaries and SATS and/or its subsidiaries (if any) that were entered into since the Regular Meeting of the Board of Directors held on July 23, 2012, and approved by Mr. Joseph P. Clayton pursuant to the authority delegated to him under the Related Party Transaction Policy approved at the Regular Meeting of the Board of Directors held on August 2, 2011 (each a "Delegated SATS Transaction"). Mr. Dodge noted that a list of the Delegated SATS Transactions approved since the Regular Meeting of the Board of Directors held on July 23, 2012 (if any), was attached as Exhibit 2B to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted (with Mr. Ergen and Mrs. Ergen abstaining with respect to the Ergen Transaction):

WHEREAS, the SATS Transactions and the Ergen Transaction may potentially be considered related person transactions under SEC Regulation S-K, Item 404, Nevada Revised Statutes §78.140 transactions and/or "Sensitive" transactions and therefore, out of an abundance of caution, the Board of Directors has been asked to review such transactions; and

SATS Transactions

WHEREAS, (a) management, those members of the Board of Directors who are not also members of the Board of Directors of SATS (the "Non-Interlocking Directors"), and the Audit Committee have found, and recommended that the Board of Directors find, that the SATS Transactions are fair to the Corporation and its subsidiaries; and (b) the Non-Interlocking Directors, and the Audit Committee have approved, and recommended that the Board of Directors approve, the SATS Transactions on substantially the same terms and conditions described in the memorandum attached as Exhibit 2A to the board book for the meeting and the presentation distributed prior to the meeting, with such non-material modifications, changes, or amendments to such terms and conditions as the Chief Executive Officer or Executive Vice President, General Counsel and Secretary of the Corporation and its subsidiaries (each, a "proper officer" and

collectively, the “proper officers”), or any one of them, shall in their discretion approve;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of management, the Non-Interlocking Directors and the Audit Committee regarding the SATS Transactions; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussions with the General Counsel of the Corporation and other members of management, and upon such other inquiries and other matters as are deemed appropriate or relevant by the Board of Directors, the Board of Directors hereby finds that the SATS Transactions are fair to the Corporation and its subsidiaries; and further

RESOLVED, (a) that the SATS Transactions be, and they hereby are, approved on substantially the same terms and conditions described in the memorandum attached as Exhibit 2A to the board book for the meeting and the presentation distributed prior to the meeting, with such non-material modifications, changes, or amendments to such terms and conditions as the proper officers, or any one of them, shall in their discretion approve; and (b) that the consummation of such transactions by any proper officer, with such non-material modifications, changes, or amendments to the terms and conditions of the SATS Transactions as any proper officer shall approve, shall constitute conclusive evidence that such transactions have been approved hereby; and further

Ergen Transaction

WHEREAS, (a) the Audit Committee has found, and recommended that the Board of Directors find, that the Ergen Transaction is fair to the Corporation and its subsidiaries; (b) the Audit Committee has waived, and recommended that Board of Directors waive, any conflict of interest (whether actual or potential) in connection with the Ergen Transaction; and (c) the Audit Committee authorized, ratified and adopted in all respects, and recommended that the Board of Directors authorize, ratify and adopt, the Ergen Transaction;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of the Audit Committee regarding the Ergen Transaction; and further

RESOLVED, that based upon the information received by the Board of Directors, the above-referenced discussions with the General Counsel of the Corporation, and upon such other matters as are deemed relevant by the Board of Directors, the Board of Directors hereby finds that the Ergen Transaction is fair to the Corporation and its subsidiaries; and further

RESOLVED, that the Board of Directors hereby waives any conflict of interest (whether actual or potential) in connection with the Ergen Transaction; and further

General Enabling Resolutions

RESOLVED, that the Chief Executive Officer and Executive Vice President, General Counsel and Secretary of the Corporation and its subsidiaries (each a "proper officer" and collectively the "proper officers") be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries, and under their corporate seals or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 3. APPROVAL OF FORM AND FILING OF QUARTERLY REPORT ON FORM 10-Q AND REPORT ON ACTIVITIES OF AUDIT COMMITTEE

Mr. Tom A. Ortoft, Chairman of the Audit Committee, presented a report on the general activities of the Audit Committee and the Audit Committee's review of the Corporation's financial statements and Form 10-Q for the quarter ended September 30, 2012.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted, subject to incorporation of the comments made by the members of the Board of Directors:

WHEREAS, the Corporation is required to file with the Securities and Exchange Commission (the "Commission") by November 9, 2012, a Quarterly Report on Form 10-Q for the quarter ended September 30, 2012 (the "Form 10-Q");

WHEREAS, a draft of the Form 10-Q proposed to be filed with the Commission was attached as Exhibit 5A to the board book for the meeting (the "Draft Form 10-Q"), and each member of the Board of Directors has read the Draft Form 10-Q and has provided all comments and responses they deem necessary and appropriate to the General Counsel and Chief Financial Officer of the Corporation (or their designees);

CONFIDENTIAL

WHEREAS, the Draft Form 10-Q contains quarter-end financial statements of the Corporation that were reviewed by KPMG;

WHEREAS, management has recommended that the Audit Committee and the Board of Directors approve (i) as to form the Draft Form 10-Q, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-Q (with any such non-material changes) at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and

WHEREAS, the Audit Committee has (a) approved, ratified and confirmed the recommendation of management concerning the approval (i) as to form of the Draft Form 10-Q, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) of the filing with the Commission of the Form 10-Q (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and (b) recommended that the Board of Directors approve (i) as to form the Draft Form 10-Q, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (ii) the filing with the Commission of the Form 10-Q (with any such non-material changes), at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendation of management and the Audit Committee concerning the approval as to form and filing of the Form 10-Q; and further

RESOLVED, that the Draft Form 10-Q, in substantially the form attached as Exhibit 5A to the board book for the meeting, be, and it hereby is, approved as to form with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate; and further

RESOLVED, that the Form 10-Q, in substantially the form attached as Exhibit 5A to the board book for the meeting, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, be filed with the Commission at such time as the General Counsel and Chief Financial Officer of the Corporation shall determine; and further

RESOLVED, that the General Counsel and Chief Financial Officer be, and they collectively hereby are, authorized, empowered and directed to prepare or cause to be prepared, to execute or cause to be executed, and to file or cause to be filed with the Commission such non-material amendments and supplements to the Form 10-Q as they, collectively, may deem necessary or desirable, or as may be required by the Commission; and further

RESOLVED, that, in the event that such an amendment or supplement to the Form 10-Q is filed, the members of the Board of Directors shall be provided with redline copies of the revised Form 10-Q showing the changes that were made; and further

RESOLVED, that the Chairman, the Chief Executive Officer, Executive Vice President, General Counsel and Secretary or Executive Vice President and Chief Financial Officer of the Corporation (each, a “proper officer” and collectively, the “proper officers”) be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 4. QUARTERLY REVIEW OF OPTION GRANTS TO EMPLOYEES OTHER THAN EXECUTIVE OFFICERS AND REPORT ON ACTIVITIES OF THE EXECUTIVE COMPENSATION COMMITTEE AND PROPOSAL TO CHANGE THE EFFECTIVE DATE OF FUTURE STOCK AWARD GRANTS UNDER THE 2009 STOCK INCENTIVE PLAN

Mr. Steven R. Goodbarn, Chairman of the Executive Compensation Committee, presented a report on the general activities of the Executive Compensation Committee and the Executive Compensation Committee’s review of the option grants made to employees other than executive officers during the third quarter 2012, a list of which was attached as Exhibit 6A to the board book for the meeting.

Mr. Olson then led a discussion of management’s proposal to change the grant date of future stock award grants under the 2009 Stock Incentive Plan (the “Stock Incentive Plan”), including, but not limited to, stock award grants pursuant to the authority delegated by the Board of Directors to Mr. Ergen under the Stock Incentive Plan. A summary of Mr. Olson’s presentation was distributed prior to the meeting. Mr. Olson walked the members of the Board of Directors through his presentation and the anticipated benefits to be derived from changing the effective grant date for future stock award grants under the Stock Incentive Plan to the first day of the quarter immediately following the end of the quarter in which options are granted to employees, such change to be effective April 1, 2013 (e.g., April 1st effective grant date for

options granted during the period of January 1st through March 31st). Mr. Olson then responded to questions from the members of the members of the Board of Directors.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

Quarterly Review of Option Grants

WHEREAS, the Corporation adopted the Stock Incentive Plan, which Stock Incentive Plan provides for the grant of stock options, among other stock-based performance awards, to key employees of the Corporation and its subsidiaries;

WHEREAS, (i) eighty million (80,000,000) shares of Class A Common Stock, \$0.01 par value per share ("Common Stock"), of the Corporation have been reserved for issuance under the Stock Incentive Plan; and (ii) under the Stock Incentive Plan: (a) no grantee may be granted options or stock appreciation rights in the aggregate of more than four million (4,000,000) shares in any one calendar year; and (b) the maximum dollar amount of the fair market value of shares that any grantee may receive in any one calendar year in respect of performance awards granted under the Stock Incentive Plan may not exceed thirty million dollars (\$30,000,000);

WHEREAS, the Board of Directors has established the Executive Compensation Committee to administer the Stock Incentive Plan;

WHEREAS, management believes: (i) that officers and other key employees, who are in a position to make a substantial contribution to the long-term success of the Corporation and to build stockholder value, should have a stake in the Corporation's ongoing success; and (ii) that this focuses attention on managing the Corporation as an owner with an equity position in the Corporation's business and seeks to align the officers' and key employees' interests with the long-term interests of stockholders;

WHEREAS, the Stock Incentive Plan was adopted by the Board of Directors and approved by stockholders in recognition of management's belief;

WHEREAS, (i) awards under the Stock Incentive Plan follow a review of the individual employee's performance, position in the Corporation, long-term potential contribution to the Corporation and the number of options previously granted to the employee; and (ii) neither management nor the Board of Directors assigns specific weights to these factors, although the employee's position and a subjective evaluation of his or her performance are considered most important;

WHEREAS, generally, the number of options granted to an employee reflect his or her level of responsibility, position in the Corporation and potential to

CONFIDENTIAL

contribute to the long-term success of the Corporation or otherwise achieve significant corporate goals;

WHEREAS, however, the number of options granted to specific employees are not based on any objective criteria;

WHEREAS, options are generally granted to director level and above employees, although in certain circumstances options are granted to certain other employees based on length of service or contribution to the Corporation;

WHEREAS, Charles W. Ergen, Chairman of the Board of Directors, desires to: (i) incentivize certain new employees and/or certain employees receiving promotions who are in a position to make a substantial contribution to the long-term success of the Corporation and to build stockholder value; and/or (ii) reward certain key employees of the Corporation and its subsidiaries, in connection with their efforts during the past year, and provide them with an incentive to continue to help build the success of the Corporation, which rewards and incentives add value to the Corporation that is at least equal to the fair market value of the shares of the Corporation's Common Stock that these employees will receive through the Stock Incentive Plan;

WHEREAS, at the Annual Meeting of the Board of Directors held on May 2, 2012, (i) the Board of Directors delegated the authority to Mr. Ergen, as Chairman of the Board of Directors, to make grants of options to purchase the Common Stock, effective at the end of each quarter, to new employees and existing employees of the Corporation or its subsidiaries who are not executive officers in connection with hiring, promotion or other recognition, as Mr. Ergen deems appropriate, without further need to consult with or seek prior approval from the Board of Directors or the Executive Compensation Committee, consistent with the criteria established in the Stock Incentive Plan, and that the actions taken by Mr. Ergen in connection therewith shall be deemed approved, ratified and confirmed by the Board of Directors and the Executive Compensation Committee as of the date such action is taken; provided however, that no authority was granted to Mr. Ergen to make grants to: (a) executive officers or directors of the Corporation (executive officers of the Corporation are those persons identified as executive officers in the Corporation's annual report on Form 10-K); (b) "affiliates" of the Corporation, as such term is used in Section 16 of the Securities Exchange Act of 1934, and as interpreted by the General Counsel of the Corporation; (c) in excess of one hundred thousand (100,000) shares to an individual employee at or below the Vice President level; or (d) in excess of five hundred thousand (500,000) shares to an individual employee at or above the Senior Vice President level, without advance approval of the Executive Compensation Committee;

WHEREAS, the Chairman has made the grant of options to purchase shares of the Corporation's Common Stock ("Options") to those employees of the Corporation

and its subsidiaries who are not executive officers set forth in the list attached as Exhibit 6A to the board book for the meeting, and in such amounts as set forth opposite each employee's name on such list under the terms of the Stock Incentive Plan and an incentive stock option agreement to be approved by the Chairman of the Corporation; and

WHEREAS, (i) the date of grant of such Options is September 30, 2012 (the "Grant Date"); (ii) such Options vest at the rate of 20% per year, with the first 20% of such Options vesting on the date which is one year after the Grant Date and 20% thereafter on the anniversary of the Grant Date for each of the following four years; (iii) the exercise price for each share of Common Stock shall be equal to the closing price, as reported on the National Association of Securities Dealers Automated Quotation System, for shares of the Common Stock on the Grant Date, or the last business day prior to such date in the event that such date falls on a weekend or holiday; and (iv) such Options expire ten years from the Grant Date;

NOW, THEREFORE, BE IT RESOLVED, that, after due consideration, the Board of Directors hereby determines that the grant of such Options is consistent with the authority delegated to the Chairman at the Annual Meeting of the Board of Directors held on May 2, 2012.

Change of the Effective Date of Future Stock Award Grants under the 2009 Stock Incentive Plan

WHEREAS, management and the Executive Compensation Committee have recommended that the grant date for future stock award grants (including, but not limited to, stock award grants pursuant to the authority delegated by the Board of Directors to Mr. Ergen under the Stock Incentive Plan) be changed to the first day of the quarter immediately following the end of the quarter in which options are granted to employees, such change to be effective as of April 1, 2013 (e.g., April 1st effective grant date for options granted during the period of January 1st through March 31st);

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendation of management and the Executive Compensation Committee that the grant date for future stock award grants (including, but not limited to, stock award grants pursuant to the authority delegated by the Board of Directors to Mr. Ergen under the Stock Incentive Plan) be changed to the first day of the quarter immediately following the end of the quarter in which options are granted to employees, such change to be effective as of April 1, 2013 (e.g., April 1st effective grant date for options granted during the period of January 1st through March 31st); and further

RESOLVED, that the Board of Directors hereby authorizes, ratifies and adopts in all respects the recommendation of management and the Executive Compensation Committee that the grant date for future stock awards (including, but not limited

to, stock award grants pursuant to the authority delegated by the Board of Directors to Mr. Ergen under the Stock Incentive Plan) be changed to the first day of the quarter immediately following the end of the quarter in which options are granted to employees, such change to be effective as of April 1, 2013 (e.g., April 1st effective grant date for options granted during the period of January 1st through March 31st); and further

General Enabling Resolutions

RESOLVED, that the Chairman and Executive Vice President, General Counsel and Secretary of the Corporation and its subsidiaries (each a “proper officer” and collectively the “proper officers”) be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries, and under their corporate seals or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 5. DISCUSSION OF STOCK REPURCHASES

Mr. Dodge led a discussion regarding stock repurchases. To assist the members of the Board of Directors with their consideration of this agenda item, a summary of the Corporation’s stock repurchase activity in 2010, 2011 and 2012 was attached as Exhibit 8A to the board book for the meeting.

After discussion and deliberation, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, at the Regular Meeting of the Board of Directors held on August 9, 2004, the Board of Directors authorized the Corporation to repurchase up to \$1 billion of its Class A Common Stock, par value \$0.01 per share (the “Common Stock”);

WHEREAS, at the Regular Meeting of the Board of Directors held on November 6, 2006, the Board of Directors re-authorized the Corporation through and including December 31, 2007 to repurchase up to the remaining approximately \$626 million of Common Stock;

CONFIDENTIAL

WHEREAS, at the Regular Meeting of the Board of Directors held on November 8, 2007, the Board of Directors increased the Corporation's existing authorization for stock repurchases by approximately \$374 million (which increased the maximum total amount presently authorized for stock repurchases from approximately \$626 million to \$1 billion) and extended such authorization through and including December 31, 2008; provided that: (i) the aggregate amount of Common Stock repurchased by the Corporation shall not equal or exceed twenty percent (20%) of the issued and outstanding Common Stock; (ii) all such repurchases of Common Stock shall be made in the open market; and (iii) all such repurchases of Common Stock shall be made in the discretion of the Chief Executive Officer and Chairman of the Board of Directors at a price equal to or less than thirty dollars (\$30.00) per share, regardless of whether such purchases are made before or after the potential spin-off;

WHEREAS, at the Regular Meeting of the Board of Directors held on November 6, 2008, the Board of Directors increased the Corporation's existing authorization for stock repurchases by approximately \$82 million (which increased the maximum amount authorized for stock repurchases from \$912 million to \$1 billion) and extended such authorization through and including December 31, 2009; provided that: (i) the aggregate amount of Common Stock repurchased by the Corporation shall not equal or exceed twenty percent (20%) of the issued and outstanding Common Stock; (ii) all such repurchases of Common Stock shall be made in the open market; and (iii) all such repurchases of Common Stock shall be made in the discretion of the Chief Executive Officer and Chairman of the Board of Directors at a price equal to or less than twenty dollars (\$20.00) per share;

WHEREAS, at the Regular Meeting of the Board of Directors held on November 3, 2009, the Board of Directors increased the Corporation's existing authorization for stock repurchases by approximately \$19.42 million (which increased the maximum amount authorized for stock repurchases from \$980.58 million to \$1 billion) and extended such authorization through and including December 31, 2010; provided that: (i) all such repurchases of Common Stock shall be made in the open market; and (ii) all such repurchases of Common Stock shall be made in the discretion of the Chief Executive Officer and Chairman of the Board of Directors at a price equal to or less than thirty dollars (\$30.00) per share;

WHEREAS, at the Regular Meeting of the Board of Directors held on November 2, 2010, the Board of Directors increased the Corporation's existing authorization for stock repurchases by approximately \$107 million (which increased the maximum amount authorized for stock repurchases from \$893 million to \$1 billion) and extended such authorization through and including December 31, 2011; provided that: (i) all such repurchases of Common Stock shall be made in the open market; and (ii) all such repurchases of Common Stock shall be made in the discretion of the Chief Executive Officer and Chairman of the Board of Directors at a price equal to or less than thirty dollars (\$30.00) per share; and

CONFIDENTIAL

WHEREAS, at the Regular Meeting of the Board of Directors held on November 1, 2011, the Board of Directors increased the Corporation's existing authorization for stock repurchases by approximately \$396,000 (which increased the maximum amount authorized for stock repurchases from approximately \$999.6 million to \$1 billion) and extended such authorization through and including December 31, 2012; provided that: (i) all such repurchases of Common Stock shall be made in the open market; and (ii) all such repurchases of Common Stock shall be made in the discretion of the Chairman or the Chief Executive Officer of the Corporation at a price equal to or less than thirty dollars (\$30.00) per share; and

NOW, THEREFORE, BE IT RESOLVED, that the Corporation's existing authorization for stock repurchases up to \$1 billion be, and it hereby is, extended through and including December 31, 2013, subject to and in accordance with all applicable laws and regulations, including without limitation Rule 10(b)-18 of the Securities Exchange Act of 1934, as amended, and commencing no earlier than the date upon which management has determined in its sole judgment that the Corporation has complied with all disclosure requirements applicable to the repurchase of such stock; provided that: (i) all such repurchases of Common Stock shall be made in the open market; and (ii) all such repurchases of Common Stock shall be made in the discretion of the Chairman or the Chief Executive Officer of the Corporation at a price equal to or less than thirty-five dollars (\$35.00) per share; and further

RESOLVED, that the Chairman and Executive Vice President, General Counsel and Secretary, or Executive Vice President and Chief Financial Officer of the Corporation (each, a "proper officer" and collectively, the "proper officers"), be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and under its corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, to authorize and empower any necessary agents or brokers, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation to accomplish the purposes and to carry out the intent or the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation within the terms of the foregoing resolutions be, and the same hereby are, ratified, and confirmed in all respects.

ITEM 6. APPROVAL OF ACQUISITION OF CERTAIN 2.5 GHZ SPECTRUM LICENSES HELD BY CLEARWIRE

Messrs. Ergen and Cullen led a discussion regarding the Corporation's potential acquisition (the "License Acquisition") of certain 2.5 GHz spectrum licenses ("Licenses") currently owned by Clearwire Corporation ("Clearwire"). A summary of Messrs. Ergen's and Cullen's presentation was distributed to the Board of Directors prior to the meeting. Messrs. Ergen and Cullen walked the Board of Directors through their presentation.

Mr. Cullen then led a discussion on the current status of the wireless industry generally, including, among other things, that 2.5 GHz is the spectrum band adopted in India as the preferred high-speed method of delivering data. Mr. Ergen then led a discussion regarding the strategic reasons for the License Acquisition, and walked the members of the Board of Directors through the anticipated benefits to be derived from, and the risks anticipated to be associated with, the License Acquisition.

Messrs. Ergen and Cullen then responded to questions from members of the Board of Directors regarding, among other things, the impact of the License Acquisition on the Corporation's current spectrum holdings.

Messrs. Ergen and Cullen then walked the Board of Directors through the rationale for the requested authorization to spend up to \$3 billion for the Licenses at a weighted average price not to exceed \$0.25 per MHz-POP.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Corporation be, and it hereby is, authorized to spend up to \$3 billion for the Licenses at a weighted average price not to exceed \$0.25 per MHz-POP; and further

RESOLVED, that the execution and delivery of License Acquisition documents consistent with such terms and conditions described above and the consummation of the transactions contemplated thereby by the Chairman or Executive Vice President, General Counsel and Secretary of the Corporation and its subsidiaries (each a "proper officer" and collectively the "proper officers"), or anyone of them, shall constitute conclusive evidence: (i) of such approval; and (ii) that the transactions have been authorized ratified and adopted hereby; and further

RESOLVED, that the proper officers of the Corporation and its subsidiaries be, and each one of them acting alone or with one or more proper officers hereby is, authorized, empowered and directed to consummate in the name of and on behalf of the Corporation and its subsidiaries, the License Acquisition; and further

RESOLVED, that the proper officers of the Corporation and its subsidiaries be, and each one of them acting alone or with one or more other proper officers

hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation and its subsidiaries and under their corporate seals or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such other and further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation and its subsidiaries to accomplish the purposes and to carry out the intent of the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers of the Corporation and its subsidiaries within the terms of the foregoing resolutions be, and the same hereby are, ratified and confirmed in all respects.

ITEM 7. DISH DIGITAL UPDATE

Mr. Roger Lynch, Chief Executive Officer of DISH Digital Holding L.L.C. (“DISH Digital”), provided an update on DISH Digital’s business. A copy of Mr. Lynch’s presentation was distributed prior to the meeting. Mr. Lynch walked the members of the Board of Directors through his presentation, and then responded to several questions from the members of the Board of Directors.

ITEM 8. LITIGATION UPDATE

Mr. Dodge, in his capacity as General Counsel of the Corporation, presented a report on the status of the significant litigation in which the Corporation and/or its affiliates are presently involved. Mr. Dodge then provided an update on the Legal Department’s “Best in Class” E-Discovery Initiative. A copy of Mr. Dodge’s presentation was distributed prior to the meeting. Mr. Dodge explained that his report and any ensuing discussions were subject to the attorney/client and other applicable privileges.

ITEM 9. REVIEW OF PROGRESS TOWARDS ACHIEVEMENT OF PERFORMANCE GOALS UNDER THE 2008 LONG TERM INCENTIVE PLAN AND THE SENIOR EXECUTIVE PERFORMANCE AWARD AGREEMENTS

Mr. Dodge presented a report on the progress made towards achievement of the next performance goal under the 2008 Long Term Incentive Plan (the “2008 LTIP”) and certain performance award agreements for Thomas A. Cullen, Bernard L. Han, R. Stanton Dodge, Charles W. Ergen and Joseph P. Clayton (the “Senior Executive Performance Award Agreements”), and the impact of the recent Voom settlement on the 2008 LTIP and Senior Executive Performance Award Agreements. A summary of Mr. Dodge’s presentation was distributed prior to the meeting. Mr. Dodge noted that during a meeting of the Executive Compensation Committee, which occurred earlier in the day, the members of the Executive Compensation Committee discussed, among other things, the relevant language of the 2008 LTIP and Senior Executive Performance Award Agreements, certain disclosure rules regarding executive compensation, the anticipated reaction of employees and the accounting treatment

related to applying payments under the Voom settlement against achievement of performance goals under the 2008 LTIP and Senior Executive Performance Awards as of September 30, 2012. Mr. Dodge then noted that KPMG LLP, independent registered public accounting firm of the Corporation, had advised the Corporation that the recent Voom settlement would be treated as a Type I Subsequent Event requiring the Corporation to account for the Voom settlement as of September 30, 2012. Messrs. Dodge and Ergen then responded to several questions from the members of the Board of Directors.

ADJOURNMENT

Upon motion duly made and seconded, the meeting was adjourned at 4:00 p.m. for the members of the Executive Compensation Committee to attend a special meeting of the Executive Compensation Committee.

CONTINUATION

Upon motion duly made and seconded, the meeting was reconvened at 4:15 p.m.

ITEM 10. QUARTERLY REVIEW OF CERTAIN INVESTMENTS

Mr. Dodge provided an update on certain investments made by the Corporation during the third quarter. A copy of the investment policy of the Corporation and a summary of the investments made by the Corporation during the third quarter were attached as Exhibit 7A to the board book for the meeting.

ITEM 11. REVIEW OF CERTAIN ITEMS PREVIOUSLY APPROVED BY THE BOARD OF DIRECTORS

Mr. Dodge reviewed certain items approved by the Board of Directors year-to-date that are outside of the ordinary course and have not been consummated and the status of each such item, as well as certain items approved by the Board of Directors in prior years that remain active. Mr. Dodge noted that to assist the members of the Board of Directors a list of such items was included in the board book for the meeting. Mr. Dodge then noted that his review did not include items approved year-to-date that are ordinary course (whether consummated or not) or that are outside of the ordinary course but have been consummated.

ITEM 12. INCREASE IN THE APPROVAL AMOUNT FOR NEW UNSECURED HIGH-YIELD DEBT SECURITIES

Mr. Ergen led a discussion regarding a proposal by management to increase the amount of new unsecured high-yield debt securities (the "Notes") that the Corporation (or one its wholly-owned subsidiaries) may issue and sell, from an aggregate principal amount of up to \$100 million, with an interest rate not to exceed 7% per annum (the "Rate"), to an aggregate principal amount of up to \$1 billion (an increase in the existing authorization by up to \$900 million). Mr. Ergen then responded to several questions from the members of the Board of Directors.

After discussion and deliberation, upon motion duly made and seconded, the following resolutions were unanimously adopted:

Issuance of Debt Securities

WHEREAS, the Board of Directors has determined that it is in the best interests of the Corporation for it (or one of its wholly-owned subsidiaries) to increase the authorization of the aggregate principal amount of the Notes by up to an additional \$900 million with an interest rate not to exceed 7% per annum (for an aggregate principal amount of up to \$1 billion in Notes), and to issue and sell up to \$1 billion aggregate principal amount of Notes with an interest rate not to exceed the Rate and with the proceeds of the Notes offering to be used for general corporation purposes;

NOW, THEREFORE, BE IT RESOLVED, that the Corporation (or one of its wholly-owned subsidiaries) be, and it (or one of its wholly-owned subsidiaries) hereby is, authorized to: (i) increase the aggregate principal amount of the Notes by up to an additional \$900 million (for an aggregate principal amount of up to \$1 billion in Notes); and (ii) issue and sell the Notes at such time and on such terms and conditions as the Chairman, Chief Financial Officer, and Executive Vice President, General Counsel and Secretary of the Corporation and its subsidiaries (each, a "proper officer" and collectively, the "proper officers") shall determine up to \$1 billion aggregate principal amount with an interest rate not to exceed the Rate and with the proceeds of the Notes to be used for general corporate purposes; and further

General Enabling Resolutions

RESOLVED, that the Corporation (or one of its wholly-owned subsidiaries) is hereby authorized to enter into agreements with such entities to act as initial purchasers of the Notes, and upon such terms and provisions, as the proper officers, or any one of them, shall in their discretion approve; and further

RESOLVED, that the proper officers be, and they hereby are, authorized to take all appropriate and customary actions as any one of them shall deem necessary or desirable in connection with the issuance of the Notes, including without limitations all actions necessary or desirable to consummate a registered exchange offer for the Notes; and further

RESOLVED, that the Corporation hereby adopts the form of any and all resolutions required by the SEC, the trustee, the depository, the registrar, the paying agent, the notice agent, the exchange agent (each, as specified in the indenture), the DTC and any state authority, jurisdiction, institution, person or agency in connection with the issuance of the Notes if: (i) in the opinion of the proper officers (or any one of them) the adoption of such resolutions is necessary and desirable; and (ii) the Secretary or Assistant Secretary of the Corporation

evidences such adoption by filing with the minutes of the Corporation copies of such resolutions, in which case those resolutions shall be deemed to be adopted by the Board of Directors and incorporated herein by reference with the same force and effect as if expressly contained herein; and further

RESOLVED, that the proper officers be, and each one of them acting alone or with one or more other proper officers hereby is, authorized, empowered and directed, in the name and on behalf of the Corporation (or, if applicable, one of its wholly-owned subsidiaries) and under its (or, if applicable, one of its wholly-owned subsidiaries') corporate seal or otherwise, from time to time, to make, execute and deliver, or cause to be made, executed and delivered, all such further agreements, certificates, instruments or documents, to pay or reimburse all such filing fees and other costs and expenses, and to do and perform or cause to be done or performed all such acts and things, as in their discretion or in the discretion of any of them may be necessary or desirable to enable the Corporation (or, if applicable, one of its wholly-owned subsidiaries) to accomplish the purposes and to carry out the intent of the foregoing resolutions; and further

RESOLVED, that any and all actions previously taken by any of the proper officers within the terms of the foregoing resolutions (including, without limitation, any and all actions taken in furtherance of the issuance, offering and sale of the Notes) be, and the same hereby are, ratified and confirmed in all respects.

ITEM 13. REVIEW OF SCHEDULE FOR NEXT REGULAR MEETINGS OF THE BOARD OF DIRECTORS, AUDIT COMMITTEE AND EXECUTIVE COMPENSATION COMMITTEE

Mr. Dodge reviewed the schedule for the upcoming regular meetings of the Board of Directors, Audit Committee and Executive Compensation Committee. To assist the members of the Board of Directors with their review of the dates for such meetings, calendars for each of the months from January 2013 through December 2013 were attached as Exhibit 10A to the board book for the meeting.

ITEM 14. CHIEF EXECUTIVE OFFICER'S REPORT

Mr. Clayton presented a report on his observations as President and Chief Executive Officer of the Corporation.

ITEM 15. CHAIRMAN'S REPORT

Mr. Ergen presented a report on the general state of the business of the Corporation and other matters, including, among other things, upcoming satellite launches. To assist the members of the Board of Directors with their consideration of this item, a memorandum regarding upcoming satellite launches was attached as Exhibit 12A to the board book for the meeting.

Termination

There being no further business to come before the meeting, the meeting was, upon motion duly made and seconded, terminated at 4:30 p.m., prevailing Mountain Time.

R. Stanton Dodge
Secretary

CONFIDENTIAL

EXHIBIT 454

EXHIBIT 454

CONFIDENTIAL

JA010500
009312

TX 102-009762

**DISH NETWORK CORPORATION INSIDER TRADING POLICY
AND RELATED CONDUCT**

November 27, 2012

DISH Network Corporation and its subsidiaries (hereinafter referred to as "DISH" or the "Company") has established this Policy on insider trading. **The Policy applies to all employees** and officers of DISH and to all members of its Board of Directors (collectively, "employees").

The Policy permits certain employees **who are NOT in possession of material non-public information** to trade in DISH stock at any time other than during announced Blackout Periods. Special restrictions on trading remain in place for all employees who are: (i) at or above the vice president level (including members of the board of directors); (ii) designated by DISH as "insiders" under Section 16 of the Securities Exchange Act of 1934; or (iii) in position to have access to certain confidential information on a regular or systematic basis.

Conduct and Responsibilities of Employees

The Policy prohibits insider trading (including "tipping"). If you possess material non-public information, then you are prohibited (by law and by this Policy) from: (1) purchasing, selling or otherwise trading in securities whose market price may be affected by such information, until the information has been effectively disclosed to the public; and (2) disclosing material non-public information to any other person (including other employees of DISH), except when and solely to the extent necessary to fulfill the responsibilities of your job, until after such information has been effectively communicated to the public.

This Policy governs trading in all DISH stock and options, including both stock exchange-traded options and employee stock options. It also governs trading in any other DISH securities (including debt-securities), the pledging as collateral of any DISH securities (including establishing or increasing margin loans), as well as engaging in transactions in securities of other companies if you learn something in the course of your duties that may affect their value. Note also that the law does not allow you to "guess" whether particular non-public information is positive or negative. For example, if you are aware of DISH's material and non-public financial results, which you believe will result in an increase or decrease in the price of DISH's stock upon announcement, you may not buy or sell until the information has been adequately publicly disseminated, even though you believe you are likely to be "leaving money on the table."

Definitions and Applications

What is Insider Trading? Insider trading is not defined in the written law, but courts generally have described it as: (1) trading of securities by an "insider" on the basis of material and non-public information; (2) communicating material and non-public information by an insider to others ("tipping"); or (3) use (by trading or tipping) of material and non-public information by a non-insider in violation of a duty to keep it confidential.

Who is an Insider? The concept of "insider" is broad. It includes officers, members of the board of directors, and employees of a company. In addition, a person can become a "temporary insider" if he or she enters into a special confidential relationship with the Company and, as a result, is given access to information solely for the Company's purposes under circumstances where there is a duty to keep the information confidential. Similarly, as an employee of DISH, you may come into possession of material non-public information about other companies whose stock is publicly traded, such as EchoStar Corporation ("SATS") and DISH's suppliers and vendors. You may not purchase or sell the securities of such companies while in possession of material non-public information regarding such companies, or disclose this information to any other person,

except as otherwise permitted in this Policy. Since it can be very difficult for a DISH employee to determine when it may be appropriate to trade in the securities of a supplier or vendor, you are strongly discouraged from making such investments in the first place.

What is Public Disclosure? Non-public, or "inside" information about DISH is any information which has not been effectively disclosed to the public. If you are in possession of material non-public or inside information, then you may not disclose such information to others, or trade on it yourself, until the information has been effectively disclosed to the public. DISH generally considers information to have been disclosed publicly at the beginning of the third trading day after: (1) the information has been released to the media by means of a press release, media advisory or other official communication (whether written or oral) intended for wide distribution--but only if the information is actually published or disseminated by the media; or (2) the filing of the information in a disclosure document DISH files with the Securities and Exchange Commission (SEC). Thus, if a press release is issued on Thursday afternoon and published by the media that same day, trading may occur on Tuesday if you comply with all of the other elements of this Policy. If a document is filed with the SEC on Monday morning before the securities markets have opened, you will be able to trade on Wednesday if you comply with (and are not otherwise restricted by) all of the other elements of this Policy. If you are uncertain as to the timing of the public disclosure of inside information and whether the disclosure has been effective, contact the Legal Department.

What is Material Non-Public Information? All of us who work at DISH possess information about the Company which we have learned because of our position here, but which has not been disclosed to the public. While such information is non-public information, it is not necessarily material information for purposes of this Policy. In general, information about DISH is material if a reasonable investor would consider it important in deciding whether or not to buy or sell any security of DISH. In other words, material information can be described as any information which might be expected to affect (either negatively or positively) the market price of any security of DISH. If non-public information is not material, its mere possession will not bar you from transactions in DISH securities (though you may well be barred for other reasons under this policy). Under the law, however, the mere fact that an "insider" trades on non-public information is evidence of its materiality. As a practical matter, therefore, if you are in possession of specific non-public information that causes you to want to buy or sell DISH securities, you should consider that information material and you must refrain from any transactions in DISH securities unless the information is made public (and the information has been given adequate time to be disseminated to the general public) prior to any sale or purchase by you and you comply with the guidelines set forth herein. Accordingly, if you have such information, you should consider it to be material. Except as otherwise permitted by this Policy, you should not disclose the information to any other person prior to its official public dissemination and should not purchase or sell any security of DISH which may be affected by the information.

Additional Factors

Purchase or Sale of DISH Securities by Immediate Family. This Policy also covers purchases and sales of DISH securities by you and your immediate family members. The term "immediate family" means your spouse, parents, natural and adopted children (or other minor dependents), siblings, mothers- and fathers-in-law, sons- and daughters-in-law and brothers- and sisters-in-law, no matter where they reside, as well as any individuals residing in your household. These individuals are included because securities laws will generally presume that they obtained material non-public information from the employee, unless the employee is able to successfully prove that the person obtained the information from another source. For example, you would be considered to be engaged indirectly in insider trading and to have violated this policy (and possibly the securities laws) if your spouse or other immediate family member trades in DISH securities at a time when you are prohibited from trading by this policy. No violation of this policy occurs, however, if you can clearly

prove that you did not provide any material non-public information, intentionally or unintentionally, to the related person (be aware, however, that proving a negative is extremely difficult to do).

More about Tipping. You violate this Policy if you communicate material non-public information to a friend, immediate family member, or any other person, regardless of whether the other person trades in DISH securities. This is so because this Policy is designed to eliminate the risk that somebody else will trade in DISH securities or will communicate the information to another person who may trade while in possession of such information. If the person whom you tipped trades on the information, then you may have violated securities laws as well. The Policy against tipping is not violated by your disclosing material non-public information to another employee in the course of and solely to the extent necessary for fulfilling your duties or responsibilities to DISH. You can disclose material information to another employee when disclosure facilitates accomplishment of the duties of either employee. Of course, you are expected to exercise due care with respect to confidential information at all times, and should only share it with other employees on a "need to know" basis or as directed by your supervisor. In addition, disclosure of material non-public information to non-employees and outside organizations does not violate this policy where the disclosure is required in order to accomplish DISH's business and has been authorized by your supervisor. For example, disclosure of material non-public information is permitted, if it is necessary for investment bankers to fulfill their "due diligence" obligations under federal securities laws or if it is required by outside consultants who perform services for DISH and your supervisor has authorized you to reveal such information to them. However, in such instances, you must first (prior to disclosure) obtain the outside party's written agreement, in a form acceptable to DISH's Legal Department, to keep such material non-public information strictly confidential.

Short Sales and Options Trading. Those who engage in short selling or in trading options, as discussed below, in many cases are attempting to profit from short-term swings in the market price of DISH's stock. Moreover, employees who engage in short selling and similar options transactions, place themselves in the awkward position of profiting from short-term reductions in the market price of stock. This is inconsistent with your expected commitment to the long-term prospects for DISH. Even more significant is the inference that employees who engage in short selling or who purchase options on the stock are motivated by knowledge of material non-public information about DISH or the stock which will cause a change in the market price of the stock to occur once the information is disclosed to the general public. For these reasons, options trading and short selling of DISH stock by any DISH employee is prohibited, unless the employee has obtained prior written approval from General Counsel. This prohibition includes the practice of selling for future delivery of DISH stock already owned (known as "selling against the box"), because--while such transactions are not technically short sales under the federal securities laws--they put the employee in the unacceptable position of potentially profiting from a short-term decline in the price of DISH stock. **THIS PROHIBITION ON OPTIONS TRADING DOES NOT PRECLUDE YOU FROM EXERCISING ANY EMPLOYEE STOCK OPTION WHICH MAY BE ISSUED BY DISH.** Any employee can exercise employee stock options at any time. However, other factors, such as general insider trading rules or DISH's short-swing trading rules for certain officers and directors (prohibiting buys and sales within a six month period), may prohibit you from simultaneously selling shares obtained from the exercise of these options at various times.

Margin Loans. Entering into margin loans, or other transactions involving the pledging of DISH securities as collateral, are prohibited by this policy without the prior written approval of the Legal Department for the specific transaction you wish to engage in. The problem with such transactions is that if the collateral to loan ratio decreases below a certain value, you will get a "margin call" or notice that the lender will sell DISH securities in your account unless you increase cash or other collateral in your account. Federal securities regulators have raised concern that by making the decision not to add additional collateral in the event of a margin call (regardless of whether or not you have the funds to do so), you may have effectively made an affirmative decision to sell the collateralized securities. Thus, if at the time of sale you are in possession of material non-public information, you could be deemed to have violated insider trading laws.

Safeguards

This policy establishes safeguards against insider trading. Your failure to follow the safeguards established below is itself a violation of this Policy.

Disclosure of Material Non-public information Outside the Corporation. If, in connection with the fulfillment of your responsibilities, it will be necessary for you to disclose material non-public information to persons or organizations outside DISH, you should contact the Legal Department prior to disclosure to determine what steps (e.g., execution of a nondisclosure agreement) should be taken to prevent unauthorized dissemination of the sensitive information.

Requests for Information. Similarly, anyone who receives other requests for information from members of the public (including investment bankers, securities or equity analysts, vendors or DISH dealers) which may involve material non-public information, should first contact the Legal Department to discuss the appropriate course of action.

Blackout Periods on Securities Trading. Vice Presidents, employees above the Vice President level (“Executives”) and other employees designated by DISH as employees with regular or systematic access to material non-public information may not trade in DISH and/or SATS securities during blackout periods (“Blackout Periods”). DISH Blackout Periods commence March 1, June 1, September 1, and December 1. The Blackout Periods end on the third trading day after the release by DISH of its next 10-Q or 10-K, unless the ending date of the Blackout Period is in the middle of another Blackout Period, which will typically be the case following the filing of the 10-K until the first 10-Q is filed. For example, if the third quarter 10-Q is to be released on October 14, then the Blackout Period for such insiders will generally commence on (and include) September 1 and will remain in effect until the third trading day following October 14. As another example, if the third quarter 10-Q is to be filed on November 14, the 10-K is to be filed on March 15 of the following year, and the first quarter 10-Q is to be filed on May 14 of such following year, then a Blackout Period is in effect for such insiders from (and including) December 1 until three (3) business days following May 14 (even though the end of one Blackout Period occurs on the third day after the 10-K is released, a new Blackout Period began on March 1). DISH’s General Counsel may from time to time declare additional Blackout Periods or modify the Blackout Periods without notice. **No trading by Executives is permitted during Blackout Periods.**

Transactions in your 401(k) or Employee Stock Purchase Plan are, for Blackout Period purposes, no different than transactions for your own account. No changes may be made which affect a DISH investment during the Blackout Periods.

EMPLOYEES AT OR ABOVE THE VICE PRESIDENT LEVEL AND OTHER PERSONS DESIGNATED AS “SECTION 16 INSIDERS” MUST RECEIVE WRITTEN APPROVAL FROM GENERAL COUNSEL BEFORE ENGAGING IN ANY TRADES, EVEN TRADES OUTSIDE OF THE BLACKOUT PERIODS.

Structured Securities Trading Plans

The SEC’s Rule 10b5-1 provides a means by which an employee subject to blackout periods may structure securities trading plans with respect to stock, during an open trading window and when that employee is not aware of material nonpublic information, provided that the employee does not thereafter at any time exercise any influence over the transaction. If you desire to use a structured trading plan, you must obtain prior written approval from Company General Counsel. To be eligible for this type of transaction, you must follow the procedure established by the Company’s legal department. The procedure includes all of the following:

First, you must have in place a **binding written, irrevocable and unalterable contract acceptable to DISH**, to purchase or sell the security, which contract must include instructions to another person to execute the trade for the your account. Once entered into, the binding written and irrevocable contract may not be modified in any manner. In other words, once you decide to put in place the structure to buy or sell the stock at certain future dates, you cannot later change your mind, even in an emergency.

Second, the contract must: (1) expressly specify the amount, price, and date of the transaction; (2) provide a written formula or algorithm, or computer program, for determining amounts, prices, and dates; and (3) not permit you to exercise any subsequent influence over how, when, or whether to effect purchases or sales.

Third, you must ensure that the purchase or sale is done under **and after** the contract you signed and put in place. A purchase or sale is not done under the contract if, among other things, you altered or deviated from the contract or entered into or altered a corresponding or hedging transaction or position with respect to those securities.

In any event, the trading strategy described above may be available only if the contract was entered into in good faith and not as part of a scheme to evade the prohibitions of applicable SEC and other laws and regulations, or this Policy.

For further details about rules and guidelines concerning the foregoing securities trading method, please contact the Legal department.

Violation of this Policy

Disciplinary Actions. Violation of this Insider Trading Policy will subject you to discipline, which may include immediate termination of employment.

Civil and Criminal Penalties. Federal and state securities laws also impose or permit severe civil and criminal penalties, including jail sentences on companies, individual employees, and other insiders who violate the prohibitions on insider trading or improper disclosure of material non-public information. Such penalties can be applied even to persons who do not personally profit from their activities. DISH will not be responsible for the legal costs and expenses of any employee who violates this policy, and is accused of wrongdoing related to the violation. DISH also reserves all rights it may have against anyone who violates this policy.

Conclusion

If you have any doubts about the materiality of any non-public information, or if you have reason to doubt whether material non-public information has been effectively disclosed to the public, you should consult with the Legal Department, as discussed in this Policy, before disclosing any such information to any other person or purchasing or selling a security while in possession of such information.

Questions?

If after reading this Policy, or at any other time, you have questions about insider trading, you should contact the Legal Department.

CONFIDENTIAL

EXHIBIT 455

EXHIBIT 455

CONFIDENTIAL

JA010506
009318

TX 102-009768

CONFIDENTIAL

Message

From: Pagels, Eric [/O=ECHOSTAR COMMUNICATIONS CORP/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ERIC.PAGELS]
Sent: 12/3/2012 5:50:23 PM
To: Rosales, Rachael [rachael.rosales@dish.com]
CC: Ehrhart, Brandon [brandon.ehrhart@dish.com]
Subject: RE: Form 4

Nope, we should be good. Thanks!

Eric J. Pagels
Corporate Counsel
DISH Network L.L.C.
9601 South Meridian Boulevard
Englewood, CO 80112
(303) 723-1833 (direct phone)
(262) 374-0277 (cell)
eric.pagels@dish.com

This email message and any attachments are confidential and may be protected by the attorney-client and other privileges.

From: Rosales, Rachael
Sent: Monday, December 03, 2012 3:49 PM
To: Pagels, Eric
Cc: Ehrhart, Brandon
Subject: RE: Form 4

Hi Eric,
I just got off the phone with Joe and he said that he approves this. Do you need anything else?

Thanks! Rachael

From: Pagels, Eric
Sent: Monday, December 03, 2012 2:34 PM
To: Clayton, Joseph
Cc: Ehrhart, Brandon; Rosales, Rachael
Subject: Form 4

Joe—

As we discussed on Friday, attached please find a draft Form 4

REDACTED-ATTORNEY-CLIENT PRIVILEGED

REDACTED-ATTORNEY-CLIENT PRIVILEGED

REDACTED-ATTORNEY-CLIENT PRIVILEGED The Form 4 is due tomorrow (12/4/2012).

Please let me know if you have any questions. I left a hard copy of these materials with Rachael.

Thanks,

Eric

Confidential

CONFIDENTIAL

JA010507
009319

SLC_ DNC_ Investigation_0010687

TX 102-009769

CONFIDENTIAL

Eric J. Pagels
Corporate Counsel
DISH Network L.L.C.
9601 South Meridian Boulevard
Englewood, CO 80112
(303) 723-1833 (direct phone)
(262) 374-0277 (cell)
eric.pagels@dish.com

This email message and any attachments are confidential and may be protected by the attorney-client and other privileges.

Confidential

CONFIDENTIAL

JA010508
009320

SLC_ DNC_Investigation_0010688
TX 102-009770

CONFIDENTIAL

EXHIBIT 456

EXHIBIT 456

CONFIDENTIAL

JA010509
009321

TX 102-009771

CONFIDENTIAL

Retailer Number _____

DISH NETWORK RETAILER AGREEMENT

This DISH Network Retailer Agreement (this "Agreement") is made and effective as of December 31, 2012 (the "Effective Date"), by and between DISH Network L.L.C. ("DISH"), having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112, and _____, having a place of business at _____ and fax number: _____ ("Retailer").

INTRODUCTION

A. DISH is engaged, among other things, in the business of providing digital direct broadcast satellite ("DBS") services and other video, audio, data and interactive programming services under the name DISH Network®.

B. Retailer, acting as an independent contractor, desires to become authorized on a non-exclusive basis to market, promote and solicit orders for Programming (as defined below) (an "Authorized Retailer"), in accordance with and subject to the terms and conditions of this Agreement.

C. DISH desires to appoint Retailer as an Authorized Retailer in accordance with and subject to the terms and conditions of this Agreement.

AGREEMENT

1. DEFINITIONS. In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply to this Agreement:

1.1 "Additional Incentives" means Additional Residential Incentives, Additional Residential MDU Incentives, Additional Commercial Incentives and Additional Bulk Incentives, as such terms are defined in Sections 6.2.1, 6.2.2, 6.2.3 and 6.2.4, respectively.

1.2 "Affiliate" means any person or entity directly or indirectly controlling, controlled by or under common control with another person or entity; provided that DISH's Affiliates shall not include EchoStar Corporation or any of its subsidiaries.

1.3 "Agreement" has the meaning set forth in the preamble above.

1.4 "Any Time" means any time and from time to time.

1.5 "Authorized Retailer" has the meaning set forth in the introduction above.

1.6 "Bulk Incentives" means Monthly Bulk Incentives and Additional Bulk Incentives, as such terms are defined in Sections 6.1.4 and 6.2.4, respectively.

1.7 "Bulk Programming" means the Programming that DISH makes generally available for viewing in Guest Properties and bulk-billed MDU Properties, in each case assuming one hundred percent (100%) penetration, subject to any restrictions (geographic, blackout or otherwise) as DISH may impose on some or all of such programming services at Any Time in its Sole Discretion. DISH reserves the right to change the Bulk Programming offered and/or any restrictions applicable to such Bulk Programming at Any Time in its Sole Discretion.

1.8 "Bulk Subscriber Account" means the customer account set up and maintained by DISH for a Qualifying Bulk Subscriber who purchased a DISH System directly from Retailer or leased a DISH System from DISH (the terms of such lease shall be determined by DISH at Any Time in its Sole Discretion), and for whom Eligible Bulk Programming has been activated by DISH and which customer account remains active and in good standing.

1.9 "Business Rule(s)" means any term, requirement, condition, condition precedent, process or procedure associated with a Promotional Program or otherwise identified as a Business Rule by DISH which is communicated to Retailer by DISH or an Affiliate of DISH either directly (including without limitation via e-mail) or through any method of mass communication reasonably directed to DISH's retailer base, including, without limitation, a "Retailer Chat," e-mail, facts blast or posting on DISH's retailer web site. Retailer agrees that DISH has the right to modify, replace or withdraw all or any portion of any Business Rule at Any Time in its Sole Discretion, upon notice to Retailer.

CONFIDENTIAL

JA010510
009322

CONFIDENTIAL

1.10 “Chargeback” means DISH’s right to reclaim Incentives pursuant to the terms and conditions of this Agreement, any Promotional Program or applicable Business Rules.

1.11 “Claims” has the meaning set forth in Section 13 below.

1.12 “Commercial Incentives” means Monthly Commercial Incentives and Additional Commercial Incentives, as such terms are defined in Sections 6.1.3 and 6.2.3, respectively.

1.13 “Commercial Location” means a Public Commercial Location and/or a Private Commercial Location, as those terms are defined below in Sections 1.59 and 1.55, respectively.

1.14 “Commercial Programming” means the Programming that DISH makes generally available for viewing in Commercial Locations subject to any restrictions (geographic, blackout or otherwise) as DISH may impose on some or all of such programming services at Any Time in its Sole Discretion. DISH reserves the right to change the Commercial Programming offered and/or any restrictions applicable to such Commercial Programming at Any Time in its Sole Discretion.

1.15 “Commercial Subscriber Account” means the customer account set up and maintained by DISH for a Qualifying Commercial Subscriber who purchased a DISH System directly from Retailer or leased a DISH System from DISH (the terms of such lease shall be determined by DISH at Any Time in its Sole Discretion), and for whom Eligible Commercial Programming has been activated by DISH and which customer account remains active and in good standing.

1.16 “DBS” has the meaning set forth in the introduction above.

1.17 “Default” has the meaning set forth in Section 10.3 below.

1.18 “DISH” has the meaning set forth in the preamble above.

1.19 “DISH Commercial Customer Agreement” means the agreement (as may be changed at Any Time by DISH) containing the terms and conditions applicable to Commercial Programming and Bulk Programming.

1.20 “DISH Group” has the meaning set forth in Section 13 below.

1.21 “DISH Residential Customer Agreement” means the agreement (as may be changed at Any Time by DISH) containing the terms and conditions applicable to Residential Programming and Residential MDU Programming.

1.22 “DISH System” means a receiver, which for purposes of this Agreement shall mean a single standalone consumer electronics device, and related components packaged therewith (if any), intended to be utilized solely for the reception of Programming delivered through any means by which DISH elects at Any Time in its Sole Discretion to deliver Programming (including without limitation delivery by satellite transponders owned, leased and/or otherwise operated or utilized by DISH and/or any of its Affiliates; and/or via the Internet), which is sold directly to Retailer by: **(i)** DISH or a DISH Affiliate under the “DISH Network” brand name or the brand name of a DISH Affiliate; or **(ii)** a Third-Party Manufacturer pursuant to authorization granted by DISH under the brand name of such Third-Party Manufacturer.

1.23 “DISH Network Subscriber” has the meaning set forth in Section 9.5 below.

1.24 “DNSLLC” has the meaning set forth in Section 2.9 below.

1.25 “DTH” has the meaning set forth in Section 9.4 below.

1.26 “Effective Date” has the meaning set forth in the preamble above.

1.27 “EFT” means the electronic transfer of funds from one financial institution to another.

1.28 “Eligible Bulk Programming” means the Bulk Programming packages designated by DISH as qualifying for the payment of Bulk Incentives under this Agreement, as set forth in applicable Business Rules, as such Business Rules may be modified in whole or in part at Any Time in DISH’s Sole Discretion, upon notice to Retailer.

1.29 “Eligible Commercial Programming” means the Commercial Programming packages designated by DISH as qualifying for the payment of Commercial Incentives under this Agreement, as set forth in applicable Business Rules, as such Business Rules may be modified in whole or in part at Any Time in DISH’s Sole Discretion, upon notice to Retailer.

1.30 “Eligible Residential MDU Programming” means the Residential MDU Programming packages designated by DISH

CONFIDENTIAL

JA010511
009323

CONFIDENTIAL

as qualifying for the payment of Residential MDU Incentives under this Agreement, as set forth in applicable Business Rules, as such Business Rules may be modified in whole or in part at Any Time in DISH's Sole Discretion, upon notice to Retailer.

1.31 "Eligible Residential Programming" means the Residential Programming packages designated by DISH as qualifying for the payment of Residential Incentives under this Agreement, as set forth in applicable Business Rules, as such Business Rules may be modified in whole or in part at Any Time in DISH's Sole Discretion, upon notice to Retailer.

1.32 "Guest Property" means a hotel, motel, timeshare, hospital, other healthcare facility or any other similar type of facility located in the Territory that regularly permits overnight or otherwise short-term stays by individuals. Notwithstanding the foregoing, DISH reserves the right to determine at Any Time, in its Sole Discretion, whether a location constitutes a Guest Property or is more appropriately considered another type of location.

1.33 "Hardware" has the meaning set forth in Section 9.5 below.

1.34 "Incentives" mean Monthly Incentives together with any Additional Incentives, as such terms are defined in Sections 1.38 and 1.1, respectively.

1.35 "Institutional/Residential Location" means a property located in the Territory that displays Programming in a non-public, common viewing area within a property that is owned or operated by a government or commercial entity, in which employees are being provided residential living accommodations to facilitate the requirements of their job responsibilities. For example (and without limitation of the foregoing), non-public, common viewing areas within fire stations, oil rigs and coast guard stations are typically Institutional/Residential Locations. Notwithstanding the foregoing, DISH reserves the right to determine at Any Time, in its Sole Discretion, whether a location constitutes an Institutional/Residential Location or is more appropriately considered another type of location.

1.36 "Laws" has the meaning set forth in Section 9.1 below.

1.37 "MDU Property" means a dormitory, apartment building, condominium complex, retirement community or other type of multifamily living establishment located in the Territory that affords residents living quarters. Notwithstanding the foregoing, DISH reserves the right to determine at Any Time, in its Sole Discretion, whether a location constitutes an MDU Property (and, if so, what type of MDU Property, i.e., bulk-billed, non-bulk-billed or other) or is more appropriately considered another type of location.

1.38 "Monthly Incentives" means Monthly Residential Incentives, Monthly Residential MDU Incentives, Monthly Commercial Incentives and Monthly Bulk Incentives, as such terms are defined in Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4, respectively.

1.39 "MVPD" has the meaning set forth in Section 9.4 below.

1.40 "Notice of Claim" has the meaning set forth in Section 15.1 below.

1.41 "Other Agreement(s)" means any agreement(s) between Retailer and/or any of its Affiliates, on the one hand, and DISH and/or any of its Affiliates, on the other hand.

1.42 "Permitted Subcontractors" has the meaning set forth in Section 7.1 below.

1.43 "Pre-Activate" has the meaning set forth in Section 2.7 below.

1.44 "Private Commercial Location" means a place of business located in the Territory that: **(i)** may be accessible to the public; and **(ii)** does not typically serve food and/or liquor for immediate consumption. For example (and without limitation of the foregoing), office reception areas or waiting rooms and the private offices of attorneys, doctors/dentists and other business professionals are typically Private Commercial Locations. Notwithstanding the foregoing, DISH reserves the right to determine at Any Time in its Sole Discretion whether a location constitutes a Private Commercial Location or is more appropriately considered another type of location.

1.45 "Programming" means DISH Network video, audio, data and interactive programming services. DISH reserves the right to change the Programming offered and/or any restrictions applicable to such Programming at Any Time in its Sole Discretion.

1.46 "Promotional Program" means: **(i)** a promotional offer, as determined by DISH in its Sole Discretion, which Retailer may present to consumers in connection with Retailer's marketing, promotion and solicitation of orders for Programming; **(ii)** the Incentives, if applicable and as determined by DISH at Any Time in its Sole Discretion, which Retailer may receive in connection with such promotional offer; and **(iii)** the Business Rules, as determined by DISH, setting forth the terms and conditions governing each such promotional offer and any corresponding Incentives. DISH reserves the right to discontinue any Promotional Program or change the Business Rules associated therewith at Any Time in its Sole Discretion upon notice to Retailer.

CONFIDENTIAL

JA010512
009324

1.47 “Public Commercial Location” means a place of business located in the Territory that: (i) is generally accessible to the public; (ii) is typically classified within the hospitality industry; (iii) typically serves food and/or liquor for immediate consumption; and (iv) is typically registered with a fire occupancy certificate. No Unit in an MDU Property or a Guest Property that is installed with or otherwise connected to a satellite master antenna television, private cable or similar programming reception system as may be specified by DISH at Any Time in its Sole Discretion shall be considered a Public Commercial Location; provided, however, that a place of business located within such an MDU Property or Guest Property that otherwise meets the definition of a Public Commercial Location (e.g., a restaurant within a hotel or hospital) may be considered a Public Commercial Location. For example (and without limitation of the foregoing), bars, restaurants, clubs, casinos, lounges and shopping malls are typically Public Commercial Locations. Notwithstanding the foregoing, DISH reserves the right to determine at Any Time in its Sole Discretion whether a location constitutes a Public Commercial Location or is more appropriately considered another type of location.

1.48 “Qualifying Bulk Subscriber” means a commercial enterprise providing Bulk Programming on a bulk basis, assuming one hundred percent (100%) penetration, to a Guest Property and/or a bulk-billed MDU Property that orders Eligible Bulk Programming, that timely pays for all Bulk Programming ordered in full, that has not violated any of the terms and conditions set forth in a DISH Commercial Customer Agreement, and that has not previously received any audio, video, data, interactive or any other programming services from DISH or any Affiliate of DISH: (i) within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period); or (ii) at any time (in all other cases). A Qualifying Bulk Subscriber shall not include any commercial enterprise that would otherwise qualify, but whose equipment DISH, in its Sole Discretion, declines to activate.

1.49 “Qualifying Commercial Subscriber” means a commercial enterprise operating a business at a Commercial Location that orders Eligible Commercial Programming, that timely pays for all Commercial Programming ordered in full, that has not violated any of the terms and conditions set forth in a DISH Commercial Customer Agreement, and that has not previously received any audio, video, data, interactive or any other programming services from DISH or any Affiliate of DISH: (i) within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period); or (ii) at any time (in all other cases). A Qualifying Commercial Subscriber shall not include any commercial enterprise that would otherwise qualify, but whose equipment DISH, in its Sole Discretion, declines to activate.

1.50 “Qualifying Residential MDU Subscriber” means an individual at a non-bulk-billed MDU Property who orders Eligible Residential MDU Programming, who timely pays for all Residential MDU Programming ordered in full, who has not violated any of the terms and conditions set forth in a DISH Residential Customer Agreement, and who has not previously received any audio, video, data, interactive or any other programming services from DISH or any Affiliate of DISH: (i) within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period); or (ii) at any time (in all other cases). A Qualifying Residential MDU Subscriber shall not include any individual who would otherwise qualify, but whose equipment DISH, in its Sole Discretion, declines to activate.

1.51 “Qualifying Residential Subscriber” means an individual at a Residential Location or an Institutional/Residential Location who orders Eligible Residential Programming, who timely pays for all Residential Programming ordered in full, who has not violated any of the terms and conditions set forth in a DISH Residential Customer Agreement, and who has not previously received any audio, video, data, interactive or any other programming services from DISH or any Affiliate of DISH: (i) within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period); or (ii) at any time (in all other cases). A Qualifying Residential Subscriber shall not include any individual who would otherwise qualify, but whose equipment DISH, in its Sole Discretion, declines to activate.

1.52 “Residential Incentives” means Monthly Residential Incentives and Additional Residential Incentives, as such terms are defined in Sections 6.1.1 and 6.2.1, respectively.

1.53 “Residential Location” means a single-family, residential dwelling (i.e., single-family houses, apartments, condominiums or other dwellings used primarily for residential purposes) located in the Territory; provided, however, that in no case shall any location (including without limitation a Commercial Location, an MDU Property or a Guest Property) that is installed with or otherwise connected to a satellite master antenna television, private cable or similar programming reception system as may be specified by DISH at Any Time in its Sole Discretion be considered a Residential Location. Notwithstanding the foregoing, DISH reserves the right to determine at Any Time in its Sole Discretion whether a location constitutes a Residential Location or is more appropriately considered another type of location.

1.54 “Residential MDU Incentives” means Monthly Residential MDU Incentives and Additional Residential MDU Incentives, as such terms are defined in Sections 6.1.2 and 6.2.2, respectively.

1.55 “Residential MDU Programming” means the Programming that DISH makes generally available for viewing in non-bulk-billed MDU Properties subject to any restrictions (geographic, blackout or otherwise) as DISH may impose on some or all of such programming services at Any Time in its Sole Discretion. DISH reserves the right to change the Residential MDU Programming offered

CONFIDENTIAL

and/or any restrictions applicable to such Residential MDU Programming at Any Time in its Sole Discretion.

1.56 “Residential MDU Subscriber Account” means the customer account set up and maintained by DISH for a Qualifying Residential MDU Subscriber who purchased a DISH System directly from Retailer or leased a DISH System from DISH (the terms of such lease shall be determined by DISH at Any Time in its Sole Discretion), and for whom Eligible Residential MDU Programming has been activated by DISH and which customer account remains active and in good standing.

1.57 “Residential Programming” means the Programming that DISH makes generally available for viewing in Residential Locations and Institutional/Residential Locations subject to any restrictions (geographic, blackout or otherwise) as DISH may impose on some or all of such programming services at Any Time in its Sole Discretion. DISH reserves the right to change the Residential Programming offered and/or any restrictions applicable to such Residential Programming at Any Time in its Sole Discretion.

1.58 “Residential Subscriber Account” means the customer account set up and maintained by DISH for a Qualifying Residential Subscriber who purchased a DISH System directly from Retailer or leased a DISH System from DISH (the terms of such lease shall be determined by DISH at Any Time in its Sole Discretion), and for whom Eligible Residential Programming has been activated by DISH and which customer account remains active and in good standing.

1.59 “Retailer” has the meaning set forth in the preamble above.

1.60 “Retailer Account” means the bank account, including without limitation account and ABA routing numbers, designated by Retailer in the manner prescribed by DISH at Any Time in its Sole Discretion, which Retailer may change from time to time by providing at least sixty (60) days’ prior written notice to DISH.

1.61 “Sole Discretion” means a person’s or entity’s sole and absolute discretion for any reason or no reason.

1.62 “Subscriber Account” means a customer account set up and maintained by DISH as one (1) of the following: Residential Subscriber Account, Residential MDU Subscriber Account, Commercial Subscriber Account and Bulk Subscriber Account, as such terms are defined in Sections 1.58, 1.56, 1.15 and 1.8, respectively.

1.63 “Term” has the meaning set forth in Section 10.1 below.

1.64 “Territory” has the meaning set forth in Section 2.2 below.

1.65 “Third-Party Manufacturer” means a third-party manufacturer authorized by DISH or any Affiliate of DISH to market, distribute and sell DISH Systems under its own brand name.

1.66 “Trademark License Agreement” has the meaning set forth in Section 8 below.

1.67 “Unit” means: **(i)** solely in the case of hospitals and other healthcare facilities, each television or outlet through which video programming may be delivered (by way of example and without limitation, each coaxial cable outlet) on the premises, as determined by DISH in its Sole Discretion; **(ii)** solely in the case of all Guest Properties other than hospitals and other healthcare facilities, each room in the Guest Property; and **(iii)** solely in the case of bulk-billed or non-bulk-billed MDU Properties, each separate living quarters in the bulk-billed or non-bulk-billed MDU Property. For clarity, no Commercial Location shall constitute a Unit.

2. APPOINTMENT; TERRITORY.

2.1 Appointment. DISH hereby appoints Retailer as a non-exclusive Authorized Retailer to market, promote and solicit orders for Programming, subject to all of the terms and conditions of this Agreement and all Business Rules (which are hereby incorporated into this Agreement by reference in their entirety). Upon notification from DISH, the appointment set forth herein for the promotion of the DISH Network by Retailer shall apply to the same programming services which may be operated by DISH and/or any of its Affiliates under a different name in the future. Retailer’s authorization hereunder is limited to: **(i)** the solicitation of orders for Residential Programming from, and the marketing, advertising and promotion of Residential Programming to, consumers at Residential Locations; **(ii)** the solicitation of orders for Residential Programming from, and the marketing, advertising and promotion of Residential Programming to, commercial enterprises providing Residential Programming to Institutional/Residential Locations; **(iii)** the solicitation of orders for Residential MDU Programming from, and the marketing, advertising and promotion of Residential MDU Programming to, consumers at non-bulk-billed MDU Properties; **(iv)** the solicitation of orders for Commercial Programming from, and the marketing, advertising and promotion of Commercial Programming to, commercial enterprises operating businesses at Commercial Locations; and **(v)** the solicitation of orders for Bulk Programming from, and the marketing, advertising and promotion of Bulk Programming to, commercial enterprises providing Bulk Programming on a bulk-basis, assuming one hundred percent (100%) penetration, to Guest Properties and bulk-billed MDU Properties.

2.2 Territory. Retailer’s authorization hereunder, and any actions it undertakes in connection with, or in furtherance of,

CONFIDENTIAL

this Agreement, shall be limited solely to the area within the geographic boundaries of the United States and its territories and possessions, excluding Puerto Rico (the "Territory").

2.3 Acceptance. Retailer hereby accepts its appointment as an Authorized Retailer and agrees to use its best efforts to continuously and actively advertise, promote and market Programming and to solicit orders therefor, subject to and in accordance with all of the terms and conditions of this Agreement. Retailer understands that it may hold itself out to the public as an Authorized Retailer of DISH only after fulfilling, and for so long as it continues to fulfill, all of the duties, obligations, requirements and other terms and conditions contained in this Agreement and all Business Rules, and only during the Term of this Agreement.

2.4 Non-Exclusivity. Retailer acknowledges that: **(i)** nothing in this Agreement is intended to confer, nor shall it be construed as conferring, any exclusive territory or any other exclusive rights upon Retailer; **(ii)** DISH and its Affiliates make absolutely no statements, promises, representations, warranties, covenants or guarantees as to the amount of business or revenue that Retailer may expect to derive from participation in this Agreement or any Promotional Program; **(iii)** Retailer may not realize any business, revenue or other economic benefit whatsoever as a result of its participation in this Agreement or any Promotional Program; **(iv)** nothing contained herein shall be construed as a guarantee of any minimum amount of Incentives or any minimum amount of other payments, income, revenue or other economic benefit in any form whatsoever; **(v)** DISH currently offers, and at Any Time, in the future may offer in its Sole Discretion, others the opportunity to act as an Authorized Retailer or to solicit orders for Programming in the same geographic area in which Retailer is located and elsewhere; **(vi)** DISH and its Affiliates shall be entitled, among other things, to: **(a)** market, promote and solicit orders for programming, **(b)** distribute, sell, lease and otherwise transfer possession of receivers, related accessories and other equipment and **(c)** perform installation and maintenance services (directly and indirectly through subcontractors or otherwise) for receivers, related accessories and/or other equipment, in each case throughout the Territory and in direct or indirect competition with Retailer, without any obligation or liability to Retailer whatsoever, and without providing Retailer with any notice thereof; and **(vii)** DISH shall be free to cease or suspend provision of the Programming offered in whole or in part at Any Time in its Sole Discretion, and shall incur no liability to Retailer by virtue of any such cessation or suspension.

2.5 Certain Purchases by Retailer. In the event that Retailer orders any DISH Systems, related accessories and/or other equipment from Echosphere L.L.C. or any of its Affiliates (collectively, "Echosphere" for purposes of this Section 2.5), Retailer shall order such products by phone order, via Echosphere online ordering or by written purchase order (each, a "Purchase Order") issued during the Term of this Agreement. A Purchase Order shall be a binding commitment by Retailer. Any failure to confirm a Purchase Order shall not be deemed acceptance by Echosphere. Purchase Orders of Retailer shall state only the: **(i)** identity of goods; **(ii)** quantity of goods; **(iii)** purchase price of goods; and **(iv)** requested ship date of goods. Any additional terms and conditions stated in a Purchase Order shall not be binding upon, and may be ignored by, Echosphere unless expressly agreed to in writing by Echosphere. In no event shall Echosphere be liable for any delay, or failure to fulfill, any Purchase Order (or any portion thereof), regardless of the cause of such delay or failure. In the event of any conflict between the terms and conditions of a Purchase Order and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall control. In the event of any ambiguity between or among the terms and conditions of this Agreement and the terms and conditions of any Purchase Order, DISH shall have the sole and exclusive authority to interpret and/or make a final determination in its Sole Discretion concerning any issue arising from such ambiguity. Echosphere shall be considered a third party beneficiary of Retailer's obligations under this Agreement. Retailer hereby acknowledges and agrees that neither Echosphere nor any Affiliate of Echosphere has any obligation to re-purchase any receivers, related accessories or other equipment sold or otherwise transferred to Retailer by Echosphere or any other DISH Affiliate or third party (including without limitation, a Third-Party Manufacturer) at Any Time and for any reason or no reason.

2.6 Certain Prohibited Transactions. Retailer agrees that as a condition precedent to its eligibility to receive Incentives from DISH, it will not directly or indirectly sell, lease or otherwise transfer possession of a DISH System to any person or entity whom Retailer knows or reasonably should know: **(i)** is not an end-user and/or intends to resell, lease or otherwise transfer it for use by another individual or entity; **(ii)** intends to use it, or to allow others to use it, to view Residential Programming at a location other than a Residential Location or Institutional/Residential Location; **(iii)** intends to use it, or to allow others to use it, to view Residential MDU Programming at a location other than a non-bulk-billed MDU Property; **(iv)** intends to use it, or to allow others to use it, to view Commercial Programming at a location other than a Commercial Location; **(v)** intends to use it, or to allow others to use it, to view Bulk Programming at a location other than a Guest Property or bulk-billed MDU Property; **(vi)** intends to use it or to allow others to use it in Canada, Mexico or at any other location outside of the Territory; or **(vii)** intends to have, or to allow others to have, Programming authorized for a DISH System under a single DISH Network account that has or will have Programming authorized for multiple receivers that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in applicable Business Rules. It shall be Retailer's sole and exclusive responsibility to investigate and determine whether any direct or indirect sale, lease or other transfer by Retailer would be in violation of this Section 2.6. In the event that Retailer directly or indirectly sells, leases or otherwise transfers possession of a DISH System to a person or entity who uses it or allows others to use it to: **(a)** view Residential Programming at a location other than a Residential Location or Institutional/Residential Location; or **(b)** view Residential MDU Programming at a location other than a non-bulk-billed MDU Property, then Retailer agrees to pay to DISH upon demand: **(1)** the difference between the amount actually received by DISH for the

CONFIDENTIAL

JA010515
009327

Programming authorized for the corresponding DISH System, as applicable, and the full applicable commercial rate for such Programming (regardless of whether DISH has or had applicable commercial distribution rights for such Programming), and (2) the total amount of any admission charges or similar fees imposed and/or collected for listening to or viewing such Programming (regardless of whether such charges and/or fees were imposed or collected by Retailer). In the event that Retailer directly or indirectly sells, leases or otherwise transfers possession of a DISH System to a person or entity who has, or allows others to have, Programming authorized for a DISH System under a single DISH Network account that at any time has Programming activated for multiple receivers that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in the applicable Business Rules, and Retailer knew or reasonably should have known that the person or entity intended to have, or allow others to have, Programming authorized for the DISH System under such an account, then Retailer agrees to pay to DISH upon demand, the difference between the amount actually received by DISH for the Programming authorized under the single account, as applicable, and the full retail price for such Programming or the full amount that DISH would have received for multiple accounts in each case had each DISH System authorized under the single account been authorized under a separate account. IN THE EVENT THAT RETAILER BREACHES ANY OF ITS OBLIGATIONS UNDER THIS SECTION 2.6, DISH SHALL BE ENTITLED TO CHARGE BACK AT ANY TIME (EVEN AFTER THE TERMINATION OR EXPIRATION OF THIS AGREEMENT) THE INCENTIVES, IF ANY, PAID TO RETAILER BY DISH WITH RESPECT TO ANY SUBSCRIBER ACCOUNT AFFECTED BY SUCH BREACH OR DEFAULT. IN THE EVENT THAT RETAILER WISHES TO DISPUTE ANY SUCH CHARGEBACK, RETAILER SHALL FOLLOW THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN SECTION 15 BELOW. DISH'S CALCULATION OF AMOUNTS OWING TO DISH FROM RETAILER UNDER THIS SECTION 2.6 SHALL BE BINDING ABSENT FRAUD, MALICE OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF DISH. The foregoing provisions of this Section 2.6 are without prejudice to any other rights and remedies that DISH and/or any of its Affiliates may have under contract (including without limitation this Agreement), at law, in equity or otherwise (all of which are hereby expressly reserved), and shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

2.7 Pre-Activations. Retailer shall not, prior to installation, directly or indirectly activate ("Pre-Activate") any DISH System, nor shall Retailer directly or indirectly sell, lease or otherwise transfer possession of a DISH System to any person or entity who Retailer knows or reasonably should have known intends to Pre-Activate a DISH System.

2.8 Financing; Making Payments on Behalf of End-Users. Retailer shall not directly or indirectly provide financing for the purchase of any Programming or make any payment to DISH for Programming or otherwise on behalf of any end-user of a DISH System, nor shall Retailer directly or indirectly sell, lease or otherwise transfer possession of a DISH System to any person or entity who Retailer knows or reasonably should have known intends to provide financing for the purchase of any Programming or make any payment to DISH for Programming or otherwise on behalf of any end-user of a DISH System.

2.9 Installation Services. Retailer represents, warrants, covenants and agrees that all installation and after-sales services performed by Retailer and its employees and Permitted Subcontractors in connection with the sale, lease or other transfer of DISH Systems will be performed by Retailer and its employees and Permitted Subcontractors in full compliance with all applicable Business Rules and all applicable Laws, and subject to all of the terms, conditions, standards and guidelines established by DISH or any of its Affiliates (including, without limitation, those set forth in the DISH Network Installation Manual (or any successor publication thereto located on DISH's retailer web site or otherwise provided to Retailer by DISH or any of its Affiliates pursuant to this Agreement)), as such terms, conditions, standards and guidelines may be changed at Any Time by DISH and/or any of its Affiliates (including, without limitation, Dish Network Service L.L.C. and Dish Network California Service Corporation (collectively, "DNSLLC")) in their Sole Discretion, upon notice to Retailer. In addition to (and without limitation of) the foregoing, Retailer represents, warrants, covenants and agrees that any and all related accessories and/or other equipment installed for, or otherwise provided to, a consumer in fulfillment of, or otherwise in connection with, such installation and after-sales services shall strictly comply with any and all specifications and other terms and conditions, including without limitation any approved part number and/or vendor lists, as set forth by DISH and/or any of its Affiliates (including without limitation DNSLLC) in applicable Business Rules at Any Time in their Sole Discretion.

2.10 Prior Retailer Agreements.

2.10.1 IN THE EVENT THAT RETAILER PREVIOUSLY ENTERED INTO ANY DISH NETWORK RETAILER AGREEMENT, ECHOSTAR RETAILER AGREEMENT, INCENTIVIZED RETAILER AGREEMENT, COMMISSIONED RETAILER AGREEMENT, COMMISSIONED DEALER AGREEMENT OR ANY OTHER AGREEMENT WITH DISH, ANY OF ITS PREDECESSORS OR ANY AFFILIATE OF ANY OF THE FOREGOING RELATING TO THE MARKETING, PROMOTION, ADVERTISING AND/OR SOLICITATION OF ORDERS FOR DISH NETWORK PROGRAMMING BY RETAILER AND THE PAYMENT OF CERTAIN AMOUNTS BY DISH, ITS PREDECESSORS AND/OR ANY AFFILIATE OF ANY OF THE FOREGOING THEREFOR (EACH A "PRIOR RETAILER AGREEMENT"), WHICH IS IN EFFECT (IN WHOLE OR IN PART) AS OF THE EFFECTIVE DATE HEREOF, THEN UPON THE EFFECTIVE DATE HEREOF: (1) ALL PRIOR RETAILER AGREEMENTS SHALL HEREBY BE AUTOMATICALLY TERMINATED, EXCEPT THAT THE PROVISIONS (EXCLUDING ANY PROVISIONS RELATED TO THE PAYMENT OF COMMISSIONS OR INCENTIVES) IN SUCH PRIOR RETAILER

CONFIDENTIAL

AGREEMENTS THAT EXPRESSLY SURVIVE AND SUCH OTHER RIGHTS AND OBLIGATIONS THEREUNDER AS WOULD LOGICALLY BE EXPECTED TO SURVIVE TERMINATION OR EXPIRATION SHALL CONTINUE IN FULL FORCE AND EFFECT FOR THE PERIOD SPECIFIED OR FOR A REASONABLE PERIOD OF TIME UNDER THE CIRCUMSTANCES IF NO PERIOD IS SPECIFIED; **(ii)** ALL INCENTIVES, COMMISSIONS OR OTHER PAYMENTS OF ANY TYPE DUE TO RETAILER UNDER SUCH PRIOR RETAILER AGREEMENTS SHALL BE PAYABLE BY DISH TO RETAILER AS INCENTIVES SOLELY IN ACCORDANCE WITH AND SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT; AND **(iii)** EXCEPT AS SET FORTH IN THIS SECTION 2.10.1, ALL RIGHTS AND OBLIGATIONS BETWEEN THE PARTIES SHALL BE GOVERNED BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND ALL PRIOR RETAILER AGREEMENTS SHALL BE OF NO FURTHER FORCE OR EFFECT.

2.10.2 RETAILER AND ITS AFFILIATES HEREBY ACKNOWLEDGE AND AGREE THAT THEY DO NOT, AS OF THE EFFECTIVE DATE, HAVE ANY CLAIMS OR CAUSES OF ACTION AGAINST DISH, ANY OF ITS PREDECESSORS OR ANY AFFILIATE OF ANY OF THE FOREGOING FOR ANY ACTS OR OMISSIONS THAT MAY HAVE OCCURRED PRIOR TO THE EFFECTIVE DATE AND, IN CONSIDERATION OF RETAILER BEING APPOINTED AS AN AUTHORIZED RETAILER HEREUNDER BY DISH, RETAILER AND ITS AFFILIATES HEREBY WAIVE ANY AND ALL SUCH CLAIMS AND CAUSES OF ACTION, WITH THE SOLE EXCEPTION OF ANY CLAIMS OR CAUSES OF ACTION FOR WHICH RETAILER PROVIDES WRITTEN NOTICE TO DISH IN THE SAME FORM REQUIRED FOR A NOTICE OF CLAIM UNDER SECTION 15 BELOW WITHIN NINETY (90) DAYS (OR THE SHORTEST PERIOD OF TIME ALLOWED BY APPLICABLE LAW IF SUCH PERIOD IS MORE THAN NINETY (90) DAYS) FOLLOWING THE DATE THAT RETAILER EXECUTES THIS AGREEMENT (WHETHER VIA SIGNATURE OR ELECTRONIC ACCEPTANCE). DISH SHALL HAVE THE SAME RIGHTS WITH RESPECT TO REQUESTS FOR ADDITIONAL INFORMATION AND ACCESS TO RETAILER'S BOOKS AND RECORDS IN CONNECTION WITH ANY SUCH CLAIMS AND CAUSES OF ACTION AS DISH HAS UNDER SECTION 17.9 BELOW. FAILURE TO STRICTLY COMPLY WITH THE PROVISIONS OF THIS SECTION 2.10.2 WITH RESPECT TO A PARTICULAR CLAIM AND/OR CAUSE OF ACTION SHALL CONSTITUTE A WAIVER BY RETAILER AND ITS AFFILIATES WITH RESPECT TO THE RELEVANT CLAIM AND/OR CAUSE OF ACTION. IN THE EVENT THAT NO PRIOR RETAILER AGREEMENT IS IN EFFECT AS OF THE EFFECTIVE DATE, RETAILER SHALL ONLY BE ELIGIBLE TO RECEIVE INCENTIVES FOR NEW SUBSCRIBER ACCOUNTS ACTIVATED FROM AND AFTER THE EFFECTIVE DATE, NOTWITHSTANDING PAYMENT BY DISH OR ANY OF ITS PREDECESSORS OR ANY AFFILIATE OF ANY OF THE FOREGOING OF ANY INCENTIVES, COMMISSIONS OR OTHER PAYMENTS OF ANY TYPE TO RETAILER PRIOR TO THE EFFECTIVE DATE. THIS AGREEMENT SHALL NOT AMEND, MODIFY, ALTER OR CHANGE ANY TERMS OR CONDITIONS OF ANY LEASE PLAN DEALER AGREEMENT, OR ANY SIMILAR AGREEMENT RELATING TO LEASING, WHICH IS NOW EXISTING OR LATER MADE WITH DISH OR ANY OF ITS AFFILIATES.

2.11 Promotional Programs. Retailer shall be eligible to participate in such Promotional Programs as DISH and/or any of its Affiliates may make available to Retailer at Any Time in their Sole Discretion. Retailer agrees to be bound by, and to use its best efforts to support, all of the terms and conditions of the Promotional Programs in which Retailer elects to participate (and all of such terms and conditions are hereby incorporated into this Agreement by reference in their entirety). Retailer acknowledges and agrees that: **(i)** under no circumstances shall DISH or any of its Affiliates have at any time any obligation to offer any Promotional Programs to Retailer, or if Promotional Programs are offered to others, to permit Retailer to be eligible to participate in them; **(ii)** DISH and its Affiliates may, at Any Time in their Sole Discretion, add, discontinue, substitute, modify, amend or otherwise alter any or all of the terms and conditions of any Promotional Programs; and **(iii)** if DISH and/or any of its Affiliates offer any Promotional Programs to Retailer, then Retailer shall only be eligible to participate in each such Promotional Program if and to the extent that it meets all of the qualification criteria and other terms and conditions as DISH and/or its Affiliates may establish at Any Time in their Sole Discretion. In the event of any conflict or inconsistency between the terms and conditions of a Promotional Program and/or applicable Business Rules and the terms or conditions of this Agreement, the terms and conditions of this Agreement shall control. In the event of any ambiguity between or among the terms and conditions of a Promotional Program, Business Rule and/or this Agreement, DISH shall have the sole and exclusive authority to interpret and/or make a final determination in its Sole Discretion concerning any issue arising from such ambiguity.

2.12 MDU Property / Guest Properties. Retailer shall ensure that all Guest Properties and bulk-billed MDU Properties purchase Bulk Programming for one hundred percent (100%) of such property's units, regardless of occupancy status. Retailer shall ensure that no Guest Property or bulk-billed MDU Property directly or indirectly engages in: **(i)** the reselling of Bulk Programming; **(ii)** the retransmission or rebroadcast of any Programming, except with the express written consent of DISH, which consent DISH may withhold in its Sole Discretion; or **(iii)** modifying, adding to or deleting any of the Bulk Programming offered. In addition to (and without limitation of) the foregoing, Retailer shall not directly or indirectly engage, and shall ensure that no Guest Property or bulk-billed MDU Property directly or indirectly engages, in any act or omission through which DISH and/or any of its Affiliates could be deemed a "cable operator" or any other similar term, including without limitation any act or omission arising from or relating to the crossing of a public right of way by a provider of video programming services, in each case as defined under any applicable Laws ("Cable Operator"). Retailer shall promptly notify DISH if it is aware of or suspects: **(a)** a change in the number of Units at any Guest Property or bulk-billed MDU Property to which Bulk Programming is provided; or **(b)** any act or omission through which DISH and/or any of its Affiliates could be deemed a Cable Operator. Retailer further understands and agrees that bulk-billed MDU Properties, non-bulk-billed MDU Properties and Guest Properties may require, as determined by DISH at Any Time in its Sole Discretion, the purchase of commercially-invoiced DISH Systems, as further described in applicable Business Rules, if any.

CONFIDENTIAL

JA010517
009329

CONFIDENTIAL

3. REPRESENTATIONS AND WARRANTIES. The parties hereto make the following representations and warranties with the specific intent to induce the other party into entering into this Agreement and recognize that the other party would not enter into this Agreement but for the following representations and warranties:

3.1 Each party hereto represents and warrants that the execution (whether via signature or electronic acceptance), delivery and performance of this Agreement have been duly authorized and that it has the full right, power and authority to execute, deliver and perform this Agreement.

3.2 Each party hereto represents and warrants that the signature of its duly authorized representative below or its electronic acceptance of this Agreement, as applicable, is genuine and that the person signing or electronically accepting this Agreement on behalf of such party is authorized by such party to sign and/or electronically accept this Agreement on its behalf.

3.3 Retailer represents and warrants that: **(i)** it is a valid and existing entity in compliance with all Laws related to the maintenance of its corporate or other business status; **(ii)** it is not currently insolvent; **(iii)** it is not currently violating and has never violated any Laws; **(iv)** neither it nor any of its Affiliates has ever engaged in any of the acts prohibited under Section 2.6, 2.7, 2.8, 2.9, 2.12, 6.10, 6.14, 7, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7 or 14 of this Agreement; **(v)** neither it nor any of its Affiliates has ever engaged in any acts that would have resulted in automatic termination or be considered a default or breach under any current or former DISH Network Retailer Agreement, EchoStar Retailer Agreement, Distributor Retailer Agreement, Incentivized Retailer Agreement, Commissioned Retailer Agreement, Commissioned Dealer Agreement, Non-Incentivized Retailer Agreement, Non-Commissioned Retailer Agreement or Non-Commissioned Dealer Agreement with DISH and/or any of its Affiliates or under any current or former Other Agreement; **(vi)** it is not dependent upon DISH and/or any Affiliates of DISH for a major part of Retailer's business; and **(vii)** it either sells or could sell other products or services in addition to DISH products or services that compete with DISH products or services.

3.4 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT HAS READ THIS AGREEMENT IN ITS ENTIRETY AND THAT IT UNDERSTANDS FULLY EACH AND EVERY ONE OF THE TERMS AND CONDITIONS SET FORTH HEREIN.

3.5 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO HAVE ITS INDEPENDENT COUNSEL REVIEW THIS AGREEMENT PRIOR TO EXECUTION (WHETHER VIA SIGNATURE OR ELECTRONIC ACCEPTANCE). EACH PARTY HERETO FURTHER REPRESENTS AND WARRANTS THAT EITHER THIS AGREEMENT HAS BEEN ACTUALLY REVIEWED BY ITS INDEPENDENT COUNSEL OR THAT SUCH PARTY HAS DECLINED TO HAVE ITS INDEPENDENT COUNSEL DO SO.

3.6 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT IS NOT RELYING UPON, AND IT HAS NOT BEEN INDUCED INTO ENTERING INTO THIS AGREEMENT BY, ANY STATEMENTS, PROMISES, REPRESENTATIONS, WARRANTIES, COVENANTS, AGREEMENTS, GUARANTEES, ACTS OR OMISSIONS NOT EXPRESSLY SET FORTH HEREIN.

3.7 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT HAS NOT BEEN COERCED INTO ENTERING INTO THIS AGREEMENT AND THAT IT HAS ENTERED INTO THIS AGREEMENT OF ITS OWN FREE WILL AND FREE OF INFLUENCE OR DURESS.

3.8 RETAILER REPRESENTS, WARRANTS AND COVENANTS THAT BEFORE IT PARTICIPATES IN ANY PROMOTIONAL PROGRAM IT WILL CAREFULLY REVIEW THE TERMS AND CONDITIONS OF SUCH PROMOTIONAL PROGRAM AND ASSOCIATED BUSINESS RULES OR HAVE THEM REVIEWED BY ITS INDEPENDENT COUNSEL.

3.9 EACH PARTY HERETO REPRESENTS, WARRANTS, ACKNOWLEDGES AND AGREES THAT: **(I)** THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND EACH AND EVERY PARAGRAPH, PART, SECTION AND CLAUSE HEREOF, HAVE BEEN COMPLETELY AND CAREFULLY READ BY, AND EXPLAINED TO, SUCH PARTY; AND **(II)** THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE FULLY AND COMPLETELY UNDERSTOOD BY SUCH PARTY AND SUCH PARTY IS COGNIZANT OF ALL OF SUCH TERMS AND CONDITIONS AND THE EFFECT OF EACH AND ALL OF SUCH TERMS AND CONDITIONS.

4. PROGRAMMING.

4.1 Programming. DISH shall determine at Any Time, in its Sole Discretion, the Programming for which Retailer may solicit orders. DISH may expand, reduce or otherwise modify the content of any Programming packages or add or delete any Programming (either in a package or a la carte) at Any Time in its Sole Discretion. All such changes shall be effective immediately upon notification by DISH, unless DISH notifies Retailer of a different effective date.

4.2 Changes. If at Any Time or for any reason or no reason DISH changes the content of any Programming package,

CONFIDENTIAL

JA010518
009330

Retailer's authorization to market, promote and solicit orders for the prior Programming package shall immediately cease.

5. **PRICES.** DISH shall determine the retail prices for Programming at Any Time in its Sole Discretion. Retailer will only solicit orders for Programming at the retail prices set by DISH from time to time. DISH may increase, decrease or otherwise modify those prices at Any Time in its Sole Discretion. Any price changes shall be effective immediately upon notification by DISH, unless DISH notifies Retailer of a different effective date. Retailer shall not represent that Programming may be purchased or otherwise obtained on any other terms and conditions except as authorized in writing by DISH.

6. **INCENTIVES.** In consideration of Retailer's continuing efforts to market, promote and solicit orders for Programming and Retailer's continuing efforts to service DISH Network Subscribers after initial activation, Retailer may be eligible to receive the Incentives set forth below.

6.1 **Monthly Incentives.**

6.1.1 **Monthly Residential Incentives.** Subject to the terms and conditions of this Agreement (including without limitation the exhibits attached hereto) and any applicable Business Rules, for each DISH System that during the Term of this Agreement: **(i)** is sold to Retailer directly by DISH, an Affiliate of DISH or a Third-Party Manufacturer; **(ii)** is either re-sold by Retailer directly to a Qualifying Residential Subscriber or leased from DISH to a Qualifying Residential Subscriber; and **(iii)** results in the activation of Eligible Residential Programming for a new Residential Subscriber Account, Retailer may be eligible to receive a monthly incentive (the "Monthly Residential Incentive"), in accordance with applicable Business Rules. Solely for the purposes of this Section 6.1.1 and solely with respect to DISH Systems activated under a Promotional Program involving the leasing of equipment by DISH to end users, a DISH System: **(a)** for which title is automatically transferred from Retailer to DISH pursuant to the Business Rules applicable to such Promotional Program; and **(b)** which is leased by DISH directly to a Qualifying Residential Subscriber pursuant to such Business Rules, in each case during the Term of this Agreement, shall be deemed to be re-sold by Retailer directly to such Qualifying Residential Subscriber for purposes of clause (ii) above. The amount of such Monthly Residential Incentive together with payment terms and other applicable terms and conditions shall be set forth in Business Rules which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER. DISH SHALL DETERMINE FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON WHETHER A PARTICULAR DISH NETWORK SUBSCRIBER IS A NEW RESIDENTIAL SUBSCRIBER ACCOUNT ELIGIBLE FOR THE PAYMENT OF MONTHLY RESIDENTIAL INCENTIVES HEREUNDER. DISH'S CALCULATION AND PAYMENT OF MONTHLY RESIDENTIAL INCENTIVES SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW.

6.1.2 **Monthly Residential MDU Incentives.** Subject to the terms and conditions of this Agreement (including without limitation the exhibits attached hereto) and any applicable Business Rules, for each DISH System that during the Term of this Agreement: **(i)** is sold to Retailer directly by DISH, an Affiliate of DISH or a Third-Party Manufacturer; **(ii)** is either re-sold by Retailer directly to a Qualifying Residential MDU Subscriber or leased from DISH to a Qualifying Residential MDU Subscriber; and **(iii)** results in the activation of Eligible Residential MDU Programming for a new Residential MDU Subscriber Account, Retailer may be eligible to receive a monthly incentive (the "Monthly Residential MDU Incentive"), in accordance with applicable Business Rules. Solely for the purposes of this Section 6.1.2 and solely with respect to DISH Systems activated under a Promotional Program involving the leasing of equipment by DISH to end users, a DISH System: **(a)** for which title is automatically transferred from Retailer to DISH pursuant to the Business Rules applicable to such Promotional Program; and **(b)** which is leased by DISH directly to a Qualifying Residential MDU Subscriber pursuant to such Business Rules, in each case during the Term of this Agreement, shall be deemed to be re-sold by Retailer directly to such Qualifying Residential MDU Subscriber for purposes of clause (ii) above. The amount of such Monthly Residential MDU Incentive together with payment terms and other applicable terms and conditions shall be set forth in Business Rules which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER. DISH SHALL DETERMINE FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON WHETHER A PARTICULAR DISH NETWORK SUBSCRIBER IS A NEW RESIDENTIAL MDU SUBSCRIBER ACCOUNT ELIGIBLE FOR THE PAYMENT OF MONTHLY RESIDENTIAL MDU INCENTIVES HEREUNDER. DISH'S CALCULATION AND PAYMENT OF MONTHLY RESIDENTIAL MDU INCENTIVES SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW.

6.1.3 **Monthly Commercial Incentives.** Subject to the terms and conditions of this Agreement (including without limitation the exhibits attached hereto) and any applicable Business Rules, for each DISH System that during the Term of this Agreement: **(i)** is sold to Retailer directly by DISH, an Affiliate of DISH or a Third-Party Manufacturer; **(ii)** is either re-sold by Retailer directly to a Qualifying Commercial Subscriber or leased from DISH to a Qualifying Commercial Subscriber; and **(iii)** results in the activation of Eligible Commercial Programming for a new Commercial Subscriber Account, Retailer may be eligible to receive a monthly incentive (the "Monthly Commercial Incentive"), in accordance with applicable Business Rules. The amount of such Monthly

Commercial Incentive together with payment terms and other applicable terms and conditions shall be set forth in Business Rules which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER. DISH SHALL DETERMINE FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON WHETHER A PARTICULAR DISH NETWORK SUBSCRIBER IS A NEW COMMERCIAL SUBSCRIBER ACCOUNT ELIGIBLE FOR THE PAYMENT OF MONTHLY COMMERCIAL INCENTIVES HEREUNDER. DISH'S CALCULATION AND PAYMENT OF MONTHLY COMMERCIAL INCENTIVES SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW.

6.1.4 Monthly Bulk Incentives. Subject to the terms and conditions of this Agreement (including without limitation the exhibits attached hereto) and any applicable Business Rules, for each DISH System that during the Term of this Agreement: **(i)** is sold to Retailer directly by DISH, an Affiliate of DISH or a Third-Party Manufacturer; **(ii)** is either re-sold by Retailer directly to a Qualifying Bulk Subscriber or leased from DISH to a Qualifying Bulk Subscriber; and **(iii)** results in the activation of Eligible Bulk Programming for a new Bulk Subscriber Account, Retailer may be eligible to receive a monthly incentive (the "Monthly Bulk Incentive"), in accordance with applicable Business Rules. The amount of such Monthly Bulk Incentive together with payment terms and other applicable terms and conditions shall be set forth in Business Rules which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER. DISH SHALL DETERMINE FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON WHETHER A PARTICULAR DISH NETWORK SUBSCRIBER IS A NEW BULK SUBSCRIBER ACCOUNT ELIGIBLE FOR THE PAYMENT OF MONTHLY BULK INCENTIVES HEREUNDER. DISH'S CALCULATION AND PAYMENT OF MONTHLY BULK INCENTIVES SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW.

6.2 Additional Incentives.

6.2.1 Additional Residential Incentives. During the Term of this Agreement, Retailer may be eligible to participate in and receive incentives other than Monthly Residential Incentives with respect to new Residential Subscriber Accounts, such as co-op accrual, activation fee payments, flex payments, equipment discounts and/or professional installation payments ("Additional Residential Incentives") under such Promotional Programs as DISH may make available to Retailer at Any Time in DISH's Sole Discretion. The terms and conditions, including without limitation eligibility requirements, governing each Additional Residential Incentive shall be set forth in applicable Business Rules, which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER.

6.2.2 Additional Residential MDU Incentives. During the Term of this Agreement, Retailer may be eligible to participate in and receive incentives other than Monthly Residential MDU Incentives with respect to new Residential MDU Subscriber Accounts, such as activation fee payments, flex payments, equipment discounts and/or professional installation payments ("Additional Residential MDU Incentives") under such Promotional Programs as DISH may make available to Retailer at Any Time in DISH's Sole Discretion. The terms and conditions, including without limitation eligibility requirements, governing each Additional Residential MDU Incentive shall be set forth in applicable Business Rules, which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER.

6.2.3 Additional Commercial Incentives. During the Term of this Agreement, Retailer may be eligible to participate in and receive incentives other than Monthly Commercial Incentives with respect to new Commercial Subscriber Accounts, such as activation fee payments, flex payments, equipment discounts and/or professional installation payments ("Additional Commercial Incentives") under such Promotional Programs as DISH may make available to Retailer at Any Time in DISH's Sole Discretion. The terms and conditions, including without limitation eligibility requirements, governing each Additional Commercial Incentive shall be set forth in applicable Business Rules, which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER.

6.2.4 Additional Bulk Incentives. During the Term of this Agreement, Retailer may be eligible to participate in and receive incentives other than Monthly Bulk Incentives with respect to new Bulk Subscriber Accounts, such as activation fee payments, flex payments, equipment discounts and/or professional installation payments ("Additional Bulk Incentives") under such Promotional Programs as DISH may make available to Retailer at Any Time in DISH's Sole Discretion. The terms and conditions,

CONFIDENTIAL

including without limitation eligibility requirements, governing each Additional Bulk Incentive shall be set forth in applicable Business Rules, which shall be distributed or otherwise made available by DISH from time to time in accordance with Section 1.9 above. DISH EXPRESSLY RESERVES THE RIGHT TO CHANGE APPLICABLE BUSINESS RULES AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, UPON NOTICE TO RETAILER.

6.2.5 RETAILER ACKNOWLEDGES AND AGREES THAT:

(I) UNDER NO CIRCUMSTANCES SHALL DISH HAVE AT ANY TIME ANY OBLIGATION TO OFFER ANY ADDITIONAL INCENTIVES TO RETAILER, OR IF ADDITIONAL INCENTIVES ARE OFFERED TO OTHERS, TO ALTER OR AMEND APPLICABLE BUSINESS RULES TO PERMIT RETAILER TO BE ELIGIBLE TO RECEIVE THEM;

(II) DISH MAY AT ANY TIME AND FROM TIME TO TIME, IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, ADD, DISCONTINUE, SUBSTITUTE, MODIFY OR OTHERWISE ALTER ANY OR ALL OF THE TERMS AND CONDITIONS OF ANY PROMOTIONAL PROGRAM INVOLVING THE PAYMENT OF ADDITIONAL INCENTIVES;

(III) IF DISH OFFERS ANY ADDITIONAL INCENTIVES TO RETAILER THROUGH ANY PROMOTIONAL PROGRAM, RETAILER SHALL ONLY BE ELIGIBLE TO RECEIVE THE ADDITIONAL INCENTIVES IF AND TO THE EXTENT THAT RETAILER MEETS ALL OF THE QUALIFICATION CRITERIA AND OTHER TERMS AND CONDITIONS SET FORTH IN THE APPLICABLE BUSINESS RULES (IF ANY) AND THIS AGREEMENT;

(IV) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, ADDITIONAL RESIDENTIAL INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS THAT: **(A)** ARE SOLD TO RETAILER BY DISH, AN AFFILIATE OF DISH OR A THIRD-PARTY MANUFACTURER, **(B)** ARE EITHER RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING RESIDENTIAL SUBSCRIBER OR LEASED FROM DISH TO A QUALIFYING RESIDENTIAL SUBSCRIBER, AND **(C)** RESULT IN THE ACTIVATION OF ELIGIBLE RESIDENTIAL PROGRAMMING FOR A NEW RESIDENTIAL SUBSCRIBER ACCOUNT;

(V) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, ADDITIONAL RESIDENTIAL MDU INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS THAT: **(A)** ARE SOLD TO RETAILER BY DISH, AN AFFILIATE OF DISH OR A THIRD-PARTY MANUFACTURER, **(B)** ARE EITHER RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING RESIDENTIAL MDU SUBSCRIBER OR LEASED FROM DISH TO A QUALIFYING RESIDENTIAL MDU SUBSCRIBER, AND **(C)** RESULT IN THE ACTIVATION OF ELIGIBLE RESIDENTIAL MDU PROGRAMMING FOR A NEW RESIDENTIAL MDU SUBSCRIBER ACCOUNT;

(VI) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, ADDITIONAL COMMERCIAL INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS THAT: **(A)** ARE SOLD TO RETAILER BY DISH, AN AFFILIATE OF DISH OR A THIRD-PARTY MANUFACTURER, **(B)** ARE EITHER RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING COMMERCIAL SUBSCRIBER, OR LEASED FROM DISH TO A QUALIFYING COMMERCIAL SUBSCRIBER AND **(C)** RESULT IN THE ACTIVATION OF ELIGIBLE COMMERCIAL PROGRAMMING FOR A NEW COMMERCIAL SUBSCRIBER ACCOUNT;

(VII) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, ADDITIONAL BULK INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS THAT: **(A)** ARE SOLD TO RETAILER BY DISH, AN AFFILIATE OF DISH OR A THIRD-PARTY MANUFACTURER, **(B)** ARE EITHER RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING BULK SUBSCRIBER OR LEASED FROM DISH TO A QUALIFYING BULK SUBSCRIBER, AND **(C)** RESULT IN THE ACTIVATION OF ELIGIBLE BULK PROGRAMMING FOR A NEW BULK SUBSCRIBER ACCOUNT; AND

(VIII) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, IN NO EVENT SHALL RETAILER BE ELIGIBLE TO RECEIVE ANY MONTHLY INCENTIVES OR ADDITIONAL INCENTIVES HEREUNDER IN CONNECTION WITH THE MARKETING, PROMOTION, SALE, TRANSFER, HANDLING OR ANY OTHER ACTIVITY RELATING TO OR IN CONNECTION WITH THE INSTALLATION, SALE OR OTHER TRANSFER OF DISH SYSTEMS, RELATED EQUIPMENT OR OTHER ACCESSORIES IN CONNECTION THEREWITH.

6.2.6 DISH SHALL DETERMINE FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON WHETHER A PARTICULAR DISH SUBSCRIBER IS A NEW RESIDENTIAL SUBSCRIBER ACCOUNT, NEW RESIDENTIAL MDU SUBSCRIBER ACCOUNT, NEW COMMERCIAL SUBSCRIBER ACCOUNT OR NEW BULK SUBSCRIBER ACCOUNT THAT IS ELIGIBLE FOR THE PAYMENT OF ADDITIONAL INCENTIVES HEREUNDER. RETAILER ACKNOWLEDGES AND AGREES THAT IF IT CHOOSES TO PARTICIPATE IN ANY PROMOTIONAL PROGRAM IT WILL CAREFULLY REVIEW AND ADHERE TO ALL THE TERMS AND CONDITIONS SET

CONFIDENTIAL

JA010521
009333

FORTH IN THE BUSINESS RULES RELATED THERETO. FURTHERMORE, RETAILER'S PARTICIPATION IN ANY PROMOTIONAL PROGRAM OR RECEIPT OF ADDITIONAL INCENTIVES THEREUNDER SHALL SERVE AS RETAILER'S ACKNOWLEDGEMENT OF THE TERMS AND CONDITIONS SET FORTH IN APPLICABLE BUSINESS RULES AND RETAILER'S AGREEMENT TO BE BOUND THERETO. DISH'S CALCULATION AND PAYMENT OF ADDITIONAL INCENTIVES SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW.

6.3 Chargeback of Incentives.

6.3.1 IN THE EVENT THAT RETAILER IS PAID AN INCENTIVE TO WHICH IT IS NOT ENTITLED PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT OR ANY PROMOTIONAL PROGRAM OR APPLICABLE BUSINESS RULES, DISH SHALL HAVE THE RIGHT TO CHARGE BACK SUCH INCENTIVE PAID TO RETAILER. IN ADDITION TO (AND WITHOUT LIMITATION OF) THE FOREGOING, DISH SHALL HAVE THE RIGHT TO CHARGE BACK ALL OR ANY PORTION OF THE MONTHLY INCENTIVES (AT ANYTIME) OR ADDITIONAL INCENTIVES (TO THE EXTENT THAT THE APPLICABLE CHARGEBACK PERIOD SET FORTH IN THIS AGREEMENT OR APPLICABLE BUSINESS RULES HAS NOT EXPIRED) PAID:

(I) WITH RESPECT TO A PARTICULAR QUALIFYING RESIDENTIAL SUBSCRIBER WHO SUBSEQUENTLY FAILS TO PAY IN FULL FOR THE UNDERLYING ELIGIBLE RESIDENTIAL PROGRAMMING, OR WITH RESPECT TO WHOM A REFUND OR CREDIT IS ISSUED FOR ANY REASON (DISH SHALL HAVE THE OPTION TO ISSUE SUCH CREDITS OR REFUNDS AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON);

(II) WITH RESPECT TO A PARTICULAR QUALIFYING RESIDENTIAL MDU SUBSCRIBER WHO SUBSEQUENTLY FAILS TO PAY IN FULL FOR THE UNDERLYING ELIGIBLE RESIDENTIAL MDU PROGRAMMING, OR WITH RESPECT TO WHOM A REFUND OR CREDIT IS ISSUED FOR ANY REASON (DISH SHALL HAVE THE OPTION TO ISSUE SUCH CREDITS OR REFUNDS AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON);

(III) WITH RESPECT TO A PARTICULAR QUALIFYING COMMERCIAL SUBSCRIBER WHO SUBSEQUENTLY FAILS TO PAY IN FULL FOR THE UNDERLYING ELIGIBLE COMMERCIAL PROGRAMMING, OR WITH RESPECT TO WHOM A REFUND OR CREDIT IS ISSUED FOR ANY REASON (DISH SHALL HAVE THE OPTION TO ISSUE SUCH CREDITS OR REFUNDS AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON); AND

(IV) WITH RESPECT TO A PARTICULAR QUALIFYING BULK SUBSCRIBER WHO SUBSEQUENTLY FAILS TO PAY IN FULL FOR THE UNDERLYING ELIGIBLE BULK PROGRAMMING, OR WITH RESPECT TO WHOM A REFUND OR CREDIT IS ISSUED FOR ANY REASON (DISH SHALL HAVE THE OPTION TO ISSUE SUCH CREDITS OR REFUNDS AT ANY TIME AND FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON).

IN ADDITION TO (AND WITHOUT LIMITATION OF ANY OF) THE FOREGOING, DISH SHALL HAVE THE RIGHT TO CHARGE BACK ALL OR ANY PORTION OF THE INCENTIVES PAID IN CONNECTION WITH RETAILER FRAUDULENTLY OR WRONGFULLY RECEIVING AN INCENTIVE OR OTHER PAYMENT BY DIRECTLY OR INDIRECTLY: (A) MISREPRESENTING ANY INFORMATION CONCERNING A PRIOR OR CURRENT DISH SUBSCRIBER TO MAKE THAT PERSON APPEAR TO BE A NEW DISH SUBSCRIBER; OR (B) CREATING A FICTITIOUS OR FRAUDULENT CUSTOMER ACCOUNT. FOR THE AVOIDANCE OF DOUBT, IN THE EVENT DISH DETERMINES AT ANY TIME IN GOOD FAITH IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, THAT RETAILER DIRECTLY OR INDIRECTLY COMMITTED FRAUD OR OTHER MISCONDUCT, DISH SHALL HAVE THE RIGHT TO CHARGE BACK ALL OR ANY PORTION OF THE INCENTIVES PAID TO RETAILER, AND OUT-OF-POCKET EXPENSES (INCLUDING WITHOUT LIMITATION PROGRAMMING COSTS PAID AND ANY EQUIPMENT SUBSIDIES PROVIDED) INCURRED BY DISH AND/OR ANY OF ITS AFFILIATES, IN CONNECTION WITH SUCH FRAUD OR MISCONDUCT. DISH'S CALCULATION AND ASSESSMENT OF ANY CHARGEBACK SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW. DISH'S DETERMINATION THAT A CHARGEBACK IS PROPER SHALL CONTROL ABSENT FRAUD, MALICE OR WANTON AND WILLFUL MISCONDUCT ON THE PART OF DISH. THE PROVISIONS OF SECTION 6.3 OF THIS AGREEMENT SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS AGREEMENT (FOR ANY REASON OR NO REASON WHATSOEVER) INDEFINITELY.

6.4 Payment. Subject to the terms of this Section 6.4, all Incentives paid to Retailer hereunder shall be made by EFT.

6.4.1 Electronic Funds Transfer. Retailer shall provide DISH with the Retailer Account information and any changes thereto ("EFT Instructions"), in the manner prescribed by DISH. Until Retailer provides DISH with EFT Instructions, or in the

CONFIDENTIAL

event that Retailer elects to receive payments by check, DISH shall pay Incentives to Retailer by check and Retailer will be assessed DISH's standard processing fee, which may be changed by DISH at Any Time in its Sole Discretion.

6.4.2 Reliance on Retailer Account Information. With respect to Retailer's EFT Instructions, and any purported changes or modifications thereof by Retailer, DISH may act in reliance upon any writing or instrument or signature (whether electronic or otherwise) which it, in good faith, believes to be genuine, and may assume the validity and accuracy of any statement or assertion contained in such writing or instrument and may assume that any person purporting to give any such writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized by Retailer to do so. The provisions of this Section 6.4.2 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

6.4.3 DISH EFT Liability Limitation. Retailer agrees that in no event shall DISH have any liability under this Agreement for any Incentives not received by Retailer as a result of an error in any way attributable to: **(i)** any bank or financial institution; **(ii)** Retailer; or **(iii)** any other person, entity or circumstance outside of DISH's direct control. The provisions of this Section 6.4.3 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

6.4.4 Incentive Statements. DISH shall make available to Retailer, in an electronic format determined by DISH at Any Time in its Sole Discretion, periodic statements reflecting the Incentives (if any) payable to Retailer as well as any Chargebacks assessed against Retailer. For the avoidance of doubt, such statements will only be made available during periods when Incentives are payable to Retailer and DISH shall have no obligation whatsoever to make any such statement(s) available to Retailer following expiration or termination of this Agreement for any reason or no reason. Retailer acknowledges that DISH is not required to provide Retailer with any additional information, including without limitation communications between DISH and any DISH Network Subscriber or any customer account information regarding any DISH Network Subscriber.

6.5 Exceptions. Notwithstanding anything to the contrary set forth herein:

6.5.1 Retailer shall not be entitled to Monthly Residential Incentives (at anytime) or Additional Residential Incentives (to the extent that the applicable Chargeback period set forth in this Agreement or applicable Business Rules has not expired) with respect to any Residential Subscriber Account for which: **(i)** Eligible Residential Programming has been cancelled by anyone; **(ii)** payment in full for Eligible Residential Programming has not been timely received by DISH in accordance with the terms and conditions of the then current DISH Residential Customer Agreement; **(iii)** a credit or refund has been issued by DISH for any reason (DISH shall have the right to issue credits or refunds at Any Time in its Sole Discretion); **(iv)** the subscriber would otherwise be a Qualifying Residential Subscriber, but is already receiving—or previously received within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period) or at any time (in all other cases)—any of the Programming, or any other audio, video, data, interactive or other programming services from DISH or any of its Affiliates on the date of the order; **(v)** the Residential Subscriber Account is otherwise terminated, disconnected or deactivated for any reason or no reason whatsoever; or **(vi)** the Qualifying Residential Subscriber alleges that Retailer committed fraud or any other deceptive act or practice.

6.5.2 Retailer shall not be entitled to Monthly Residential MDU Incentives (at anytime) or Additional Residential MDU Incentives (to the extent that the applicable Chargeback period set forth in this Agreement or applicable Business Rules has not expired) with respect to any Residential MDU Subscriber Account for which: **(i)** Eligible Residential MDU Programming has been cancelled by anyone; **(ii)** payment in full for Eligible Residential MDU Programming has not been timely received by DISH in accordance with the terms and conditions of the then current DISH Residential Customer Agreement; **(iii)** a credit or refund has been issued by DISH for any reason (DISH shall have the right to issue credits or refunds at Any Time in its Sole Discretion); **(iv)** the subscriber would otherwise be a Qualifying Residential MDU Subscriber, but is already receiving—or previously received within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period) or at any time (in all other cases)—any of the Programming, or any other audio, video, data, interactive or other programming services from DISH or any of its Affiliates on the date of the order; **(v)** the Residential MDU Subscriber Account is otherwise terminated, disconnected or deactivated for any reason or no reason whatsoever; or **(vi)** the Qualifying Residential MDU Subscriber alleges that Retailer committed fraud or any other deceptive act or practice.

6.5.3 Retailer shall not be entitled to Monthly Commercial Incentives (at anytime) or Additional Commercial Incentives (to the extent that the applicable Chargeback period set forth in this Agreement or applicable Business Rules has not expired) with respect to any Commercial Subscriber Account for which: **(i)** Eligible Commercial Programming has been cancelled by anyone; **(ii)** payment in full for Eligible Commercial Programming has not been timely received by DISH in accordance with the terms and conditions of the then current DISH Commercial Customer Agreement; **(iii)** a credit or refund has been issued by DISH for any reason (DISH shall have the right to issue credits or refunds at Any Time in its Sole Discretion); **(iv)** the subscriber would otherwise be a Qualifying Commercial Subscriber, but is already receiving—or previously received within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period) or at any time (in all other cases)—any of the Programming, or any other audio, video, data, interactive or other programming services from DISH or any of its Affiliates on the date of the order; **(v)** the Commercial Subscriber Account is otherwise terminated, disconnected or deactivated for any reason or no reason whatsoever; or **(vi)** the Qualifying Commercial Subscriber alleges that Retailer committed fraud or any other deceptive act or practice.

CONFIDENTIAL

JA010523
009335

6.5.4 Retailer shall not be entitled to Monthly Bulk Incentives (at anytime) or Additional Bulk Incentives (to the extent that the applicable Chargeback period set forth in this Agreement or applicable Business Rules has not expired) with respect to any Bulk Subscriber Account for which: **(i)** Eligible Bulk Programming has been cancelled by anyone; **(ii)** payment in full for Eligible Bulk Programming has not been timely received by DISH in accordance with the terms and conditions of the then current DISH Commercial Customer Agreement; **(iii)** a credit or refund has been issued by DISH for any reason (DISH shall have the right to issue credits or refunds at Any Time in its Sole Discretion); **(iv)** the subscriber would otherwise be a Qualifying Bulk Subscriber, but is already receiving— or previously received within the time period set forth in applicable Business Rules (solely with respect to Promotional Programs (if any) that provide for such a time period) or at any time (in all other cases)—any of the Programming, or any other audio, video, data, interactive or other programming services from DISH or any of its Affiliates on the date of the order; **(v)** the Bulk Subscriber Account is otherwise terminated, disconnected or deactivated for any reason or no reason whatsoever; or **(vi)** the Qualifying Bulk Subscriber alleges that Retailer committed fraud or any other deceptive act or practice.

6.5.5 Retailer shall not be entitled to any Incentives with respect to the activation by DISH of a DISH System unless all of the individual components comprising the applicable DISH System (e.g., receivers, dishes and LNBFs) are confirmed by DISH as having been purchased by Retailer directly from either: **(i)** DISH; **(ii)** an Affiliate of DISH; or **(iii)** a Third-Party Manufacturer. Retailer acknowledges and agrees that DISH shall not be required to pay Incentives to Retailer in connection with a DISH System purchased by Retailer directly from a Third-Party Manufacturer unless and until the Third-Party Manufacturer provides DISH with accurate information required by DISH to be able to pay such Incentives to Retailer including, at a minimum: **(a)** serial numbers for DISH Systems sold by the Third-Party Manufacturer to Retailer; and **(b)** the name and address, and other appropriate identifying information of Retailer.

6.5.6 Notwithstanding anything to the contrary set forth herein and unless expressly set forth to the contrary under the terms and conditions of a specific Promotional Program or applicable Business Rules, Retailer shall only be entitled to receive Monthly Residential Incentives and Additional Residential Incentives with respect to the first new Residential Subscriber Account activated per household. Notwithstanding anything to the contrary set forth herein and unless expressly set forth to the contrary under the terms and conditions of a specific Promotional Program or applicable Business Rules, Retailer shall only be entitled to receive Monthly Residential MDU Incentives and Additional Residential MDU Incentives with respect to the first new Residential MDU Subscriber Account activated per household. Notwithstanding anything to the contrary set forth herein and unless expressly set forth to the contrary under the terms and conditions of a specific Promotional Program or applicable Business Rules, Retailer shall only be entitled to receive Monthly Commercial Incentives and Additional Commercial Incentives with respect to the first new Commercial Subscriber Account activated per business operated at a Commercial Location.

6.6 **Suspension and Termination of Incentives.**

6.6.1 **Suspension.** In addition to (and without limitation of) any other rights and remedies available, DISH shall not be required to pay any Incentives to Retailer which would otherwise be due to Retailer during any period in which Retailer is in breach or default of this Agreement, the Trademark License Agreement or any Other Agreement, and DISH shall have no liability to Retailer as a result of such suspension of payment. Specifically, and without limitation of the foregoing, Retailer shall have no right at any time to recoup any Incentives not paid during a period of breach or default. The foregoing provisions of this Section 6.6.1 may be exercised without terminating this Agreement and are without prejudice to any other rights and remedies that DISH and/or its Affiliates may have under this Agreement, at law, in equity or otherwise. The provisions of this Section 6.6.1 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

6.6.2 **Termination.** In the event this Agreement expires or is terminated for any reason or no reason whatsoever, DISH shall have the right, in addition to any other rights and remedies it may have, to terminate immediately all payments of Incentives then presently due and owing, or thereafter due, to Retailer under this Agreement.

6.7 **Non-Incentivized Activations by DISH.** In the event that Retailer for any reason does not qualify for an Incentive with respect to any Qualifying Residential Subscriber and/or any DISH System at a Residential Location or Institutional/Residential Location, DISH shall be entitled to activate Residential Programming for that Qualifying Residential Subscriber and/or DISH System without payment of any Incentive or compensation to Retailer, even if Retailer solicited the Qualifying Residential Subscriber to order Residential Programming from DISH. In the event that Retailer for any reason does not qualify for an Incentive with respect to any Qualifying Residential MDU Subscriber and/or any DISH System at a non-bulk-billed MDU Property, DISH shall be entitled to activate Residential MDU Programming for that Qualifying Residential MDU Subscriber and/or DISH System without payment of any Incentive to Retailer, even if Retailer solicited the Qualifying Residential MDU Subscriber to order Residential MDU Programming from DISH. In the event that Retailer for any reason does not qualify for an Incentive with respect to any Qualifying Commercial Subscriber and/or any DISH System at a Commercial Location, DISH shall be entitled to activate Commercial Programming for that Qualifying Commercial Subscriber and/or DISH System without payment of any Incentive to Retailer, even if Retailer solicited the Qualifying Commercial Subscriber to order Commercial Programming from DISH. In the event that Retailer for any reason does not qualify for an Incentive with respect to any Qualifying Bulk Subscriber and/or any DISH System at a Guest Property or a bulk-billed MDU Property, DISH shall be entitled to activate Bulk Programming for that Qualifying Bulk Subscriber and/or DISH System without payment of any

Incentive to Retailer, even if Retailer solicited the Qualifying Bulk Subscriber to order Bulk Programming from DISH.

6.8 Offsets. In no event shall Retailer or any of its Affiliates have the right to offset, set-off or otherwise deduct any Incentives or other amounts due or owing to Retailer or any of its Affiliates from DISH or any of its Affiliates from or against any amounts due or owing from Retailer or any of its Affiliates to DISH or any of its Affiliates. In the event that the Incentives paid by DISH to Retailer exceed the amount to which Retailer was entitled, or if Retailer and/or any of its Affiliates are indebted to DISH and/or any of its Affiliates under Section 13 below or for any other reason (including without limitation for any Chargebacks permitted hereunder), Retailer and its Affiliates hereby acknowledge and agree that DISH and its Affiliates shall have the right, but not the obligation, to offset any such amounts against any Incentives or other amounts otherwise due to Retailer or any of its Affiliates from DISH or any of its Affiliates, as well as any and all amounts for which DISH and/or any of its Affiliates may become liable to third parties by reason of Retailer's and/or any of its Affiliate's acts in performing, or failing to perform, Retailer's and/or any of its Affiliate's obligations under this Agreement or any Other Agreement. Further, DISH may, but shall have no obligation to, withhold such sums from any monies due or to become due to Retailer hereunder as DISH, at Any Time in its Sole Discretion, deems necessary to protect DISH and/or any of its Affiliates from any loss, damage or expense relating to or arising out of Retailer's actions, inaction or performance hereunder, or in response to any claim or threatened claim of which DISH becomes aware concerning Retailer or the performance of Retailer's duties hereunder. DISH's right to money due and to become due hereunder shall not be subject to any defense (except payment), offset, counterclaim or recoupment of Retailer whatsoever, including without limitation any which might arise from a breach of this Agreement by DISH or any of its Affiliates. The provisions of this Section 6.8 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

6.9 Recovery of Outstanding Amounts. DISH'S CALCULATION OF INCENTIVES AND OFFSET AMOUNTS SHALL BE PRESUMED CONCLUSIVELY AND IRREBUTABLY CORRECT ABSENT A TIMELY NOTICE OF CLAIM BY RETAILER PURSUANT TO SECTION 15 BELOW. Without limitation of DISH's and its Affiliates' available rights and remedies arising at law, in equity, under contract (including without limitation DISH's right to charge back in accordance with the terms and conditions hereof) or otherwise, Retailer shall pay to DISH all amounts owing from Retailer and/or any of its Affiliates to DISH and/or any of its Affiliates within thirty (30) days following expiration or termination of this Agreement for any reason or no reason whatsoever.

6.10 Collection of Programming and Other Fees.

6.10.1 Retailer acknowledges and agrees that: **(i)** with the sole exception of payments for after sales installation services (for clarity, excluding installation and other services provided to customers by Retailer at no additional charge pursuant to applicable Business Rules) and other after sales services performed by Retailer, and as otherwise expressly permitted by DISH in writing, under no circumstances shall Retailer or any of its Affiliates collect any payment for Programming or any other payment due or owing to DISH and/or any of its Affiliates from any DISH Network Subscriber or any other person or entity; **(ii)** all subscription, demand purchase and other Programming fees shall be billed directly to DISH Network Subscribers by DISH; **(iii)** in the event that, notwithstanding Retailer's best efforts to comply with clause (i) above, a DISH Network Subscriber or other person or entity forwards any such payment to Retailer or any of its Affiliates, Retailer shall immediately forward the payment, together with any applicable sales or similar taxes, to DISH without deduction or offset of any kind, and shall instruct the DISH Network Subscriber or other person or entity that all future payments must be made to DISH directly; and **(iv)** until such time as the payment is delivered to DISH, such payment shall be deemed to be the sole and exclusive property of DISH, and Retailer shall hold such payment in trust for the benefit of DISH.

6.10.2 Retailer further acknowledges and agrees that: **(i)** under no circumstance shall Retailer or any of its Affiliates directly or indirectly collect any payment or derive any economic benefit in any form from a programming service provider (a "Programmer") in connection with and/or arising out of or relating to the marketing, promotion and/or solicitation of orders for the programming service(s) of such Programmer by Retailer and/or any of its Affiliates; **(ii)** in the event that, notwithstanding Retailer's best efforts to comply with clause (i) above, Retailer or any of its Affiliates receives any such payment or derives any such economic benefit, Retailer shall immediately forward the payment or deliver the cash value of the economic benefit, as the case may be, to DISH without deduction or offset of any kind; and **(iii)** until such time as the payment or cash value of the economic benefit is delivered to DISH, such payment or economic benefit shall be deemed to be the sole and exclusive property of DISH, and Retailer shall hold such payment or economic benefit in trust for the benefit of DISH.

6.10.3 The foregoing is agreed to without prejudice to DISH exercising any other rights and remedies it may have at law, in equity, under contract or otherwise (all of which are hereby expressly reserved), including without limitation the right to terminate this Agreement and/or seek damages or other legal or equitable relief. The provisions of Section 6.10 of this Agreement shall survive expiration or termination of this Agreement (for any reason or no reason) indefinitely.

6.11 Sole Incentives. Retailer hereby acknowledges and agrees that the Incentives (if any) payable pursuant to this Agreement and any applicable Business Rules constitute the sole amounts payable by DISH to Retailer in connection with this Agreement.

6.12 No Admission. Neither any payment to Retailer under this Agreement, whether in full or in part, nor the provision of any statement to Retailer pursuant to Section 6.4.4 above, shall be deemed to operate as DISH's acceptance, waiver or admission that

CONFIDENTIAL

Retailer has complied with any provision of this Agreement or the requirements of any Promotional Program including, without limitation, any Business Rules related thereto. The parties acknowledge and agree that at all times (including without limitation in connection with any arbitration or court proceeding) it shall remain Retailer's burden to prove eligibility for receipt of any Incentive (including, without limitation, performance of any conditions precedent thereto) or that any Chargeback was incorrect.

6.13 Acknowledgement. Retailer hereby acknowledges and agrees that the Incentives (if any) paid to Retailer under this Agreement do not represent deferred compensation in any form whatsoever and are not being paid to Retailer with respect to the procurement of, or the activation of Programming for, DISH Network Subscribers, but rather are being paid to Retailer as an incentive to continue marketing, promoting and soliciting orders for Programming from prospective DISH Network Subscribers and to provide continuing service to DISH Network Subscribers after initial activation.

6.14 Assignment of Right to Payment. Retailer does not have the power or the right to assign any payments, or its right to receive any payments, that may be due to Retailer under this Agreement. Any such assignment (whether express or by operation of law) shall be void and unenforceable. Any such attempted assignment shall immediately discontinue Retailer's right to future payments under this Agreement.

6.15 Claims. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, IN NO EVENT SHALL ANY NOTICE OF CLAIM ARISING OUT OF OR RELATING TO ANY ALLEGED FAILURE TO PAY ANY AMOUNTS DUE AND OWING FROM DISH AND/OR ANY OF ITS AFFILIATES, ON THE ONE HAND, TO RETAILER AND/OR ANY OF ITS AFFILIATES, ON THE OTHER HAND, OR ARISING OUT OF OR RELATING TO ANY CHARGEBACK BE PROVIDED LATER THAN THIRTY (30) DAYS FOLLOWING THE DATE THAT THE RELEVANT PAYMENT SHOULD HAVE BEEN MADE OR THE DATE THAT THE RELEVANT CHARGEBACK OCCURRED, AS APPLICABLE, OR LATER THAN THIRTY (30) DAYS FOLLOWING EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON OR NO REASON WHATSOEVER, WHICHEVER IS EARLIER, OR THE SHORTEST PERIOD PERMITTED UNDER APPLICABLE LAW (IN THE EVENT THAT SUCH PERIOD IS IN EXCESS OF THE APPLICABLE PERIOD SET FORTH ABOVE).

7. ORDERS.

7.1 Retailer agrees to use its best efforts to promote and enhance DISH's business, reputation and goodwill. Retailer shall allow only its employees, and shall not allow any independent contractors, subcontractors, Affiliates, agents, sub-agents or any other persons not employed by Retailer to fulfill any of its obligations hereunder without DISH's specific prior written consent, which consent may be withheld in DISH's Sole Discretion. In the event that DISH does grant consent to Retailer to use persons not employed by Retailer to perform any activities contemplated hereunder ("Permitted Subcontractors"), Retailer shall be responsible for the acts and omissions of such Permitted Subcontractors to the same extent it is responsible for the acts and omissions of its own employees.

7.2 Retailer shall not sell Programming under any circumstances. All sales of Programming are transactions solely between DISH and DISH Network Subscribers. Retailer shall promptly forward to DISH all orders for Programming in the manner(s) prescribed by DISH at Any Time in its Sole Discretion. Retailer understands that DISH shall have the right, in its Sole Discretion, to accept or reject, in whole or in part, any or all orders for Programming. Retailer also agrees that it shall not condition, tie or otherwise bundle any purchase of Programming with the purchase of any other services or products other than as specifically consented to in writing by DISH in advance, which consent may be withheld in DISH's Sole Discretion.

7.3 Retailer shall comply with all Business Rules, including without limitation all Business Rules which govern or are otherwise applicable to any Promotional Program in which Retailer participates. Retailer shall disclose to each prospective DISH Network Subscriber the relevant terms and conditions of each Promotional Program in which such prospective DISH Network Subscriber is interested, as well as any other terms and conditions as set forth in any applicable Business Rules. Furthermore, Retailer shall take all actions and refrain from taking any action, as requested by DISH in connection with the marketing, advertisement, promotion and/or solicitation of orders for Programming and/or the sale, lease or other transfer of DISH Systems, and Retailer shall cooperate by supplying DISH with any information arising from or relating to those actions within two (2) days following a reasonable DISH request. The failure of Retailer to adhere to any Business Rules may result in disciplinary action by DISH in its Sole Discretion up to and including termination of this Agreement and/or any Other Agreement, and/or the exercise by DISH of any other right or remedy available to it under contract (including without limitation this Agreement), at law, in equity or otherwise (all of which are hereby expressly reserved).

7.4 Retailer hereby acknowledges and agrees that the relationship, contractual or otherwise, between DISH (and/or any of its Affiliates) and each DISH Network Subscriber is, as between DISH and Retailer, for the sole and exclusive benefit of DISH and that DISH may conduct such relationship in any manner that it sees fit at Any Time, in its Sole Discretion, without incurring any liability whatsoever to Retailer and/or any of its Affiliates. In furtherance (and without limitation) of the foregoing, Retailer acknowledges and agrees that Retailer is not a third-party beneficiary of any agreement that DISH or any of its Affiliates may have with any DISH Network Subscriber, and that under no circumstances shall Retailer and/or any of its Affiliates have any claim or cause of action against DISH or any Affiliate of DISH for any action taken or not taken by DISH and/or any of its Affiliates with regard to any DISH Network Subscriber. Retailer further acknowledges and agrees that all records created or maintained by, or on behalf of, DISH relating to any DISH Network Subscriber are the sole and exclusive property of DISH and DISH shall not have any obligation whatsoever to give or

CONFIDENTIAL

JA010526
009338

allow Retailer access to such information, even if authorized or requested by such DISH Network Subscriber. The provisions of this Section 7.4 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

8. **TRADEMARK LICENSE AGREEMENT.** Retailer shall sign or electronically accept (in the manner specified by DISH) the Trademark License Agreement in the form attached as **Exhibit A** hereto (the "Trademark License Agreement"), which agreement is hereby incorporated into this Agreement by reference in its entirety.

9. **CONDUCT OF BUSINESS.**

9.1 **Compliance with Laws.** Retailer shall not engage in any activity or business transaction which could be considered unethical, as determined by DISH in accordance with prevailing business standards, or damaging to DISH's and/or any of its Affiliates' image or goodwill in any way. Retailer shall under no circumstances take any action which could be considered disparaging to DISH and/or any of its Affiliates. Retailer shall comply with all applicable governmental statutes, laws, rules, regulations, ordinances, codes, directives and orders (whether federal, state, municipal or otherwise) and all amendments thereto, now enacted or hereafter promulgated (hereinafter "Laws"), and Retailer is solely responsible for its compliance with all Laws that apply to its obligations under this Agreement.

9.2 **Signal Theft.** Retailer shall not directly or indirectly: (i) engage in any signal theft, piracy or similar activities; (ii) engage in any unauthorized reception, transmission, publication, use, display or similar activities with respect to Programming; (iii) use a single DISH Network account for the purpose of authorizing Programming for multiple DISH Systems that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in applicable Business Rules; (iv) alter any DISH Systems or smart cards or any other equipment compatible with programming delivered by DISH or any of its Affiliates to be capable of signal theft (or for any other reason without the express written consent of DISH); (v) manufacture, import, offer to the public, sell, provide or otherwise traffic in any technology, product, service or device which is primarily designed or produced for the purpose of, or is marketed for use in, or has a limited commercially significant purpose other than, assisting in or facilitating signal theft or other piracy; or (vi) aid any others in engaging in, or attempting to engage in, any of the above described activities. Retailer shall immediately notify DISH if it becomes aware of any such activity by any person or entity. The provisions of this Section 9.2 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

9.3 **Hardware and Programming Export and Sale Restrictions.**

9.3.1 In addition to (and without limitation of) the Territory restrictions contained in this Agreement, Retailer hereby acknowledges that the U.S. Department of State and/or the U.S. Department of Commerce may in the future assert jurisdiction over DISH Systems, and that DISH Systems and Programming may not currently be sold outside of the Territory. Retailer represents, warrants and agrees that it will not directly or indirectly arrange for or participate in the export or sale of DISH Systems or Programming, in whole or in part, outside of the Territory, and agrees that it will take all reasonable and adequate steps to prevent the export or sale of DISH Systems and Programming outside of the Territory by others who purchase from Retailer and who might reasonably be expected to export or sell them outside of the Territory.

9.3.2 Retailer acknowledges and understands that U.S. export laws relating to receivers may change at Any Time in the future. Retailer acknowledges and agrees that it is Retailer's sole responsibility to be and remain informed of all U.S. laws relating to the export of receivers outside of the United States. DISH and its Affiliates have absolutely no obligation to update Retailer regarding the status of U.S. export laws or any other U.S. laws relating to the export of receivers or any other products outside of the United States. Retailer represents, warrants and agrees that prior to exporting any receivers or any other products outside of the United States, Retailer will investigate all applicable U.S. laws relating to the export of receivers or any other products outside of the United States. Retailer is strictly prohibited from violating any U.S. law relating to the export of receivers outside of the United States. Should Retailer export receivers outside of the United States in violation of this Agreement and/or U.S. law, this Agreement shall automatically terminate.

9.4 **Bounty Programs.** Retailer acknowledges that it is in the best interest of both DISH and Retailer for DISH Network Subscribers to be long-term customers of DISH and/or its Affiliates. Retailer acknowledges that churning of DISH Network Subscribers is detrimental to DISH and negatively affects DISH's ability to offer Monthly Incentives and/or Additional Incentives. Retailer acknowledges that for any Promotional Program to be viable, DISH Network Subscribers must be long-term subscribers to DISH Network. Therefore, Retailer agrees that during the Term of this Agreement and for a period of five (5) years following the expiration or termination of this Agreement for any reason or no reason, Retailer and its Affiliates will not directly or indirectly in any manner whatsoever operate, offer to any other person or entity, participate in, or assist any other person or entity to participate in, any promotion or program offered by any person or entity (including without limitation Retailer and/or any of its Affiliates) other than DISH or an Affiliate of DISH which directly or indirectly provides for the delivery of an economic incentive or other benefit to Retailer, DISH Network Subscribers or any other person or entity in any form directly or indirectly in connection with the direct or indirect solicitation

of customers of DISH or any other DBS provider or customers of any direct-to-home (“DTH”) programming service provider, for any purpose whatsoever (including, without limitation, in connection with such person or entity directly or indirectly assisting in the process of attempting to cause a customer of DISH or any other DBS provider or a customer of any DTH programming service provider to become a subscriber to any other programming service provider). In addition to (and without limitation of) the foregoing, Retailer agrees that during the Term of this Agreement and for a period of five (5) years following the expiration or termination of this Agreement for any reason or no reason. Retailer and its Affiliates will not directly or indirectly produce, place, display or use any advertising or marketing material that explicitly references DISH Network, DISH, an Affiliate of DISH or DISH Network Subscribers and attempts to persuade DISH Network Subscribers to cancel their DISH service and/or switch to a service offered by any other DBS provider, DTH programming service provider or multi-channel video programming distributor (“MVPD”). Further (and without limitation of the foregoing), during the Term of this Agreement and for a period of five (5) years following the expiration or termination of this Agreement for any reason or no reason, Retailer shall not convert, or directly or indirectly assist any other person or entity who Retailer actually knew or reasonably should have known intended to convert, any DISH Network Subscriber to the services of any other DBS provider, DTH programming service provider or MVPD. The provisions of this Section 9.4 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) for five (5) years.

9.5 Subscriber Information. All consumers who directly or indirectly subscribe to, purchase, lease or otherwise receive and/or acquire: **(i)** Programming; **(ii)** any other services provided by DISH or any of its Affiliates; **(iii)** any other services incidental, connected or related to any of the foregoing services; and/or **(iv)** the hardware necessary to receive any such Programming and/or any such other services (each a “DISH Network Subscriber,” or collectively “DISH Network Subscribers”) shall be deemed customers of DISH for all purposes relating to programming services, including without limitation video, audio, data and interactive programming services, the other services provided by DISH or any of its Affiliates and any other services incidental, connected or related to any of the foregoing services (“Services”) and the hardware necessary to receive any of such services (“Hardware”). Retailer acknowledges and agrees that the names, addresses and other identifying information of DISH Network Subscribers (“Subscriber Information”) constitute DISH trade secrets. As such, Retailer further acknowledges and agrees that such Subscriber Information is, as between Retailer and DISH, with respect to the delivery of Services and the provision of Hardware, proprietary to DISH, and shall be treated with the highest degree of confidentiality by Retailer. Retailer shall not directly or indirectly: **(a)** make use of any list of past or current DISH Network Subscribers (whether developed by Retailer or obtained from DISH or another source); **(b)** use any Subscriber Information for the direct or indirect benefit of any individual or entity other than DISH; **(c)** use any Subscriber Information for the purpose of soliciting, or permit any others to solicit, any person or entity to subscribe to any Services offered by any person or entity other than DISH or an Affiliate of DISH, or promote the sale, lease or other acquisition of any Hardware used in connection with services offered by any person or entity other than DISH and its Affiliates; or **(d)** reveal any Subscriber Information to any third party for any reason without the express prior written consent of DISH, which consent may be withheld by DISH in its Sole Discretion; provided, however, that nothing shall prohibit Retailer from utilizing its own customer list (but not a discrete portion thereof identifying any DISH Network Subscribers) for its general business operations unrelated to the delivery of Services or the provision of Hardware. The provisions of this Section 9.5 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

9.6 Sales and Use Tax. Any transactions between Retailer and consumers for the purchase of DISH Systems, related accessories and/or other equipment are transactions entered into solely and exclusively between Retailer and the consumer. Although DISH may from time to time incentivize Retailer to offer consumers free or discounted DISH Systems, related accessories and/or other equipment, DISH does not acquire or retain title (except in connection with certain lease-based Promotional Programs) in such DISH Systems, related accessories and/or other equipment. Retailer, and not DISH, is solely responsible for Retailer’s investigation of and compliance with all Laws concerning sales and use taxes applicable to any equipment and/or other transactions between Retailer and any consumers.

9.7 Restricted DISH Employees. Retailer acknowledges that DISH and its Affiliates have invested substantial economic and other resources and goodwill in the training and professional development of Restricted DISH Employees (as defined below) and that Restricted DISH Employees have acquired certain trade secrets and/or other confidential and proprietary information of DISH and/or its Affiliates in which DISH and its Affiliates have a valuable interest in protecting and for which disclosure to Retailer and/or any of its Affiliates or any other DBS provider, DTH programming service provider or MVPD would be detrimental to DISH and its Affiliates (solely for the purposes of this Section 9.7, “Confidential Company Information”). Therefore, Retailer agrees that during the Term of this Agreement and for a period of twelve (12) months following the expiration or termination of this Agreement for any reason or no reason, Retailer and its Affiliates will not directly or indirectly in any manner whatsoever: **(i)** solicit, recruit, cause, entice, induce or otherwise attempt to persuade (or assist any other person or entity to solicit, recruit, cause, entice, induce or otherwise attempt to persuade) any Restricted DISH Employee to: **(a)** terminate or otherwise discontinue his or her employment with DISH and/or any of its Affiliates, or **(b)** be employed by, or provide services to, any individual or entity on behalf of himself or herself, or as a partner, shareholder, director, trustee, principal, agent, employee or consultant of, or similar relationship with, any individual or entity whatsoever; or **(ii)** employ, hire, contract for, or otherwise engage the services of (or assist any other person or entity to employ, hire, contract for or otherwise engage the services of), any Restricted DISH Employee on behalf of himself or herself, or as a partner, shareholder, director, trustee, principal, agent, employee, or consultant of, or similar relationship with, any individual or entity whatsoever. For the purposes of this Section 9.7, “Restricted DISH Employee” shall mean any person then employed by DISH and/or any of its Affiliates or previously employed by DISH and/or any of its Affiliates at any time within the immediately preceding twelve (12) months: **(1)** as a regional sales manager, national sales manager, senior manager, director, vice president, senior vice president or

executive vice president; (2) in any other position: (A) involving the management, supervision and/or control of other persons employed by DISH and/or any of its Affiliates, and (B) through which such person enjoys and exercises a degree of unsupervised independence and control over the business area, unit, team, division, group, region, territory, subject matter and/or other similar segment or distinction (collectively, "Business Segment") for which he or she is responsible that would logically be considered reasonably similar to or greater than the degree of unsupervised independence and control generally enjoyed and exercised by any persons who satisfy the description set forth in clause (1) above with respect to their applicable Business Segment; (3) in any position involving the performance of any professional services (including without limitation legal, financial or accounting services) for any person who satisfies the description set forth in clause (1) or (2) above; or (4) who obtains or otherwise acquires any Confidential Company Information in any manner whatsoever and for any reason or no reason (regardless of whether such acquisition is within the scope of employment or authority of such employee). The provisions of this Section 9.7 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) for twelve (12) months.

9.8 Remedies. Retailer agrees that any breach of its obligations set forth in Section 9 of this Agreement will cause substantial and irreparable harm and injury to DISH for which monetary damages alone would be an inadequate remedy, and which damages are difficult to accurately measure. Accordingly, Retailer agrees that DISH shall have the right, in addition to (and without limitation of) any other rights and remedies available to DISH at law, in equity, under contract or otherwise (all of which are hereby expressly reserved), to obtain immediate injunctive relief (without the necessity of posting or filing a bond or other security) to restrain the threatened or actual violation hereof by Retailer, its Affiliates, employees, independent contractors, subcontractors, agents or sub-agents, as well as other equitable relief allowed by the federal and state courts. The provisions of this Section 9.8 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

9.9 Economic Benefits Derived Held in Trust. In the event that Retailer derives an economic benefit, in any form, from a violation of any of its obligations under this Section 9, it is hereby agreed that such economic benefit is the property of DISH and that Retailer shall deliver the cash value of the economic benefit to DISH immediately upon receipt of the economic benefit. It is further agreed that Retailer shall hold such economic benefit in trust for the benefit of DISH until such time as its cash value is delivered to DISH. The foregoing is agreed to without prejudice to DISH to exercise any other rights and remedies it may have at law, in equity, under contract or otherwise (all of which are hereby expressly reserved), including without limitation, the right to terminate this Agreement and seek damages or other legal or equitable relief. The provisions of this Section 9.9 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

10. TERM AND TERMINATION.

10.1 Term. This Agreement shall commence on the Effective Date and shall continue through December 31, 2014 (the "Term"), unless earlier terminated by either party hereto or otherwise in accordance with the terms and conditions of this Agreement. This Agreement is not automatically renewable, and neither party hereto shall be under any obligation whatsoever to offer or to accept an agreement to renew or replace this Agreement upon its expiration. RETAILER RECOGNIZES THAT THIS AGREEMENT MAY BE TERMINATED PRIOR TO THE EXPIRATION OF THE TERM AND THAT NO REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES HAVE BEEN MADE TO RETAILER THAT RETAILER WILL REMAIN AN AUTHORIZED RETAILER DURING THE ENTIRE TERM OR THAT THE AGREEMENT WILL NOT BE TERMINATED PRIOR TO EXPIRATION OF THE TERM PURSUANT TO SECTION 10.2, 10.3, 10.4 AND/OR 10.5 OF THIS AGREEMENT.

10.2 Termination by Either Party for Convenience. Either party hereto may, in its Sole Discretion, terminate this Agreement for its convenience (without cause) by giving the other party no less than sixty (60) days' prior written notice.

10.3 Termination By Either Party Upon Default. This Agreement may be terminated by a party hereto (the "Affected Party"), if the other party (the "Other Party") has failed to cure (if curable) any Default (as defined below) within twenty (20) days following receipt of a written notice of such Default from the Affected Party. For the purposes of this Agreement a "Default" shall occur when: (i) the Other Party fails to pay any amount to the Affected Party or its Affiliates when due under this Agreement or any Other Agreement; or (ii) the Other Party fails to perform any obligation or breaches any representation, warranty or covenant in this Agreement, any Other Agreement or the Trademark License Agreement (regardless of whether breach or default of such obligation, representation, warranty or covenant is designated as giving rise to a termination right).

10.4 Automatic Termination. This Agreement shall terminate automatically should any of the following occur, unless DISH notifies Retailer to the contrary in writing at any time thereafter: (i) Retailer becomes insolvent, or voluntary or involuntary bankruptcy, insolvency or similar proceedings are instituted against Retailer; (ii) Retailer, for more than twenty (20) consecutive days, fails to maintain operations as a going business; (iii) Retailer, for more than twenty (20) consecutive days, ceases to continuously and actively market and promote DISH Systems and/or Programming; (iv) Retailer, or any officer, director, substantial shareholder or principal of Retailer is convicted in a court of competent jurisdiction of any criminal offenses greater than a Class C (or comparable) Misdemeanor; (v) Retailer fails to comply with any applicable Laws, or engages in any practice substantially related to the business conducted by Retailer in connection with this Agreement that is determined to be an unfair trade practice or other violation of any applicable Laws, including without limitation any telemarketing/do-not-call laws, spam laws, privacy laws, fair credit reporting laws or warranty laws; (vi) Retailer falsifies any records or reports required hereunder or under any Business Rule; (vii) Retailer fails to renew,

or loses due to suspension, cancellation or revocation, for a period of fifteen (15) days or more, any license, permit or similar document or authority required by any Laws or by any governmental authority having jurisdiction, that is necessary in carrying out the provisions of this Agreement or to maintain its corporate or other business status in effect as of the Effective Date; (viii) Retailer directly or indirectly sells, leases or otherwise transfers possession of a DISH System to a person or entity whom Retailer knew or reasonably should have known: (a) was not an end-user and/or intended to resell it, lease it or otherwise transfer possession of it for use by another individual or entity, (b) intended to use it, or to allow others to use it, to view Residential Programming at a location other than a Residential Location or Institutional/Residential Location, (c) intended to use it, or to allow others to use it, to view Residential MDU Programming at a location other than a non-bulk-billed MDU Property, (d) intended to use it, or to allow others to use it, to view Commercial Programming at a location other than a Commercial Location, (e) intended to use it, or to allow others to use it, to view Bulk Programming at a location other than a Guest Property or bulk-billed MDU Property, (f) intended to use, or to allow others to use it, in Canada, Mexico or at any other location outside of the Territory, or (g) intended to authorize, or to allow others to authorize, Programming for a DISH System using a single DISH Network account that had or would have Programming authorized for multiple receivers that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in applicable Business Rules; (ix) Retailer makes, or attempts to make, any representation, promise or agreement for or on behalf of DISH; (x) the Trademark License Agreement or any Other Agreement expires or terminates for any reason or no reason; (xi) Retailer directly or indirectly uses a single DISH Network account for the purpose of authorizing Programming for multiple receivers that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in applicable Business Rules; (xii) any actual or alleged fraud (whether directly or indirectly attributable to Retailer), misrepresentation, or illegal action of any sort by Retailer in connection with this Agreement, the Trademark License Agreement and/or any Other Agreement; (xiii) Retailer Pre-Activates any DISH System or directly or indirectly sells, leases or otherwise transfers possession of a DISH System to a person or entity who Retailer knew or reasonably should have known intended to Pre-Activate a DISH System; (xiv) Retailer directly or indirectly makes any payment to DISH for Programming services or otherwise on behalf of any end-user of any DISH System; (xv) the churn rate (as calculated by DISH using such methodologies as may be employed by DISH at Any Time in its Sole Discretion) experienced by DISH for DISH Network Subscribers activated through Retailer is equal to or greater than one hundred and twenty-five percent (125%) of the churn rate experienced by DISH with respect to DISH Network subscribers generally during any consecutive three-month period; (xvi) Retailer is in breach or default of any of its obligations under Section 2.6, 2.7, 2.8, 2.9, 2.12, 6.10, 6.14, 7, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7 and/or 14 of this Agreement; (xvii) Retailer indefinitely ceases to actively market and promote DISH Systems and/or Programming, as determined by DISH in its Sole Discretion; (xviii) Retailer fraudulently receives, or attempts to receive, an Incentive or any other compensation or payment of any type to which it is not entitled under the terms and conditions of this Agreement or any Other Agreement, including without limitation by directly or indirectly misrepresenting any information concerning a prior DISH Network Subscriber to make that person or entity appear to be a new DISH Network Subscriber, creating a fictitious or fraudulent customer account or improperly modifying or canceling a pending work order; or (xix) Retailer fails to activate the applicable minimum number of new subscribers set forth in any applicable Business Rules.

10.5 Expiration or Termination of Agreement. The parties hereto agree that if this Agreement expires or terminates for any reason or no reason: (i) Retailer shall immediately discontinue the marketing, promotion and solicitation of orders for Programming, and immediately cease to represent and/or imply to any person or entity that Retailer is an Authorized Retailer of DISH; (ii) Retailer shall immediately discontinue all use of the trademarks associated or included in any way whatsoever with Programming, including, without limitation, DISH; (iii) Retailer shall, at its sole cost and expense, deliver to DISH at the address specified in Section 17.10.1 below (or such other address(es) as may be designated in accordance with Section 17.10.2 below), or destroy, at DISH's option, all tangible things of every kind (excluding DISH Systems) in Retailer's possession or control that bear any of the trademarks; (iv) Retailer shall upon request by DISH, certify in writing to DISH that such delivery or destruction has taken place; and (v) without limitation of DISH's and its Affiliates' available rights and remedies arising at law, in equity, under contract (including without limitation DISH's right to charge back in accordance with the terms and conditions hereof) or otherwise (all of which are hereby expressly reserved), Retailer shall pay all sums due DISH under this Agreement and any Other Agreement within thirty (30) days following the date of such expiration or termination. In addition to (and without limitation of) any of the foregoing, in the event Retailer does not receive written notice of DISH's option election under clause (iii) of this Section 10.5 within twenty (20) days following the date of expiration or termination of this Agreement, Retailer shall, at its sole cost and expense, deliver all tangible things described in such clause (iii) to DISH at the notice address specified in Section 17.10.1 below (or such other address(es) as may be designated in accordance with Section 17.10.2 below). DISH acknowledges and agrees that, following the expiration or termination of this Agreement for any reason or no reason, Retailer may choose to sell products, programming and other services that compete with DISH products, programming and other services and that DISH cannot require Retailer to continue as an Authorized Retailer. Retailer acknowledges and agrees that it cannot require DISH to allow Retailer to remain an Authorized Retailer regardless of whether or not any other retailer is allowed to remain an Authorized Retailer.

CONFIDENTIAL

11. INDEPENDENT CONTRACTOR. The relationship of the parties hereto is that of independent contractors. Retailer shall conduct its business as an independent contractor, and all persons employed in the conduct of such business shall be Retailer's employees only, and not employees or agents of DISH or any of its Affiliates. Retailer shall prominently state its business name, address and phone number and that Retailer is an "authorized DISH Network retailer" in all communications with the public, including, without limitation, marketing materials, flyers, print ads, television or radio spots, web sites, e-mails, invoices, sales slips and the like. Notwithstanding anything set forth in this Agreement to the contrary, Retailer (including without limitation its officers, directors, employees and Permitted Subcontractors) shall not, under any circumstances, hold itself out to the public or represent that it is DISH or an employee, subcontractor, Affiliate, agent or sub-agent of DISH or any DISH Affiliate. In furtherance (and without limitation) of the foregoing, in no event shall Retailer use DISH's name or the name of any DISH Affiliate and/or any trade name used by DISH or any DISH Affiliate in any manner which would tend to imply that Retailer is an Affiliate of DISH or that Retailer is an employee, subcontractor, Affiliate, agent or sub-agent of DISH or any of its Affiliates or that Retailer is acting or is authorized to act on behalf of DISH or any of its Affiliates. This Agreement does not constitute any joint venture or partnership. It is further understood and agreed that Retailer has no right or authority to make any representation, warranty, promise, covenant, guarantee or agreement or take any action for or on behalf of DISH or any Affiliate of DISH.

12. LIMITATION OF LIABILITY. The provisions of this Section 12 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

12.1 UPON THE EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON OR NO REASON WHATSOEVER, DISH AND ITS AFFILIATES SHALL HAVE NO LIABILITY OR OBLIGATION TO RETAILER WHATSOEVER AND RETAILER SHALL HAVE NO RIGHT TO REQUIRE DISH TO CONTINUE TO ALLOW RETAILER TO ACT AS AN AUTHORIZED RETAILER TO MARKET, PROMOTE OR SOLICIT ORDERS FOR PROGRAMMING ON BEHALF OF DISH. RETAILER AGREES THAT IN THE EVENT OF EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON OR NO REASON, NO AMOUNTS SPENT IN FULFILLMENT OF THIS AGREEMENT WILL BE RECOVERABLE BY RETAILER FROM DISH OR ANY OF ITS AFFILIATES.

12.2 IN NO EVENT SHALL ANY PROJECTIONS OR FORECASTS MADE BY OR ON BEHALF OF DISH OR ANY OF ITS AFFILIATES BE BINDING AS COMMITMENTS OR PROMISES. IN NO EVENT SHALL DISH OR ANY AFFILIATE OF DISH BE LIABLE FOR ANY EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES TO RETAILER (WHETHER FORESEEABLE OR NOT), INCLUDING WITHOUT LIMITATION ANY PAYMENT FOR LOST BUSINESS, FUTURE PROFITS, LOSS OF GOODWILL, REIMBURSEMENT FOR EXPENDITURES OR INVESTMENTS MADE OR COMMITMENTS ENTERED INTO, CREATION OF CLIENTELE, ADVERTISING COSTS, TERMINATION OF EMPLOYEES OR EMPLOYEES' SALARIES, OVERHEAD OR FACILITIES INCURRED OR ACQUIRED BASED UPON THE BUSINESS DERIVED OR ANTICIPATED UNDER THIS AGREEMENT, OR CLAIMS UNDER DEALER TERMINATION, PROTECTION, NON-RENEWAL OR SIMILAR LAWS, FOR ANY CAUSE WHATSOEVER WHETHER OR NOT CAUSED BY NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

13. INDEMNIFICATION. Retailer shall indemnify, defend and hold DISH and its Affiliates, and its and their respective officers, directors, employees, agents and shareholders, and its and their respective assigns, heirs, successors and legal representatives (collectively the "DISH Group") harmless from and against, any and all costs, losses, liabilities, damages, lawsuits, judgments, claims, actions, penalties, fines and expenses (including, without limitation, interest, penalties, reasonable attorneys' fees and all monies paid in the investigation, defense or settlement of any or all of the foregoing) ("Claims"), that arise out of, or are incurred in connection with: **(i)** Retailer's performance or failure of performance under this Agreement, the Trademark License Agreement and/or any Other Agreement, and any direct or indirect results thereof, including without limitation Retailer's sale and/or installation of DISH Systems; **(ii)** Retailer's lawful or unlawful acts or omissions (or those of any of Retailer's employees, independent contractors, subcontractors, Affiliates, agents and sub-agents, whether or not such acts are within the scope of employment or authority of such employees, independent contractors, subcontractors, Affiliates, agents and sub-agents) relating to the sale, leasing, transfer of possession, marketing, advertisement, promotion and/or solicitation of orders for Programming and/or DISH Systems and/or any other products or services of DISH or any of its Affiliates; **(iii)** the failure of Retailer to comply with any provision of this Agreement or any Business Rule; **(iv)** the breach of any of Retailer's representations or warranties contained herein; **(v)** all purchases, contracts, debts and/or obligations made by Retailer; **(vi)** the failure of Retailer to comply with, or any actual or alleged violation of, any applicable Laws; **(vii)** any claim brought by Retailer's employees, independent contractors, subcontractors, Affiliates, agents, sub-agents and/or any other person or entity for compensation and/or damages arising out of or relating to the expiration or termination of this Agreement; **(viii)** any claim of pirating, infringement or imitation of the logos, trademarks or service marks of programming providers or any other person or entity (except with respect to any marketing materials supplied to Retailer by DISH); **(ix)** any installation and/or after-sale services performed by Retailer, or any of its employees, independent contractors, subcontractors, Affiliates, agents or sub-agents; **(x)** Retailer's, or any of its employees', independent contractors', subcontractors', Affiliates', agents' or sub-agents' failure to comply with any performance standard; **(xi)** a DISH Network Subscriber's dissatisfaction with any aspect of the installation and/or after-sale services performed by Retailer, or any of its employees, independent contractors, subcontractors, Affiliates, agents or sub-agents; **(xii)** the termination, disturbance, interruption or other interference with the service provided by any public utility or damage to the equipment of any public utility caused directly or indirectly by Retailer, or any of its employees, independent contractors, subcontractors, Affiliates, agents or sub-agents; **(xiii)** Retailer directly or indirectly selling, leasing or otherwise transferring possession of a DISH System to any person or entity whom Retailer knew or

CONFIDENTIAL

JA010531
009343

CONFIDENTIAL

reasonably should have known: (a) was not an end-user and/or intended to resell it, lease it or otherwise transfer possession of it for use by another individual or entity, (b) intended to use it, or to allow others to use it, to: (1) view Residential Programming at a location other than a Residential Location or Institutional/Residential Location; (2) view Residential MDU Programming at a location other than a non-bulk-billed MDU Property; (3) view Commercial Programming at a location other than a Commercial Location; or (4) view Bulk Programming at a location other than a Guest Property or bulk-billed MDU Property, (c) intended to use it, or to allow others to use it, in Canada, Mexico or at any other location outside of the Territory, or (d) intended to authorize, or to allow others to authorize, Programming for a DISH System using a single DISH Network account that has or would have Programming authorized for multiple receivers that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in applicable Business Rules; and/or (xiv) Retailer directly or indirectly using a single DISH Network account for the purpose of authorizing Programming for multiple receivers that are not all located in the same Residential Location, Institutional/Residential Location, bulk-billed MDU Property, Unit of a non-bulk-billed MDU Property, Guest Property or Commercial Location, as applicable based upon the type of Programming authorized for the relevant DISH Network account, and except in the case of a Guest Property or bulk-billed MDU Property, connected to the same land-based phone line and/or broadband home network, in each case consistent with the method and manner of connectivity authorized in respect of the relevant receiver as set forth in applicable Business Rules. In the event of any claim for indemnification by the DISH Group under this Section 13, the DISH Group shall be entitled to representation by counsel of its own choosing, at Retailer's sole cost and expense. The DISH Group shall have the right to the exclusive conduct of all negotiations, litigation, settlements and other proceedings arising from any such Claims, and Retailer shall, at its own cost and expense, render all assistance requested by DISH in connection with any such negotiation, litigation, settlement or other proceeding. Each indemnity obligation set forth in this Section 13 shall be in addition to (and without limitation of) any other indemnity obligations set forth in this Agreement. The provisions of this Section 13 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

14. CONFIDENTIALITY. Retailer and its employees will maintain, in confidence, the terms, conditions and provisions of this Agreement and the terms, conditions and provisions of any and all Business Rules and Promotional Programs, as well as all data, summaries, reports, communications or information of all kinds, whether oral or written, acquired, devised or developed in any manner from DISH's and/or any of its Affiliates' personnel or files, or as a direct or indirect result of Retailer's actions or performance under this Agreement, including without limitation nonpublic personal information of DISH Network Subscribers ("Confidential Information") and Retailer represents, warrants and covenants to DISH and its Affiliates that it has not and will not reveal the same to any persons not employed by Retailer, except: (i) at the written direction of DISH; (ii) to the extent necessary to comply with any applicable Laws, the valid order of a court of competent jurisdiction or the valid order or requirement of a governmental agency or any successor agency thereto, in which event Retailer shall notify DISH in writing of the information prior to making any disclosure, and shall seek confidential treatment of such information; or (iii) as part of its normal reporting or review procedure to its parent company, its auditors and its attorneys, provided such parent company, auditors and attorneys agree to be bound by the provisions of this paragraph. Retailer shall not issue an independent press release with respect to this Agreement or the transactions contemplated hereby without the prior written consent of DISH, which consent may be withheld in DISH's Sole Discretion. Upon expiration or termination of this Agreement for any reason or no reason whatsoever, Retailer shall return all Confidential Information (including, without limitation, all copies thereof) or at DISH's request in DISH's Sole Discretion destroy all such Confidential Information, and immediately certify in writing to DISH that such delivery or destruction has taken place. For the avoidance of doubt (and without limitation of the provisions of the immediately preceding sentence), in the event Retailer does not receive a request from DISH to destroy all Confidential Information (including, without limitation, all copies thereof) upon expiration or termination of this Agreement, Retailer shall return all such Confidential Information and copies thereof (if any) to DISH at the notice address specified in Section 17.10.1 below (or such other address(es) as may be designated in accordance with Section 17.10.2 below). Retailer agrees that any breach or default of any of its obligations set forth in this Section 14 will cause substantial and irreparable harm and injury to DISH for which monetary damages alone would be an inadequate remedy, and which damages are difficult to accurately measure. Accordingly, Retailer agrees that DISH shall have the right, in addition to (and without limitation of) any other rights and remedies available to DISH at law, in equity, under contract (including without limitation this Agreement) or otherwise (all of which are hereby expressly reserved), to obtain immediate injunctive relief (without the necessity of posting or filing a bond or other security) to restrain the threatened or actual violation hereof by Retailer, its employees, independent contractors, subcontractors, Affiliates, agents or sub-agents, as well as any other equitable relief allowed by the federal or state courts. The provisions of this Section 14 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

15. DISPUTE RESOLUTION. Retailer acknowledges that DISH deals with thousands of retailers and that hundreds of thousands of incentive payments are made annually. Retailer acknowledges that any delay in notifying DISH of any alleged shortage or non-payment, allegedly incorrect chargeback, or any other alleged claim that may result in DISH's liability to Retailer for damages or injunctive relief may impede DISH's ability to fully and timely investigate any such claim by Retailer. Retailer agrees that it is in each party's best interest to give DISH control over claims that have to be investigated and to allow DISH to investigate any such claim at the earliest possible moment as well as maintain an orderly method for handling retailer claims. Accordingly, Retailer agrees to immediately inspect and review the statements described in Section 6.4.4 above to determine any claims or disputes that Retailer believes exist and, in the event of any claim or dispute, to follow the procedures set forth below. Retailer also agrees to follow the below claims procedures for

all claims that may result in DISH's liability to Retailer for damages or injunctive relief.

15.1 Claims for Breach or Default. IN THE EVENT OF AN OCCURRENCE THAT RENDERS, OR MIGHT RENDER, DISH LIABLE TO RETAILER FOR ANY DAMAGES OR INJUNCTIVE RELIEF AS A RESULT OF ANY ALLEGED BREACH OR DEFAULT OF THIS AGREEMENT OR ANY OTHER AGREEMENT, RETAILER SHALL GIVE WRITTEN NOTICE OF SUCH OCCURRENCE AS SOON AS PRACTICABLE TO DISH (A "NOTICE OF CLAIM"). IN NO EVENT SHALL ANY NOTICE OF CLAIM BE PROVIDED LATER THAN NINETY (90) DAYS FOLLOWING THE DATE OF THE RELEVANT OCCURRENCE, OR THE SHORTEST PERIOD PERMITTED UNDER APPLICABLE LAW (IN THE EVENT THAT SUCH PERIOD IS IN EXCESS OF THE APPLICABLE PERIOD SET FORTH ABOVE). EACH NOTICE OF CLAIM SHALL STATE: **(I)** THE DATE, TIME AND NATURE OF THE OCCURRENCE; **(II)** THE TOTAL AMOUNT CLAIMED BY RETAILER, IF ANY, IN CONNECTION WITH SUCH OCCURRENCE AND THE BASIS FOR ANY AMOUNT CLAIMED; AND **(III)** IDENTIFICATION OF ALL DOCUMENTS AND OTHER INFORMATION IN RETAILER'S CONTROL OR POSSESSION ARISING FROM OR RELATING TO SUCH OCCURRENCE. RETAILER MAY SUBMIT A NOTICE OF CLAIM CONCERNING INCENTIVE PAYMENTS THROUGH DISH'S RETAILER WEBSITE, <http://retailer.dishnetwork.com> (OR THROUGH SUCH OTHER WEBSITE(S) AS MAY BE EXPRESSLY SPECIFIED BY DISH AT ANY TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON IN APPLICABLE BUSINESS RULES FOR USE BY RETAILER TO SUBMIT A NOTICE OF CLAIM HEREUNDER), IN ACCORDANCE WITH APPLICABLE BUSINESS RULES. RETAILER MAY SUBMIT A NOTICE OF CLAIM CONCERNING ALL OTHER CLAIMS VIA ELECTRONIC MAIL TO retailerescalation@dish.com (OR SUCH OTHER E-MAIL ADDRESS(ES) AS DISH MAY DIRECT FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON IN APPLICABLE BUSINESS RULES FOR THE SUBMISSION OF A NOTICE OF CLAIM HEREUNDER BY RETAILER) WITH THE SUBJECT LINE "NOTICE OF CLAIM." AFTER SUBMITTING A NOTICE OF CLAIM, RETAILER SHALL PROVIDE DISH WITH ANY AND ALL ADDITIONAL INFORMATION REQUESTED BY DISH WITHIN THIRTY (30) DAYS FOLLOWING RECEIPT OF DISH'S REQUEST. DISH SHALL BE ENTITLED TO HAVE ACCESS TO RETAILER'S BOOKS AND RECORDS DURING ITS INVESTIGATION OF RETAILER'S CLAIM. FAILURE TO STRICTLY COMPLY WITH THE PROVISIONS OF THIS SECTION 15.1 WITH RESPECT TO A PARTICULAR OCCURRENCE THAT RENDERS, OR MIGHT RENDER, DISH IN BREACH OR DEFAULT OF THIS AGREEMENT AND LIABLE TO RETAILER FOR DAMAGES OR INJUNCTIVE RELIEF SHALL CONSTITUTE A WAIVER BY RETAILER WITH RESPECT TO THE RELEVANT OCCURRENCE, INCLUDING WITHOUT LIMITATION ANY DAMAGES RELATED THERETO.

15.2 Mediation. Except as expressly set forth to the contrary in the last sentence of this Section 15.2, the parties agree to submit any and all disputes, controversies or claims not otherwise barred or resolved under Section 15.1 above or exempted under Section 15.4 below, which may arise between Retailer and/or any of its Affiliates, on the one hand, and DISH and/or any of its Affiliates, on the other hand, including without limitation any and all disputes, controversies, and claims arising out of or relating to this Agreement including, without limitation, any and all disputes, controversies or claims related to: **(i)** the execution and delivery of this Agreement (whether via signature or electronic acceptance); **(ii)** the interpretation of this Agreement; **(iii)** a party's performance or failure to perform hereunder; **(iv)** the termination of this Agreement; and/or **(v)** any rights Retailer may have under dealer termination or non-renewal laws (collectively "Disputes"), to mandatory non-binding mediation (a "Mediation") in front of a single mediator. Either party may initiate a Mediation by giving written notice to the other party pursuant to Section 17.10 below describing the Dispute (a "Notice of Mediation"). The Notice of Mediation shall include: **(a)** a statement of the initiating party's position and a summary of arguments supporting that position; and **(b)** the name and title of the executive who will represent that party and of any other persons who will accompany the executive. The Mediation shall take place in the City and County of Denver, Colorado at a mutually agreeable time and location before a mediator chosen by mutual agreement of the parties. In the event that either party fails to negotiate the selection of a mediator in good faith or unreasonably withholds its approval of a mediator, such party shall be deemed to have waived its right to select the mediator by mutual agreement of the parties and shall be required to participate in the Mediation with the mediator chosen by the other party. Each party shall participate through a representative with full settlement authority and shall bear its own costs and expenses and one-half of the costs and expenses of the mediator. Any such Mediation must be concluded within sixty (60) days following the Notice of Mediation. Nothing contained herein (excluding the provisions of Section 2.10 above, which shall apply in full force and effect) shall limit or restrict the rights of either party and/or any of its Affiliates to file a Notice of Arbitration (as defined below) and/or bring a request for injunctive relief against the other party and/or any of its Affiliates for any violations of Section 2.2, 2.6, 2.7, 2.8, 2.12, 5, 6.10, 7.2, 7.3, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 11 and/or 14 of this Agreement, or any provision of the Trademark License Agreement (without limitation of any rights therein) or any Other Agreement. In the event that a party (the "Non-Mediating Party") fails to: **(1)** pay one-half of the costs and expenses of the mediator to the mediator when due; or **(2)** otherwise refuses or fails to participate in or attend a Mediation that has been properly initiated pursuant to Section 15 of this Agreement, then the Non-Mediating Party agrees that: **(A)** the Non-Mediating Party shall be deemed to have waived its right to initiate an Arbitration (as defined below) pursuant to Section 15.3 below, as fully participating in a Mediation pursuant to this Section 15.2 is a condition precedent to a party's right to initiate an Arbitration, **(B)** the other party (the "Mediating Party") shall have the right (but not the obligation) to initiate an Arbitration pursuant to Section 15.3 below without any further obligation under this Section 15.2, and **(C)** the Mediating Party shall have the option, exercisable upon written notice to the Non-Mediating Party, to have the underlying dispute, controversy or claim resolved solely and exclusively before a court of competent jurisdiction located in the State of Colorado, as delineated in Section 15.5 below. In the event that the Mediating Party elects to initiate an Arbitration pursuant to clause (B) above or to resolve the underlying dispute, controversy or claim in court pursuant to clause (C) above, the parties agree that the Non-Mediating Party shall be deemed to have waived its right to pursue any affirmative claims or counterclaims in such Arbitration or court proceeding as fully participating in a Mediation pursuant to this Section 15.2 is a condition

precedent to recovery. Notwithstanding the foregoing, with respect solely to a dispute, controversy or claim not otherwise barred or resolved under Section 15.1 above or exempted under Section 15.4 below that directly arises from or in connection with the automatic termination of this Agreement under Section 10.4 above, the parties acknowledge and agree that either of them shall have the right (but not the obligation) to initiate an Arbitration pursuant to Section 15.3 below without first initiating a Mediation under this Section 15.2.

15.3 Arbitration. Except as set forth to the contrary in this Section 15.3 or Section 15.4 below, any and all disputes, controversies or claims between Retailer and/or any of its Affiliates, on the one hand, and DISH and/or any of its Affiliates, on the other hand, including without limitation any and all disputes, controversies or claims arising out of or in connection with this Agreement, including without limitation the validity of Section 15 of this Agreement, the circumstances concerning the execution and delivery of this Agreement (whether via signature or electronic acceptance), and any allegations of fraud in the inducement, or which relate to the parties' relationship with each other or either party's compliance with any Laws, which are not settled through negotiation, the claim process set forth above in Section 15.1, or the mediation process set forth above in Section 15.2, shall be resolved solely and exclusively by binding arbitration (an "Arbitration") in accordance with both the substantive and procedural laws of Title 9 of the U.S. Code ("Federal Arbitration Act") and the Commercial Arbitration Rules of the American Arbitration Association (the "Commercial Arbitration Rules"). In the event of any conflict or inconsistency between or among the Federal Arbitration Act, the Commercial Arbitration Rules, and/or the terms and conditions of this Agreement, such conflict or inconsistency shall be resolved by giving precedence in the following order: (i) this Agreement; (ii) the Federal Arbitration Act; and (iii) the Commercial Arbitration Rules. In consideration of DISH entering into this Agreement with Retailer, Retailer agrees that it will not serve as a class representative in any class action lawsuit brought by any person or legal entity concerning this Agreement in any respect. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE LAST SENTENCE OF SECTION 15.2 ABOVE WITH RESPECT TO MEDIATION, NEITHER PARTY NOR ANY OF ITS AFFILIATES MAY BRING ANY DEMAND FOR ARBITRATION AGAINST THE OTHER PARTY AND/OR ANY OF ITS AFFILIATES IF IT AND/OR ANY OF ITS AFFILIATES HAS FAILED TO FULLY COMPLY WITH THE PROCEDURES SET FORTH IN SECTIONS 15.1 AND 15.2 OF THIS AGREEMENT; provided, however, that nothing contained herein (excluding the provisions of Section 2.10 above, which shall apply in full force and effect) shall limit or restrict the rights of either party and/or any of its Affiliates to file a Notice of Arbitration and/or bring a request for injunctive relief against the other party and/or any of its Affiliates for any violations of Section 2.2, 2.6, 2.7, 2.8, 2.12, 5, 6.10, 7.2, 7.3, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 11 and/or 14 of this Agreement, or any provision of the Trademark License Agreement (without limitation of any rights therein) or any Other Agreement.

15.3.1 Initiation of Arbitration; Selection of Arbitrators. The Arbitration must be initiated within ninety (90) days following the final day of the Mediation, or one hundred fifty (150) days following the Notice of Mediation in the event that the Mediation is not concluded within sixty (60) days following the Notice of Mediation, and shall be initiated by written notice from the initiating party to the other party pursuant to Section 17.10 below stating the initiating party's intent to initiate arbitration ("Notice of Arbitration"). The Arbitration shall be conducted in the City and County of Denver, Colorado by a panel of three (3) arbitrators who shall be selected as follows: (i) one (1) arbitrator shall be selected by the claimant(s) within thirty (30) days following sending the Notice of Arbitration ("Claimant's Designated Arbitrator"); (ii) one (1) arbitrator shall be selected by the respondent(s) within thirty (30) days following the claimant(s) notifying respondent of the identity of claimant's arbitrator ("Respondent's Designated Arbitrator"); and (iii) the third (3rd) arbitrator shall be selected by the arbitrators chosen by the claimant(s) and the respondent(s) within thirty (30) days following the appointment of the respondent(s)' arbitrator ("Designated Neutral Arbitrator"). The parties acknowledge and agree that each party shall have the option, exercisable upon written notice to the other party, to designate the arbitrator selected by such party as a non-neutral arbitrator in which event such arbitrator shall not be impartial or independent and shall not be subject to disqualification for partiality or lack of independence. Notwithstanding the foregoing, in the event that either party fails to timely select an arbitrator pursuant to Section 15.3 of this Agreement: (a) such party shall be deemed to have waived its right to a three (3) member arbitration panel and shall be required to participate in the arbitral proceedings with the one (1) arbitrator selected by the other party without any objection; and (b) the one (1) arbitrator selected by the other party shall thereafter be deemed a neutral arbitrator with whom neither party shall communicate *ex parte* concerning the Arbitration.

15.3.2 Authority of the Arbitrator(s); Awards. The parties hereby agree that the arbitrator(s) selected pursuant to Section 15.3.1 above (the "Arbitrator(s)") are not authorized to: (i) conduct "class arbitration" in any form; and/or (ii) arbitrate any dispute on a representative basis in any form. The parties hereby agree that the Arbitrator(s) have the authority to entertain and rule upon dispositive motions, including without limitation default judgments as governed by Rule 55 of the Federal Rules of Civil Procedure, motions for summary judgment as governed by Rule 56 of the Federal Rules of Civil Procedure and motions to dismiss as governed by Rule 12 of the Federal Rules of Civil Procedure. The decision of the Arbitrator(s) shall be final and binding on the parties and, notwithstanding the last sentence of this Section 15.3.2, any award of the Arbitrator(s) may be entered and enforced as a final judgment in any state or federal court of competent jurisdiction in the United States. The parties agree that in no event shall the Arbitrator(s)' decision include a recovery under any theory of liability, or award in any amount not expressly allowed under this Agreement, any Promotional Program or applicable Business Rules, including without limitation, punitive or treble damages. In furtherance (and without limitation) of the foregoing, any award made by the Arbitrator(s) shall be within the limitations set forth in Section 12 above. The parties further agree that the Arbitrator(s) may not award damages, injunctive relief or any other remedy to any person or legal entity who is not present at the Arbitration or who does not submit proof of any alleged damages at the Arbitration. Unless otherwise agreed by the parties in writing, all pleadings, discovery (oral and written), decisions, orders and awards resulting from the Arbitration shall be kept confidential.

15.3.3 Arbitration Costs. The parties agree that, subject to this Section 15.3.3, each of them will bear their own costs and expenses arising from or in connection with an Arbitration pursuant to this Agreement including without limitation all costs and expenses of the individual arbitrator selected by (or for) each party. Accordingly, the party initiating such Arbitration shall pay all costs, fees, and expenses of Claimant's Designated Arbitrator, and the responding party shall pay all costs, fees, and expenses of Respondent's Designated Arbitrator. Notwithstanding the foregoing, the following shall be borne equally by the parties during any Arbitration hereunder: **(i)** all administrative costs, fees and expenses assessed or imposed by the entity administering the arbitration arising from or in connection with such Arbitration; and **(ii)** all costs, fees and expenses of the Designated Neutral Arbitrator arising from or in connection with such Arbitration. Notwithstanding the immediately preceding sentence, the party(ies) determined by the Arbitrator(s) to be the prevailing party(ies) shall be entitled to recover from the non-prevailing party(ies) any and all costs, fees and expenses arising from any Arbitration hereunder, including without limitation, all costs, fees and expenses of the arbitrator selected by (or for) the prevailing party, all costs of the record or transcripts thereof, if any, administrative fees, and all other fees involved (including but not limited to reasonable attorneys' fees of the prevailing party(ies)); provided, however, that such costs and expenses may otherwise be allocated in an equitable manner as determined by the Arbitrator(s).

15.3.4 Remedies for Non-Participation. The parties acknowledge and agree that: **(i)** in addition to (and without limitation of) the other provisions of Section 15 of this Agreement, each party is relying upon the provisions of Section 15.3 of this Agreement to efficiently address and resolve any and all disputes, controversies and claims arising out of or relating to this Agreement; and **(ii)** any failure or refusal by a party (the "Non-Participating Party") to: **(a)** pay any amount to the American Arbitration Association ("AAA") when due ("Arbitration Payment Default"), or **(b)** otherwise participate in or attend an Arbitration that has been properly initiated pursuant to Section 15 of this Agreement ("Other Arbitration Default") will cause substantial and irreparable harm and injury to the other party (the "Participating Party"), including without limitation the termination of arbitral proceedings by the AAA, for which monetary damages alone would be an inadequate remedy. Accordingly, each party agrees that, in the event of an Arbitration Payment Default or Other Arbitration Default (each a "Non-Participation Event"), the Participating Party shall have the right (but not the obligation), in addition to (and without limitation of) any other rights and remedies available to such party at law, in equity, under contract (including without limitation this Agreement) or otherwise (all of which are hereby expressly reserved), to obtain immediate relief from the Arbitrator(s) or a court of competent jurisdiction located in the State of Colorado, as delineated in Section 15.5 below, in each case in the form of specific performance and/or a preliminary or permanent injunction, whether prohibitive or mandatory, against any violation or threatened violation of Section 15.3 above, and without the necessity of posting or filing a bond or other security to restrain the threatened or actual violation of Section 15.3 above by the Non-Participating Party. In addition to (and without limitation of) the foregoing, in the event of a Non-Participation Event, the Participating Party shall have the option, exercisable upon written notice to the Non-Participating Party, to have the underlying dispute, controversy or claim resolved either by the individual arbitrator selected by (or for) the Participating Party as set forth in Section 15.3.1 above (in which case the remaining designated arbitrators, if any, will be dismissed from the panel), or before a court of competent jurisdiction located in the State of Colorado, as delineated in Section 15.5 below. In the event that the Participating Party elects to resolve the underlying dispute, controversy or claim in court pursuant to this Section 15.3.4, the parties agree that the Non-Participating Party shall be deemed to have waived its right to pursue any affirmative claims or counterclaims in such court proceeding as fully participating in an Arbitration pursuant to Section 15.3 of this Agreement is a condition precedent to recovery.

15.4 Exceptions. Notwithstanding the foregoing, any request by either party for preliminary or permanent injunctive relief, whether prohibitive or mandatory, shall not be subject to mediation or arbitration and may be adjudicated solely and exclusively in the United States District Court for the District of Colorado or in the appropriate state court of competent jurisdiction located in the City and County of Denver, Colorado pursuant to Section 15.5 below; provided, however, that nothing contained herein (excluding the provisions of Section 2.10 above, which shall apply in full force and effect) shall limit or restrict the rights of either party and/or any of its Affiliates to file a Notice of Arbitration and/or bring a request for injunctive relief against the other party and/or any of its Affiliates for any violations of Section 2.2, 2.6, 2.7, 2.8, 2.12, 5, 6.10, 7.2, 7.3, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 11 and/or 14 of this Agreement or any provision of the Trademark License Agreement (without limitation of any rights therein) or any Other Agreement.

15.5 Choice of Law; Exclusive Jurisdiction. The relationship between the parties and their present and future Affiliates, including without limitation all disputes, controversies or claims, whether arising in contract, tort, under statute or otherwise, shall be governed by and construed in accordance with the laws of the State of Colorado, applicable to contracts to be made and performed entirely within the State of Colorado by residents of the State of Colorado, without giving any effect to its conflict of law provisions. In the event that a lawsuit is brought for injunctive relief pursuant to Section 15.2, 15.3 or 15.4 above or as otherwise permitted in clause (C) of Section 15.2 above or the penultimate sentence of Section 15.3.4 above, such lawsuit shall be litigated solely and exclusively before the United States District Court for the District of Colorado. The parties and their present and future Affiliates consent to the *in personam* jurisdiction of the United States District Court for the District of Colorado and the appropriate state court located in the City and County of Denver, Colorado for the purposes set forth in Section 15 of this Agreement and waive, fully and completely, any right to dismiss and/or transfer any action pursuant to Title 28 U.S.C. Section 1404 or 1406 (or any successor statute). Further, Retailer agrees to waive personal service of all process and hereby consents that any such service may be made by registered or certified mail directed to Retailer at the address listed on the first page of this Agreement, or such other address as Retailer may designate in writing delivered to DISH in accordance with Section 17.10.1 below, or at the Retailer's business address reported to the state of incorporation, if applicable. For purposes of Section 15 of this Agreement, in the event that the United States District Court for the District of Colorado does not have subject matter jurisdiction over any matter for which it is specified herein as the proper venue, then such matter shall be litigated solely

CONFIDENTIAL

and exclusively before the appropriate state court of competent jurisdiction located in the City and County of Denver, Colorado.

15.6 Survival. The provisions of Section 15 of this Agreement shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

16. INSURANCE.

16.1 Retailer shall, at its sole cost and expense, procure and maintain throughout the Term of this Agreement the following insurance coverages:

16.1.1 Workers' Compensation or similar employee benefit act coverage with statutory limits as prescribed by the laws of all states in which Retailer conducts business operations in connection with this Agreement and Employers' Liability coverage with limits and a deductible that are reasonable and adequate for businesses involved in the sale, installation, service and repair of consumer electronics.

16.1.2 Commercial General Liability coverage including, without limitation, coverage for Premises/Operations, Product/Completed Operations, Blanket Contractual Liability, Independent Contractors, Broad Form Property Damage and Personal/Advertising Injury with limits and a deductible that are reasonable and adequate for businesses involved in the sale, installation, service and repair of consumer electronics.

16.1.3 Commercial Automobile Liability coverage which includes coverage for all owned, hired and non-owned vehicles with limits and a deductible that are reasonable and adequate for businesses involved in the sale, installation, service and repair of consumer electronics.

16.2 All such policies and coverages shall: **(i)** be primary and non-contributory, and issued by insurers licensed to do business in all states in which Retailer conducts business operations in connection with this Agreement; **(ii)** be endorsed to provide DISH at least thirty (30) days prior notification of cancellation or material change in coverage; **(iii)** name DISH as an additional insured; and **(iv)** be endorsed to provide DISH with written notice of Retailer's failure to renew any coverage not later than the anniversary date for each coverage. All such insurance shall be evidenced by a certificate of insurance acceptable to DISH, which shall be provided to DISH upon request.

16.3 All insurance policies required by Section 16 of this Agreement (except Workers' Compensation) shall designate DISH, DNSLLC, their Affiliates, and their respective directors, officers and employees (all hereinafter referred to in this Section 16.3 as "Company") as additional insureds. All such insurance policies shall be required to respond to any claim and pay any such claim prior to any other insurance or self-insurance which may be available. Any other coverage available to Company shall apply on an excess basis. Retailer understands and agrees that DISH, DNSLLC and their Affiliates and their respective directors, officers and employees are third-party beneficiaries of Retailer's obligations under Section 16 of this Agreement. No deductible amount on any insurance policy required by Section 16 of this Agreement shall exceed ten percent (10%) of the coverage amount of the policy.

17. MISCELLANEOUS.

17.1 Waiver. Except as otherwise expressly set forth to the contrary herein, the failure of any party to insist upon strict performance of any provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or similar nature. In addition to (and without limitation of) the foregoing, the failure of DISH or any of its Affiliates to insist upon strict performance of any provision of any agreement between DISH and/or any of its Affiliates, on the one hand, and another retailer, on the other hand, shall not be construed as a waiver of DISH's right to insist upon strict performance of each and every representation, warranty, covenant, duty and obligation of Retailer hereunder. In addition to (and without limitation of) the foregoing, the election of certain remedies by DISH or any of its Affiliates with respect to the breach or default by another retailer of any agreement between DISH and/or any of its Affiliates on the one hand and such other retailer on the other hand shall not be deemed to prejudice any rights or remedies that DISH may have at law, in equity, under contract (including without limitation this Agreement) or otherwise with respect to a similar or different breach or default hereunder by Retailer (all of which are hereby expressly reserved).

17.2 Successor Interests; No Assignment by Retailer; Third Party Beneficiaries. This Agreement is binding upon the heirs, legal representatives, successors and permitted assigns of DISH and Retailer. In addition to (and without limitation of) the prohibition against assignment of payments set forth in Section 6.14 above, neither party shall assign this Agreement without the prior written consent of the other party, except that DISH may assign this Agreement to any of its Affiliates in whole or in part and at Any Time in DISH's Sole Discretion without the consent of Retailer. Notwithstanding anything set forth herein or in any Business Rules to the contrary, in the event that Retailer performs any of its obligations hereunder in Puerto Rico, this Agreement shall, immediately at the time the first such performance begins in Puerto Rico, automatically be assigned by DISH to DISH Network Puerto Rico L.L.C. in whole. Because this Agreement is made and entered into by DISH in reliance on the financial, business and personal reputation of Retailer and its ownership and management, any merger, reorganization (including without limitation any change of form of entity, for example changing from a corporation to an LLC) or consolidation of Retailer shall be deemed an assignment requiring DISH's consent

CONFIDENTIAL

JA010536
009348

CONFIDENTIAL

hereunder and if any person not a substantial stockholder of Retailer (someone with less than a twenty-five percent (25%) interest) as of the Effective Date subsequently becomes a substantial stockholder of Retailer (equal to or greater than a twenty-five percent (25%) interest), that shall be considered an assignment requiring DISH's consent hereunder. The provisions of this Agreement are for the exclusive benefit of the parties hereto, DISH's Affiliates and each of their respective heirs, legal representatives, successors and permitted assigns, and nothing in this Agreement, express or implied, is intended, or shall be deemed or construed, to confer upon any third party (other than as expressly set forth for Affiliates of DISH) any rights, benefits, duties, obligations, remedies or interests of any nature or kind whatsoever under or by reason of this Agreement.

17.3 Construction and Interpretation. Retailer and DISH hereby represent, warrant, acknowledge and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or the Business Rules, including without limitation any amendments hereto or thereto. This Agreement may be executed by facsimile or electronic acceptance (in the manner specified by DISH) and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17.4 Severability. The parties agree that each provision of this Agreement shall be construed as separable and divisible from every other provision and that the enforceability of any one provision shall not limit the enforceability, in whole or in part, of any other provision hereof. If any one or more of the provisions contained herein, or the application thereof to any person, entity or circumstance, for any reason are held to be invalid, illegal or unenforceable in any respect, then such provision(s) shall be enforced to the maximum extent permissible, and the remaining provisions of this Agreement shall be unaffected thereby and will remain in full force and effect.

17.5 Entire Agreement. This Agreement and the Business Rules constitute the entire agreement between the parties with respect to the subject matter of this Agreement. Except as otherwise expressly provided herein, no party shall be bound by any communication between them on the subject matter of this Agreement, unless such communication is: (i) in writing; (ii) bears a date contemporaneous with or subsequent to the Effective Date; and (iii) is signed by both parties to this Agreement. On the Effective Date, all prior agreements (except as set forth to the contrary in Section 2.10 above and with further exception of the Business Rules and Other Agreements (including without limitation any previous "Exclusive Bounty Hunter Agreements") or understandings between the parties shall be null and void. The parties specifically acknowledge that there are no unwritten side agreements or oral agreements between them which alter, amend, modify or supplement this Agreement. In addition to (and without limitation of) any provisions of this Agreement that expressly survive termination or expiration, any provision of this Agreement that logically would be expected to survive termination or expiration, shall survive for a reasonable time period under the circumstances.

17.6 Compliance with Laws. Retailer hereby agrees to comply with, and hereby agrees that this Agreement is subject to, all applicable Laws in force or effect at any time during the Term of this Agreement.

17.7 Force Majeure. Notwithstanding anything set forth to the contrary in this Agreement, neither party shall be liable to the other party for its failure to fulfill any of its obligations hereunder if such failure is caused by or arises out of an act of force majeure including without limitation acts of God, war, riot, natural disaster, technical failure (including without limitation the failure of all or part of any communications satellite, transponder or Internet infrastructure on or through which the Programming is delivered to DISH Network Subscribers, or of related uplinking or other equipment) or any other reason beyond the reasonable control of the party whose performance is prevented during the period of such occurrence.

17.8 Remedies Cumulative. It is agreed that the rights and remedies herein provided to DISH in case of default or breach by Retailer of this Agreement are cumulative and without prejudice to any other rights and remedies that DISH may have by reason of such default or breach by Retailer at law, in equity, under contract or otherwise (all of which are hereby expressly reserved).

17.9 Records and Audit Rights. During the Term of this Agreement and for a period of five (5) years thereafter, Retailer shall keep and maintain at its principal place of business complete and accurate records and books of account, as well as all documentation of all material processes and procedures, in connection with: (i) its performance under this Agreement, the Trademark License Agreement and any Other Agreement; (ii) the payment of Incentives and any other payments to Retailer and/or any of its Affiliates by DISH and/or any of its Affiliates; and (iii) all payments made by Retailer or any of its Affiliates to DISH and/or any of its Affiliates. Such books, records and documentation shall be in sufficient detail to show all information necessary to support any Retailer claim, request or entitlement of any nature from DISH and/or any of its Affiliates. DISH shall have the right, upon two (2) days' prior written notice, to review, audit and make copies of Retailer's books, records and documentation for the purposes of: (a) determining Retailer's compliance with its duties and obligations under this Agreement, the Trademark License Agreement or any Other Agreement; (b) determining Retailer's compliance with applicable Laws, including without limitation any telemarketing/do-not-call laws, spam laws, privacy laws, fair credit reporting laws or warranty laws; (c) investigating any claims against DISH and/or any of its Affiliates made by Retailer and/or any of its Affiliates; (d) investigating any Claims for which Retailer is obligated to indemnify the DISH Group pursuant to Section 13 above; and/or (e) verifying that Incentive payments and any and all other payments of any type made to Retailer and/or any of its Affiliates by DISH and/or any of its Affiliates are being properly calculated (an "Audit"). DISH shall be entitled to conduct an Audit regardless of the existence of any claim, dispute, controversy, mediation, arbitration or litigation between the parties. In addition to (and without limitation of) the foregoing, during the course of an Audit, at the request of DISH, Retailer shall provide DISH or its

CONFIDENTIAL

JA010537
009349

CONFIDENTIAL

representative(s) with user and system level access to all computing and communications devices, systems, programs and related equipment used by Retailer in connection with Retailer’s performance hereunder. If Retailer refuses to allow DISH to conduct an Audit, Retailer acknowledges that DISH shall be entitled to obtain immediate relief in the form of specific performance from either the panel of arbitrators (if arbitration has been commenced pursuant to Section 15 above) or a court located within the State of Colorado, as delineated in Section 15.5 above. Any audit conducted by DISH shall be conducted by DISH or its representative(s) at Retailer’s offices during normal business hours. If, during the course of an Audit, DISH uncovers that: **(1)** Retailer has failed to comply with any of its obligations under this Agreement; and/or **(2)** Retailer and/or any of its Affiliates has made a frivolous claim against DISH and/or any of its Affiliates, Retailer shall pay to DISH the costs and expenses incurred by DISH in connection with such Audit. If an Audit reveals that: **(A)** Retailer and/or any of its Affiliates have underpaid DISH and/or any of its Affiliates; or **(B)** Retailer has miscalculated any item bearing upon the Incentives paid to Retailer resulting in an overpayment of Incentives by DISH and/or any of its Affiliates, Retailer agrees to repay to DISH the amount of any such underpayment or overpayment, as applicable, made together with interest thereon at the highest rate allowed by law, computed from the date of such underpayment or overpayment, as applicable; and pay all reasonable costs and expenses, including without limitation reasonable attorneys’ fees and accountant fees incurred by DISH and/or any of its Affiliates in connection with an Audit and with enforcing the collection of such amounts. The provisions of this Section 17.9 are without prejudice to any other rights and remedies that DISH and/or any of its Affiliates may have under contract (including without limitation this Agreement), at law, in equity or otherwise (all of which are hereby expressly reserved), and shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

17.10 Notices.

17.10.1 Notice to DISH. Except as otherwise provided in Sections 15 and 17.19 of this Agreement, all notices to be given to DISH pursuant to this Agreement shall be in writing, signed by Retailer, and sent by: **(i)** first class certified mail, postage prepaid; or **(ii)** overnight courier service, charges prepaid, to the following address(es) or such other address(es) as DISH may designate to Retailer at Any Time in accordance with Section 17.10.2 below:

If by first class certified mail:

To DISH: DISH Network L.L.C.
Attn: Vice President of Retail Services
P.O. Box 6627
Englewood, CO 80155

With a copy to: R. Stanton Dodge
Executive Vice President, General Counsel and Secretary
DISH Network L.L.C.
P.O. Box 6655
Englewood, CO 80155

If by overnight courier service:

To DISH: DISH Network L.L.C.
Attn: Vice President of Retail Services
9601 South Meridian Blvd.
Englewood, CO 80112

With a copy to: R. Stanton Dodge
Executive Vice President, General Counsel and Secretary
DISH Network L.L.C.
9601 South Meridian Blvd.
Englewood, CO 80112

The receipt of such notice shall constitute the giving thereof.

17.10.2 Notice to Retailer. All notices to be given to Retailer pursuant to this Agreement shall be in writing and sent to Retailer at the address listed on the first page of this Agreement or the fax number listed on the signature page of this Agreement, or such other address or other fax number as Retailer may designate in writing delivered to DISH in accordance with Section 17.10.1 above. Notices to Retailer shall be sent via: **(i)** first class certified mail, postage prepaid; **(ii)** overnight courier service, services prepaid; **(iii)** facsimile transmission; or **(iv)** with the exception of notices given pursuant to Section 10, 13 or 15 of this Agreement, any method of mass communication reasonably directed to DISH’s retailer base, including, without limitation, facts blast, e-mail, posting on DISH’s retailer web site or broadcast on a “Retailer Chat.” The sending of such notice with confirmation of successful receipt of the entire transmission (in the case of facsimile transmission), receipt or refusal of receipt of such notice (in the case of first class certified mail or overnight courier service), sending of such notice (in the case of e-mail), posting (in the case of DISH’s retailer web site) or broadcast (in

CONFIDENTIAL

the case of Retailer Chats) shall constitute the giving thereof. It shall be Retailer's sole responsibility to keep itself informed of all notices, changes and other information set forth in any facts blast, e-mail, "Retailer Chat" or posting on DISH's retailer web site.

17.10.3 Survival. The provisions of Section 17.10 of this Agreement shall survive expiration or termination of this Agreement (for any reason or no reason) indefinitely.

17.11 Attorneys' Fees. In the event of any suit, action or arbitration between Retailer and/or any of its Affiliates, on the one hand, and DISH and/or any of its Affiliates, on the other hand, including without limitation any and all suits, actions or arbitrations to enforce this Agreement, any Business Rules, any Promotional Program or any provisions hereof or thereof, subject to Section 15.3.3 above, the prevailing party shall be entitled to recover its costs, expenses and reasonable attorneys' fees, at arbitration, at trial and on appeal, in addition to (and without limitation of) all other sums allowed by law. The provisions of this Section 17.11 shall survive expiration or termination of this Agreement (for any reason or no reason) indefinitely.

17.12 Modifications. Retailer acknowledges that DISH competes in the multi-channel video distribution market, which is highly competitive, fluid and volatile and that DISH must make changes to its marketing, promotion and sales of products and services from time to time to stay competitive. Therefore, Retailer agrees that DISH may, at Any Time in its Sole Discretion, change, alter, delete, add or otherwise modify Incentives, Incentive schedules, Incentive structures, Promotional Programs and/or Business Rules, payment terms or the Chargeback rules associated therewith, upon notice to Retailer, without the need for any consent, written or otherwise, from Retailer. IF ANY SUCH CHANGE, ALTERATION, DELETION, ADDITION OR OTHER MODIFICATION IS MATERIAL AND UNACCEPTABLE TO RETAILER, RETAILER AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY IS TO TERMINATE THIS AGREEMENT. RETAILER'S CONTINUED PERFORMANCE UNDER THIS AGREEMENT FOLLOWING RECEIPT OF NOTICE OF A CHANGE, ALTERATION, DELETION, ADDITION OR OTHER MODIFICATION WILL CONSTITUTE RETAILER'S BINDING ACCEPTANCE OF THE CHANGE, ALTERATION, DELETION, ADDITION OR OTHER MODIFICATION.

17.13 Interstate Commerce. The parties acknowledge that the transactions contemplated by this Agreement involve interstate commerce.

17.14 General Provisions. The exhibit(s) hereto are hereby incorporated into this Agreement by reference in their entirety.

17.15 Power and Authority. Retailer represents and warrants to DISH that it has full power and authority to enter into this Agreement and perform its obligations hereunder and that its execution and delivery of this Agreement (whether via signature or electronic acceptance) and performance of its obligations hereunder does not and will not violate any Laws or result in a breach of, or default under, the terms and conditions of any contract or agreement by which it is bound.

17.16 Consent to Receive Faxes. Retailer hereby acknowledges that this Agreement serves as Retailer's express written consent to receive facsimile transmittals from DISH and its Affiliates, including without limitation facsimile transmittals which contain unsolicited advertisements. For the avoidance of doubt, such permitted facsimile transmittals from DISH or any of its Affiliates may include without limitation information about the commercial availability or quality of products, goods or services; notices of conferences and seminars; and new product, programming or promotion announcements. This written consent shall include (without limitation) all facsimile transmittals regulated by future Federal Communications Commission action.

17.17 Waiver of Evidence. No course of dealing, course of performance or usage of trade shall be considered in the interpretation or enforcement of this Agreement. Both parties waive any right they may have to introduce evidence of any such course of dealing, course of performance or usage of trade.

17.18 Correction of Spelling, Typographical or Clerical Errors. Retailer hereby grants to DISH a limited power of attorney to correct and/or execute or initial all spelling, typographical and clerical errors discovered in this Agreement, the Trademark License Agreement, any Other Agreement and any amendments to any of the foregoing, including without limitation, errors or inconsistencies in the spelling of Retailer's name, address, phone number or fax number or the spelling of the name or title of the duly authorized representative signing or electronically accepting each such agreement on Retailer's behalf.

17.19 Alteration of Terms and Conditions. Retailer acknowledges and agrees that, because among other things DISH has thousands of authorized retailers, it is in each party's best interest to establish an orderly process for Retailer to propose additions, deletions, changes, alterations and/or other modifications to the terms and conditions set forth in this Agreement and for DISH to receive such proposals prior to the parties entering into an agreement. Therefore, Retailer further acknowledges and agrees that any additions, deletions, changes, alterations and/or other modifications to the terms and conditions of this Agreement proposed by Retailer must be sent to DISH solely and exclusively via an e-mail message addressed to **proposedchanges@dish.com** (or such other e-mail address(es) as may be expressly specified by DISH at Any Time in its Sole Discretion in applicable Business Rules) with the subject line "Proposed Changes to DISH Network Retailer Agreement" (a "Proposal") and that such Proposals must be received by DISH prior to Retailer executing this Agreement (whether via signature or electronic acceptance). RETAILER ACKNOWLEDGES AND AGREES THAT: (I) ANY AND ALL PROPOSALS RECEIVED BY DISH AFTER RETAILER HAS EXECUTED THIS AGREEMENT SHALL BE OF

CONFIDENTIAL

JA010539
009351

CONFIDENTIAL

NO FORCE OR EFFECT; AND **(II)** IN THE EVENT THAT RETAILER EXECUTES THIS AGREEMENT AFTER DISH HAS RECEIVED ONE (1) OR MORE PROPOSALS, ALL SUCH PROPOSALS SHALL BE DEEMED TO HAVE BEEN WITHDRAWN BY SUCH EXECUTION AND SHALL BE OF NO FURTHER FORCE OR EFFECT. Consequently, in the event that the following events occur in the following order: **(a)** DISH receives a Proposal from Retailer; **(b)** Retailer executes this Agreement (whether via signature or electronic acceptance); and **(c)** DISH executes this Agreement, then Retailer acknowledges and agrees that the execution of this Agreement by Retailer withdrew the Proposal and Retailer and DISH will therefore have a binding agreement on the terms and conditions set forth herein, without any additions, deletions, changes, alterations or other modifications thereto. Further, in the event that the following events occur in the following order: **(1)** Retailer executes this Agreement (whether via signature or electronic acceptance); **(2)** DISH receives a Proposal from Retailer; and **(3)** DISH executes this Agreement, then Retailer acknowledges and agrees that the Proposal shall be of no force or effect because it was submitted after Retailer executed this Agreement and Retailer and DISH will therefore have a binding agreement on the terms and conditions set forth herein, without any additions, deletions, changes, alterations or other modifications thereto. Further, in the event that the following events occur in the following order: **(A)** DISH receives a Proposal from Retailer; **(B)** Retailer executes this Agreement (whether via signature or electronic acceptance); **(C)** DISH receives a second Proposal from Retailer; and **(D)** DISH executes this Agreement, then Retailer acknowledges and agrees that the execution of this Agreement by Retailer withdrew the first Proposal and the second Proposal shall be of no force or effect because it was submitted after Retailer executed this Agreement, and Retailer and DISH will therefore have a binding agreement on the terms and conditions set forth herein, without any additions, deletions, changes, alterations or other modifications thereto. Retailer further acknowledges and agrees that a Proposal may only be accepted by DISH in a writing signed by an Executive Vice President of DISH (or his or her designee), which specifically acknowledges receipt of the applicable Proposal, includes the portion(s) of the Proposal that DISH is willing to accept, and expressly states that DISH has agreed to accept such portion(s) of the Proposal. Notwithstanding anything to the contrary set forth herein, DISH is under no obligation to receive, consider or accept any Proposals, and in the event that a Proposal received by DISH is not accepted in the manner provided in the immediately preceding sentence, then such Proposal shall automatically be deemed to have been rejected by DISH. For the avoidance of doubt, DISH has the right to not receive, consider or accept any Proposal and to reject any Proposal in its Sole Discretion.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CONFIDENTIAL

JA010540
009352

CONFIDENTIAL

The parties have caused this Agreement to be signed and/or accepted electronically by their duly authorized representatives effective as of the date first written above.

DISH NETWORK L.L.C.

By: _____
Name:
Title:

RETAILER

Retailer Number: _____

Retailer Company Name: _____
(please print)

Street Address: _____
(please print)

City, State, Zip Code: _____
(please print)

Fax Number: _____
(for notice to Retailer pursuant to Section 17.10.2 of this Agreement)
(please print)

By: _____
(signature)
Name (please print): _____
Title (please print): _____

[SIGNATURE PAGE OF DISH NETWORK RETAILER AGREEMENT]

CONFIDENTIAL

JA010541
009353

CONFIDENTIAL

EXHIBIT A
TO RETAILER AGREEMENT

ATTACHED

CONFIDENTIAL

JA010542
009354

Confidential,

SLC_ DNC_ Investigation_0008614
TX 102-009804

CONFIDENTIAL

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement (this "Agreement") is made and effective as of December 31, 2012, by and between DISH Network L.L.C. ("DISH"), having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112, and _____, having a place of business at _____ ("Licensee").

INTRODUCTION

WHEREAS, DISH conducts business in worldwide locations as, among other things, a provider of multi-channel, digital video, audio, data, interactive and other programming services;

WHEREAS, Licensee conducts business as, among other things, a retailer of video programming products and services; and

WHEREAS, Licensee desires to be permitted to use the Listed Trademarks (as defined below) in accordance with and subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. DISH and its Affiliates hereby grant to Licensee a non-exclusive, non-transferable, non-sublicenseable, revocable license (the "License") to use the Listed Trademarks during the term of this Agreement, and no other license or term whatsoever, solely to market, promote and solicit orders for Programming and the hardware necessary to receive such Programming ("Hardware") in its advertising and promotional materials and at its business locations. Licensee shall have no right whatsoever to use any Trademark (as defined below) other than the Listed Trademarks for any purpose whatsoever, unless expressly authorized in a writing signed by an Executive Vice President of DISH (or his or her designee).

(a) Licensee expressly recognizes and agrees that Licensee shall not, in whole or in part, modify, alter, supplement, delete or otherwise change any of the Listed Trademarks (whether in typewritten, stylized or any other form) as provided to Licensee by DISH and/or any of its Affiliates, including without limitation by dissecting in any manner the form of stylized "T" in "DISH". Licensee shall have no right to use any logos, service marks or trademarks (whether in typewritten, stylized or any other form) of any programming providers (collectively, "Programmer Trademarks"), other than the Programmer Trademarks that are contained in the advertising and promotional material provided to Licensee by DISH and/or its Affiliates. At no time shall any materials created or used by Licensee indicate that any agreement of agency, partnership, joint venture, franchise or exclusive or non-exclusive distributorship exists between Licensee, on the one hand, and DISH and/or its Affiliates, on the other hand, unless DISH and/or its Affiliates, on the one hand, and Licensee, on the other hand, enter into a separate written agreement expressly permitting Licensee to do so.

(b) Notwithstanding any of the foregoing, in the event that Licensee's exact intended manner of use of one or more of the following has not been approved in writing by DISH in the immediately preceding twelve (12) months and with respect to Licensee, Licensee shall provide to DISH at least thirty (30) days prior to first (1st) use, and in each case in typewritten, stylized and/or any other form required by DISH at Any Time in its Sole Discretion: (i) an example of any advertising or promotional materials in which Licensee intends to use any Listed Trademarks or Programmer Trademarks; (ii) a written dispositive listing of all Trademark Paid Search Terms (as defined below) that Licensee or any of its Affiliates intends to bid upon and/or purchase in connection with Licensee's marketing, promotion or solicitation of orders for Programming, Hardware, Services or any other goods or services offered by DISH or any Affiliate of DISH; and (iii) any and all Identifying Communications Information (as defined below) that Licensee intends to use, whether in whole or in part. DISH may reject and prohibit Licensee from using such advertising and promotional materials, Identifying Communications Information and/or Trademark Paid Search Terms, as applicable, either in whole or in part, at Any Time in its Sole Discretion. If Licensee is required to, but fails to provide DISH with proposed advertising or promotional materials, Trademark Paid Search Terms and/or Identifying Communications Information at least thirty (30) days prior to first use in compliance with the foregoing, DISH may immediately terminate this Agreement upon notice to Licensee. Unless otherwise expressly set forth in applicable Business Rules or in a writing signed by an Executive Vice President of DISH (or his or her designee), if DISH does not provide a response to Licensee's submission of any proposed advertising or promotional materials, Trademark Paid Search Terms and/or Identifying Communications Information within ten (10) business days for any reason or no reason, such lack of response shall constitute DISH's denial of approval with respect to such submission. In addition to (and without limitation of) the foregoing, Licensee shall not use any advertising or promotional materials containing any Listed Trademark unless all information contained in such materials is consistent with applicable Promotional Programs as set forth in applicable Business Rules.

CONFIDENTIAL

JA010543
009355

CONFIDENTIAL

(c) For the purposes of this Agreement:

(i) “Identifying Communication Information” shall mean any trade name, assumed name, domain name, user name, e-mail address, telephone number (toll-free or otherwise), IP address, text messaging address or any other letter, number, character or combination thereof used in commerce that includes or refers to any Trademark, whether in whole or in part, whether separately, formatively or otherwise and whether properly spelled or in any typographical derivation or misspelling thereof;

(ii) “Listed Trademarks” shall mean the trademarks, service marks and trade names of DISH and/or its Affiliates that are: (x) set forth in Exhibit 1 attached hereto and incorporated herein by reference in its entirety, as such exhibit may be modified at Any Time in DISH’s Sole Discretion upon notice to Licensee, (y) posted (and only while posted) at www.dishmarketingsolutions.com or on such other website(s) as may be expressly specified by DISH in applicable Business Rules at Any Time in its Sole Discretion (each a “DISH Marketing Site”), and (z) set forth in applicable Business Rules which expressly permit their use by Licensee;

(iii) “Trademarks” shall mean: (x) Listed Trademarks, (y) any trademark, service mark and/or trade name of DISH and/or any of its Affiliates that is not a Listed Trademark, and (z) any trademark, service mark and/or trade name that is similar to, or in a colorable variation of, any trademark, service mark and/or trade name of DISH and/or any of its Affiliates that is not a Listed Trademark; and

(iv) “Trademark Paid Search Term” shall mean any Internet search term: (x) that includes any of the Trademarks, and (y) for which Licensee has directly or indirectly made any payment or provided any other economic benefit of any type whatsoever to any person or entity other than DISH or any of its Affiliates in connection with the placement of any advertising or promotional materials or links thereto on an Internet website.

(d) Licensee acknowledges and agrees that DISH may at Any Time, in its Sole Discretion, change, alter, delete, add or otherwise modify the Listed Trademarks set forth in Exhibit 1 hereto, on any DISH Marketing Site and/or in any Business Rules otherwise applicable to any of the Trademarks, upon notice to Licensee, without the need for any consent, written or otherwise, from Licensee.

2. This Agreement is not intended to create, nor shall it be construed as creating, any agreement of agency, partnership, joint venture, franchise or exclusive or non-exclusive distribution or as creating any obligation on the part of DISH and/or any of its Affiliates to enter into any such agreement with Licensee. Further, this Agreement is not intended to, nor shall it be construed so as to, provide any rights to Licensee to purchase or sell products or programming manufactured and/or distributed by DISH and/or any of its Affiliates. Licensee expressly recognizes and agrees that any goodwill now existing or hereafter created through Licensee’s sales (if any) of, or Licensee’s marketing, promotion or solicitation of orders for Programming, Hardware and/or any other products, programming and/or other services manufactured and/or distributed by DISH and/or any of its Affiliates in association with the Trademarks shall inure to the sole and exclusive benefit of DISH and/or DISH’s applicable Affiliate(s). This License shall be effective until terminated by either party in accordance with the terms and conditions of this Agreement, or until expiration or termination of the DISH Network Retailer Agreement to which this Agreement is attached (the “Retailer Agreement”) for any reason or no reason whatsoever.

3. Licensee agrees that all products and services promoted and/or rendered by Licensee in connection with any of the Listed Trademarks, and all promotional and other uses of any of the Listed Trademarks by Licensee in association with any Programming, Hardware and/or any other products and services offered by Licensee in connection with this Agreement and/or the Retailer Agreement, shall be of a nature and quality that conforms to such standards as may be required by DISH from time to time in its Sole Discretion. Licensee acknowledges and agrees that DISH shall have the right (but not the obligation) to take any and all actions as may be determined by DISH at Any Time in its Sole Discretion to be necessary or desirable to ensure that the nature and quality of the services and/or products offered by Licensee in connection with any of the Listed Trademarks, this Agreement and/or the Retailer Agreement conform to, and are otherwise maintained at a level which reflects, the high standards of DISH and its Affiliates, including without limitation by inspecting Licensee’s use of the Listed Trademarks in accordance with the audit provisions of the Retailer Agreement either directly or indirectly through DISH’s authorized representatives.

4. The License granted by DISH and/or any of its Affiliates is granted to Licensee only. Licensee has no authority to transfer or grant any sublicense to any other entity or individual for any reason, and if Licensee does so, this Agreement shall automatically terminate, unless DISH notifies Licensee to the contrary in writing at any time thereafter. Licensee shall immediately cease using the Listed Trademarks in typewritten, stylized or any other form upon expiration or termination of this Agreement for any reason or no reason whatsoever. Upon expiration or termination of this Agreement for any reason or no reason whatsoever, at DISH’s option, Licensee shall, at its sole cost and expense, immediately destroy or deliver to DISH any and all advertising and promotional materials in Licensee’s possession with Listed Trademarks (whether in

CONFIDENTIAL

JA010544
009356

CONFIDENTIAL

typewritten, stylized or any other form) on them and immediately cease using any Trademark Paid Search Terms and/or Identifying Communications Information. In addition to (and without limitation of) any of the foregoing, in the event Licensee does not receive written notice of DISH's option election pursuant to the immediately preceding sentence, Licensee shall, at its sole cost and expense, deliver all materials described in such sentence to DISH at the notice address specified in Section 17.10.1 of the Retailer Agreement (or such other address(es) as may be designated in accordance with Section 17.10.2 of the Retailer Agreement). If DISH requests destruction of advertising and promotional materials and/or that Licensee cease using any Trademark Paid Search Terms and/or Identifying Communications Information, Licensee shall promptly execute an affidavit representing, at a minimum, that such materials were destroyed and/or that the use of such Trademark Paid Search Terms and/or Identifying Communications Information, as applicable, has ceased and the date and means of such destruction or last use.

5. Licensee expressly recognizes and acknowledges that this License, as well as any past use by Licensee of the Trademarks in any manner whatsoever (including without limitation use on signs, on business cards, in advertisements, in Trademark Paid Search Terms and/or as Identifying Communications Information) or in any form whatsoever (including without limitation typewritten or stylized form), shall not confer upon Licensee any proprietary or other rights, or title or interest in, to or under any of the Trademarks, including, without limitation, any existing or future goodwill in any of the Trademarks. Licensee agrees not to challenge ownership, use, registration or validity of the Trademarks, or any confusingly similar variation thereof, by DISH, its Affiliates, successors or assigns. Further, Licensee waives any and all past, present or future claims it has or might have in the future in, to or under any of the Trademarks (whether in typewritten, stylized or any other form) and acknowledges that as between DISH and its Affiliates on the one hand, and Licensee and its Affiliates on the other hand, DISH and its Affiliates have the exclusive rights to own and use the Trademarks (whether in typewritten, stylized or any other form), and that DISH and its Affiliates retain full ownership of the Trademarks (whether in typewritten, stylized or any other form) notwithstanding the License granted herein.

6. LICENSEE REPRESENTS AND WARRANTS THAT LICENSEE AND ITS AFFILIATES, IF ANY, HAVE NOT PREVIOUSLY RESERVED, FILED OR REGISTERED, AND LICENSEE HEREBY AGREES THAT LICENSEE SHALL NOT, AND SHALL ENSURE THAT ITS AFFILIATES, IF ANY, DO NOT, IN THE FUTURE RESERVE, FILE, OR REGISTER, ANY MARK OR FORMATIVE MARK THAT CONTAINS OR INCORPORATES IN WHOLE OR IN PART ANY WORD, PHRASE, DESIGN OR OTHER ELEMENT WHICH APPEARS, OCCURS OR ARISES (VERBALLY, AUDIBLY, VISUALLY OR OTHERWISE) IN WHOLE OR IN PART IN ANY OF THE TRADEMARKS (WHETHER IN TYPEWRITTEN, STYLIZED OR ANY OTHER FORM) (HEREAFTER, COLLECTIVELY "FORMATIVE MARKS"). IN ADDITION TO (AND WITHOUT LIMITATION OF) ANY OF THE FOREGOING, LICENSEE REPRESENTS AND WARRANTS THAT LICENSEE AND/OR ITS AFFILIATES HAVE NOT PREVIOUSLY REGISTERED, AND HEREBY AGREES THAT LICENSEE SHALL NOT AND SHALL ENSURE THAT ITS AFFILIATES, IF ANY, DO NOT, IN THE FUTURE REGISTER, ANY IDENTIFYING COMMUNICATION INFORMATION: **(I)** THAT INCLUDES ANY FORMATIVE MARKS; **(II)** WHICH MAY OTHERWISE BE CONFUSINGLY SIMILAR TO ANY FORMATIVE MARKS; OR **(III)** FOR WHICH SUCH REGISTRATION WOULD NOT BE IN ACCORDANCE WITH THE USAGE STANDARDS (AS DEFINED BELOW). IN THE EVENT THAT LICENSEE: **(A)** HAS PREVIOUSLY RESERVED, FILED OR REGISTERED, OR IN THE FUTURE RESERVES, FILES OR REGISTERS, ANY SUCH FORMATIVE MARK; OR **(B)** HAS PREVIOUSLY REGISTERED, OR IN THE FUTURE REGISTERS, ANY SUCH IDENTIFYING COMMUNICATION INFORMATION, IN EACH CASE IN CONTRAVENTION OF ANY OF THE FOREGOING, LICENSEE AGREES TO NOTIFY DISH IMMEDIATELY, AND SHALL IMMEDIATELY UPON THE REQUEST OF DISH, ASSIGN TO DISH OR ITS DESIGNATED AFFILIATE ANY AND ALL RIGHTS, TITLE, AND INTERESTS THAT ARE OBTAINED OR MAY BE OBTAINED THROUGH THE RESERVATION, FILING, OR REGISTRATION OF ANY SUCH FORMATIVE MARKS (WHETHER IN THE U.S. OR ANY FOREIGN JURISDICTION) OR THE REGISTRATION OF ANY SUCH IDENTIFYING COMMUNICATION INFORMATION, AS APPLICABLE, AND HEREBY ACKNOWLEDGES AND AGREES THAT ANY SUCH RESERVATION, FILING OR REGISTRATION, WHENEVER OCCURRING, SHALL BE ON BEHALF OF AND FOR THE SOLE AND EXCLUSIVE BENEFIT OF DISH, AND LICENSEE WAIVES ANY AND ALL CLAIMS OR RIGHTS TO ANY COMPENSATION WHATSOEVER THEREFOR. LICENSEE'S OBLIGATIONS IN THIS SECTION 6 SHALL SURVIVE THE EXPIRATION OR TERMINATION (FOR ANY REASON OR NO REASON WHATSOEVER) OF THIS AGREEMENT INDEFINITELY.

7. Licensee agrees not to hold itself out as DISH Network, DISH, any DISH Affiliate or any other related or affiliated entity. To avoid any confusion in this respect, unless otherwise expressly agreed to in advance in a writing signed by an Executive Vice President of DISH (or his or her designee), Licensee agrees not to use, register, submit an application for, obtain, acquire or otherwise seek as part of its business name, trade name or otherwise any trademark or service mark that DISH at Any Time in its Sole Discretion deems to be confusingly similar to any of the Trademarks, Formative Marks or any other trademark with respect to which DISH or any of its Affiliates: **(i)** has registered; **(ii)** used in commerce; or **(iii)** is then seeking or otherwise pursuing registration (whether within the Territory or otherwise). In addition to (and without limitation of) any of the foregoing, Licensee agrees not to, and shall ensure that its Affiliates, if any, do not, register, submit an application for, obtain or otherwise use any Identifying Communications Information that DISH at Any Time in its Sole Discretion deems to be confusingly similar to: **(a)** any Identifying Communications Information then being used by DISH or any of its Affiliates; or **(b)** any Identifying Communications Information that DISH advises Licensee that either DISH or any of its Affiliates intends to use. In addition to

CONFIDENTIAL

JA010545
009357

CONFIDENTIAL

(and without limitation of) any of the foregoing, Licensee shall conform any and all use of Listed Trademarks, including without limitation "DISH," to such usage standards as may be set forth by DISH at Any Time in its Sole Discretion in applicable Business Rules, or on any DISH Marketing Site ("Usage Standards"). Licensee further agrees to immediately transfer to DISH or its designated Affiliate(s), upon DISH's request, all right, title and interest in, to and under any trademark, service mark or Identifying Communications Information that Licensee has registered, submitted an application for, obtained, acquired or otherwise sought to register in contravention of any of the provisions of this Agreement, any applicable Business Rules and/or the Usage Standards. Licensee's failure to comply with the provisions of this Section 7 shall constitute a material breach of this Agreement. Upon request, Licensee shall provide DISH with a list of all domain names, trademarks, service marks and/or Identifying Communications Information Licensee uses in connection with its marketing, promotion or solicitation of orders for Programming, Hardware and/or any other services or products offered by DISH and/or any of its Affiliates. Licensee's obligations in this Section 7 shall survive the expiration or termination (for any reason or no reason whatsoever) of this Agreement indefinitely.

8. Nothing in this Agreement shall be construed to bar or restrict in any way DISH and its Affiliates from protecting their right to the exclusive use of the Trademarks (whether in typewritten, stylized or any other form and/or whether or not included in any Identifying Communications Information) against infringement thereof by any party or parties, including without limitation Licensee and its Affiliates, either during the term of this Agreement or following any expiration or termination of Licensee's right to use the Listed Trademarks pursuant to this Agreement for any reason or no reason whatsoever. Licensee will promptly and fully advise DISH of any use of any mark or other use of Identifying Communications Information that may appear to infringe the Trademarks (whether in typewritten, stylized or any other form). Licensee will also fully cooperate with DISH and its Affiliates in the defense and protection of the Trademarks (whether in typewritten, stylized or any other form), at DISH's and/or its Affiliates' expense. Similarly, nothing in this Agreement shall be construed to require that DISH and/or its Affiliates take any action to protect any of the Trademarks in any instance, and DISH and its Affiliates shall not be liable to Licensee in any manner whatsoever for failure to take any such action.

9. This Agreement shall continue for a period of time equal to the term of the Retailer Agreement, unless terminated earlier for any reason provided herein.

(a) The provisions of this Agreement that expressly survive and such other rights and obligations hereunder as would logically be expected to survive expiration or termination of this Agreement shall continue in full force and effect for the period specified or for a reasonable period under the circumstances if no period is specified.

(b) This Agreement may be terminated by a party (the "Affected Party") if the other party (the "Other Party") defaults on any obligation or breaches any representation, warranty or covenant in this Agreement (regardless of whether breach or default of such obligation, representation, warranty or covenant is designated as giving rise to a termination right), and such default or breach, if curable, is not cured within twenty (20) days following receipt of written notice from the Affected Party. The parties agree that all obligations, representations, warranties and covenants contained in this Agreement, whether or not specifically designated as such, are material to the agreement of the parties to enter into and continue this Agreement.

(c) This Agreement shall terminate automatically upon the expiration or termination of the Retailer Agreement for any reason or no reason whatsoever and upon termination of any Other Agreement for any reason or no reason whatsoever, unless DISH notifies Licensee to the contrary in writing.

10. The relationship between the parties, including without limitation all disputes, controversies and claims, whether arising under contract, in tort, under statute or otherwise, shall be governed by and construed in accordance with the laws of the State of Colorado without giving any effect to its conflict of law provisions. Licensee and DISH acknowledge and agree that they and their counsel have reviewed, or have been given a reasonable opportunity to review, this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

11. Any and all disputes, controversies or claims arising out of, or in connection with, the interpretation, performance or nonperformance of this Agreement and any and all disputes, controversies or claims arising out of, or in connection with, transactions in any way related to this Agreement and/or the relationship between the parties for any reason whatsoever (including without limitation the termination of this Agreement or the relationship and Licensee's rights thereunder or disputes under rights granted pursuant to statutes or common law, including without limitation those in the state in which Licensee is located) shall be litigated solely and exclusively before the United States District Court for the District of Colorado. The parties consent to the *in personam* jurisdiction of said court for the purposes of any such litigation, and waive, fully and completely, any right to dismiss and/or transfer any action pursuant to 28 U.S.C.S. 1404 or 1406 (or any successor statute). In the event the United States District Court for the District of Colorado does not have subject matter jurisdiction over any such dispute, controversy or claim, then such dispute, controversy or claim shall be litigated solely and exclusively before the appropriate state court of competent jurisdiction located in the City and County of Denver, Colorado.

CONFIDENTIAL

JA010546
009358

CONFIDENTIAL

12. Licensee agrees that any breach of its obligations under this Agreement will cause substantial and irreparable harm and injury to DISH for which monetary damages alone would be an inadequate remedy, and which damages are difficult to accurately measure. Accordingly, Licensee agrees that DISH shall have the right, in addition to (and without limitation of) any other rights and remedies available to DISH at law, in equity, under contract (including without limitation this Agreement and the Retailer Agreement) or otherwise (all of which are hereby expressly reserved), to obtain immediate injunctive relief (without the necessity of posting or filing a bond or other security) to restrain the threatened or actual violation hereof by Licensee, its Affiliates, employees, independent contractors, subcontractors, agents or sub-agents, as well as other equitable relief allowed by the federal and state courts. The provisions of this Section 12 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

13. This Agreement may be executed by facsimile or electronic acceptance (in the manner specified by DISH) and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Retailer Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CONFIDENTIAL

JA010547
009359

CONFIDENTIAL

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and/or electronically accepted by their duly authorized representatives effective as of the date first written above.

DISH NETWORK L.L.C.

By: _____
Name:
Title:

LICENSEE

Retailer Number: _____

Retailer Company Name: _____
(please print)

Street Address: _____
(please print)

City, State, Zip Code: _____
(please print)

Fax Number: _____
(please print)

By: _____
(signature)

Name (please print): _____

Title (please print): _____

[SIGNATURE PAGE OF TRADEMARK LICENSE AGREEMENT]

CONFIDENTIAL

JA010548
009360

CONFIDENTIAL

EXHIBIT 1
TO TRADEMARK LICENSE AGREEMENT



CONFIDENTIAL

JA010549
009361

Confidential,

SLC_ DNC_ Investigation_0008621
TX 102-009811

FILED

NOV 28 2018

Ann L. Johnson
CLERK OF COURT

1 APEN
2 J. Stephen Peek, Esq. (1758)
3 Robert J. Cassity, Esq. (9779)
4 HOLLAND & HART LLP
5 9555 Hillwood Drive, 2nd Floor
6 Las Vegas, Nevada 89134
7 Tel: (702) 669-4600
8 Fax: (702) 669-4650
9 speak@hollandhart.com
10 bcassity@hollandhart.com

11 C. Barr Flinn (*Admitted pro hac vice*)
12 Emily V. Burton (*Admitted pro hac vice*)
13 YOUNG CONAWAY STARGATT & TAYLOR, LLP
14 Rodney Square, 1000 North King Street
15 Wilmington, DE 19801
16 Tel: (302) 571-6600
17 Fax: (302) 571-1253

18 *Attorneys for Special Litigation Committee of*
19 *Nominal Defendant DISH Network*
20 *Corporation*

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

DISTRICT COURT
CLARK COUNTY, NEVADA

FUS

21 PLUMBERS LOCAL UNION NO. 519 PENSION
22 TRUST FUND and CITY OF STERLING
23 HEIGHTS POLICE AND FIRE RETIREMENT
24 SYSTEM, derivatively on behalf of nominal
25 defendant DISH NETWORK CORPORATION,

Plaintiffs,

v.

26 CHARLES W. ERGEN; JAMES DEFRANCO;
27 CANTEY M. ERGEN; STEVEN R.
28 GOODBARN; DAVID MOSKOWITZ; TOM A.
ORTOLF; CARL E. VOGEL; GEORGE R.
BROKAW; JOSEPH P. CLAYTON; and GARY
S. HOWARD,

Defendants,

DISH NETWORK CORPORATION, a Nevada
corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**VOLUME 22 OF APPENDIX TO
THE REPORT OF THE SPECIAL
LITIGATION COMMITTEE OF
DISH NETWORK CORPORATION**