

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.

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Supreme Court No. 81704

District Court No.
A-17-763397-B

JOINT APPENDIX

Vol. 62 of 85

[JA014237-JA014459]

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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.

EXHIBIT 698

EXHIBIT 698

JA014237
012967

TX 102-013499

DISH NETWORK RETAILER AGREEMENT

This DISH Network Retailer Agreement (the "Agreement") is made and effective as of December 31, 2010 (the "Effective Date"), by and between DISH Network L.L.C., formerly known as EchoStar Satellite L.L.C. ("DISH"), having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112, and SATELLITE SYSTEMS NETWORK, having a place of business at 9831 IRVINE CENTER DR IRVINE, CA 92618 and fax number: (949) 241-8090 ("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 "Any Time" means any time and from time to time.

1.4 "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.

1.5 "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.

1.6 "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 and for whom Eligible Bulk Programming has been activated by DISH and which customer account remains active and in good standing.

1.7 "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.

1.8 "Chargeback" means DISH's right to reclaim Incentives pursuant to the terms and conditions of this Agreement, any Promotional Program or applicable Business Rules.

1.9 "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.

1.10 "Commercial Location" means a Public Commercial Location and/or a Private Commercial Location, as those terms are defined below in Sections 1.33 and 1.29, respectively.

1.11 "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.

1.12 "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 and for whom Eligible Commercial Programming has been activated by DISH and which customer account remains active and in good standing.

1.13 "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: (a) satellite transponders owned, leased and/or otherwise operated or utilized by DISH and/or any of its Affiliates; and/or (b) via the Internet), which is: (i) sold directly to Retailer by DISH or a DISH Affiliate under the "DISH Network" brand name or the brand name of a DISH Affiliate; or (ii) sold directly to Retailer by a Third Party Manufacturer pursuant to authorization granted by DISH under the brand name of such Third Party Manufacturer.

1.14 "DISH Network Subscriber" shall have the meaning set forth in Section 9.5.

1.15 "EFT" means the electronic transfer of funds from one financial institution to another.

1.16 "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.

1.17 "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.

1.18 "Eligible Residential MDU Programming" means the Residential MDU Programming packages designated by DISH 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.

1.19 "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.

1.20 "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.

1.21 "Incentives" mean Monthly Incentives together with any Additional Incentives, as such terms are defined in Sections 1.25 and 1.1, respectively.

1.22 "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.

1.23 "Laws" shall have the meaning set forth in Section 9.1.

1.24 "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.

1.25 "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.

1.26 "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.

1.27 "Permitted Subcontractors" shall have the meaning set forth in Section 7.1.

1.28 "Prepaid Card" means a card, serialized certificate, approval code sequence and/or other identifier issued in connection with a Promotional Program offered by DISH which is sold directly to Retailer by DISH or an Affiliate of DISH for resale by Retailer directly to a consumer and which, among other things, provides such consumer with certain rights to receive Programming for a fixed duration or in a certain amount.

1.29 "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.

1.30 "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.

1.31 "Promotional Certificate" means a serialized certificate issued in connection with a Promotional Program offered by DISH which is sold directly to Retailer by DISH or an Affiliate of DISH for resale by Retailer directly to a consumer which, among other things, entitles such consumer to a DISH System (or the use of such system, if the applicable Promotional Program involves leasing equipment to consumers) and may include installation of such DISH System.

1.32 "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.

1.33 "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.

1.34 "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.

1.35 "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.

1.36 "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.

1.37 "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.

1.38 "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.

1.39 "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.

1.40 "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.

1.41 "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 and/or any restrictions applicable to such Residential MDU Programming at Any Time in its Sole Discretion.

1.42 "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 and for whom Eligible Residential MDU Programming has been activated by DISH and which customer account remains active and in good standing.

1.43 "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.

1.44 "Residential Subscriber Account" means the customer account set up and maintained by DISH for a Qualifying Residential Subscriber who purchased a DISH System, Promotional Certificate or Prepaid Card directly from Retailer and for whom Eligible Residential Programming has been activated by DISH and which customer account remains active and in good standing.

1.45 "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.

1.46 "Sole Discretion" means a person's or entity's sole and absolute discretion for any reason or no reason.

1.47 "Subscriber Accounts" means Residential Subscriber Accounts, Residential MDU Subscriber Accounts, Commercial Subscriber Accounts and Bulk Subscriber Accounts, as such terms are defined in Sections 1.44, 1.42, 1.12 and 1.6, respectively.

1.48 "Term" shall have the meaning set forth in Section 10.1 below.

1.49 "Territory" shall have the meaning set forth in Section 2.2 below.

1.50 "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.

1.51 "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, this Agreement, shall be limited solely to the area within the geographic boundaries of the United States and its territories and possessions (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, promotional certificates and prepaid cards, 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, other equipment, Promotional Certificates and/or Prepaid Cards 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, other equipment, promotional certificates (including without limitation Promotional Certificates), or prepaid cards (including without limitation Prepaid Cards) 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, Promotional Certificate or Prepaid Card 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 or Prepaid Card 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 or Prepaid Card, 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, Promotional Certificate or Prepaid Card 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 Prepaid Card or the 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, Promotional Certificate or Prepaid Card to a person or entity who has, or allows others to have, Programming authorized for a DISH System under a single DISH Network account or Prepaid Card 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 or Prepaid Card, 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 or Prepaid Card, then Retailer agrees to pay to DISH upon demand, the difference between the amount actually received by DISH for the Prepaid Card or 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 Prepaid Cards in each case had each DISH System authorized under the single account or Prepaid Card been authorized under a separate account or Prepaid Card, as applicable. 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, Promotional Certificate or Prepaid Card 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, Promotional Certificate or Prepaid Card 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, Promotional Certificates and Prepaid Cards 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: (I) 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 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 SECTION 2.10.1(I), 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 90 DAYS) AFTER 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. HOWEVER, NOTWITHSTANDING ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, NOTHING CONTAINED IN THIS AGREEMENT WILL WAIVE ANY RIGHT RETAILER MAY HAVE IN THE CLAIMS BROUGHT IN THE FOLLOWING CLASS ACTION LAWSUITS IN THE EVENT THE FOLLOWING LAWSUITS ARE CERTIFIED: CASE NO. 00-CV-1989, STYLED JOHN DEJONG, D/B/A "NEXWAVE," AND JOE KELLY, D/B/A "KEL-TRONICS," AND JAGUAR TECHNOLOGIES, INC. V. ECHOSTAR SATELLITE

CORPORATION, UNITED STATES DISTRICT COURT, DISTRICT OF COLORADO; AND/OR CASE NO. 00-CV-3130, STYLED *AIR COMMUNICATION & SATELLITE, INC. ET AL. V. ECHOSTAR SATELLITE CORPORATION*, DISTRICT COURT, ARAPAHOE COUNTY, COLORADO. 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.

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 below; (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 AND EVERY PART 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, 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 or Promotional Certificate that during the Term of this Agreement: (i) is sold to Retailer directly by DISH or any of its Affiliates (in the case of DISH Systems and Promotional Certificates), or a Third Party Manufacturer (solely with respect to DISH Systems); (ii) is re-sold by Retailer directly 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 1.7 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.

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 or any of its Affiliates, or a Third Party Manufacturer; (ii) is re-sold by Retailer directly 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 1.7 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.

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 or any of its Affiliates, or a Third Party Manufacturer; (ii) is re-sold by Retailer directly 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 1.7 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.

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 or any of its Affiliates, or a Third Party Manufacturer; (ii) is re-sold by Retailer directly 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 1.7 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.

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 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 1.7 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 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 1.7 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 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 1.7 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 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, 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 1.7 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 AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (V) BELOW, ADDITIONAL RESIDENTIAL

INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS OR PROMOTIONAL CERTIFICATES THAT: (A) ARE SOLD TO RETAILER BY DISH OR AN AFFILIATE OF DISH (IN THE CASE OF DISH SYSTEMS AND PROMOTIONAL CERTIFICATES) OR A THIRD PARTY MANUFACTURER (AS DEFINED IN SECTION 1.50) (SOLELY WITH RESPECT TO DISH SYSTEMS); (B) ARE RE-SOLD BY RETAILER DIRECTLY 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, SOLELY WITH RESPECT TO PROMOTIONAL PROGRAMS INVOLVING THE LEASING OF EQUIPMENT BY DISH, ADDITIONAL RESIDENTIAL INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS (A) THAT ARE SOLD TO RETAILER BY DISH, AN AFFILIATE OF DISH, OR A THIRD PARTY MANUFACTURER (AS DEFINED IN SECTION 1.50); (B) FOR WHICH TITLE IS AUTOMATICALLY TRANSFERRED DIRECTLY FROM RETAILER TO DISH PURSUANT TO THE BUSINESS RULES APPLICABLE TO SUCH PROMOTIONAL PROGRAM; (C) THAT ARE LEASED BY DISH DIRECTLY TO A QUALIFYING RESIDENTIAL SUBSCRIBER; AND (D) THAT RESULT IN THE ACTIVATION OF ELIGIBLE RESIDENTIAL PROGRAMMING FOR A NEW RESIDENTIAL SUBSCRIBER ACCOUNT;

(VI) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (VII) BELOW, ADDITIONAL RESIDENTIAL MDU INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS THAT: (A) ARE SOLD TO RETAILER BY DISH OR ANY OF ITS AFFILIATES OR A THIRD PARTY MANUFACTURER (AS DEFINED IN SECTION 1.50); (B) ARE RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING RESIDENTIAL MDU SUBSCRIBER; AND (C) RESULT IN THE ACTIVATION OF ELIGIBLE RESIDENTIAL MDU PROGRAMMING FOR A NEW RESIDENTIAL MDU SUBSCRIBER ACCOUNT;

(VII) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, SOLELY WITH RESPECT TO PROMOTIONAL PROGRAMS INVOLVING THE LEASING OF EQUIPMENT BY DISH, ADDITIONAL RESIDENTIAL MDU INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO DISH SYSTEMS (A) THAT ARE SOLD TO RETAILER BY DISH, AN AFFILIATE OF DISH, OR A THIRD PARTY MANUFACTURER (AS DEFINED IN SECTION 1.50); (B) FOR WHICH TITLE IS AUTOMATICALLY TRANSFERRED DIRECTLY FROM RETAILER TO DISH PURSUANT TO THE BUSINESS RULES APPLICABLE TO SUCH PROMOTIONAL PROGRAM; (C) THAT ARE LEASED BY DISH DIRECTLY TO A QUALIFYING RESIDENTIAL MDU SUBSCRIBER; AND (D) THAT RESULT IN THE ACTIVATION OF ELIGIBLE RESIDENTIAL MDU PROGRAMMING FOR A NEW RESIDENTIAL MDU SUBSCRIBER ACCOUNT;

(VIII) 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 OR ANY OF ITS AFFILIATES OR A THIRD PARTY MANUFACTURER (AS DEFINED IN SECTION 1.50); (B) ARE RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING COMMERCIAL SUBSCRIBER; AND (C) RESULT IN THE ACTIVATION OF ELIGIBLE COMMERCIAL PROGRAMMING FOR A NEW COMMERCIAL SUBSCRIBER ACCOUNT;

(IX) 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 OR ANY OF ITS AFFILIATES OR A THIRD PARTY MANUFACTURER (AS DEFINED IN SECTION 1.50); (B) ARE RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING BULK SUBSCRIBER; AND (C) RESULT IN THE ACTIVATION OF ELIGIBLE BULK PROGRAMMING FOR A NEW BULK SUBSCRIBER ACCOUNT; AND

(X) 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 PREPAID CARDS AND/OR 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 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.

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. 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 THIS SECTION 6.3 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 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.

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: (i) 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: (a) DISH or an Affiliate of DISH, or (b) a Third Party Manufacturer; or (ii) the DISH System is delivered pursuant to a Promotional Certificate that is confirmed by DISH as having been purchased by Retailer directly from DISH or an Affiliate of DISH. 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: (1) serial numbers for DISH Systems sold by the Third Party Manufacturer to Retailer; and (2) 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. 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 after 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 this Section 6.10 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, shall be deemed to operate as DISH's acceptance, waiver or admission that 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 AFTER 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 AFTER 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, 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, Promotional Certificates and Prepaid Cards, 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 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 or Prepaid Card 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 or Prepaid Card, 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, Promotional Certificates, Prepaid Cards 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, Promotional Certificates, Prepaid Cards 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, Promotional Certificates, Prepaid Cards 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 (whether in connection with a Prepaid Card or otherwise); (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, Promotional Certificates, Prepaid Cards, 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 this Section 9 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, 2012 (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 OR 10.5 BELOW.

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, Promotional Certificates, Prepaid Cards 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, Promotional Certificate or Prepaid Card 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 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 or Prepaid Card 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 or Prepaid Card, 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 or Prepaid Card 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 or Prepaid Card, 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, Promotional Certificate or Prepaid Card 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 or 14; (xvii) Retailer indefinitely ceases to actively market and promote DISH Systems, Promotional Certificates, Prepaid Cards 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 of this Agreement (or such other address(es) as may be designated in accordance with Section 17.10.2 of this Agreement), 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, 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 of this Agreement (or such other address(es) as may be designated in accordance with Section 17.10.2 of this Agreement). 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.

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, Promotional Certificates or Prepaid Cards; (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, Promotional Certificates, Prepaid Cards 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, Promotional Certificate or Prepaid Card to any 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 (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 or Prepaid Card 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 or Prepaid Card 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 or Prepaid Card, 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 of this Agreement (or such other address(es) as may be designated in accordance with Section 17.10.2 of this Agreement). 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 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 RENDER, 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 AFTER 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 AND FROM TIME TO 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 executiveresolution@dishnetwork.com (OR SUCH OTHER E-MAIL ADDRESS(ES) AS DISH MAY DIRECT FROM TIME TO TIME 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 AFTER 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 RENDER, 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 or exempted under Section 15.4, 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 (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 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, 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 or 14 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

this Section 15, 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, 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 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 or exempted under Section 15.4 that directly arises from or in connection with the automatic termination of this Agreement under Section 10.4, 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 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 this Section 15, 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 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; provided, however, that nothing contained herein (excluding the provisions of Section 2.10, 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 or 14 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 from the final day of the Mediation, or one hundred fifty (150) days from 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 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 arbitrators who shall be selected as follows: (i) one arbitrator shall be selected by the claimant(s) within thirty (30) days after sending the Notice of Arbitration ("Claimant's Designated Arbitrator"); (ii) one 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 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 this Section 15.3: (a) such party shall be deemed to have waived its right to a three-member arbitration panel and shall be required to participate in the arbitral proceedings with the one arbitrator selected by the other party without any objection, and (b) the one 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 (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. 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 this Section 15, each party is relying upon the provisions of this Section 15.3 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 this Section 15 ("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 this Section 15.3, and without the necessity of posting or filing a bond or other security to restrain the threatened or actual violation of this Section 15.3 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 of this Agreement (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 this Section 15.3 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, 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 or 14 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 or the penultimate sentence of Section 15.3.4, 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 this Section 15 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, or at the Retailer's business address reported to the state of incorporation, if applicable. For purposes of this Section 15, 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 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 this Section 15 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 this Section 16 (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 this Section 16. No deductible amount on any insurance policy required by this Section 16 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 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 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 hereof; 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 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 of this Agreement. 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, 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:

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. 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 Sections 10, 13 or 15, 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 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 this Section 17.10 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, 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@dishnetwork.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 NO FORCE OR EFFECT; AND (II) IN THE EVENT THAT RETAILER EXECUTES THIS AGREEMENT AFTER DISH HAS RECEIVED ONE 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]

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: 821970

Retailer Company Name: SATELLITE SYSTEMS NETWORK
(please print)

Street Address: 9831 IRVINE CENTER DR
(please print)

City, State, Zip Code: IRVINE, CA 92618
(please print)

Fax Number: (949) 241-8090
(for notice to Retailer pursuant to Section 17.10.2)
(please print)

By: _____
(signature)
Name (please print): ALEX TEHRANCHI
Title (please print): PRESIDENT

[SIGNATURE PAGE OF DISH NETWORK RETAILER AGREEMENT]

EXHIBIT A

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement (the "Agreement") is made and effective as of the December 31, 2010, by and between DISH Network L.L.C., formerly known as EchoStar Satellite L.L.C. ("DISH"), having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112, and SATELLITE SYSTEMS NETWORK, having a place of business at 9831 IRVINE CENTER DR IRVINE, CA 92618 ("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 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.

(c) For the purposes of this Agreement:

(i) "Identifying Communication Information" shall mean any trade name, assumed name, domain name, 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 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. 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 (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. (a) 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. 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.

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]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and/or electronically accepted by their duly authorized representatives as of the date first written above.

DISH NETWORK L.L.C.

By: _____
Name:
Title:

LICENSEE

Retailer Number: 821970

Retailer Company Name: **SATELLITE SYSTEMS NETWORK**
(please print)

Street Address: 9831 IRVINE CENTER DR
(please print)

City, State, Zip Code: IRVINE, CA 92618
(please print)

Fax Number: (949) 241-8090
(please print)

By: _____
(signature)

Name (please print): ALEX TEHRANCHI

Title (please print): PRESIDENT

[SIGNATURE PAGE OF TRADEMARK LICENSE AGREEMENT]

EXHIBIT 1 TO TRADEMARK LICENSE AGREEMENT



EXHIBIT 699

EXHIBIT 699

JA014277
013007

TX 102-013539

Indirect Sales

June 6th 2011



KRAKAUER v. DISH

**Plaintiff's Exhibit
PX0089**

PX0089-001

Confidential

DISH-142780747
JAN-14278013008

TX 102-013540

Overview of Responsibilities

- **Subscriber Acquisition**

- TVRO (Full Service Retailer, Sales/Installation/Service)
- OE (National Sales Partner, Sales)
- Telco (Sales and Customer Service)
- National Accounts (Sales)
- Other:
 - RV/Mobile
 - Liberty Bell (Dish Phone and Internet)
 - IPTV
 - AK/HI/PR
 - Events and Mall Kiosks
 - D2D Selling

- **Product Pack out and Distribution**

- All pack out and distribution of both new and remanufactured products

- **Sales Channel Training**

- Responsible for the development and deployment of both internal and external channel specific training

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More Subs**

**Better Control
Our Costs**

**Enhance Our Customer
Experience**

**Improve Our
Winning Team**

2

PX0089-002

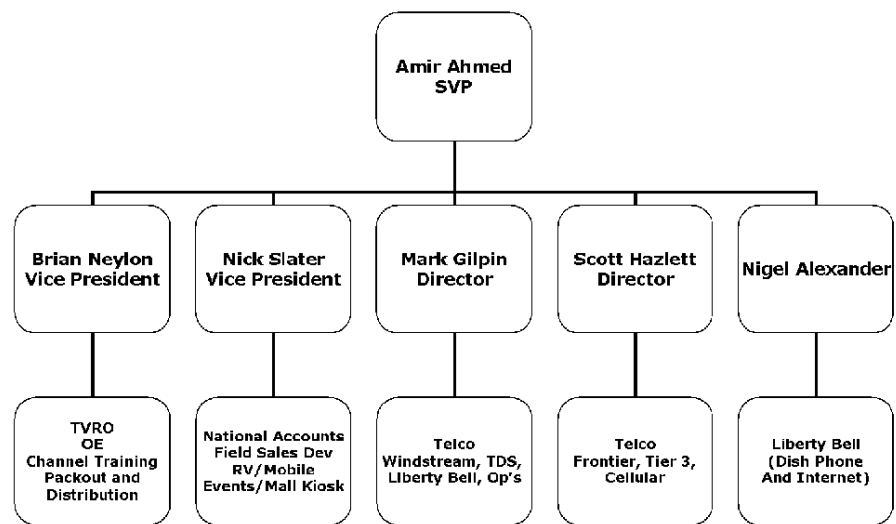
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DISH5-0000090748
Docket 81704 Document 2021-09198
PX 102-013541

High Level Organizational View



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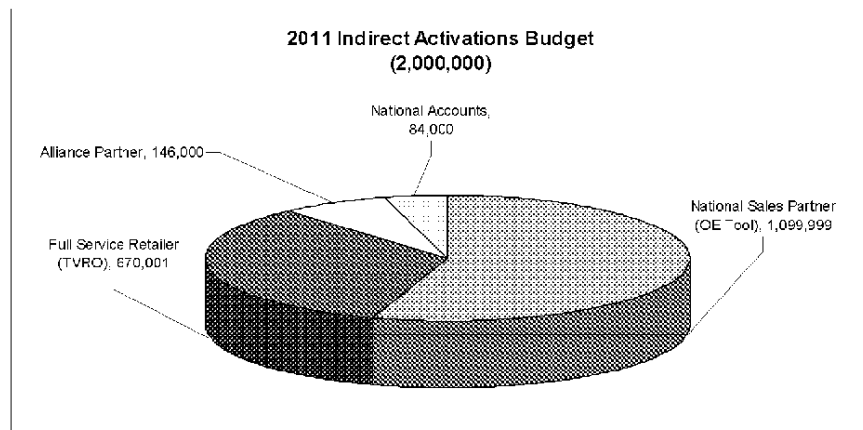
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3

2011 Indirect Activations Budget



2011 Budgeted Activations by Sales Channel												
Budgeted Activations	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
National Sales Partner (OE Tool)	97,765	93,774	87,378	83,695	87,563	83,330	95,727	175,423	100,586	93,820	67,763	95,694
Full Service Retailer (TVRO)	56,176	51,305	55,772	51,305	53,706	58,747	59,118	63,059	51,093	57,147	57,767	53,706
Alliance Partner	10,650	11,650	11,650	11,800	11,100	11,310	11,310	12,300	13,800	13,310	14,300	14,850
National Accounts	3,333	4,587	6,468	8,147	6,333	7,685	8,257	8,333	6,854	8,163	11,367	8,333
Grand Total	162,934	160,246	166,169	160,946	168,005	170,932	178,000	197,672	182,278	170,042	162,198	162,680

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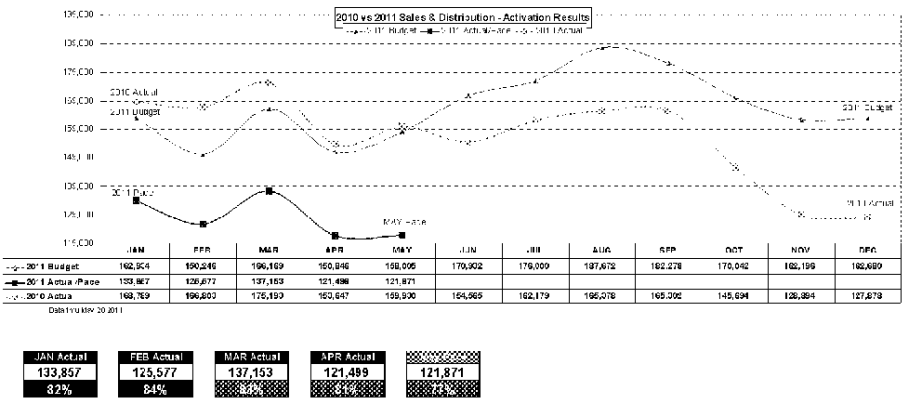
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4

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DISH5-0000090750
TX 102-013543

Indirect Sales 2010 VS 2011 Performance



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2011 Budget/Actual by Channel

2011 Budgeted Activations by Sales Channel													
Budgeted Activations	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
National Sales Partner (OE Tool)	92,205	93,774	92,070	93,665	97,363	93,030	95,727	105,423	100,506	93,992	94,702	95,684	1,099,959
Full Service Retailer (TV RO)	56,176	51,235	56,176	51,235	53,206	58,147	59,119	63,059	61,088	57,147	57,207	52,208	670,001
Alliance Partner	10,860	10,650	10,650	10,800	11,100	11,300	11,900	12,300	13,800	13,800	14,800	14,800	146,000
National Accounts	3,823	4,587	6,485	5,146	6,336	7,855	9,254	6,890	6,804	5,103	17,907	9,930	84,000
Grand Total	162,934	150,246	165,169	150,846	158,005	170,932	175,000	187,672	182,278	170,842	162,196	162,610	2,008,000

Actual Acts by Channel													
Actual Acts by Channel	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
National Sales Partner (OE Tool)	79,422	75,681	79,517	70,092	69,847								374,559
Full Service Retailer (TVRO)	43,209	38,277	44,633	40,067	41,304								207,690
Alliance Partner	10,009	9,981	11,710	10,131	9,522								51,353
National Accounts	1,217	1,436	1,233	1,209	1,198								6,355
Grand Total	133,857	125,377	137,153	121,499	121,671								639,957

Percentage Performance to 2011 Activations Budget													
% of Budgeted Acts	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
National Sales Partner (OE Tool)	85%	91%	85%	84%	80%								85%
Full Service Retailer (TVRO)	77%	75%	80%	78%	79%								77%
Alliance Partner	94%	94%	110%	94%	86%								95%
National Accounts	32%	31%	20%	23%	19%								24%
Grand Total	82%	84%	83%	81%	77%								81%

Date thru May 20 2011

Performance thru May 20 2011	
OE Tool	-65,406
TVRO	-60,338
Alliance Partner	-2,497
National Accounts	-20,002
Grand Total	-148,243

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National Sales Partner (OE Tool)

- **OE** (National Sales Partner, Sales)
 - Personnel:
 - Managed by 1 Director
 - ~35% of Company Subscriber Acquisition
 - ~45 active NSP's
 - Top 3 NSP's account for 52% of channel
 - Top 10 NSP's account for 83% of channel

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Full Service Retailer (TVRO)

- **TVRO** (Full Service Retailer, Sales/Installation/Service)

- Personnel:
 - Managed by 4 Directors
- ~20% of Company Subscriber Acquisition
- ~3,500 Retailers

	<u># of Retailers</u>	<u>Subs (Avg/mt)</u>
■ Pinnacle Retailers	468	17,246
■ Summit Retailers	961	7,053
■ 14+ Subs Retailers	195	11,671
■ 4 – 14 Subs Retailers	438	2,982

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8

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8

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DISH5-0000090754
TX 102-013547

Sales Channel Dashboard

May 29 2011 Performance Report	25-31		24-30 (9/10/2010)		23		9/27-30/10/10		31	
YTD (Jan-April)	166,377		304,696		5,156		41,627		317,230	
Month										
Activations	40,047	41,284	70,092	68,457	1,208	1,157	10,131	9,395	72,329	71,456
% to Budget	78%	78%	84%	78%	23%	13%	84%	84%	86%	82%
Plan	51.2%	51.6%	52.0%	51.8%	9.5%	8.3%	1.3%	1.3%	56.6%	56.4%
Latino	32.0%	33.4%	2.4%	5.3%	5.5%	5.6%	0.5%	0.9%	17.3%	17.2%
Disb America	4.6%	5.3%	12.7%	16.6%	5.8%	16.6%	13.3%	11.6%	6.1%	6.0%
Disb America Bldg	0.4%	0.4%	0.0%	0.0%	0.2%	0.6%	0.0%	0.0%	0.0%	0.0%
Disb America Bldg	0.0%	0.6%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.1%	0.1%
AT 120	23.8%	24.8%	30.2%	29.1%	54.3%	58.8%	24.8%	26.6%	28.0%	28.4%
AT 250	22.4%	22.7%	39.0%	38.9%	28.2%	24.8%	32.7%	24.0%	28.2%	28.4%
AT 250	12.5%	13.0%	19.1%	3.8%	14.0%	11.2%	38.4%	34.0%	14.9%	13.9%
ASP	2.1%	2.1%	1.9%	1.9%	0.9%	1.6%	1.3%	2.2%	3.3%	3.5%
HD (all)	54%	55%	69%	70%	70%	70%	73%	74%	83%	82%
HD Platinum	24.1%	15.9%	58.1%	41.6%	39.0%	26.7%	22.6%	18.9%	61.3%	36.2%
DVR	46.9%	48.0%	81.4%	51.0%	65.1%	59.7%	47.4%	47.4%	65.0%	65.6%
Auto Fee	51.9%	51.8%	50.8%	54.8%	69.7%	66.9%			71.7%	71.3%
Percent of Total										
Normal	50.6%	50.9%	51.6%	49.7%	6.5%	7.4%				
Low Rate	67.8%	68.0%	50.6%	55.6%	69.2%	71.1%			66.1%	56.4%
High Rate	32.2%	32.0%	44.4%	44.6%	29.6%	28.9%			40.9%	44.6%
Country - All	12.7%		34.0%		37.9%				33.2%	
Retailer Cat	8.7%		18.6%		26.0%				21.7%	
Small %	35.2%	35.3%	71.7%	59.9%	73.5%	73.0%			75.9%	76.1%
Online TVMO Information										
NAM - TVMO	# of Rows	188	Acts. Pace	16,768	Retailer Events	A - YTD	552	Acts. YTD	1,962	
Tier A Retailers	# of Rows	1,296	Acts. Pace	18,891	Retailer Mall Kiosk	# of Rows	26	Acts. YTD	1,987	
Tier B Retailers	# of Rows	5,121	Acts. Pace	7,626						

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Channel Training

- **Channel Training**
 - Responsible for the development and deployment of both internal and external channel specific training (TVRO, OE, National Accounts, Telco)
 - Content Creation and Deployment
 - Creation of training collateral and web based training
 - Delivery
 - Management of DISH Portal and DISH U
 - Instructor Lead Training
 - Facilitator and Participant guides
 - Train the Trainer sessions
 - Training certification (for Trainers)
 - Video production
 - Live broadcasts
 - Ad hoc video assets, training videos
 - Management of Retailer News Channel
 - Operations and event management
 - Budgeting, analytics, event management/planning

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Product Pack Out and Distribution

- **PRODUCT PACKOUT**

- Responsible for the pack out of all Dish Network products that arrive from either an OEM (New), Service (Reman) or CRM (reman)
 - Facilities
 - 2 Pack out facilities
 - Atlanta GA (Leased)
 - Denver CO (Leased)

- **PRODUCT DISTRIBUTION**

- Responsible for the processing and shipment of all hardware to both internal (DNS) and external (RSP's, Sub Contractors, Retailers, Channel Distributors) clients
 - Facilities
 - 3 Distribution Facilities
 - Atlanta GA (Leased)
 - Denver CO (Leased)
 - Sacramento CA (Owned)

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11

Brian Neylon
Full Service Retailer
National Sales Partner
Pack Out and Distribution
Channel Training

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12

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12

DISH5-0000090758
TX 102-013551

Neylon - Organization Overview

- **Subscriber Acquisition**
 - TVRO (Full Service Retailer, Sales/Installation/Service)
 - Support current and source new opportunities
 - Support Distributor Partners
 - AK/HI/PR (Existing and New)
 - Events and Mall Kiosks
 - D2D Selling
 - OE (National Sales Partner, Sales)
 - Support current and source new *incremental* opportunities
 - Ensure quality is enforced and not sacrificed for volume
- **Product Pack out and Distribution**
 - All pack out and distribution of both new and remanufactured products to both internal and external clients
- **Sales Channel Training**
 - Responsible for the development and deployment of both internal and external channel specific training

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TVRO and OE Performance V's DIRECTV

DIRECTV	2010/Sum	2011/Jan	2011/Feb	2011/Mar	2011/Apr	2011/May	2011/Sum
NSP TOTAL (DTV's OE)	418,961	34,757	37,311	38,527	33,855	29,327	173,477
LSP TOTAL (TVRO)	458,544	35,590	33,160	38,808	35,723	36,697	179,978
TOTAL DEALER CHANNEL	877,505	70,347	70,171	77,335	69,578	66,024	353,455
DISH NETWORK	2010/Sum	2011/Jan	2011/Feb	2011/Mar	2011/Apr	2011/May	2011/Sum
OE Tool	1,052,845	79,422	75,965	79,317	70,092	63,457	373,152
TVRO	630,461	43,209	38,268	44,833	40,067	41,010	207,388
TOTAL DEALER CHANNEL	1,683,306	122,631	114,133	124,150	110,159	109,467	580,540

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TX 102-013553

Sales Team Responsibilities & Headcount

▪ Total Headcount: 145

Insides Sales

- 1 – **National Sales Manager (NSM)** The NSM is responsible for directing all national and regional activities that are initiated in an effort to achieve all Echosphere execution priorities.
- 3 – **Inside Sales Manager (ISM)** Responsible for high level management of the Inside Sales Account Managers with responsibilities that include outbound call coaching, product training, employee training, employee recruiting and problem resolution.
- 4 – **Sales Coordinators** – Sales Operations including Retailer On-boarding, Inside Sales Reporting
- 35 – **Inside Sales Account Manager (ISAM)** -Responsible for inbound calls from Retailers placing Echosphere equipment orders. Also, outbound calls to ensure that retailers understand Dish Network products, promotions, policies and procedures.

Specialized Distribution

- 1 – **Director** Manages the Relationship with the 6 Distributors used by Dish Network for the distribution of hardware. Support all aspects of Distributors business including , Sales, Marketing, Risk Management and inventory.
- 1 – **National Sales Manager (NSM)** provides Sales support to Distributors
- 2 – **National Account Managers (NAM)** 1 focused on the largest Latino retailers and 1 focused on Puerto Rico
- 1 – **Business Analyst** provides operational support to Distributors

- Vice President 1
- PM (Sales Operations) 1
- Administrative Assistant 1

Sales

- Directors 5
- Regional Sales Managers 5
- National Account Managers 16
- Latino Area Sales Managers 5
- Area Sales Managers 46
- National Sales Manager 2
- Inside Sales Managers 3
- Sales Coordinators 4
- Business Analyst 2
- Inside Sales Account Manager 35

Channel Training (19)

- General Manager 1
- Training Manager 3
- Instructional Designer 4
- Training Specialist 1
- Program Manager 4
- Associate Program Manager 2
- Operations Analyst 1
- Marketing Specialist 2
- Graphic Designers 1

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Team Responsibilities & Headcount continued

Outside Sales

Territory Sales Team

- 3 – Directors is the primary strategy and vision leader at the regional level. The Director provides high level coaching and direction for all members of the Outside Sales team. Accountable for regional acquisition strategy and provides a high level of Retailer satisfaction.
- 5 – Regional Sales Managers is a supervisory level manager who directs a team of Account Managers.
- 7 – National Account Managers (NAM) NAM's are more account relationship focused and maintain more frequent contact with a small number of larger retailers which produce more than 900 GSA yearly.
- 5 – Latino Area Sales Managers Each Latino AM is assigned to a Regional Sales Manager and focuses on the Latino retailers in their assigned territory.
- 46 – Area Sales Managers Account Managers are responsible for all retailers in an assigned territory. Each Account Managers is also assigned 25-30 focus retailers called "Tier A" retailers that are to be visited 1-2 times per month and received an extra level of support.

National Sales Partner Team (OE Tool Retailers)

- 1 – Director is the primary strategy and vision leader at the regional level. The Director provides high level coaching and direction for all members of the Outside Sales team. Accountable for regional acquisition strategy and provides a high level of Retailer satisfaction.
- 7 – National Account Managers Are responsible for approximately 8 assign retailers called "National Sales Partners". These are the Largest retailers selling nationally and receive the highest level of support.

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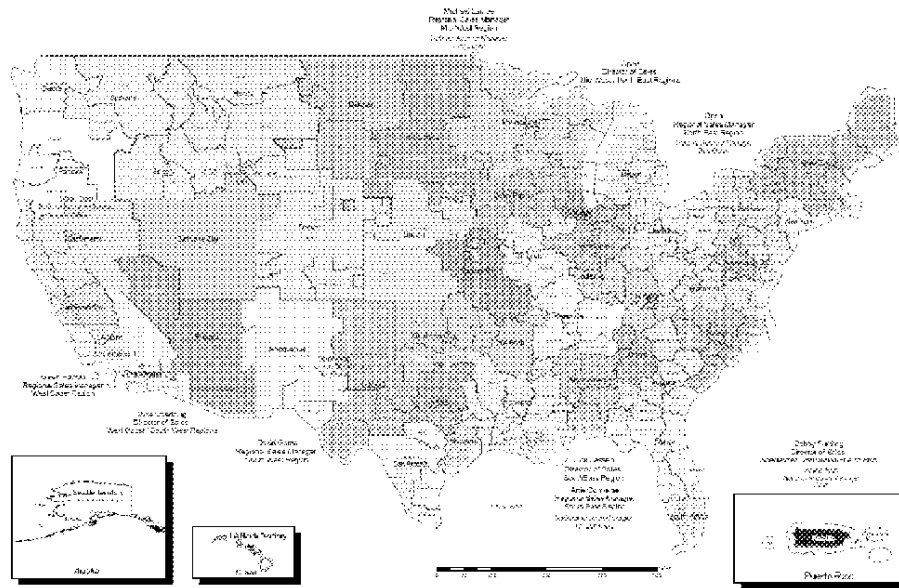
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16

Territory Map



17

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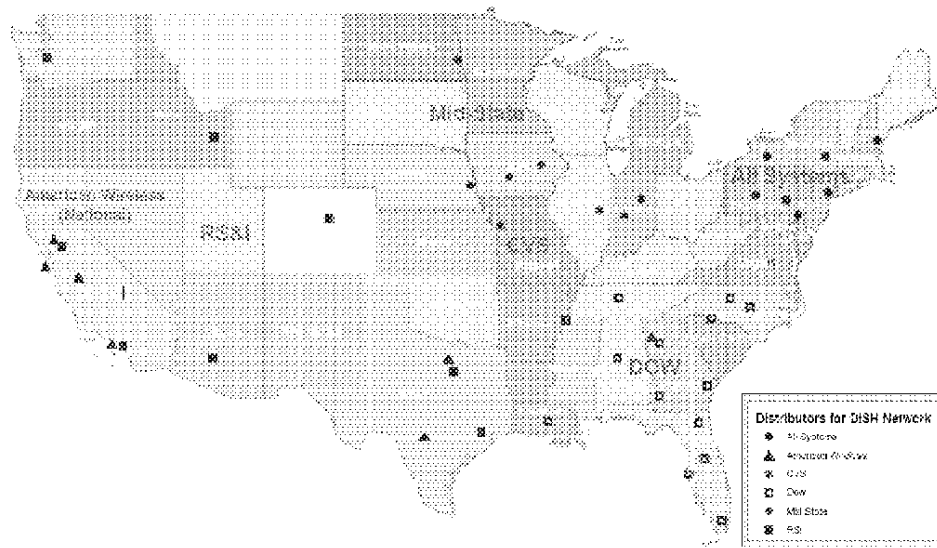
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Distributor Map



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TX 102-013557

Team Responsibilities & Headcount continued

Channel Training

The Sales Channel Training team serves the external Indirect Sales Channels (TVRO, National Sales Partners, Telco Partners and National Accounts) and the internal teams that support them.

They provide the Training resources and support tools that help the Indirect Sales organization achieve their goals and the goals of DISH Network. The Sales Channel Training team does this by utilizing Instructor Lead Training (ILT), Web Based Training (WBT), document creation, video assets and Training events to provide the widest possible scope and diversity to ensure that all necessary information is available and in a format that the audience can utilize.

Sales Channel Team

- 1 – General Manager
- 3 – Training Managers
- 4 – Instructional Designer
- 1 – Training Specialist
- 4 – Program Manager
- 2 – Associate Program Manager
- 1 – Operations Analyst
- 2 – Marketing Specialist
- 1 – Graphic Designers

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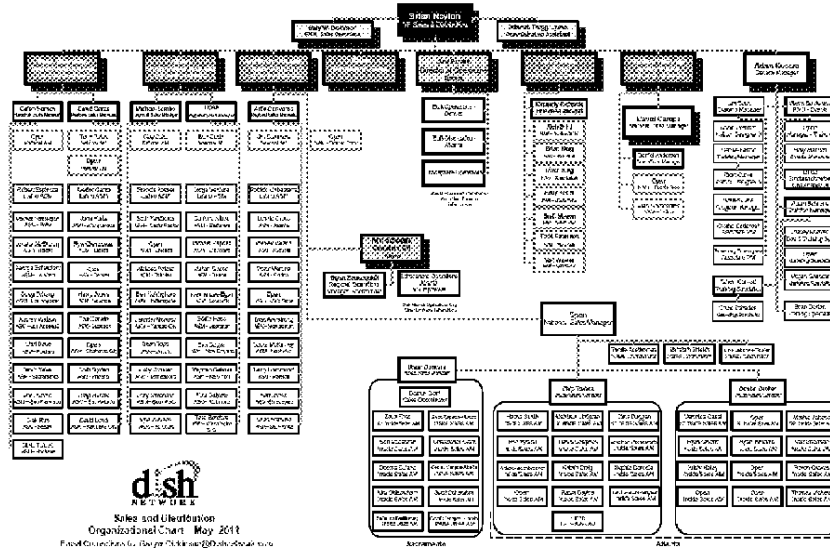
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19

Neylon - Sales and Distribution Org Chart



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Packout Team Responsibilities & Headcount

Total Headcount: 263

Echosphere Operations

- Receiving & inventorying bulk equipment
- Quality control from incoming to finished product
- Packout of bulk components into finished product
- Distribution and inventorying of finished product, and
- Call Center (consumer) & Marketing order fulfillment
- Consumer direct service returns

3 Locations

- Denver, CO - 39th Street
- Atlanta, GA - Suwanee
- Sacramento, CA



By Title:

• Admin. Asst	7
• Corp. Warehouse Manager	3
• Director	1
• Facilities Manager	2
• General Manager	1
• Inventory Specialist	3
• Janitorial	8
• Load Tech	2
• Maintenance Tech	10
• Materials Handler	183
• Office Manager	1
• Ops Analyst	4
• Ops Analyst Manager	1
• Regional Operations Manager	2
• Safety Specialist	1
• Senior Inventory	3
• Special Events Coord.	2
• Supervisor	17
• Truck Driver	2
• Warehouse Manager	9

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21

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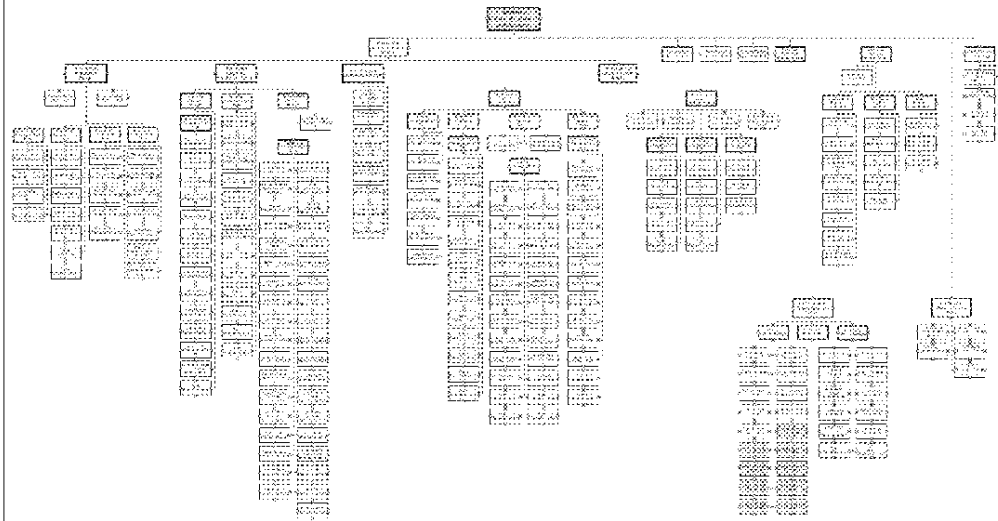
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Neylon – Packout Org Chart



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22

Nick Slater
National Accounts
Field Sales Development
RV/Mobile
Events/Kiosks

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23

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TX 102-013562

Slater - Organization Overview

Developmental Focus Areas

- Indirect Sales New Business Development
 - Channel development for New Product Launches & Business Units
 - RV sales & distribution (Tailgater & Pace/Winegard)
 - International IPTV Product sales & distribution
 - Creation of new sales channels for existing Indirect retailers
 - Mall Kiosks
 - Event Management
- Core Business Management
 - OE & Alliance partner training and ongoing development
 - TVRO retailer development (underperforming opportunity retailers)
 - National Retail accounts

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24

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DISH5-0000090770
TX 102-013563

Team Responsibilities & Headcount

- **Total Headcount: 162**
 - **133 – Territory (Field) Sales Team** Training and merchandising for National Retailers. Local retailer development and oversight of strategic initiatives: RV Market, International IPTV.
 - **34 – Strategic Sales Team** Ongoing training and support for OE and Alliance partner call centers.
 - **7 – Business Development Managers** Manage new sales development initiatives in the TVRO channel: Mail Kiosks, Events, Door to Door, and TVRO mid-tier development strategies
 - **8 – Creative Services** Develop marketing materials for TVRO Channel for local retailer campaigns. Assist with Coop management.
 - **2 – New Product Channel Development Managers** Lead Sales Channel development for RV and IPTV markets. Currently leveraging Territory Sales Team to develop local markets.
 - **7 – National Accounts** (1 GM, 3 Outside Sales, 2 Inside Support, 1 Merchandising) Manage Radio Shack, Costco, Amazon, Sears, BJ's, TigerDirect
 - **1 – Vice President**

By Title:

 - Vice President 1
 - Director 1
 - General Manager 1
 - National Sales Manager 8
 - Inside Sales Manager 1
 - Area Sales Manager 1
 - Business Development Manager 6
 - Marketing Specialist 8
 - Territory Sales Manager 10
 - Territory Sales Representative 92
 - Strategic Sales Manager 3
 - Strategic Sales Representative 30

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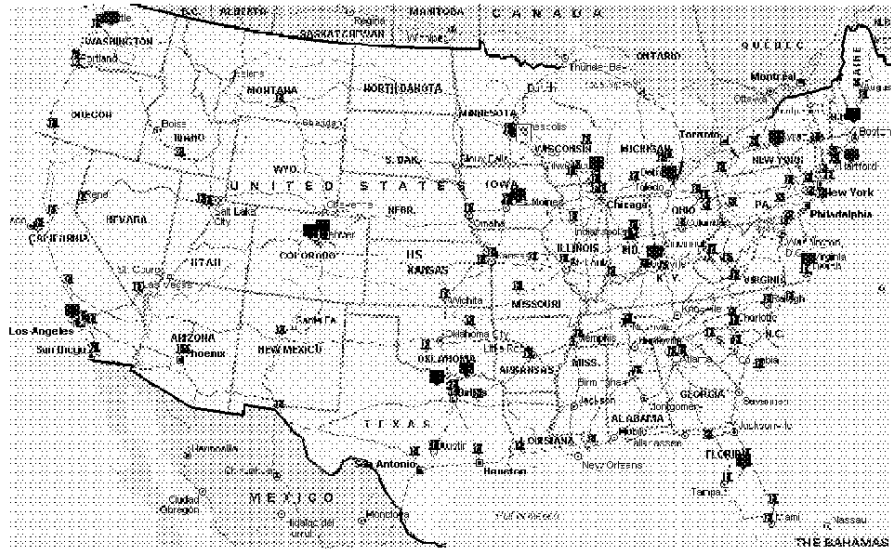
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25

Personnel Map

Blue – SSR
Red – TSR
Green – National Retail Sales
SQUARE – Manager



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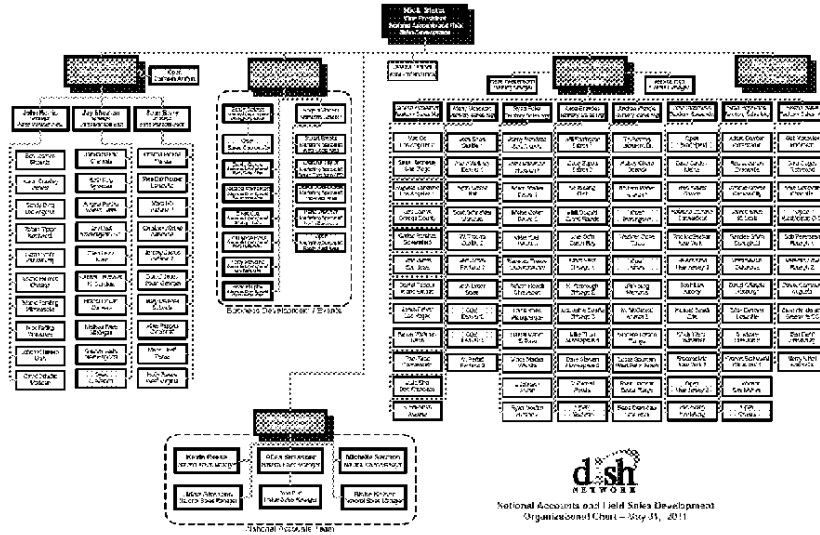
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Organizational Chart



National Accounts and Field Sales Development
Organizational Chart – May 31, 2011

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TX 102-013566

Mark Gilpin and Scott Hazlett Telco

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Gilpin/Hazlett - Organization Overview

- **Developmental Focus Areas**
 - Indirect Sales New Business Development
 - Tier 3 Telcos and Wireless Carriers (Cellular South, Metro PCS, US Cellular)
 - Liberty Bell/DISH phone and Internet
 - Core Business Management
 - Existing Telco partners: Windstream, Frontier and TDS

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Team Responsibilities & Headcount

Total Headcount: 8

- 3 – Program Managers. (1) Responsible for Windstream management and sales development. Typically travel 2-3 days a week. (*) Responsible for provisioning systems, ops management and data/ payment reconciliation for all Telco's. (1) Responsible for weekly/monthly and ad hoc reporting for all Telco's.
- 2 – National Sales Managers. Responsible for Frontier and TDS management and sales development. Responsible for Tier 3 Telco management and new business development (wireless carriers and Tier 3 Telco). Typically travel 2-3 days a week.
- 1 – General Manager. Responsible for Liberty Bell integration. Responsible for operations of existing Telco partners and on-boarding of new partners.
- 2 – Directors. Set overall sales strategy, develop relationships at executive levels at Telco corporate and field locations, and achievement of activation quota.
- 1 – Open Program Manager or National Sales Manager. Individual will be responsible for day to day management of Liberty Bell sales and territorial development.

By Title:

• Vice President	0
• Director	2
• General Manager	1
• National Sales Manager	2
• Project Manager	3

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RETAIL SERVICES

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31

EXHIBIT 700

EXHIBIT 700

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TX 102-013571

1,661,318 calls

*less 1,431,197
inbound/unconnected/fax/etc. calls*

230,121 connected calls

less 65,627 "single calls"

58,151 numbers/164,494 calls

less 34,526 non-DNC numbers

23,625 numbers/66,468 calls

*less 1,393 "business" and
LexisNexis business numbers*

22,232 numbers

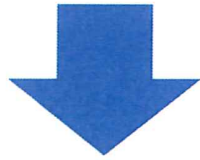
*Less 1,782 "Dish
customers"*

**20,450 numbers
57,900 calls**

**Summary of Anya
Verkhovskaya's Process
for Identifying Class
Telephone Numbers and
Telephone Calls.**

JA014310
013040
PX 2008

**Dish and Krakauer agreed to
exclude some telephone
numbers and calls**



**Leaving a total of
51,119 Calls to
18,066 Numbers**

JA014311
013041

TX 102-013573

FILED

NOV 28 2018

Alan L. Blum
CLERK OF COURT

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12 *Corporation*

13
14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 PLUMBERS LOCAL UNION NO. 519 PENSION
TRUST FUND and CITY OF STERLING

17 HEIGHTS POLICE AND FIRE RETIREMENT
SYSTEM, derivatively on behalf of nominal
18 defendant DISH NETWORK CORPORATION,

19 Plaintiffs,

20 v.

21 CHARLES W. ERGEN; JAMES DEFRANCO;
CANTEY M. ERGEN; STEVEN R.

22 GOODBARN; DAVID MOSKOWITZ; TOM A.
ORTOLF; CARL E. VOGEL; GEORGE R.

23 BROKAW; JOSEPH P. CLAYTON; and GARY
24 S. HOWARD,

25 Defendants,

26 DISH NETWORK CORPORATION, a Nevada
27 corporation,

28 Nominal Defendant

CASE NO.: A-17-763397-B

DEPT. NO.: XI

VOLUME 49 OF APPENDIX TO
THE REPORT OF THE SPECIAL
LITIGATION COMMITTEE OF
DISH NETWORK CORPORATION


JA014312

<u>Ex.</u>	<u>Date</u>	<u>Description</u>	<u>Page No.</u>
701	12/31/2004	EchoStar Retailer Agreement with SSN	13042
702	04/10/2006	Email from R. Bangert to T. Gattone	13075
703	07/13/2006	Email from M. Meztger to Vendor Inquiries	13079
704	09/16/2008	Email from K. Berridge to R. Musso	13085
705	2009	Sales Partner Review	13088
706	2009	Schedule for Board/Audit Committee Meetings	13102
707	03/06/2009	Email from S. McElroy to M. Kelly	13118
708	05/05/2009	DISH Agenda for Regular Board Meeting	13121
709	07/28/2010	Email from J. Dang to J. Montano, et al.	13142
710	08/11/2006	Email from D. Steele to D. Moskowitz	13147
711	09/29/2006	Email to B. Werner from R. Origer re TCPA – Barron, Laura	13152
712	03/12/2009	Email to J. DeFranco from R. Calbert re Urgent Matter from Apex Satellite	13161
713	07/26/2018	Email to E. Burton from K. Wener re Shared Files from Dish	13163
714	01/22/2007	Letter to Retail Audit and Risk Attention Reji from JSR Enterprises in Response to 1/17/07 email re Alleged DNC Violations	13165
715	11/19/2010	Email from B. Delaney to B. Delaney re Dish Network Behavior Complaint	13167
716	09/25/2008	Email from B. Han to J. Chambers re Phone Solicitation	13171
717	06/14/2006	Audit and Rick Accomplishments Week Ending	13174
718	10/10/2006	DNC Escalation Chart	13177
719	01/10/2007	Email to B. Werner from R. Musso re Jerry Dean Grider dba JSP Enterprises	13181
720	11/06/2008	Sales Overview	13186
721	03/20/2008	DNC Policy	13218
722	03/25/2010	Sample Referral Marketing Service Agreement (2010)	13222
723	2008	Echosphere L.L.C. Assigned Territory Authorized Distributor Agreement	13264
724	Undated	Welcome to Retail Services	13309
725	Undated	Retail Marketing Methods Chart	13440
726	10/02/2013	Email to B. Kitei from J. Montano	13442
727	09/23/2008	Email to J. DeFranco from K. Knight	13445
728	Undated	Managing Reports of Telemarketing Violations	13448
729	Undated	Chart of FTC Settlements, SLC DNC Investigation 0004444 (noting an average penalty of \$790,000)	13455
730	02/16/2007	Email to J. DeFranco from K. Hubbard	13458
731	01/06/2009	Email from T. Stingley to S. McElroy	13461
732	(1999-2012)	Termination Chart	13464
733	06/25/2013	DNC Policy	13496

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734		Intentionally Omitted	13501
735	(1999-2013)	Ex. [[]], Termination Matrix Chart	13503
736	10/14/2009	Ex. [[]], Email from B. Werner to B. Kitei, et al. (Oct. 14, 2009), SLC DNC Investigation 0006083	13553
737	08/15/2011	Email to B. Ehrhart from J.DeFranco	13556
738	08/03/2010	Dish Minutes of Regular Audit Committee Meeting	13558
739	05/17/2007	Email Chain between M. Mills and B. Werner	13573
740	03/08/2012	Email to K. Borders from T. Beggs re Updated: Overview of Outsourced Call Center Operations	13575
741	07/2006-12/2006	Chart of Internal Stings (July-Dec. 2006), SLC DNC Investigation 008576	13577
742	Undated	First Set of Documents Requested	13587

DATED this 28th day of November 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of November 2018, a true and correct copy of the foregoing **VOLUME 49 OF APPENDIX TO THE REPORT OF THE SPECIAL LITIGATION COMMITTEE 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:

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EXHIBIT 701

EXHIBIT 701

JA014316
013042

TX 102-013578

ECHOSTAR RETAILER AGREEMENT

This EchoStar Retailer Agreement (the "Agreement") is made and effective as of December 31, 2004 (the "Effective Date"), by and between EchoStar Satellite L.L.C., formerly known as EchoStar Satellite Corporation ("EchoStar"), having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112, and SATELLITE SYSTEMS NETWORK having a principal place of business at 135 COLUMBIA, ALISO VIEJO, CA 92656 ("Retailer").

INTRODUCTION

A. EchoStar is engaged, among other things, in the business of providing digital direct broadcast satellite ("DBS") 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 (an "Authorized Retailer"), in accordance with and subject to the terms and conditions of this Agreement.

C. EchoStar 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.

1.3 "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.

1.4 "Bulk Programming" means the Programming that EchoStar makes generally available for viewing in Guest Properties and bulk-billed MDU Properties, in each case assuming 100% penetration, subject to any restrictions (geographic, blackout, or otherwise) as EchoStar may impose on some or all such programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason. EchoStar reserves the right to change the Bulk Programming services offered and/or any restrictions applicable to such Bulk Programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason.

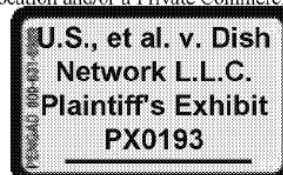
1.5 "Bulk Subscriber Account" means the customer account set up and maintained by EchoStar for a Qualifying Bulk Subscriber who purchased a commercially-invoiced DISH DBS System directly from Retailer and for whom Eligible Bulk Programming has been activated by EchoStar and which customer account remains active and in good standing.

1.6 "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 EchoStar which is communicated to Retailer by EchoStar or an Affiliate of EchoStar either directly (including e-mail) or through any method of mass communication reasonably directed to EchoStar's retailer base, including, without limitation, a "Charlie Chat", e-mail, facts blast, or posting on EchoStar's retailer web site. Retailer agrees that EchoStar has the right to modify any Business Rule at any time and from time to time in its sole and absolute discretion for any reason or no reason, upon notice to Retailer.

1.7 "Chargeback" means EchoStar's right to reclaim Incentives pursuant to the terms and conditions of this Agreement, any Promotional Program or applicable Business Rules.

1.8 "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.

1.9 "Commercial Location" means a Public Commercial Location and/or a Private Commercial Location, as those terms



are defined below in Sections 1.29 and 1.25, respectively.

1.10 “Commercial Programming” means the Programming that EchoStar makes generally available for viewing in Commercial Locations subject to any restrictions (geographic, blackout, or otherwise) as EchoStar may impose on some or all of such programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason. EchoStar reserves the right to change the Commercial Programming services offered and/or any restrictions applicable to such Commercial Programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason.

1.11 “Commercial Subscriber Account” means the customer account set up and maintained by EchoStar for a Qualifying Commercial Subscriber who purchased a DISH DBS System directly from Retailer and for whom Eligible Commercial Programming has been activated by EchoStar and which customer account remains active and in good standing.

1.12 “DISH DBS System” means a satellite 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 by satellite transponders owned, leased and/or otherwise operated or utilized by EchoStar and/or its Affiliates, which is (i) sold directly to Retailer by EchoStar or an EchoStar Affiliate under the “EchoStar” brand name or the brand name of an EchoStar Affiliate; or (ii) sold directly to Retailer by a Third Party Manufacturer pursuant to authorization granted by EchoStar under the brand name of such Third Party Manufacturer.

1.13 “DISH Network Subscriber” shall have the meaning set forth in Section 9.5.

1.14 “EFT” means the electronic transfer of funds from one financial institution to another.

1.15 “Eligible Bulk Programming” means the Bulk Programming packages designated by EchoStar 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 and from time to time in EchoStar’s sole and absolute discretion for any reason or no reason, upon notice to Retailer.

1.16 “Eligible Commercial Programming” means the Commercial Programming packages designated by EchoStar 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 and from time to time in EchoStar’s sole and absolute discretion for any reason or no reason, upon notice to Retailer.

1.17 “Eligible Residential MDU Programming” means the Residential MDU Programming packages designated by EchoStar 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 and from time to time in EchoStar’s sole and absolute discretion for any reason or no reason, upon notice to Retailer.

1.18 “Eligible Residential Programming” means the Residential Programming packages designated by EchoStar 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 and from time to time in EchoStar’s sole and absolute discretion for any reason or no reason, upon notice to Retailer.

1.19 “Guest Property” means a hotel, motel, 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, EchoStar reserves the right to determine from time to time, in its sole and absolute discretion for any reason or no reason, whether a location constitutes a Guest Property or is more appropriately considered another type of location.

1.20 “Incentives” mean Monthly Incentives together with any Additional Incentives, as such terms are defined in Sections 1.23 and 1.1, respectively.

1.21 “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, non-public, common viewing areas within fire stations, oil rigs and coast guard stations are typically Institutional/Residential Locations. Notwithstanding the foregoing, EchoStar reserves the right to determine from time to time, in its sole and absolute discretion for any reason or no reason, whether a location constitutes an Institutional/Residential Location or is more appropriately considered another type of location.

1.22 “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, EchoStar reserves the right to determine from time to time, in its sole and absolute discretion for any reason or no reason, whether a

location constitutes an MDU Property (and, if so, what type of MDU Property, e.g., bulk-billed, non-bulk-billed or other) or is more appropriately considered another type of location.

1.23 "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.

1.24 "Other Agreement(s)" means any agreement(s) between Retailer and/or any of its Affiliates on the one hand, and EchoStar and/or any of its Affiliates on the other hand.

1.25 "Private Commercial Location" means a place of business located in the Territory that may be accessible to the public, and is not classified within the hospitality industry. For example, 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, EchoStar reserves the right to determine from time to time, in its sole and absolute discretion for any reason or no reason, whether a location constitutes a Private Commercial Location, or is more appropriately considered another type of location.

1.26 "Programming" means DISH Network video, audio, data and interactive programming services. EchoStar reserves the right to change the Programming and/or any restrictions applicable to the Programming at any time and from time to time in its sole and absolute discretion for any reason or no reason.

1.27 "Promotional Certificate" means a serialized certificate issued in connection with a Promotional Program offered by EchoStar which is sold directly to Retailer by EchoStar or an Affiliate of EchoStar for resale by Retailer directly to a consumer which, among other things, entitles such consumer to a DISH DBS System (or the use of such system, if the program involves leasing the equipment to the consumer) and installation of such DISH DBS System.

1.28 "Promotional Program" means: (i) a promotional offer, as determined by EchoStar, which Retailer may present to consumers in connection with Retailer's marketing, promotion and solicitation of orders for Programming; (ii) the Incentives, as determined by EchoStar, which Retailer may receive in connection with such promotional offer, and (iii) the Business Rules, as determined by EchoStar, setting forth the terms and conditions governing the promotional offer and any corresponding Incentives. EchoStar reserves the right to discontinue any Promotional Program or change the Business Rules associated therewith at any time and from time to time in its sole and absolute discretion for any reason or no reason, upon notice to Retailer.

1.29 "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 satellite master antenna television or private cable system in a commercial or residential multiple dwelling unit (i.e., hotels, hospitals, dormitories, etc.) shall be considered a Public Commercial Location; provided, however, that a place of business located within such multiple dwelling units 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, bars, restaurants, clubs, casinos, lounges, and shopping malls are typically Public Commercial Locations. Notwithstanding the foregoing, EchoStar reserves the right to determine from time to time, in its sole and absolute discretion for any reason or no reason, whether a location constitutes a Public Commercial Location, or is more appropriately considered another type of location.

1.30 "Qualifying Bulk Subscriber" means a commercial enterprise providing Bulk Programming on a bulk basis, assuming 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 an EchoStar Commercial Customer Agreement, and that has never previously received any audio, video, data or any other programming services from EchoStar or any Affiliate of EchoStar. A Qualifying Bulk Subscriber shall not include any commercial enterprise that would otherwise qualify, but whose equipment EchoStar, in its sole and absolute discretion for any reason or no reason, declines to activate.

1.31 "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 an EchoStar Commercial Customer Agreement, and that has never previously received any audio, video, data or any other programming services from EchoStar or any Affiliate of EchoStar. A Qualifying Commercial Subscriber shall not include any commercial enterprise that would otherwise qualify, but whose equipment EchoStar, in its sole and absolute discretion for any reason or no reason, declines to activate.

1.32 "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 an EchoStar Residential Customer Agreement, and who has never previously received any audio, video, data or any other programming services from EchoStar or any Affiliate of EchoStar. A Qualifying Residential MDU Subscriber shall not include any individual who would otherwise qualify, but whose equipment EchoStar, in its sole and absolute discretion for any reason or no reason, declines to activate.

1.33 "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 an EchoStar Residential Customer Agreement, and who has never previously received any audio, video, data or any other programming services from EchoStar or any Affiliate of EchoStar. A Qualifying Residential Subscriber shall not include any individual who would otherwise qualify, but whose equipment EchoStar, in its sole and absolute discretion for any reason or no reason, declines to activate.

1.34 "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.

1.35 "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, in no case shall any satellite master antenna television system or private cable system in a residential multiple dwelling unit or any similar programming reception system (e.g., dormitories, etc.) be considered a Residential Location. Notwithstanding the foregoing, EchoStar reserves the right to determine from time to time, in its sole and absolute discretion for any reason or no reason, whether a location constitutes a Residential Location or is more appropriately considered another type of location.

1.36 "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.

1.37 "Residential MDU Programming" means the Programming that EchoStar makes generally available for viewing in non-bulk-billed MDU Properties subject to any restrictions (geographic, blackout, or otherwise) as EchoStar may impose on some or all such programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason. EchoStar reserves the right to change the Residential MDU Programming services offered and/or any restrictions applicable to such Residential MDU Programming services at any time and from time to time in its sole discretion for any reason or no reason.

1.38 "Residential MDU Subscriber Account" means the customer account set up and maintained by EchoStar for a Qualifying Residential MDU Subscriber who purchased a commercially-invoiced DISH DBS System directly from Retailer and for whom Eligible Residential MDU Programming has been activated by EchoStar and which customer account remains active and in good standing.

1.39 "Residential Programming" means the Programming that EchoStar makes generally available for viewing in Residential Locations and Institutional/Residential Locations subject to any restrictions (geographic, blackout, or otherwise) as EchoStar may impose on some or all such programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason. EchoStar reserves the right to change the Residential Programming services offered and/or any restrictions applicable to such Residential Programming services at any time and from time to time in its sole and absolute discretion for any reason or no reason.

1.40 "Residential Subscriber Account" means the customer account set up and maintained by EchoStar for a Qualifying Residential Subscriber who purchased a DISH DBS System or Promotional Certificate directly from Retailer and for whom Eligible Residential Programming has been activated by EchoStar and which customer account remains active and in good standing.

1.41 "Retailer Account" means the bank account, including account and ABA routing numbers, designated by Retailer in the manner prescribed by EchoStar, which Retailer may change from time to time by providing at least sixty (60) days' prior written notice to EchoStar.

1.42 "Subscriber Accounts" means Residential Subscriber Accounts, Residential MDU Subscriber Accounts, Commercial Subscriber Accounts and Bulk Subscriber Accounts, as such terms are defined in Sections 1.40, 1.38, 1.11 and 1.5, respectively.

1.43 "Term" shall have the meaning set forth in Section 10.1 below.

1.44 "Territory" shall have the meaning set forth in Section 3.2 below.

1.45 "Third Party Manufacturer" means a third party manufacturer authorized by EchoStar or any Affiliate of EchoStar to market, distribute and sell DISH DBS Systems under its own brand name.

1.47 "Unit" means each separate living quarters in a non-bulk-billed MDU Property.

2. **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:

2.1 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.

2.2 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.

2.3 Retailer represents and warrants that (i) it is a valid and existing entity in compliance with all laws and regulations related to maintenance of its corporate or other business status; (ii) it is not currently insolvent; (iii) it is not violating any federal, state or local law or regulation; (iv) it has never engaged in any of the acts prohibited under Sections 3.6, 3.7, 3.8, 3.9, 6.10, 6.14, 9.1, 9.2, 9.3, 9.4, 9.5, 9.8 or 14 below; (v) it has not engaged in any acts that would have resulted in automatic termination or be considered a default or breach under any current or former Incentivized Retailer Agreement, Commissioned Retailer Agreement, Commissioned Dealer Agreement, Non-Incentivized Retailer Agreement, Non-Commissioned Retailer Agreement, or Non-Commissioned Dealer Agreement with EchoStar or under any other current or former Other Agreement; (vi) it is not dependent upon EchoStar or Affiliates of EchoStar for a major part of Retailer's business; and (vii) it either sells or could sell other products or services in addition to EchoStar products or services that compete with EchoStar products or services.

2.4 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT HAS READ THIS AGREEMENT IN ITS ENTIRETY AND THAT IT UNDERSTANDS FULLY EACH OF THE TERMS AND CONDITIONS SET FORTH HEREIN.

2.5 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO HAVE 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.

2.6 EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT IS NOT RELYING UPON ANY STATEMENTS OR REPRESENTATIONS NOT CONTAINED HEREIN AND THAT IT HAS NOT BEEN INDUCED INTO ENTERING THIS AGREEMENT BY ANY STATEMENTS, ACTS OR OMISSIONS NOT EXPRESSLY SET FORTH HEREIN.

2.7 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.

2.8 RETAILER REPRESENTS AND WARRANTS THAT BEFORE IT WILL PARTICIPATE IN ANY PROMOTIONAL PROGRAM IT WILL CAREFULLY REVIEW THE TERMS OF THE PROGRAM AND ASSOCIATED BUSINESS RULES OR HAVE THEM REVIEWED BY INDEPENDENT COUNSEL.

2.9 EACH PARTY HERETO REPRESENTS, WARRANTS, ACKNOWLEDGES AND AGREES THAT: (I) THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND EACH AND EVERY PARAGRAPH AND EVERY PART 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.

3. **APPOINTMENT; TERRITORY.**

3.1 **Appointment.** EchoStar 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). The appointment set forth herein for the promotion of the DISH Network by Retailer shall apply to the same DBS service which may be operated by EchoStar or 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 and Institutional/Residential Locations; (ii) 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; (iii) 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 (iv) 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 100% penetration, to Guest Properties and bulk-billed MDU Properties.

3.2 **Territory.** Retailer's authorization hereunder, and any actions it undertakes in connection with, or in furtherance of, this Agreement, shall be limited solely to the area within the geographic boundaries of the United States and its territories and possessions (the "Territory").

3.3. **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 the 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 EchoStar only after fulfilling, and for so long as it continues to fulfill, all of the duties, obligations, and requirements contained in this Agreement and all Business Rules, and only during the Term of this Agreement.

3.4 **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) EchoStar and its Affiliates make absolutely no promises, representations or warranties 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 or revenue as 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) EchoStar currently offers, and at any time, and from time to time, in the future may offer in its sole and absolute discretion for any reason or no reason, 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) EchoStar 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 DISH DBS Systems, Promotional Certificates and other equipment, and (c) perform installation and maintenance services (directly and through subcontractors) for DISH DBS Systems, related accessories and other equipment, in each case throughout the Territory and in competition with Retailer, without any obligation or liability to Retailer whatsoever, and without providing Retailer with any notice thereof; and (vii) EchoStar shall be free to cease or suspend provision of the Programming services in whole or in part at any time, and from time to time in its sole and absolute discretion for any reason or no reason, and shall incur no liability to Retailer by virtue of any such cessation or suspension.

3.5 **Purchase of DISH DBS Systems by Retailer from EchoStar.** In the event that Retailer orders any DISH DBS Systems or Promotional Certificates from Echosphere L.L.C. or any of its Affiliates (collectively, "Echosphere" for purposes of this Section 3.5), 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 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, EchoStar shall have the sole and exclusive authority to interpret and/or make a final determination in its sole and absolute discretion for any reason or no reason 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 Echosphere has no obligation to re-purchase DISH DBS Systems or Promotional Certificates back from Retailer at any time for any reason.

3.6 **Sale of DISH DBS Systems.** Retailer agrees that as a condition precedent to eligibility to receive Incentives from EchoStar, it will not directly or indirectly sell, lease or otherwise transfer possession of a DISH DBS System or Promotional Certificate 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 in Canada, Mexico or at any other location outside of the Territory; or (v) intends to have, or to allow others to have, Programming authorized for it under a single DISH Network account that has or will have Programming authorized for multiple satellite 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 connected to the same phone line (except in the case of a bulk-billed MDU Property). It shall be Retailer's responsibility to investigate and determine whether any sale by Retailer would be in violation of this Section. In the event that Retailer directly or indirectly sells, leases or otherwise transfers possession of a DISH DBS System or Promotional Certificate 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 an 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 EchoStar upon demand: (1) the difference between the amount actually received by EchoStar for the

Programming authorized for the DISH DBS System and the full commercial rate for such Programming (regardless of whether EchoStar has or had commercial distribution rights for such Programming); and (2) the total amount of any admission charges or similar fees imposed 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 DBS System or Promotional Certificate to a person or entity who has, or allows others to have, Programming authorized for it under a single DISH Network account that at any time has Programming activated for multiple DISH DBS 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 connected to the same phone line (except in the case of bulk-billed MDU Properties), 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 DBS System under such an account, then Retailer agrees to pay to EchoStar upon demand, the difference between the amount actually received by EchoStar for the Programming authorized under the single account and the full retail price for such Programming had each DISH DBS 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 3.6, ECHOSTAR 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 ECHOSTAR 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. ECHOSTAR'S CALCULATION OF AMOUNTS OWING TO ECHOSTAR FROM RETAILER UNDER THIS SECTION 3.6 SHALL BE BINDING ABSENT FRAUD, MALICE OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF ECHOSTAR. The foregoing provisions of this Section 3.6 are without prejudice to any other rights and remedies that EchoStar and/or its Affiliates may have under 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.

3.7 **Pre-Activations.** Retailer shall not, prior to installation, directly or indirectly activate ("Pre-Activate") any DISH DBS System, nor shall Retailer directly or indirectly sell, lease or otherwise transfer possession of a DISH DBS System to any person or entity who Retailer knows or reasonably should have known intends to Pre-Activate it.

3.8 **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 EchoStar for Programming services or otherwise on behalf of any end-user of a DISH DBS System, nor shall Retailer directly or indirectly sell, lease or otherwise transfer possession of a DISH DBS 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 EchoStar for Programming services or otherwise on behalf of the end-user of such DISH DBS System.

3.9 **Installation Services.** Retailer represents, warrants, covenants and agrees that all installation and after-sales services performed by Retailer and/or its subcontractors, agents and employees in connection with the sale, lease or other transfer of DISH DBS Systems will be performed by Retailer and/or its subcontractors, agents and employees in accordance with all applicable laws, codes and regulations, and subject to all of the terms, conditions, standards and guidelines set forth in the DISH Network Installation Manual (located on the retailer web site), as such terms, conditions, standards and guidelines may be changed at any time and from time to time by EchoStar or any of its Affiliates (including, without limitation, DISH Network Service L.L.C.) in their sole and absolute discretion, for any reason or no reason, upon notice to Retailer.

3.10 **Prior Retailer Agreements.**

3.10.1 IN THE EVENT THAT RETAILER PREVIOUSLY ENTERED INTO ANY INCENTIVIZED RETAILER AGREEMENT, COMMISSIONED RETAILER AGREEMENT, COMMISSIONED DEALER AGREEMENT OR ANY OTHER AGREEMENT WITH ECHOSTAR OR ANY OF ITS AFFILIATES RELATING TO THE MARKETING, PROMOTION, ADVERTISING OR SOLICITATION OF ORDERS FOR PROGRAMMING BY RETAILER AND THE PAYMENT OF CERTAIN AMOUNTS BY ECHOSTAR THEREFOR (A "PRIOR RETAILER AGREEMENT"), WHICH IS IN EFFECT (IN WHOLE OR IN PART) AS OF THE EFFECTIVE DATE, THEN UPON THE EFFECTIVE DATE: (I) ALL PRIOR RETAILER AGREEMENTS SHALL BE AUTOMATICALLY TERMINATED, EXCEPT THAT THE PROVISIONS (EXCLUDING ANY PROVISIONS RELATED TO THE PAYMENT OF COMMISSIONS OR INCENTIVES) IN SUCH PRIOR RETAILER 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 AGREEMENT SHALL BE PAYABLE BY ECHOSTAR TO RETAILER AS INCENTIVES SOLELY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT; AND (III) EXCEPT AS SET FORTH IN SECTION 3.10.1(I), 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.

3.10.2 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 ECHOSTAR OR ANY OF ITS AFFILIATES FOR 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 ECHOSTAR, RETAILER AND ITS AFFILIATES HEREBY AGREE TO WAIVE ANY AND ALL SUCH CLAIMS AND CAUSES OF ACTION, WITH THE SOLE EXCEPTION OF ANY CLAIMS AND CAUSES FOR WHICH RETAILER PROVIDES WRITTEN NOTICE TO ECHOSTAR 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 MORE THAN 90 DAYS) AFTER THE EFFECTIVE DATE. ECHOSTAR 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 ECHOSTAR HAS UNDER SECTION 17.9 BELOW. FAILURE TO STRICTLY COMPLY WITH THE PROVISIONS OF THIS SECTION 3.10.2 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. HOWEVER, NOTWITHSTANDING ANY TERMS OF THIS AGREEMENT, NOTHING CONTAINED IN THIS AGREEMENT WILL WAIVE ANY RIGHT RETAILER MAY HAVE IN THE CLAIMS BROUGHT IN THE FOLLOWING CLASS ACTION LAWSUITS IN THE EVENT THE FOLLOWING LAWSUITS ARE CERTIFIED: CASE NO. 00-CV-1989, STYLED *JOHN DEJONG, D/B/A ANEXWAVE, et al. AND JOE KELLY, D/B/A AKEL-TRONICS, et al. AND JAGUAR TECHNOLOGIES, INC. V. ECHOSTAR SATELLITE CORPORATION*, UNITED STATES DISTRICT COURT, DISTRICT OF COLORADO; CASE NO. 00-CV-3130, STYLED *AIR COMMUNICATION & SATELLITE, INC. ET AL. V. ECHOSTAR SATELLITE CORPORATION*, DISTRICT COURT, ARAPAHOE COUNTY, COLORADO; CASE NO. 500-CV-268, STYLED *SATELLITE DEALERS SUPPLY, INC. V. ECHOSTAR COMMUNICATIONS CORP.*, UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS. 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 AFTER THE EFFECTIVE DATE, NOTWITHSTANDING PAYMENT BY ECHOSTAR OF ANY INCENTIVES, COMMISSIONS OR OTHER PAYMENTS 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 ECHOSTAR OR ANY OF ITS AFFILIATES.

3.11 **Promotional Programs.** Retailer shall be eligible to participate in such Promotional Programs as EchoStar and/or any of its Affiliates may make available to Retailer from time to time in their sole and absolute discretion for any reason or no reason. Retailer agrees to be bound by, and use its best efforts to support, all of the terms and conditions of (and all of such terms and conditions are hereby incorporated by reference in their entirety) the Promotional Programs in which Retailer elects to participate. Retailer acknowledges and agrees that: (i) under no circumstances shall EchoStar 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) EchoStar and its Affiliates may, from time to time in their sole and absolute discretion for any reason or no reason, add, discontinue, substitute, modify, amend or otherwise alter any or all of the terms and conditions of any Promotional Programs; and (iii) if EchoStar and/or any of its Affiliates offer any Promotional Programs to Retailer, then Retailer shall only be eligible to participate in such Promotional Programs if and to the extent that it meets all of the qualification criteria and other terms and conditions as EchoStar and/or its Affiliates may establish from time to time in their sole and absolute discretion for any reason or no reason. 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, EchoStar shall have the sole and exclusive authority to interpret and/or make a final determination in its sole and absolute discretion for any reason or no reason concerning any issue arising from such ambiguity.

3.12 **MDU Property / Guest Properties.** Retailer shall ensure that no Guest Property or bulk-billed MDU Property engages directly or indirectly in: (i) the reselling of Bulk Programming (i.e., the property cannot charge more for Bulk Programming than they pay to EchoStar for such Bulk Programming); (ii) the retransmission or rebroadcast of any Programming, except with the express written consent of EchoStar which consent EchoStar may withhold in its sole and absolute discretion for any reason or no reason; or (iii) modifying, adding to, or deleting from any of the Bulk Programming. Retailer shall promptly notify EchoStar if it is aware of or suspects a change in the number of Units at any Guest Property or bulk-billed MDU Property subscribing to Bulk Programming. Retailer understands and agrees that bulk-billed MDU Properties, non-bulk-billed MDU Properties and Guest Properties may require the purchase of commercially-invoiced DISH DBS Systems, as further described in applicable Business Rules and adjustable at any time and from time to time in EchoStar's sole and absolute discretion for any reason or no reason.

4. **PROGRAMMING.**

4.1 **Programming.** EchoStar shall determine from time to time, in its sole and absolute discretion for any reason or no reason, the Programming for which Retailer may solicit orders. EchoStar 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 and from time to time in its sole and absolute discretion for any reason or no reason. Any changes shall be effective immediately upon notification by EchoStar, unless EchoStar notifies Retailer of a different effective date.

4.2 **Changes.** If at any time or for any reason or no reason EchoStar changes the content of any Programming package, Retailer's authority to solicit orders for the prior Programming package shall immediately cease.

5. **PRICES.** EchoStar shall determine the retail prices for Programming from time to time in its sole and absolute discretion for any reason or no reason. Retailer will only solicit orders for Programming at the retail prices set by EchoStar from time to time. EchoStar may increase, decrease or otherwise modify those prices at any time and from time to time in its sole and absolute discretion for any reason or no reason. Any price changes shall be effective immediately upon notification by EchoStar, unless EchoStar notifies Retailer of a different effective date. Retailer shall not represent that Programming may be purchased or obtained on any other terms except as authorized in writing by EchoStar.

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 DBS System or Promotional Certificate that during the Term of this Agreement: (i) is sold to Retailer directly by EchoStar or any of its Affiliates (in the case of DISH DBS Systems and Promotional Certificates), or a Third Party Manufacturer (solely with respect to DISH DBS Systems); (ii) is re-sold by Retailer directly 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. 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 by EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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. ECHOSTAR 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. ECHOSTAR'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.

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 commercially-invoiced DISH DBS System that during the Term of this Agreement: (i) is sold to Retailer directly by EchoStar or any of its Affiliates, or a Third Party Manufacturer; (ii) is re-sold by Retailer directly 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. 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 by EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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. ECHOSTAR 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. ECHOSTAR'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.

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 DBS System that during the Term of this Agreement: (i) is sold to Retailer directly by EchoStar or any of its Affiliates, or a Third Party Manufacturer; (ii) is re-sold by Retailer directly 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 by EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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. ECHOSTAR 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. ECHOSTAR'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.

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 commercially-invoiced DISH DBS System that during the Term of this Agreement: (i) is sold to Retailer directly by EchoStar or any of its Affiliates, or a Third Party Manufacturer; (ii) is re-sold by Retailer directly 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 by EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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. ECHOSTAR 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. ECHOSTAR'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.

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 professional installation payments ("Additional Residential Incentives") under such Promotional Programs as EchoStar may make available to Retailer at any time and from time to time in EchoStar's sole and absolute discretion for any reason or no reason. 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 EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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 professional installation payments ("Additional Residential MDU Incentives") under such Promotional Programs as EchoStar may make available to Retailer at any time and from time to time in EchoStar's sole and absolute discretion for any reason or no reason. 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 EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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 professional installation payments ("Additional Commercial Incentives") under such Promotional Programs as EchoStar may make available to Retailer at any time and from time to time in EchoStar's sole and absolute discretion for any reason or no reason. 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 EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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 professional installation payments ("Additional Bulk Incentives") under such Promotional Programs as EchoStar may make available to Retailer at any time and from time to time in EchoStar's sole and absolute discretion for any reason or no reason. The terms and conditions, 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 EchoStar from time to time in accordance with Section 1.6 above. ECHOSTAR 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 ECHOSTAR 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) ECHOSTAR 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 ECHOSTAR 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 IT 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 DBS SYSTEMS OR PROMOTIONAL CERTIFICATES THAT: (A) ARE SOLD TO RETAILER BY ECHOSTAR OR ANY OF ITS AFFILIATES (IN THE CASE OF DISH DBS SYSTEMS AND PROMOTIONAL CERTIFICATES) OR A THIRD PARTY MANUFACTURER (SOLELY WITH RESPECT TO DISH DBS SYSTEMS); (B) ARE RE-SOLD BY RETAILER DIRECTLY 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 COMMERCIAL-INVOCED DISH DBS SYSTEMS THAT: (A) ARE SOLD TO RETAILER BY ECHOSTAR OR ANY OF ITS AFFILIATES OR A THIRD PARTY MANUFACTURER; (B) ARE RE-SOLD BY RETAILER DIRECTLY 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 DBS SYSTEMS THAT: (A) ARE SOLD TO RETAILER BY ECHOSTAR OR ANY OF ITS AFFILIATES OR A THIRD PARTY MANUFACTURER; (B) ARE RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING COMMERCIAL SUBSCRIBER; AND (C) RESULT IN THE ACTIVATION OF ELIGIBLE COMMERCIAL PROGRAMMING FOR A NEW COMMERCIAL SUBSCRIBER ACCOUNT; AND

(VII) UNLESS EXPRESSLY SET FORTH TO THE CONTRARY UNDER APPLICABLE BUSINESS RULES, ADDITIONAL BULK INCENTIVES SHALL ONLY BE PAID TO RETAILER WITH RESPECT TO COMMERCIAL-INVOCED DISH DBS SYSTEMS THAT: (A) ARE SOLD TO RETAILER BY ECHOSTAR OR ANY OF ITS AFFILIATES OR A THIRD PARTY MANUFACTURER; (B) ARE RE-SOLD BY RETAILER DIRECTLY TO A QUALIFYING BULK SUBSCRIBER; AND (C) RESULT IN THE ACTIVATION OF ELIGIBLE BULK PROGRAMMING FOR A NEW BULK SUBSCRIBER ACCOUNT.

6.2.6 ECHOSTAR SHALL DETERMINE FROM TIME TO TIME IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON WHETHER A PARTICULAR ECHOSTAR 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 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. ECHOSTAR'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.

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PRODUCED OVER DEFENDANT'S PRIVILEGE DESIGNATION UNDER COURT ORDER

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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, ECHOSTAR SHALL HAVE THE RIGHT TO CHARGE BACK SUCH INCENTIVE PAID TO RETAILER. IN ADDITION TO THE FOREGOING, ECHOSTAR 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 (ECHOSTAR 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 (ECHOSTAR 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 (ECHOSTAR 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 (ECHOSTAR 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 THE FOREGOING, ECHOSTAR SHALL HAVE THE RIGHT TO CHARGE BACK ALL OR ANY PORTION OF THE INCENTIVES PAID IN CONNECTION WITH RETAILER FRAUDULENTLY RECEIVING AN INCENTIVE OR OTHER PAYMENT BY (A) MISREPRESENTING ANY INFORMATION CONCERNING A PRIOR OR CURRENT ECHOSTAR SUBSCRIBER TO MAKE THAT PERSON APPEAR TO BE A NEW ECHOSTAR SUBSCRIBER, OR (B) CREATING A FICTITIOUS OR FRAUDULENT CUSTOMER ACCOUNT. FOR THE AVOIDANCE OF DOUBT, IN THE EVENT ECHOSTAR DETERMINES AT ANY TIME IN GOOD FAITH IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY REASON OR NO REASON, THAT RETAILER COMMITTED FRAUD OR OTHER MISCONDUCT, ECHOSTAR 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 ECHOSTAR AND ANY OF ITS AFFILIATES, IN CONNECTION WITH THAT FRAUD OR MISCONDUCT. ECHOSTAR'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. ECHOSTAR'S DETERMINATION THAT A CHARGEBACK IS PROPER SHALL BE CONTROLLING ABSENT FRAUD, MALICE OR WANTON AND WILLFUL MISCONDUCT ON THE PART OF ECHOSTAR. THE PROVISIONS OF THIS SECTION 6.3 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 EchoStar with the Retailer Account information and any changes thereto ("EFT Instructions"), in the manner prescribed by EchoStar. Until Retailer provides EchoStar with EFT Instructions, or in the event that Retailer elects to receive payments by check, EchoStar shall pay Incentives to Retailer by check and Retailer will be assessed EchoStar's standard processing fee, which may be changed by EchoStar at any time and from time to time in its sole and absolute discretion for any reason or no reason.

6.4.2 **Reliance on Retailer Account Information.** With respect to Retailer's EFT Instructions, and any purported changes or modifications thereof by Retailer, EchoStar may act in reliance upon any writing or instrument or signature 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 EchoStar EFT Liability Limitation. Retailer agrees that in no event shall EchoStar 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 EchoStar'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. EchoStar shall make available to Retailer, in an electronic format determined by EchoStar at any time and from time to time in its sole and absolute discretion for any reason or no reason, 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. Retailer acknowledges that EchoStar is not required to provide Retailer with any additional information, including but not limited to communications between EchoStar and any EchoStar Subscriber or any customer account information regarding any EchoStar 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 EchoStar in accordance with the terms and conditions of the then current EchoStar Residential Customer Agreement; (iii) a credit or refund has been issued by EchoStar for any reason (EchoStar shall have the right to issue credits or refunds at any time and from time to time in its sole and absolute discretion for any reason or no reason); (iv) the subscriber would otherwise be a Qualifying Residential Subscriber, but is already receiving—or previously received at any time—any of the Programming, or any other audio, video, data, interactive or other programming services from EchoStar 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 EchoStar in accordance with the terms and conditions of the then current EchoStar Residential Customer Agreement; (iii) a credit or refund has been issued by EchoStar for any reason (EchoStar shall have the right to issue credits or refunds at any time and from time to time in its sole and absolute discretion for any reason or no reason); (iv) the subscriber would otherwise be a Qualifying Residential MDU Subscriber, but is already receiving—or previously received at any time—any of the Programming, or any other audio, video, data, interactive or other programming services from EchoStar 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 EchoStar in accordance with the terms and conditions of the then current EchoStar Commercial Customer Agreement; (iii) a credit or refund has been issued by EchoStar for any reason (EchoStar shall have the right to issue credits or refunds at any time and from time to time in its sole and absolute discretion for any reason or no reason); (iv) the subscriber would otherwise be a Qualifying Commercial Subscriber, but is already receiving—or previously received at any time—any of the Programming, or any other audio, video, data, interactive or other programming services from EchoStar 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.

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 EchoStar in accordance with the terms and conditions of the then current EchoStar Commercial Customer Agreement; (iii) a credit or refund has been issued by EchoStar for any reason (EchoStar shall have the right to issue credits or refunds at any time and from time to time in its sole and absolute discretion for any reason or no reason); (iv) the subscriber would otherwise be a Qualifying Bulk Subscriber, but is already receiving—or previously received at any time—any of the Programming, or any other audio, video, data, interactive or other programming services from EchoStar 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 EchoStar of a DISH DBS System unless: (i) all of the individual components comprising the applicable DISH DBS System (e.g., receivers, dishes and LNBF's) are confirmed by EchoStar as having been purchased by Retailer directly from either: (a) Echosphere L.L.C. or any other Affiliate of EchoStar; or (b) a Third Party Manufacturer; or (ii) the DISH DBS System is delivered pursuant to a Promotional Certificate that is confirmed by EchoStar as having been purchased by Retailer directly from Echosphere L.L.C. or any other Affiliate of EchoStar. Retailer acknowledges and agrees that EchoStar shall not be required to pay Incentives to Retailer in connection with a DISH DBS System purchased by Retailer directly from a Third Party Manufacturer unless and until the Third Party Manufacturer provides EchoStar with accurate information required by EchoStar to be able to pay such Incentives to Retailer including, at a minimum: (1) serial numbers for DISH DBS Systems sold by the Third Party Manufacturer to Retailer; and (2) 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 any other rights and remedies available, EchoStar 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 (attached hereto as Exhibit A) or any Other Agreement, and EchoStar 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 EchoStar 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, EchoStar 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 EchoStar.** 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 DBS System at a Residential Location or Institutional/Residential Location, EchoStar shall be entitled to activate Residential Programming for that Qualifying Residential Subscriber and/or DISH DBS System without payment of any Incentive or compensation to Retailer, even if Retailer solicited the Qualifying Residential Subscriber to order Residential Programming from EchoStar. 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 commercially-invoiced DISH DBS System at a non-bulk-billed MDU Property, EchoStar shall be entitled to activate Residential MDU Programming for that Qualifying Residential MDU Subscriber and/or DISH DBS System without payment of any Incentive to Retailer, even if Retailer solicited the Qualifying Residential MDU Subscriber to order Residential MDU Programming from EchoStar. 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 DBS System at a Commercial Location, EchoStar shall be entitled to activate Commercial Programming for that Qualifying Commercial Subscriber and/or DISH DBS System without payment of any Incentive to Retailer, even if Retailer solicited the Qualifying Commercial Subscriber to order Commercial Programming from EchoStar. In the event that Retailer for any reason does not qualify for an Incentive with respect to any Qualifying Bulk Subscriber and/or any commercially-invoiced DISH DBS System at a Guest Property or a bulk-billed MDU Property, EchoStar shall be entitled to activate Bulk Programming for that Qualifying Bulk Subscriber and/or DISH DBS System without payment of any Incentive to Retailer, even if Retailer solicited the Qualifying Bulk Subscriber to order Bulk Programming from EchoStar.

6.8 **Offsets.** In no event shall Retailer or any of its Affiliates offset any amounts due to EchoStar or any of its Affiliates from Retailer or any of its Affiliates against any Incentives or other amounts due to Retailer or any of its Affiliates from EchoStar or any of its Affiliates. In the event that the Incentives paid by EchoStar to Retailer exceed the amount to which Retailer was entitled, or if Retailer and/or any of its Affiliates are indebted to EchoStar or 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 EchoStar 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 EchoStar or any of its Affiliates, as well as any and all amounts for which EchoStar 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 Agreements. Further, EchoStar may, but shall have no obligation to, withhold such sums from any monies due or to become due to Retailer hereunder as EchoStar, at any time and from time to time in its sole and absolute discretion for any reason or no reason, deems necessary to protect EchoStar 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 EchoStar becomes aware concerning Retailer or the performance of Retailer's duties hereunder. EchoStar'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, but not limited to, any which might arise from a breach of this Agreement by EchoStar 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.** ECHOSTAR'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. Within thirty (30) days after expiration or termination of this Agreement for any reason or no reason whatsoever, Retailer shall pay to EchoStar all amounts owing from Retailer and its Affiliates to EchoStar and its Affiliates.

6.10 **Collection of Programming and Other Fees.**

6.10.1 Retailer acknowledges and agrees that: (i) with the sole exception of payments for installation and after-sales services performed by Retailer and as otherwise expressly permitted by EchoStar in writing, under no circumstances shall Retailer or any of its Affiliates collect any payment for Programming or any other payment due to EchoStar 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 EchoStar; (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 EchoStar 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 EchoStar directly; and (iv) until such time as the payment is delivered to EchoStar, such payment shall be deemed to be the property of EchoStar and Retailer shall hold such payment in trust for the benefit of EchoStar.

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 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 EchoStar 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 EchoStar, such payment or economic benefit shall be deemed to be the property of EchoStar and Retailer shall hold such payment or economic benefit in trust for the benefit of EchoStar.

6.10.3 The foregoing is agreed to without prejudice to EchoStar 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 seek damages or other legal or equitable relief. The provisions of this Section 6.10 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 payable pursuant to this Agreement and any applicable Business Rules constitute the sole amounts payable by EchoStar to Retailer in connection with this Agreement.

6.12 **No Admission.** No payment to Retailer under this Agreement, whether in full or in part, shall be deemed to operate as EchoStar's acceptance, waiver or admission that 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 agree that at all times (including but not limited to in 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 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 RELATING TO ANY ALLEGED FAILURE TO PAY ANY AMOUNTS DUE AND OWING FROM ECHOSTAR AND/OR ITS AFFILIATES, ON THE ONE HAND, TO RETAILER AND/OR ITS AFFILIATES, ON THE OTHER HAND, OR RELATING TO ANY CHARGEBACKS BE PROVIDED LATER THAN THIRTY (30) DAYS AFTER 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 AFTER EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR ANY 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 EchoStar's business, reputation and goodwill. Retailer shall allow only its employees, and shall not use any independent contractors, Affiliates or sub-agents, to fulfill its obligations hereunder without EchoStar's specific prior written consent, which consent may be withheld in EchoStar's sole and absolute discretion for any reason or no reason. In the event EchoStar does grant consent to Retailer to use persons not employed by Retailer to perform activities contemplated hereunder, Retailer shall be responsible for the acts and omissions of such persons under this Agreement 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 EchoStar and DISH Network Subscribers. Retailer shall promptly forward to EchoStar all orders for Programming in the manner prescribed by EchoStar from time to time. Retailer understands that EchoStar shall have the right, in its sole and absolute discretion and for any reason or no reason, to accept or reject, in whole or in part, all orders for Programming. Retailer also agrees that it shall not condition, tie or otherwise bundle any purchase of Programming with the purchase of other services or products other than as specifically consented to in writing by EchoStar in advance, which consent may be withheld in EchoStar's sole and absolute discretion for any reason or no reason.

7.3 Retailer shall comply with all Business Rules, including without limitation all Business Rules which govern or are applicable to any Promotional Program in which Retailer participates. Retailer shall disclose to each prospective DISH Network Subscriber the relevant terms of the Promotional Program in which the prospective DISH Network Subscriber is interested as well as any other terms as set forth in any applicable Business Rule. Furthermore, Retailer shall take all actions and refrain from taking any action, as requested by EchoStar in connection with the marketing, advertisement, promotion and/or solicitation of orders for Programming and the sale of DISH DBS Systems, and Retailer shall cooperate by supplying EchoStar with information relating to those actions as EchoStar reasonably requests. Failure of Retailer to adhere to any Business Rules may result in disciplinary action up to and including termination of this Agreement and/or any Other Agreement in the sole and absolute discretion of EchoStar for any reason or no reason, and the exercise by EchoStar of any other remedy provided in this Agreement, at law, in equity or otherwise.

7.4 Retailer hereby acknowledges and agrees that the relationship, contractual or otherwise, between EchoStar (and/or any of its Affiliates) and each DISH Network Subscriber is, as between EchoStar and Retailer, for the sole and exclusive benefit of EchoStar and that EchoStar may conduct such relationship in any manner that it sees fit from time to time, in its sole and absolute discretion for any reason or no reason, without incurring any liability to Retailer. In furtherance (and without limitation) of the foregoing, Retailer acknowledges and agrees that Retailer is not a third-party beneficiary of any agreement that EchoStar or any of its Affiliates may have with any DISH Network Subscriber, and that, under no circumstances, shall Retailer have any claim or cause of action against EchoStar or any Affiliate of EchoStar for any action taken (or not taken) by EchoStar 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, EchoStar relating to any DISH Network Subscriber are the sole and exclusive property of EchoStar and EchoStar shall not have any obligation whatsoever to give or 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 the Trademark License Agreement, in the form attached as Exhibit A hereto, which agreement is hereby incorporated 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 EchoStar in accordance with prevailing business standards, or damaging to EchoStar's image or goodwill in any way. Retailer shall under no circumstances take any action which could be considered disparaging to EchoStar. 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 DBS 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 connected to the same phone line (except in the case of a bulk-billed MDU Property); (iv) alter any DISH DBS Systems or smart cards or any other equipment compatible with programming delivered by EchoStar or any of its Affiliates to be capable of signal theft (or for any other reason without the express written consent of EchoStar); (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 EchoStar 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 not in 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 DBS Systems, and that DISH DBS Systems, Promotional Certificates and Programming may not currently be sold outside of the Territory. Retailer represents and warrants that it will not directly or indirectly arrange for or participate in the export or sale of DISH DBS Systems, Promotional Certificates 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 DBS Systems, Promotional Certificates and Programming outside of the Territory by others who purchase from Retailer and who might reasonably be expected to export or sell them outside the Territory.

9.3.2 Retailer acknowledges and understands that U.S. export laws relating to satellite receivers may change from time to 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 satellite receivers outside of the U.S. EchoStar 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 satellite receivers or any other products outside of the U.S. Retailer represents and agrees that prior to exporting any satellite receivers outside of the U.S., Retailer will investigate all applicable U.S. laws relating to the export of satellite receivers outside of the U.S. Retailer is strictly prohibited from violating any U.S. law relating to the export of satellite receivers outside of the U.S. Should Retailer export satellite receivers outside of the U.S. 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 EchoStar and Retailer for DISH Network Subscribers to be long-term customers of EchoStar and/or its Affiliates. Retailer acknowledges that churning of DISH Network Subscribers is detrimental to EchoStar and negatively affects EchoStar'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 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 other than EchoStar or any of its Affiliates (including without limitation Retailer or any of its Affiliates) 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 EchoStar or any other DBS provider or customers of any DTH satellite 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 EchoStar 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 Retailer and its Affiliates will not directly or indirectly produce, place, display or use any advertising or marketing material that explicitly references DISH Network, EchoStar, an Affiliate of EchoStar or DISH Network Subscribers and attempts to persuade DISH Network Subscribers to cancel their EchoStar service and/or switch to a service offered by any other DBS provider, DTH programming service provider or multi-channel video programming distributor ("MPVD"). Further, 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 MPVD. The provisions of this Section 9.4 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

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 EchoStar or any of its Affiliates, and/or (iii) receive any other services incidental, connected or related to any of the foregoing services, and/or who directly or indirectly purchase, lease or otherwise obtain the hardware necessary to receive any such Programming and/or any such other services ("DISH Network Subscribers") shall be deemed customers of EchoStar for all purposes relating to programming services, including without limitation video, audio, data and interactive programming services, the other services provided by EchoStar 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") are, as between Retailer and EchoStar, with respect to the delivery of Services and the provision of Hardware, proprietary to EchoStar, 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 EchoStar or another source), (b) use any Subscriber Information for the direct or indirect benefit of any individual or entity other than EchoStar, (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 anyone other than EchoStar and its Affiliates, or promote the sale, lease or other acquisition of any Hardware used in connection with services offered by any one other than EchoStar and its Affiliates, or (d) reveal any Subscriber Information to any third party for any reason without the express prior written consent of EchoStar, which consent may be withheld by EchoStar in its sole and absolute discretion for any reason or no reason; 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 **Remedies.** Retailer agrees that any breach of its obligations set forth in this Section 9 will cause substantial and irreparable harm and injury to EchoStar for which monetary damages alone would be an inadequate remedy, and which damages are difficult to accurately measure. Accordingly, Retailer agrees that EchoStar shall have the right, in addition to any other rights and remedies available to EchoStar 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 employees, subcontractors or agents, as well as other equitable relief allowed by the federal and state courts. The provisions of this Section 9.6 shall survive expiration or termination of this Agreement (for any reason or no reason whatsoever) indefinitely.

9.7 **Economic Benefits Derived Held in Trust.** In the event that Retailer derives an economic benefit, in any form, from a violation of its obligations under this Section 9, it is hereby agreed that such economic benefit is the property of EchoStar and that Retailer shall deliver the cash value of the economic benefit to EchoStar immediately upon receipt of the economic benefit. It is further agreed that Retailer shall hold such economic benefit in trust for the benefit of EchoStar until such time as its cash value is delivered to EchoStar. The foregoing is agreed to without prejudice to EchoStar 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 9.7 shall survive expiration or termination of this Agreement (for any reason or no reason) indefinitely.

9.8 **Sales and Use Tax.** Any transactions between Retailer and consumers for the purchase of DISH DBS Systems, Promotional Certificates and/or related equipment are transactions entered into solely and exclusively between Retailer and the consumer. Although EchoStar may from time to time incentivize Retailer to offer consumers free or discounted DISH DBS Systems and related equipment, EchoStar does not acquire or retain title (except in connection with certain lease-based Promotional Programs) in such DISH DBS Systems and related equipment. Retailer, and not EchoStar, is solely responsible for Retailer's investigation of and compliance with all Laws concerning sales and use taxes applicable to any equipment transactions between Retailer and consumers.

10. **TERM AND TERMINATION.**

10.1 **Term.** This Agreement shall commence on the Effective Date and shall continue through December 31, 2006 (the "Term"), unless earlier terminated by either party 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 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 SECTIONS 10.2, 10.3, 10.4 OR 10.5 BELOW.

10.2 **Termination by Either Party for Convenience.** Either party may, in its sole and absolute discretion for any reason or no reason, 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 (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 of 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 (Exhibit A) (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 EchoStar 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 DBS Systems and/or Programming; (iv) Retailer, or any officer, director, substantial shareholder or principal of the 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 federal, state or local law or regulation, or engages in any practice, substantially related to the business conducted by Retailer in connection with this Agreement, which is determined to be an unfair trade practice or other violation of any applicable federal, state or local law or regulation, including without limitation any violations of 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 law 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 DBS System or Promotional Certificate 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, in Canada, Mexico or at any other location outside of the Territory, or (e) intended to authorize, or to allow others to authorize, Programming for it using a single DISH Network account that had or would have Programming authorized for multiple satellite 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 connected to the same phone line (except in the case of a bulk-billed MDU Property); (ix) Retailer makes, or attempts to make, any representation, promise or agreement on behalf of EchoStar; (x) the Trademark License Agreement (Exhibit A hereto) or any Other Agreement expires or terminates for any reason; (xi) Retailer directly or indirectly uses a single DISH Network account for the purpose of authorizing Programming for multiple DISH DBS 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 connected to the same phone line (except in the case of a bulk-billed MDU Property); (xii) any actual or alleged fraud, 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 DBS System or directly or indirectly sells, leases or otherwise transfers possession of a DISH DBS System to a person or entity who Retailer knew or reasonably should have known intended to Pre-Activate it; (xiv) Retailer directly or indirectly makes any payment to EchoStar for Programming services or otherwise on behalf of any retail end-user of any DISH DBS System; (xv) the churn rate experienced by EchoStar for DISH Network Subscribers activated through Retailer is equal to or greater than 125% of the churn rate experienced by EchoStar with respect to DISH Network subscribers generally during any consecutive three-month period; (xvi) Retailer is in breach or default of its obligations under Sections 3.6, 3.7, 3.8, 3.9, 6.10, 6.14, 9.1, 9.2, 9.3, 9.4, 9.5, 9.8 or 14; (xvii) Retailer indefinitely ceases to actively market and promote DISH DBS Systems and/or Programming, as determined in EchoStar's sole and absolute discretion for any reason or no reason; (xviii) Retailer fraudulently receives, or attempts to receive, an Incentive or other payment to which it is not entitled under this Agreement or any Other Agreement, including without limitation by misrepresenting any information concerning a prior DISH Network Subscriber to make that person or entity appear to be a new DISH Network Subscriber or creating a fictitious or fraudulent customer account; 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: (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 EchoStar; (ii) Retailer shall immediately discontinue all use of the trademarks associated or included in any way whatsoever with the Programming, including, without limitation, DISH; (iii) Retailer shall deliver to EchoStar, or destroy, at EchoStar's option, all tangible things of every kind (excluding DISH DBS Systems) in Retailer's possession or control that bear any of the trademarks; (iv) Retailer shall upon request by EchoStar, certify in writing to EchoStar that such delivery or destruction has taken place; and (v) Retailer shall pay all sums due EchoStar under this Agreement and any Other Agreement within thirty (30) days of the date of termination. EchoStar 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 EchoStar products, programming and other services and that EchoStar cannot require

Retailer to continue as an Authorized Retailer. Retailer acknowledges and agrees that it cannot require EchoStar to allow Retailer to remain an Authorized Retailer regardless of whether or not any other retailer is allowed to remain an Authorized Retailer

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 EchoStar or its Affiliates. Retailer shall prominently state its business name, address and phone number 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 in this Agreement to the contrary, Retailer (including without limitation its officers, directors, permitted subcontractors, permitted agents and employees) shall not, under any circumstances, hold itself out to the public or represent that it is an agent, employee, subcontractor or Affiliate of EchoStar or any EchoStar Affiliate. In furtherance of (and without limiting) the foregoing, in no event shall Retailer use EchoStar's name or the name of any EchoStar Affiliate in any manner which would tend to imply that Retailer is an Affiliate of EchoStar or that Retailer is an agent, subcontractor or employee of EchoStar or one of its Affiliates or that Retailer is acting or is authorized to act on behalf of EchoStar or one 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, promise or agreement or take any action on behalf of EchoStar or an EchoStar Affiliate.

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 TERMINATION OF THIS AGREEMENT FOR ANY REASON OR NO REASON WHATSOEVER, ECHOSTAR AND ITS AFFILIATES SHALL HAVE NO LIABILITY OR OBLIGATION TO RETAILER WHATSOEVER AND RETAILER SHALL HAVE NO RIGHT TO REQUIRE ECHOSTAR TO CONTINUE TO ALLOW RETAILER TO ACT AS AN AUTHORIZED RETAILER TO SOLICIT ORDERS FOR PROGRAMMING ON BEHALF OF ECHOSTAR. RETAILER AGREES THAT IN THE EVENT OF TERMINATION OF THIS AGREEMENT FOR ANY REASON OR NO REASON, NO AMOUNTS SPENT IN FULFILLMENT WILL BE RECOVERABLE FROM ECHOSTAR OR ANY OF ITS AFFILIATES BY RETAILER.

12.2 IN NO EVENT SHALL PROJECTIONS OR FORECASTS MADE BY ECHOSTAR BE BINDING AS COMMITMENTS OR PROMISES. IN NO EVENT SHALL ECHOSTAR OR ANY AFFILIATE OF ECHOSTAR BE LIABLE FOR ANY EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL 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' 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 EchoStar 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 "EchoStar 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 attorney 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 but not limited to Retailer's sale and/or installation of DISH DBS Systems or Promotional Certificates; (ii) Retailer's lawful or unlawful acts or omissions (or those of any of Retailer's employees whether or not such acts are within the scope of employment or authority of such employees) relating to the sale, leasing, transfer of possession, marketing, advertisement, promotion and/or solicitation of orders for Programming, Promotional Certificates and/or DISH DBS Systems and/or any other products or services of EchoStar 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, statute, ordinance, governmental administrative order, rule or regulation; (vii) any claim brought by Retailer's employees, subcontractors and/or agents for compensation and/or damages arising out of 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 (except with respect to any marketing materials supplied to Retailer by EchoStar); (ix) any installation and/or after-sale services performed by Retailer, or any of its subcontractors, employees or agents; (x) Retailer's, or any of its subcontractors, agents or employees 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 the Retailer, or any of its subcontractors, employees or 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 subcontractors, employees or agents; (xiii) Retailer directly or indirectly selling, leasing or otherwise transferring possession of a DISH DBS System or Promotional Certificate to any 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 (1) view Residential Programming at a location other than a Residential Location or Institutional/Residential Location, or (2) view Residential MDU Programming at a location other than a non-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 it using a single DISH Network account that has or would have Programming authorized for multiple satellite 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 connected to the same phone line (except in the case of a bulk-billed MDU Property); and/or (xiv) Retailer directly or indirectly using a single DISH Network account for the purpose of authorizing Programming for multiple DISH DBS 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 connected to the same phone line (except in the case of a bulk-billed MDU Property). In the event of any claim for indemnification by the EchoStar Group under this Section 13, the EchoStar Group shall be entitled to representation by counsel of its own choosing, at Retailer's sole cost and expense. The EchoStar Group shall have the right to the exclusive conduct of all negotiations, litigation, settlements and other proceedings arising from any such claim and Retailer shall, at its own cost and expense, render all assistance requested by EchoStar in connection with any such negotiation, litigation, settlement or other proceeding. Each indemnity obligation herein shall be in addition to and not in limitation of any other indemnity obligation set forth herein. 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 and provisions of this Agreement, the terms 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 EchoStar's 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 that it has not and will not reveal the same to any persons not employed by Retailer, except: (i) at the written direction of EchoStar; (ii) to the extent necessary to comply with applicable law, 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 EchoStar of the information in advance, prior to making any disclosure, and shall seek confidential treatment of such information; (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; or (iv) to the extent necessary to permit the performance of obligations under this Agreement. Retailer shall not issue an independent press release with respect to this Agreement or the transactions contemplated hereby without the prior written consent of EchoStar, which consent may be withheld in EchoStar's sole and absolute discretion for any reason or no reason. Upon expiration or termination of this Agreement for any reason or no reason whatsoever, Retailer shall return all copies of all Confidential Information or at EchoStar's request destroy all such Confidential Information, and immediately certify in writing to EchoStar that such delivery or destruction has taken place. Retailer agrees that any breach of its obligations set forth in this Section 14 will cause substantial and irreparable harm and injury to EchoStar for which monetary damages alone would be an inadequate remedy, and which damages are difficult to accurately measure. Accordingly, Retailer agrees that EchoStar shall have the right, in addition to any other rights and remedies available to EchoStar 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 employees or agents, as well as other equitable relief allowed by the federal and 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 EchoStar deals with thousands of Retailers and that hundreds of thousands of Incentive payments are made annually. Retailer acknowledges that any delay in notifying EchoStar of any alleged shortage or non-payment, allegedly incorrect chargeback, or any other alleged claim that may result in EchoStar's liability to Retailer for damages or injunctive relief may impede EchoStar'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 EchoStar control over claims that have to be investigated and to allow EchoStar 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 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 EchoStar's liability to Retailer for damages or injunctive relief.

15.1 **Claims for Breach or Default.** IN THE EVENT OF AN OCCURRENCE THAT RENDER, OR MIGHT RENDER, ECHOSTAR 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 ECHOSTAR (A "NOTICE OF CLAIM"). IN NO EVENT SHALL ANY NOTICE OF CLAIM BE PROVIDED LATER THAN NINETY (90) DAYS AFTER 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). THE 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 RELATING TO SUCH OCCURRENCE. RETAILER MAY SUBMIT A NOTICE OF CLAIM CONCERNING INCENTIVE PAYMENTS THROUGH ECHOSTAR'S RETAILER WEBSITE (<http://retailer.echostar.com>) IN ACCORDANCE WITH APPLICABLE BUSINESS RULES. RETAILER MAY SUBMIT A NOTICE OF CLAIM CONCERNING ALL OTHER CLAIMS VIA ELECTRONIC MAIL TO executiveresolution@echostar.com WITH THE SUBJECT LINE "NOTICE OF CLAIM." AFTER SUBMITTING A NOTICE OF CLAIM, RETAILER SHALL PROVIDE ECHOSTAR WITH ANY AND ALL ADDITIONAL INFORMATION REQUESTED BY ECHOSTAR WITHIN THIRTY (30) DAYS AFTER RECEIPT OF ECHOSTAR'S REQUEST. ECHOSTAR 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, ECHOSTAR 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 ANY DAMAGES RELATED THERETO.

15.2 Mediation. The parties agree to submit any and all disputes, controversies or claims not otherwise barred or resolved under Section 15.1 or exempted under Section 15.4, which may arise between Retailer and/or any of its Affiliates, on the one hand, and EchoStar and/or any of its Affiliates, on the other hand, including but not limited to any and all disputes, controversies, and claims arising in connection with this Agreement including, without limitation, 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 (v) any rights Retailer may have under dealer termination or non-renewal laws (collectively "Disputes"), to mandatory non-binding mediation (the "Mediation") in front of a single mediator. Either party may initiate mediation by giving written notice to the other party 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 of the Notice of Mediation. Nothing contained herein (excluding the provisions of Section 3.10, which shall apply in full force and effect) shall limit or restrict the rights of either party and/or its Affiliates to file a Notice of Arbitration and/or bring a request for injunctive relief against the other party and/or its Affiliates for violations of Sections 3.2, 3.6, 3.7, 3.8, 5, 6.10, 7.2, 7.3, 9.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 11 and 14 or any provisions of 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 this Section 15, then: (A) the Non-Mediating Party agrees that the other party (the "Mediating Party") shall have the right to obtain immediate relief in the form of specific performance from a court located in the State of Colorado, as delineated in Section 15.5 below; and (B) 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 located in Colorado, as delineated in Section 15.5 below. In the event that the Mediating Party elects to resolve the underlying dispute, controversy or claim in court pursuant to clause (B) 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 court proceeding as fully participating in a mediation pursuant to this Section 15.2 is a condition precedent to recovery.

15.3 Arbitration. Except as set forth to the contrary in this Section 15.3 and in Section 15.4 below, any and all disputes, controversies or claims between Retailer and/or any of its Affiliates, on the one hand, and EchoStar 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 but not limited to the validity of this Section 15, the circumstances concerning the execution and delivery of this Agreement (whether via signature or electronic acceptance), and allegations of fraud in the inducement, or which relate to the parties' relationship with each other or either party's compliance with any state or federal law, which are not settled through negotiation, the claim process above, or the mediation process set forth above, shall be resolved solely and exclusively by binding 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. In the event of any conflict between the Federal Arbitration Act and the Commercial Arbitration Rules of the American Arbitration Association, the Federal Arbitration Act will control. In consideration of EchoStar 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. The Arbitration must be initiated within ninety (90) days from the final day of mediation, or one hundred and fifty (150) days from the Notice of Mediation in the event Mediation is not concluded within sixty (60) days of the Notice of Mediation, and shall be initiated by written notice from the initiating party to the other party 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 arbitrators who shall be selected as follows: (i) one arbitrator shall be selected by the

claimant(s) within thirty (30) days of sending the Notice of Arbitration; (ii) one arbitrator shall be selected by the respondent(s) within thirty (30) days of the claimant(s) notifying respondent of the identity of claimant's arbitrator; and (iii) the third arbitrator shall be selected by the arbitrators chosen by the claimant(s) and the respondent(s) within thirty (30) days of the appointment of the respondent(s)' arbitrator. In the event that either party fails to timely select an arbitrator pursuant to this Section 15.3, such party shall be deemed to have waived its right to a three-member arbitration panel and shall be required to participate in the arbitral proceedings with the one arbitrator selected by the other party. The parties hereby agree that the arbitration panel selected pursuant to this Agreement is not authorized to: (a) conduct "class arbitration" in any form; and/or (b) arbitrate any dispute on a representative basis in any form. The parties hereby agree that the arbitration panel has the authority to entertain and rule upon dispositive motions, including but not limited to, 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 arbitrators shall be final and binding on the parties and any award of the arbitrators 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 arbitrators' 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. In furtherance and without limitation of the foregoing, any award made by the arbitrators shall be within the limitations set forth in Section 12. The parties further agree that the arbitration panel selected pursuant to this Agreement 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. The cost of any arbitration hereunder, including without limitation the cost of the record or transcripts thereof, if any, administrative fees, and all other fees involved, shall be paid by the party(ies) determined by the arbitrators to not be the prevailing party(ies), or otherwise allocated in an equitable manner as determined by the arbitrators. NEITHER PARTY HERETO NOR ITS AFFILIATES MAY BRING ANY DEMAND FOR ARBITRATION AGAINST THE OTHER PARTY AND/OR ITS AFFILIATES IF IT AND/OR ITS AFFILIATES HAVE FAILED TO FULLY COMPLY WITH THE PROCEDURES SET FORTH IN SECTIONS 15.1 AND 15.2; provided, however, that nothing contained herein (excluding the provisions of Section 3.10, which shall apply in full force and effect) shall limit or restrict the rights of either party and/or its Affiliates to file a Notice of Arbitration and/or bring a request for injunctive relief against the other party and/or its Affiliates for violations of Sections 3.2, 3.6, 3.7, 3.8, 5, 6.10, 7.2, 7.3, 9.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 11 and 14 or any provisions of any Other Agreement. In the event that a party (the "Non-Participating Party") fails to: (1) pay any amount to the American Arbitration Association when due; or (2) otherwise refuses or fails to participate in or attend an arbitration that has been properly initiated pursuant to this Section 15, then: (A) the Non-Participating Party agrees that the other party (the "Participating Party") shall have the right to obtain immediate relief in the form of specific performance from the arbitration panel or a court located in the State of Colorado, as delineated in Section 15.5 below; and (B) 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 solely and exclusively before a court located in 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 clause (B) above, 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 this Section 15.3 is a condition precedent to recovery.

15.4 **Exceptions.** Notwithstanding the foregoing, the 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 Arapahoe County, Colorado pursuant to Section 15.5 below; provided, however, that nothing contained herein (excluding the provisions of Section 3.10, which shall apply in full force and effect) shall limit or restrict the rights of either party and/or its Affiliates to file a Notice of Arbitration and/or bring a request for injunctive relief against the other party and/or its Affiliates for violations of Sections 3.2, 3.6, 3.7, 3.8, 5, 6.10, 7.2, 7.3, 9.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 11 and 14 or any provisions of 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, or under statute, 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 a lawsuit is brought for injunctive relief pursuant to Sections 15.2, 15.3, or 15.4 above or as permitted in clause (B) of Section 15.2 or clause (B) of Section 15.3, 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 Arapahoe County, State of Colorado for the purposes set forth in this Section 15 and waive, fully and completely, any right to dismiss and/or transfer any action pursuant to Title 28 U.S.C. Sections 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 matter, then such matter shall be litigated solely and exclusively before the appropriate state court of competent jurisdiction located in Arapahoe County, State of Colorado.

15.6 **Survival.** The provisions of this Section 15 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 EchoStar at least thirty (30) days prior notification of cancellation or material change in coverage; (iii) name EchoStar as an additional insured; and (iv) be endorsed to provide EchoStar 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 EchoStar, which shall be provided to EchoStar upon request.

16.3 All insurance policies required by this Section 16 (except Workers' Compensation) shall designate EchoStar, DNSLLC, their Affiliates, and their respective directors, officers, and employees (all hereinafter referred to in this clause 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 EchoStar, DNSLLC and their Affiliates and their respective directors, officers and employees are third party beneficiaries of Retailer's obligations under this Section 16. No deductible amount on any insurance policy required by this Section 16 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 EchoStar or any of its Affiliates to insist upon strict performance of any provision of any agreement among EchoStar 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 EchoStar'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 EchoStar or any of its Affiliates with respect to the breach or default by another retailer of any agreement among EchoStar and/or any of its Affiliates on the one hand and the other retailer on the other hand shall not be deemed to prejudice any rights and remedies that EchoStar may have at law, in equity, under contract 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 EchoStar and Retailer. In addition to, and not in 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 EchoStar may assign this Agreement to an Affiliate in whole or in part at any time without the consent of Retailer. Because this Agreement is made by EchoStar 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 EchoStar's consent hereunder and if any person not a substantial stockholder of Retailer (someone with less than a 25% interest) as of the Effective Date subsequently becomes a substantial stockholder of Retailer (equal to, or greater than a 25% interest), that shall be considered an assignment requiring EchoStar's consent hereunder. The provisions of this Agreement are for the exclusive benefit of the parties hereto, EchoStar's Affiliates and their 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 EchoStar) 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 EchoStar 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 any amendments hereto or thereto. This Agreement may be executed 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 communications between them on the subject matter of this Agreement, unless the communication is: (i) in writing; (ii) bears a date contemporaneous with or subsequent to the date of this Agreement; and (iii) is signed by all parties to this Agreement. On the date this Agreement becomes effective as provided herein, all prior agreements (except as set forth to the contrary in Section 3.10 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 there are no unwritten side agreements or oral agreements between the parties which alter, amend, modify or supplement this Agreement. In addition to 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 Law.** Retailer hereby agrees to comply with, and hereby agrees that this Agreement is subject to, all applicable federal, state, and local laws, rules and regulations, and all amendments thereto, now enacted or hereafter promulgated in force during the term of this Agreement.

17.7 **Force Majeure.** Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other for failure to fulfill its obligations hereunder if such failure is caused by or arises out of an act of force majeure including acts of God, war, riot, natural disaster, technical failure (including the failure of all or part of any communications satellite or transponders on 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 EchoStar in case of default or breach by Retailer of this Agreement are cumulative and without prejudice to any other rights and remedies that EchoStar 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 three (3) 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 its Affiliates by EchoStar and its Affiliates; and (iii) all payments made by Retailer and its Affiliates to EchoStar and 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 EchoStar. EchoStar 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) investigating claims against EchoStar and/or any of its Affiliates made by Retailer and/or any of its Affiliates; and (c) verifying that Incentive payments and any and all other payments made to Retailer and its Affiliates by EchoStar and its Affiliates are being properly calculated (an "Audit"). EchoStar shall be entitled to conduct an Audit regardless of the existence of any claim, dispute, controversy, mediation, arbitration or litigation between the parties. In the event that Retailer refuses to allow EchoStar to conduct an Audit, Retailer acknowledges that EchoStar 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 of this Agreement. Any audit conducted by EchoStar shall be conducted by EchoStar or its representative(s) at Retailer's offices during normal business hours. If, during the course of an EchoStar Audit, EchoStar 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 EchoStar and/or any of its Affiliates, Retailer shall pay to EchoStar the costs and expenses incurred by EchoStar in connection with such Audit. If an Audit reveals that (A) Retailer and/or any of its Affiliates have underpaid EchoStar 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 EchoStar and/or any of its Affiliates, Retailer agrees to repay to EchoStar the amount of any overpayment made together with interest thereon at the highest rate allowed by law, computed from the date of overpayment, and pay all reasonable costs and expenses, including reasonable attorney fees and accountant fees incurred by EchoStar and/or any of its Affiliates in connection with its 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 EchoStar and/or its Affiliates may have under 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 even if termination is due to a breach or default by EchoStar.

17.10 Notices.

17.10.1 Notice to EchoStar. Except as otherwise provided in Section 15, all notices to be given to EchoStar pursuant to this Agreement shall be in writing, signed by the 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 EchoStar may designate to Retailer at any time and from time to time in accordance with Section 17.10.2:

If by first class certified mail:

To EchoStar: EchoStar Satellite L.L.C.
Attn: Director of Retail Services
P.O. Box 6655
Englewood, CO 80155

With a copy to: David K. Moskowitz
Executive Vice President, General Counsel and Secretary
EchoStar Satellite L.L.C.
(same address)

If by overnight courier service:

To EchoStar: EchoStar Satellite L.L.C.
Attn: Director of Retail Services
9601 South Meridian Blvd.
Englewood, CO 80112

With a copy to: David K. Moskowitz
Executive Vice President, General Counsel and Secretary
EchoStar Satellite L.L.C.
(same address)

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 by: (i) first class certified mail, postage prepaid; (ii) overnight courier service, charges prepaid; (iii) facsimile transmission, 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 EchoStar in accordance with Section 17.10.1; or (d) with the exception of notices given pursuant to Sections 10, 13 or 15, any method of mass communication reasonably directed to EchoStar's retailer base, including, without limitation, facts blast, e-mail posting on EchoStar's retailer web site or broadcast on a retailer "Charlie Chat". The sending of such notice with confirmation of successful receipt of the entire transmission (in the case of facsimile transmission), receipt of such notice (in the case of first class certified mail or overnight courier), sending of such notice (in the case of e-mail), posting (in the case of EchoStar's retailer web site) or broadcast (in the case of retailer Charlie Chats) shall constitute 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 "Charlie Chat" or posting on EchoStar's retailer web site.

17.11 Attorney Fees. In the event of any suit, action or arbitration between Retailer and/or any of its Affiliates, on the one hand, and EchoStar and/or any of its Affiliates, on the other hand, including but not limited to any and all suits, actions or arbitrations to enforce this Agreement, any Business Rules, any Promotional Program or any provisions thereof, the prevailing party shall be entitled to recover its costs, expenses and reasonable attorney fees, at arbitration, at trial and on appeal, in addition to 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 EchoStar competes in the multi-channel video distribution market, which is highly competitive, fluid and volatile and that EchoStar must make changes to its marketing, promotion and sales of products and services from time to time to stay competitive. Therefore, Retailer agrees that EchoStar may, at any time and from time to time in its sole and absolute discretion for any reason or no reason, change or modify Incentives, Incentive schedules, Incentive structures, Promotional Programs and Business Rules, payment terms, or the Chargeback rules associated therewith, upon notice to Retailer, without the need for any further consent, written or otherwise, from Retailer. IF ANY SUCH MODIFICATION OR CHANGE IS MATERIAL

AND UNACCEPTABLE TO RETAILER, RETAILER'S ONLY RECOURSE IS TO TERMINATE THIS AGREEMENT. RETAILER'S CONTINUED PERFORMANCE UNDER THIS AGREEMENT FOLLOWING RECEIPT OF NOTICE OF A CHANGE OR MODIFICATION WILL CONSTITUTE RETAILER'S BINDING ACCEPTANCE OF THE CHANGE OR MODIFICATION.

17.13 **Interstate Commerce.** The parties acknowledge that the transactions contemplated by this Agreement involve interstate commerce.

17.14 **General Provisions.** The exhibits hereto are hereby incorporated into this Agreement by reference in their entirety.

17.15 **Power and Authority.** Retailer represents and warrants to EchoStar 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 law or result in a breach of or default under the terms 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 EchoStar and its Affiliates, including facsimile transmittals which contain unsolicited advertisements. For the avoidance of doubt, such permitted facsimile transmittals from EchoStar or its Affiliates shall include, but not be limited to, 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 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 EchoStar 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 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 such agreement on Retailer's behalf.

17.19 **Alteration of Terms and Conditions.** Retailer acknowledges and agrees that, because among other things EchoStar has thousands of authorized retailers, it is in each party's best interest to establish an orderly process for Retailer to propose additions, deletions and modifications to the terms and conditions set forth in this Agreement and for EchoStar to receive such proposals prior to the parties entering into an agreement. Therefore, Retailer further acknowledges and agrees that any additions, deletions or modifications to the terms and conditions of this Agreement proposed by Retailer must be sent to EchoStar solely and exclusively via an e-mail message addressed to proposedchanges@echostar.com with the subject line "Proposed Changes to EchoStar Retailer Agreement" (a "Proposal") and that such Proposals must be received by EchoStar prior to Retailer executing this Agreement (whether via signature or electronic acceptance). RETAILER ACKNOWLEDGES AND AGREES THAT: (I) ANY AND ALL PROPOSALS RECEIVED BY ECHOSTAR AFTER RETAILER HAS EXECUTED THIS AGREEMENT SHALL BE OF NO FORCE OR EFFECT; AND (II) IN THE EVENT THAT RETAILER EXECUTES THIS AGREEMENT AFTER ECHOSTAR HAS RECEIVED ONE 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) EchoStar receives a Proposal from Retailer; (b) Retailer executes this Agreement; and (c) EchoStar executes this Agreement, then Retailer acknowledges and agrees that the execution of this Agreement by Retailer withdrew the Proposal and Retailer and EchoStar will therefore have a binding agreement on the terms and conditions set forth herein, without any additions, deletion or modifications thereto. Further, in the event that the following events occur in the following order: (1) Retailer executes this Agreement; (2) EchoStar receives a Proposal from Retailer; and (3) EchoStar 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 EchoStar will therefore have a binding agreement on the terms and conditions set forth herein, without any additions, deletion or modifications thereto. Further, in the event that the following events occur in the following order: (A) EchoStar receives a Proposal from Retailer; (B) Retailer executes this Agreement; (C) EchoStar receives a second Proposal from Retailer; and (D) EchoStar 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 EchoStar will therefore have a binding agreement on the terms and conditions set forth herein, without any additions, deletion or modifications thereto. Retailer further acknowledges and agrees that a Proposal may only be accepted by EchoStar in a writing signed by an Executive Vice President of EchoStar (or his designee), which specifically acknowledges receipt of the applicable Proposal, includes the portion(s) of the Proposal that EchoStar is willing to accept, and expressly states that EchoStar has agreed to accept such portion(s) of the Proposal. Notwithstanding anything to the contrary set forth herein, EchoStar is under no obligation to receive, consider or accept any Proposals, and in the event that a Proposal received by EchoStar is not accepted in the manner provided in the immediately preceding sentence, then such Proposal shall automatically be deemed to have been rejected by EchoStar. For the avoidance of doubt, EchoStar has the right to not receive, consider or accept any Proposal and to reject any Proposal in its sole and absolute discretion for any reason or no reason.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and/or accepted electronically by their duly authorized representatives as of the date first written above.

ECHOSTAR SATELLITE L.L.C.

By: _____

Name: Amir Ahmed
Title: National VP, Sales and Distribution

RETAILER

Retailer Number: 821970

Retailer Company Name: SATELLITE SYSTEMS NETWORK

Street Address: 135 COLUMBIA
City, State, Zip Code: ALISO VIEJO, CA 92656
Facsimile Number: (949) 643-7173
(for notice to Retailer pursuant to Section 17.10.2)

By: _____
Signature

Print Name: ALEX TEHRANCHI
Title: PRESIDENT

[SIGNATURE PAGE OF ECHOSTAR RETAILER AGREEMENT]

HIGHLY CONFIDENTIAL

PX0193-028

DISH8-0002774

PRODUCED OVER DEFENDANT'S PRIVILEGE DESIGNATION UNDER COURT ORDER

SLC_ DNC_ Investigation 0012394
9A014344
013070

TX 102-013606

EXHIBIT A

TRADEMARK LICENSE AGREEMENT

THIS TRADEMARK LICENSE AGREEMENT (the "Agreement") is made and effective as of the 31st day of December 2004, by and between EchoStar Satellite L.L.C., formerly known as EchoStar Satellite Corporation ("ESLLC"), having a place of business at 9601 S. Meridian Blvd., Englewood, Colorado 80112, and SATELLITE SYSTEMS NETWORK having a principal place of business at 135 COLUMBIA, ALISO VIEJO, CA 92656 ("Licensee").

A. ESLLC conducts business in worldwide locations as, among other things, a provider of direct broadcast satellite-delivered, multi-channel, digital video, audio, data, interactive and other programming services ("Programming"); and

B. Licensee conducts business as, among other things, a retailer of satellite television products and services; and

C. Licensee desires to be permitted to use such EchoStar trademarks, service marks and trade names set forth in Exhibit 1 hereto, which may be amended at any time and from time to time in ESLLC's sole and absolute discretion for any reason or no reason (the "Trademarks"), as ESLLC, in its sole and absolute discretion for any reason or no reason, may authorize, from time to time, under a non-exclusive license, to promote and solicit orders for DISH Network Programming.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. ESLLC hereby grants to Licensee a non-exclusive, non-transferable, revocable license (the "License") to use the Trademarks and such other trademarks as ESLLC may from time to time expressly in writing permit Licensee to use during the term of this Agreement, and no other term or license whatsoever, solely to promote the retail sale of ESLLC satellite television programming and the hardware necessary to receive such programming in its local advertising and promotional materials and at its business locations. Licensee expressly recognizes and agrees that Licensee shall not, in whole or in part, modify, alter, supplement, delete or otherwise change the Trademarks (whether in typewritten, stylized or any other form) as provided to Licensee by ESLLC. Licensee shall have no right to use the logos, service marks or trademarks (whether in typewritten, stylized or any other form) of any programming providers, other than the logos, service marks and trademarks of programming providers that are contained in the advertising and promotional material provided to Licensee by ESLLC. No such materials shall indicate that any agreement of agency, partnership, joint venture, franchise or exclusive or non-exclusive distributorship exists between Licensee and ESLLC, unless ESLLC and Licensee enter into a separate written agreement permitting Licensee to do so. Notwithstanding the above, Licensee shall provide to ESLLC, at least thirty (30) days prior to first use, an example of any advertising or promotional materials in which Licensee intends to use any Trademarks or any such other trademarks (whether in typewritten, stylized or any other form), which use has not, within the past twelve months, been approved by ESLLC in exactly the manner intended for use. ESLLC may reject and prohibit Licensee from using such materials, in its sole and absolute discretion for any reason or no reason. If Licensee is required to, but fails to provide ESLLC with proposed advertising or promotional materials at least thirty (30) days prior to first use, ESLLC shall have just cause to immediately terminate this Agreement by providing written notice to Licensee to that effect. This Agreement is not intended, nor shall it be construed, as creating any agreement of agency, partnership, joint venture, franchise or of exclusive or non-exclusive distributor, or as creating any obligation on the part of ESLLC to enter into any such agreement with Licensee. Further, this Agreement is not intended, nor shall it be construed, as providing any rights to Licensee to purchase or sell products or programming manufactured and/or distributed by ESLLC. Licensee expressly recognizes and agrees that any goodwill now existing or hereafter created through any sales by Licensee of products or programming manufactured and/or distributed by ESLLC, shall inure to ESLLC's sole benefit. This License shall be effective until terminated by either party in accordance with the terms of this Agreement, or until termination of the Incentivized Retailer Agreement to which this Agreement is attached for any reason or no reason whatsoever.

2. The License granted by ESLLC 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, such action shall terminate this Agreement, at ESLLC's option, at any time thereafter. Licensee shall immediately cease using Trademarks in typewritten, stylized or any other form upon termination or expiration 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 ESLLC's option Licensee shall immediately destroy or deliver to ESLLC any and all advertising and promotional materials in Licensee's possession with Trademarks (whether in typewritten, stylized or any other form) on them. If ESLLC requests destruction of advertising and promotional materials, Licensee shall promptly execute an affidavit representing at a minimum that such materials were destroyed, and the date and means of destruction.

3. Licensee expressly recognizes and acknowledges that this License, as well as any past use of the Trademarks in any manner whatsoever by Licensee (including but not limited to use on signs, business cards, or in advertisements) or in any form whatsoever by Licensee (including but not limited to typewritten or stylized form), shall not confer upon Licensee any proprietary rights or interest to any Trademarks including, but not limited to any existing or future goodwill in the Trademarks. All goodwill in the Trademarks shall inure to ESLLC's sole benefit. Further, Licensee waives any and all past, present, or future claims it has or might have to the Trademarks (whether in typewritten, stylized or any other form) and acknowledges that as between ESLLC and Licensee, ESLLC has the exclusive rights to own and use the Trademarks (whether in typewritten, stylized or any other form), and that ESLLC retains full ownership of the Trademarks (whether in typewritten, stylized or any other form) notwithstanding the License granted herein. While Licensee has no right or authority to do so, in

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DISH8-0002775

SLC_DNC_Investigation 0012395
JAO 1343
013071

TX 102-013607

the event that Licensee has previously, or in the future reserves, files, or registers any of the Trademarks of ESLLC (whether in typewritten, stylized or any other form) or registers any domain name which includes all or any portion of the Trademarks of ESLLC, Licensee agrees to notify ESLLC immediately, and immediately upon request of ESLLC, to assign any and all interest to ESLLC that is obtained through the reservation, filing, or registration of the Trademarks in the U.S. or any foreign jurisdiction or through the registration of any domain name, and hereby acknowledges that any such reservation, filing, or registration of the Trademarks or domain name which includes all or any portion of the Trademarks, whenever occurring, shall be on behalf of and for the sole benefit of ESLLC, and Licensee waives all claims or rights to any compensation whatsoever therefore. Licensee's obligations in this paragraph shall survive the expiration or termination (for any reason or no reason whatsoever) of this Agreement indefinitely.

4. Furthermore, Licensee agrees not to hold itself out as DISH Network, ESLLC or any related or affiliated entity. To avoid any confusion in this respect, Licensee agrees not to use either (i) the formative "DISH" in combination with the formative "NET", or (ii) the formative "ECHO", as part of its business name. Furthermore, Licensee agrees not to register any domain name which contains either (a) the formative "DISH", in combination with the formative "NET", (b) the formative "ECHO", or (c) a misspelling of DISH Network (e.g., www.dishnetwork.com) or other ESLLC mark, and Licensee further agrees to immediately transfer to ESLLC, upon ESLLC's request, any such domain names which it has registered. Licensee's failure to comply with the provisions of this Section 4 shall constitute a material breach of this Agreement. Upon request, Licensee shall provide ESLLC with a list of domain names Licensee uses to promote or solicit orders for DISH Network Programming.

5. Nothing in this Agreement shall be construed to bar ESLLC from protecting its right to the exclusive use of its Trademarks (whether in typewritten, stylized or any other form) against infringement thereof by any party or parties, including Licensee, either during the term of this Agreement or following any expiration or termination of Licensee's right to use the Trademarks pursuant to this Agreement for any reason or no reason whatsoever. Licensee will promptly and fully advise ESLLC of any use of any mark that may appear to infringe the Trademarks (whether in typewritten, stylized or any other form). Licensee will also fully cooperate with ESLLC in defense and protection of the Trademarks (whether in typewritten, stylized or any other form), at ESLLC's expense. Similarly, nothing in this Agreement shall be construed to require that ESLLC take any action to protect the Trademarks in any instance, and ESLLC shall not be liable to Licensee in any manner whatsoever for failure to take any such action.

6. (a) This Agreement shall continue for a period of time equal to the term of the Incentivized Retailer Agreement to which this Agreement is attached, unless terminated earlier for a reason provided herein. In addition to any provisions of this Agreement that survive termination or expiration of this Agreement by their term, any provision of this Agreement which logically would be expected to survive termination for any reason or no reason whatsoever or expiration, shall survive for a reasonable time period under the circumstances, whether or not specifically provided in this Agreement.

(b) This Agreement may be terminated by a party (the "Affected Party") in the event that 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 of 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 termination of the Incentivized Retailer Agreement to which this Agreement is attached for any reason or no reason whatsoever and upon termination of any Other Agreement (as defined in Section 1.26 of the Incentivized Retailer Agreement to which this Agreement is attached) for any reason, unless EchoStar notifies Licensee to the contrary in writing.

7. The relationship between the parties including all disputes and claims, whether arising in contract, tort, or under statute, 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 EchoStar 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 of Exhibits hereto.

Any and all disputes arising out of, or in connection with, the interpretation, performance or the nonperformance of this Agreement or any and all disputes arising out of, or in connection with, transactions in any way related to this Agreement and/or the relationship for any reason whatsoever between the parties (including but not limited to 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 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 of said matter, then such matter shall be litigated solely and exclusively before the appropriate state court of competent jurisdiction located in Arapahoe County, State of Colorado.

8. This Agreement may be executed 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.

IN WITNESS WHEREOF, the parties hereto have signed and/or electronically accepted, this Agreement by their duly authorized representatives as of the date first written above.

ECHOSTAR SATELLITE L.L.C.

By: _____

Name: Amir Ahmed
Title: National VP, Sales and Distribution

LICENSEE

Retailer Number: 821970

Retailer Company Name: SATELLITE SYSTEMS NETWORK

Street Address: 135 COLUMBIA

City, State, Zip Code: ALISO VIEJO, CA 92656

By: _____
Signature

Print Name: ALEX TEHRANCHI
Title: PRESIDENT

[SIGNATURE PAGE OF TRADEMARK LICENSE AGREEMENT]

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PX0193-031

DISH8-0002777

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SLC_ DNC_ Investigation 0012397
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TX 102-013609

EXHIBIT 1 TO TRADEMARK LICENSE AGREEMENT



Page 32 of 32

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SLC_ DNC_ Investigation 0012398
JAO 14348
013074

TX 102-013610

EXHIBIT 702

EXHIBIT 702

From: Bangert, Russell
Sent: Monday, April 10, 2006 3:37:38 PM
To: Gattone, Tim; Bagwell, Rodney
CC: Binns, Todd; Peavy, Marshall
Subject: RE: National DNC Loads

Tim,

We set the effective dates. They are always January first of the current year and December 31st of ten years in the future.

Thank you.

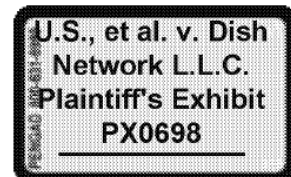
From: Gattone, Tim
Sent: Monday, April 10, 2006 8:31 AM
To: Bagwell, Rodney; Bangert, Russell
Cc: Binns, Todd; Peavy, Marshall
Subject: RE: National DNC Loads

So it sounds like the Effective Dates are back dated one quarter? Then how can we have all those records with an Effective Date of Jan 1, 2005 with a Create Date of August, 2005?

Who is setting the Effective Dates? The federal government, I assume?

-----Original Message-----

From: Bagwell, Rodney
Sent: Monday, April 10, 2006 8:13 AM
To: Gattone, Tim; Bangert, Russell
Cc: Binns, Todd; Peavy, Marshall
Subject: RE: National DNC Loads



I do support the load process. The National List data files are very large and eat-up a lot of space on the UNIX machine, so logs and files are deleted off UNIX after one week. So, no help there. I checked the DNC_PROCESSING_LOG on the database, and the DNC_NATIONAL_LIST_UPDATE process took no errors in the January timeframe.

The update process is pretty straightforward – data is updated directly from the input files to the database. The Effective_Date and Expiration_Date are taken from the input file, and the Created_Date is the Oracle system date at the time the record was inserted to the database.

As a curiosity I checked some of the records in April's files. All of these have a 1/1/2006 Effective_Date. Is the Effective_Date back-dated with a person puts themselves on the National List?

Russell, please check the Registration, Created, and Download dates from the 4/7/2006 National List file (extract

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JAO 14356
013076

TX 102-013612

below) to see if we can see any correlation between this file and the January files.

Thanks,

Rod

```
[25]/apps/dnc/archive> head 20060407175945_DNC_NATIONAL_LIST.CSV
```

```
"2012009860","1/1/2006","12/31/2016",,  
"2012062238","1/1/2006","12/31/2016",,  
"2012064487","1/1/2006","12/31/2016",,  
"2012069568","1/1/2006","12/31/2016",,  
"2012070051","1/1/2006","12/31/2016",,  
"2012074699","1/1/2006","12/31/2016",,  
"2012077331","1/1/2006","12/31/2016",,  
"2012079603","1/1/2006","12/31/2016",,  
"2012091248","1/1/2006","12/31/2016",,  
"2012130630","1/1/2006","12/31/2016",,
```

From: Gattone, Tim
Sent: Monday, April 10, 2006 7:37 AM
To: Bangert, Russell; Bagwell, Rodney
Cc: Binns, Todd; Peavy, Marshall
Subject: RE: National DNC Loads

Rod,

The DNC_PROCESSING_LOG table has some errors logged for the January 2005 time period (see attached file).

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PX0698-002

DISH8-0001703

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JAO 14351
013077

TX 102-013613

Would there be more details of the loading errors on the Unix side?

Do you still support DNC or does this problem need to be referred to someone else now?

-----Original Message-----

From: Bangert, Russell
Sent: Friday, April 07, 2006 8:13 PM
To: Bagwell, Rodney; Gattone, Tim
Cc: Binns, Todd; Peavy, Marshall
Subject: National DNC Loads

Rod & Tim,

Were there any issues with the National DNC loads in January of last year? We are currently investigating some complaints and have come across instances where the DNC Table "Create Dates" are months after they should be. The commonality between all of these is that they were records that should have been appended in January.

More curious, is that I have records of these particular phone numbers being in lists for the DNC process from January. I have attached a spreadsheet of these instances that includes all the fields from the DNC table along with the date the phone numbers were passed to the our DNC database versus the FTP process.

Can you please review this ASAP? We are investigating a legal matter right now, and this goes to the heart of it.

Thank you for your time.

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SLC_ DNC_ Investigation 0012979
JAO 14352
013078

TX 102-013614

EXHIBIT 703

EXHIBIT 703

From: Metzger, Marciedes <Marciedes.Metzger@echostar.com>
Sent: Thursday, July 13, 2006 7:53 PM
To: Vendor Inquiries <VendorInquiries@echostar.com>
Cc: Werner, Bruce <Bruce.Werner@echostar.com>; Voorhies, Christina <Christina.Voorhies@echostar.com>; Hargan, Denise <Denise.Hargan@echostar.com>
Subject: RE: Calls to existing Dish Network Customers

The web clearly states that all Do Not Call Complaints should be transferred to ERT. I do not know how we can make this any clearer. The email below is atypical as this is an employee.

However, she provides the name of the 3rd party vendor that is contacting her. Shouldn't someone in retail services be looking into who this vendor is and who contracted with them to sell Dish?

If we don't utilize all of the information that is provided we cannot realistically expect to identify these callers. We have to get way outside of the box in the methods we use to uncover these perpetrators. The stakes are already very high. We have no time to lose.

If this is not something that your team can do, then we need to go back to the table to redefine our processes.

-----Original Message-----

From: Vendor Inquiries
Sent: Thursday, July 13, 2006 08:35
To: Metzger, Marciedes; Vendor Inquiries
Cc: Werner, Bruce; Voorhies, Christina
Subject: RE: Calls to existing Dish Network Customers

It has been mentioned on the Retailer Charlie Chat. Last month they indicated TCPA violations and complaints should be sent to the Vendor Inquiries box.

From the emails below, Directors and VP's have also indicated TCPA calls are sent to the box.

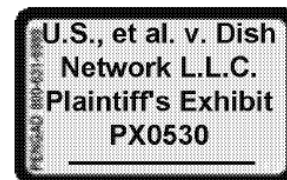
We just want to make sure they are routed correctly. All complaints should go to your team first to make sure they did not come from Dish and to see if the customer is on the Do Not Call lists. If the call did not come from Dish, and retailer information if provided, then it is sent to Vendor Inquiries for research on the retailer.

Thank you,
Lisa Vallejos
DISH Network

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-----Original Message-----

From: Metzger, Marciedes
Sent: Wednesday, July 12, 2006 4:40 PM
To: Vendor Inquiries
Subject: RE: Calls to existing Dish Network Customers



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DISH5-0000001477

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SLC_ DNC_ Investigation 0018057
9A014354
013080

TX 102-013616

How would anyone other than my team know about vendor inquiries?

-----Original Message-----

From: Vendor Inquiries
Sent: Wednesday, July 12, 2006 07:46
To: Metzger, Marciedes, Holcomb, Elizabeth
Cc: Vendor Inquiries
Subject: FW: Calls to existing Dish Network Customers

Marcie,

We are hoping you have an idea how we can communicate more effectively within the company that these TCPA issues should go thru the ERT group first for initial research regarding the Do Not Call lists, instead of directly to the Vendor Inquiry box?

We have gotten a few email indicating that Do Not Call issues go to Vendor Inquiries instead of being routed thru your team.

Also - when we do get a complaint directly, we forward them to your team for research as well. I have been sending these to you and to Liz. Should I continue to send them to you or should I be sending them to somebody else in your department?

Thank you,
Lisa Vallejos
DISH Network

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-----Original Message-----

From: Origer, Robb
Sent: Tuesday, July 11, 2006 6:40 PM
To: Vendor Inquiries; Werner, Bruce
Subject: Fw: Calls to existing Dish Network Customers

-----Original Message-----

From: Carlson, Erik
To: Gotto, Mark; Shah, Shefali; Origer, Robb
CC: Sultan, Leanna; Sullivan, James; Klein, Phil; Stingley, Tom
Sent: Tue Jul 11 18:33:50 2006
Subject: Re: Calls to existing Dish Network Customers

Please involve robb. These types of complaints can go to vendoringquiries@echostar.com

Erik

-----Original Message-----

From: Gotto, Mark
To: Shah, Shefali

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PX0530-002

DISH5-0000001478

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SLC_ DNC_ Investigation 0016058
9A014355
013081

TX 102-013617

CC: Sultan, Leanna; Sullivan, James; Klein, Phil; Stingley, Tom; Carlson, Erik
Sent: Tue Jul 11 18:29:50 2006
Subject: FW: Calls to existing Dish Network Customers

Hi Shefali,

We will track this down. Myself or Jesse Bragione will contact you tomorrow and get the required information.

We do need more information before we can track this too much further. We are on it...

Mark

From: Sultan, Leanna
Sent: Tuesday, July 11, 2006 3:46 PM
To: Sullivan, James
Cc: Klein, Phil; Gotto, Mark; Stingley, Tom; Carlson, Erik
Subject: RE: Calls to existing Dish Network Customers

James – there should be no way that a dish network csr is making acquisition calls to existing customers. Mark, please confirm that our processes would preclude this.

Note: Sterling Satellite is an aggressive OTM retailer with Indian call centers. They call me frequently – and I've gotten them to admit that they aren't DISH Network.

Please circle back with Phil. We've received some direction on how to handle these requests. I've also asked Tom and Erik for the process on how they want to funnel these complaints go forward.

Thanks.

Leanna

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PX0530-003

DISH5-0000001479

SLC_ DNC_ Investigation 0013059
9A014356
013082

TX 102-013618

From: Sullivan, James
Sent: Tuesday, July 11, 2006 3:40 PM
To: Shah, Shafali; Sultan, Leanna
Subject: RE: Calls to existing Dish Network Customers

Hey Shafali, just want to confirm that it was a DISH Network CSR and not a retailer or Sales Partner, correct? Sorry for the inconvenience, I hope that I can help out in this scenario.

J

From: Shah, Shafali
Sent: Tuesday, July 11, 2006 1:20 PM
To: Sullivan, James; Sultan, Leanna
Subject: Calls to existing Dish Network Customers

James/Leanna,

I want to bring an important issue to your notice.

I am a Dish Network customer since Nov, 2005. However, every two weeks I receive a call from Dish Network asking me whether I have subscribed to a cable service or whether I have dish network. They call to offer me a Dish Network connection. What I fail to understand here is why the existing dish network customers are being targeted. Shouldn't the person who is calling in be aware whether the other person is an existing customer or not?

I want to escalate this issue because I have received two calls in the last two days. I just discussed this issue with my team yesterday and got a call again yesterday evening. This time I told that guy that I was already an existing customer and that I was also working at Echostar. He apologized and he said that he was not aware that I was an existing customer. He further added that he did not have a list of existing customers and so he was calling all the numbers that he was asked to call. I think that all these calls are being made from Hyderabad, India since we have a CSC center there. I have also talked to a few of my friends about it and they have also received similar calls. On one hand, we always talk about improving the customer experience and on the other the existing customers are being harassed by such calls. Please take a look at this issue and ensure that the existing customers do not receive such calls.

Thanks,

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SLC_ DNC_ Investigation 0012060
9A014357
013083

TX 102-013619

Shefali Shah

Echostar

720-514-5108

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SLC_ DNC_ Investigation 0013061
9A014358
013084

TX 102-013620

EXHIBIT 704

EXHIBIT 704

JA014359
013085

TX 102-013621

From: Berridge, Kimberly <Kimberly.Berridge@echostar.com>
Sent: Tuesday, September 16, 2008 1:02 PM
To: Musso, Reji <Reji.Musso@echostar.com>
Cc: Vendor Inquiries <VendorInquiries@echostar.com>
Subject: FW: Lawrence Deas - TCPA lawsuit

Hi Reji –

Do you mind contacting American Satellite when you have a chance and following up on the call center that they are using? Mr. Deas' phone number is on the Federal and State DNC lists and should not have been called at all.

Thanks!

Kimberly Berridge
Paralegal
Direct Phone: (303) 723-2171
Direct Fax: (720) 514-6351

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From: Vendor Inquiries
Sent: Tuesday, September 16, 2008 10:47 AM
To: Berridge, Kimberly; Vendor Inquiries; Musso, Reji
Subject: RE: Lawrence Deas - TCPA lawsuit

Good Morning Kimberly,

Here is the retailer's information as you requested. And we can take care of cancelling the account.

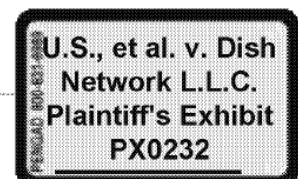
OE# 13375148
Status: Active
Contact Name: TODD DIROBERTO
Company: AMERICAN SATELLITE INC
Address: 1660 HOTEL CIR N
SAN DIEGO, CA 92108
Phone: (866) 512-8545
E-mail: tmdiroberto@aol.com

Thank you,
Serena Snyder
Retail Services Compliance
Echostar Satellite LLC
9601 S. Meridian Blvd
Englewood, CO 80112
720-514-5742 (tel)
720-514-8288 (fax)

From: Berridge, Kimberly
Sent: Tuesday, September 16, 2008 10:08 AM
To: Vendor Inquiries; Musso, Reji
Subject: Lawrence Deas - TCPA lawsuit

Hi Serena & Reji-

Lawrence Deas got another prerecorded call and set up an account – 8255909254297721. Can you please tell me the retailer that was responsible for opening this account? Can you also cancel the account so that Mr. Deas does not get



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9A014360
013086

TX 102-013622

charged and the installation appointment gets cancelled or do I need to ask someone else to cancel the account?

Thanks!
Kimberly

Kimberly L. Berridge
Paralegal
DISH Network L.L.C.
9601 S. Meridian Blvd.
Englewood, CO 80112
✉ kimberly.berridge@echostar.com
☎ (303) 723-2171 Direct
📠 (720) 514-6351 Direct Fax

Mailing Address:
P.O. Box 6655
Englewood, CO 80155

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EXHIBIT 705

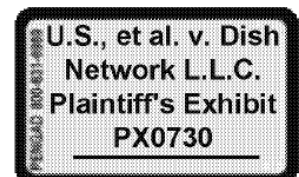
EXHIBIT 705

JA014362
013088

TX 102-013624

Sales Partner Review

2009



Problems with the Channel

- DNS unhappy with our Sales Partner's impact on completion percentage through poor sales/marketing practices
- CSC unhappy with our Sales Partner's impact on call volume for escalated complaints
 - Processing Fees
 - Gift with Purchase
 - Disclosure related complaints
- Compliance/Legal unhappy with Legal Issues as a result of illegal/shady marketing practices
- Enterprise unhappy with churn
- Retailers unhappy with the Business Opportunity

Consistency

Voice of the Customer

Partners in the Channel

- 76 Partners Selling through the OE Tool
 - All utilizing the same marketing methods pushing the COA higher.
 - Competition in marketing mediums was fierce
 - Driving partners to “become creative” with their marketing tactics and seek cheaper acquisition methods
 - Shot-clock Marketing
 - Internet Lead Gen
 - Voice Broadcasting
 - Fraud and customer dissatisfaction was high as partners were cutting corners and looking for the “cheap” acquisition
 - No controls or processes were put in place by our partners to reduce risk and close openings for fraud

Consistency

Voice of the Customer

April Snapshot

- # of Red Retailers – 7
- # of Orange Retailers – 11
- # of Yellow Retailers - 12
- White Retailers - 2
- Green Retailers - 2
- QA Discussions begin internally

Consistency

Voice of the Customer

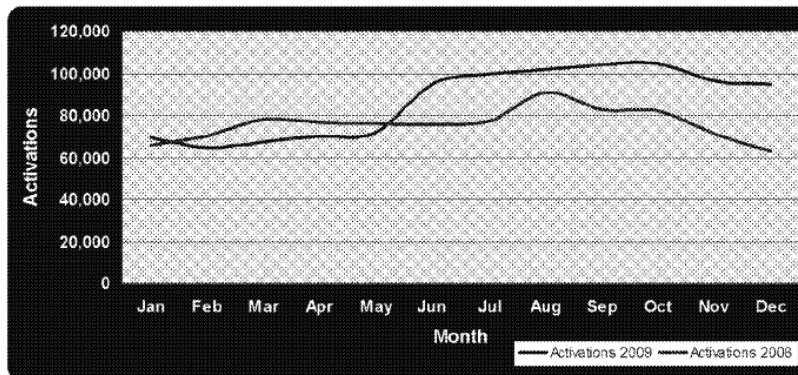
Key Sales Partner Terminations

RSI	28,043
Vision Satellite	
Pacific Concepts Group	
LA Activations	
Powerline	
RPM Technologies	12,414
I Satellite	8,370
WIPLLC	7,401
Allegro	2,663
DIRECT PROMOTIONS	1,738
Grand Total	60,629

Consistency

Voice of the Customer

Volume



Consistency

Voice of the Customer

Fraud

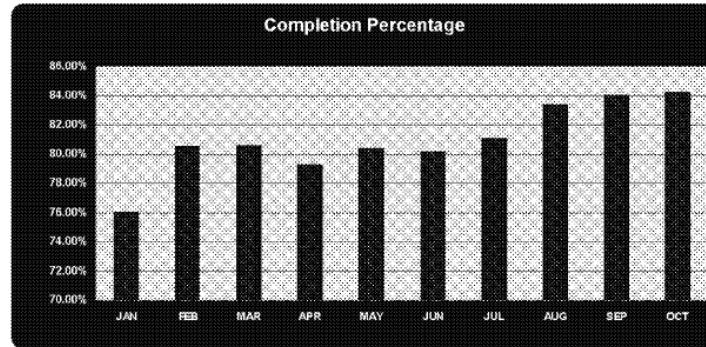
	2008		
	Total	Total Act	% Act
OE	11,630	977,187	1.2
Distributor	6,492	137,584	4.7
TVRO	7,799	184,111	4.2
Telco	4,872	660,793	0.7
Total	30,793	1,959,675	1.6

	2009		
	Total	Total Act	% Act
OE	2,555	386,326	0.7
Distributor	2,358	69,652	3.4
TVRO	1,285	30,260	5.2
Telco	450	112,264	0.4
Total	6,648	598,502	1.1

Consistency

Voice of the Customer

Completion Rates / Forecasting



Consistency

Voice of the Customer

Q/A

- Launched Program 8/1/09
- List of 48 Questions (8 Sections)
 - Right Size
 - Accurate/Complete
 - Expectations – All Promotions
 - Expectations – DHA 24
 - Expectations – DHA
 - Expectations – DHA Too
 - Expectations – Flex
 - Retail Only

Consistency

Voice of the Customer

Q/A

■ Scoring 1st 4 Weeks

Weighted Trending	8/7	8/14	8/21	8/28
Enterprise	52	74	83	83
Direct Sales	55	82	86	89
OE Partner	52	66	71	73

■ Scoring last 4 weeks

Weighted Trending	11/6	11/13	11/20	11/27
Enterprise	88	89	90	91
Direct Sales	88	89	90	91
OE Partner	89	89	91	90

Consistency

Voice of the Customer

Sales Partner QA Scoring

Right Size	10/9	10/16	10/23	10/30	11/6	11/13	11/20	11/27
Right Size Cumulative	88	89	91	91	92	91	94	93
Accurate/Complete Cumulative	61	68	75	76	79	80	83	83
Subtotal Expectations: All Promotions	86	86	89	89	90	88	90	89
Subtotal Expectations: DHA 24	82	88	91	89	91	92	94	93
Subtotal Expectations: DHA	67	100	100	95	92	85	95	92
Subtotal Expectations: DHA Too	82	87	83	88	75	89	90	89
Subtotal Expectations: Flex TV	84	100	100	96	100	76	100	100
Subtotal Retail Only	53	75	77	86	85	92	95	99
Total OE Partner Scoring	80	84	87	87	89	89	91	90

Consistency

Voice of the Customer

December Snapshot

- # of Red Retailers – 0
- # of Orange Retailers – 4
- # of Yellow Retailers - 7
- White Retailers - 11
- Green Retailers - 11

Consistency

Voice of the Customer

Evolution of the Channel

- **January 2009**
 - 76 Partners Selling Through the Tool
 - High Churn
 - High Fraud Rate
 - 71k Average Monthly Channel Activations
 - Low Completion Rates – 75%
 - Zero Quality Monitoring
- **December 2009**
 - 32 Retailers
 - Lower Churn
 - Fraud – Non-Issue
 - 100k Monthly Channel Activations
 - High Completion Rates - 85%
 - Channel QA Scores above 90%

Consistency

Voice of the Customer

EXHIBIT 706

EXHIBIT 706

JA014376
013102

TX 102-013638

February 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23 Executive Comp Committee Meeting Audit Committee Meeting	24 Board Meeting	25	26	27	28

March 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 10-K Filing Deadline	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 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			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 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 Executive Comp Committee Meeting Audit Committee Meeting	5 Board Meeting	6	7	8	9
10	11 10-Q Filing Deadline Annual Shareholders Meeting	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	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 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			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 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 Executive Comp Committee Meeting Audit Committee Meeting	4 Board Meeting	5	6	7	8
9	10 10-Q Filing Deadline	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

September 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		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 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				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 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Executive Comp Committee Meeting Audit Committee Meeting	3 Board Meeting	4	5	6	7
8	9 10-Q Filing Deadline	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

29	30					
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December 2009						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		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		

January 2010						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24 31	25	26	27	28	29	30

February 2010						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	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 2010						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 10-K Filing Deadline	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			

EXHIBIT 707

EXHIBIT 707

JA014392
013118

TX 102-013654

From: McElroy, Steve
Sent: Friday, March 6, 2009 6:37 PM (GMT)
To: Kelly, Michael (EVP) <Michael.Kelly@Dishnetwork.com>
Cc: Bahr, Ira <Ira.Bahr@Dishnetwork.com>; Cullen, Thomas <Thomas.Cullen@Dishnetwork.com>; Callaghan, Kieran <Kieran.Callaghan@Dishnetwork.com>; DeFranco, Jim <Jim.DeFranco@Dishnetwork.com>; Klein, Phil <Phil.Klein@Dishnetwork.com>; Dodge, Stanton <Stanton.Dodge@Dishnetwork.com>
Subject: RE: Terminated Retailers
Attach: Fw APEX Meeting - Recap.htm

Mike,

None of the retailers in this announcement were OE Tool partners. They were all smaller TVRO retailers who's advertising was only in a very limited local area, or not at all. We will work to analyze any future marketing partners who might be recommended for termination in regards to where they are marketing and coordinate with Direct Sales to fill any void created. In general, the OE partners we are terminating are not the retailers engaged in legitimate marketing like Direct Mail, Shared Mail, etc. etc. They are partners who are using illegal telemarketing tactics, overseas centers and affiliates.

Just yesterday I recommended that we terminate OE partner Apex Satellite based on the facts that they are using illegal telemarketing tactics and refusing to comply with our direction to change their behavior. (See the attached email) This retailer does no legitimate advertising and as such there is no specific geographic or marketing vehicle void to fill.

In regards to the OE Channel under delivering by 40k subs in February, I think we established last week that the way jobs are being forecast to DNS is completely flawed. My team is working with Vishnu to deliver a more accurate activation forecast. Here is a look at performance versus quota:

January OE Quota: 70,042
January OE Actual: 69,412 Delta: 630

Feb. OE Quota: 78,356
Feb. OE Actual: 64,023 Delta: 14,333

YTD OE Performance is 14,963 subs behind quota.

We expect to make this up through the addition of new partners and the expanded marketing spend of better performing OE Partners utilizing legitimate marketing vehicles. As I communicated last week, I think we will be behind plan until May where we will come even and start to pull ahead of quota. The February Delta was created primarily to the unexpected loss of our highest volume OE Partner at the end of January. I-Satellite was not terminated, they closed their doors voluntarily as they were unable to make the business model work financially.

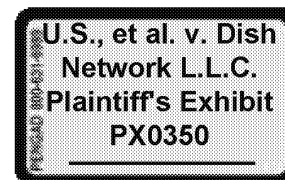
I stand ready to help in any way I can. We have three new OE partners coming on board in the next few weeks and more in the pipeline that we will be seeking permission to add in the coming couple of weeks.

Steve

From: Kelly, Michael (EVP)
Sent: Friday, March 06, 2009 9:47 AM
To: Klein, Phil; McElroy, Steve; Dodge, Stanton
Cc: Bahr, Ira; Cullen, Thomas; Callaghan, Kieran
Subject: Terminated Retailers

Privilege

Guys –



HIGHLY CONFIDENTIAL

PX0350-001

DISH8-0000913

PRODUCED OVER DEFENDANT'S PRIVILEGE DESIGNATION UNDER COURT ORDER

SLC_ DNC_Investigation 40013450
JAO 4393
013119

TX 102-013655

Following up to our discussion at the Monday 8am meeting.

The data presented by DNS indicated that the O/E channel under delivered last week by approximately 40K subs. We are not seeing any lift in direct sales or direct sales call volume as a result of the decrease in the O/E traffic from the terminated partners below.

Prior to terminating these retailers did we examine where they were advertising and promoting DISH? If so, are we running media across those channels? We are not seeing any lift in our centers. I am curious as to what we did do to preserve the gross activations in light of knowing that we were losing the sales agents.

Are you guys looking at this?

DISH Network on Thursday announced that it had terminated its partnership agreements with 10 of its retailers for engaging in fraud and misrepresentation when establishing new customer accounts for the DBS service.

The retailers involved this time around included Superior Satellite Services of Streetsboro, Ohio; American Satellite Co., L.L.C. of Salt Lake City, Utah; Alexis Proenza (dba Panamerican Digital Satellites) of San Juan, Puerto Rico; Caguas Satellite Corp. of San Juan, Puerto Rico; D&C Entertainment, L.L.C. of Jefferson, Wis.; Big Boy Entertainment of Parlier, Calif.; Rosario Gonzalez (dba System Sate, Inc.) of North Hills, Calif.; TV Sur Satellite, Inc. of Gaithersburg, Md.; Technic Satellite, Inc. of Tampa, Fla.; and Calvin Cockman (dba Tech Services) of Carthage, N.C.

The provider didn't release any specific details about the conditions surrounding the terminations but did say that "DISH Network L.L.C. does not tolerate illegal activity and will take action against any retailer that it believes has engaged in any form of fraud or misrepresentation in its dealings with DISH Network L.L.C."

Michael Kelly
Executive Vice President
DISH Network Corporation
Ph: 1.303.723.1080
Fax: 1.303.723.3041
michael.kelly@dishnetwork.com

HIGHLY CONFIDENTIAL

PX0350-002

DISH8-0000914

PRODUCED OVER DEFENDANT'S PRIVILEGE DESIGNATION UNDER COURT ORDER

SLC_ DNC_Investigation 10012451
JRA 013120

TX 102-013656

EXHIBIT 708

EXHIBIT 708

DISH NETWORK CORPORATION

REGULAR MEETING
OF
THE BOARD OF DIRECTORS

May 5, 2009

3:00 p.m.

Confidential

AGENDA

Call to Order

Notice and Quorum

- | | | |
|---------|---|----------------------|
| Item 1. | Approval of Minutes and Signing of Consents | (R. Stanton Dodge) |
| | A. Minutes of the Special Meeting of the Board of Directors held on January 30, 2009 | |
| | B. Minutes of the Regular Meeting of the Board of Directors held on February 24, 2009 | |
| Item 2. | Chairman's Report | (Charles W. Ergen) |
| | A. Upcoming Satellite Launches | |
| Item 3. | Reg. S-K Item 404 "Related Person" Transactions | (R. Stanton Dodge) |
| Item 4. | Litigation Update
<i>(Subject to Attorney/Client and Work Product Privileges)</i> | (R. Stanton Dodge) |
| Item 5. | Approval of Form and Filing of Quarterly Report on Form 10-Q and Report on Activities of Audit Committee | (Tom A. Ortolf) |
| Item 6. | Quarterly Review of Option Grants to Employees Other Than Executive Officers and Report on Activities of Executive Compensation Committee | (Steven R. Goodbarn) |
| Item 7. | Approval of Stock Option Exchange | (Charles W. Ergen) |
| Item 8. | Approval of Amended and Restated Audit Committee Charter | (Tom A. Ortolf) |

Please turn to back of book for a fold-out agenda

DISH NETWORK CORPORATION
AGENDA FOR THE REGULAR MEETING OF THE
BOARD OF DIRECTORS

May 5, 2009

Page 2

- | | | |
|----------|--|----------------------|
| Item 9. | D&O Insurance Update | (David K. Moskowitz) |
| Item 10. | Investment Policy Update | (David K. Moskowitz) |
| Item 11. | 700MHz Spectrum Update | (Paul W. Orban) |
| Item 12. | Review of Certain Items Previously Approved by the Board of Directors | (R. Stanton Dodge) |
| Item 13. | Review of Schedule for Next Regular Meetings of the Board of Directors, Audit Committee and Executive Compensation Committee | (R. Stanton Dodge) |
| Item 14. | Other Business | |

Please turn to back of book for a fold-out agenda

ITEM 1. APPROVAL OF MINUTES AND SIGNING OF CONSENTS

1. Introduction.

1.1 A Special Meeting of the Board of Directors ("Board of Directors") was held on January 30, 2009. Draft minutes of that meeting are attached hereto as Exhibit 1A.

1.2 A Regular Meeting of the Board of Directors was held on February 24, 2009. Draft minutes of that meeting are attached hereto as Exhibit 1B.

2. Recommendation.

2.1 It is recommended by the Chairman of the Board of Directors that the minutes of the Special Meeting of the Board of Directors held on January 30, 2009 and the minutes of the Regular Meeting of the Board of Directors held on February 24, 2009, in substantially the form attached hereto as Exhibits 1A and 1B, respectively, be approved pursuant to the following resolution.

3. Proposed Resolution.

3.1 NOW, THEREFORE, BE IT RESOLVED, that the minutes of the Special Meeting of the Board of Directors held on January 30, 2009 and the minutes of the Regular Meeting of the Board of Directors held on February 24, 2009, 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.

ITEM 2. CHAIRMAN'S REPORT

Mr. Charles W. Ergen, Chairman of the Board of Directors and Chief Executive Officer of DISH Network Corporation (the "Corporation"), will present 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 is attached hereto as Exhibit 2A.

ITEM 3. REG. S-K ITEM 404 "RELATED PERSON" TRANSACTIONS

1. Introduction.

1.1 Mr. R. Stanton Dodge, Executive Vice President, General Counsel and Secretary of the Corporation, will review 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.

1.2 Mr. Dodge will explain that: (a) the Corporation and/or its subsidiaries are considering exercising their unilateral rights to renew the following agreements with EchoStar Corporation ("SATS") and/or its subsidiaries: (i) Broadcast Agreement by and between SATS and DISH Network L.L.C. ("DNLLC"), a wholly owned subsidiary of the Corporation, dated December 31, 2007; (ii) Receiver Agreement by and between EchoStar Technologies L.L.C. and Echosphere L.L.C., a wholly owned subsidiary of the Corporation, dated December 31, 2007; and (iii) Telemetry Tracking and Control Agreement by and between DNLLC and SATS, dated December 31, 2007; in each of the foregoing cases, the terms and conditions of which are more fully described in the memo and spreadsheet distributed prior to the meeting; and (b) the Corporation is considering allowing the automatic renewal of the Management Services Agreement by and between SATS and DISH dated December 31, 2007, the terms and conditions of which are more fully described in the memo and spreadsheet distributed prior to the meeting (collectively, the "Transactions").

2. Recommendation.

2.1 It is recommended by management that the Transactions be approved, pursuant to the following resolutions.

3. Proposed Resolutions.

3.1 WHEREAS, the Transactions may potentially be considered related party 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

3.2 WHEREAS, (a) management, those members of the Board of Directors who are not also members of the Board of Directors of SATS, Mr. James DeFranco, Mr. Carl E. Vogel, Mr. Steven R. Goodbarn and Mr. Gary S. Howard and the Audit Committee have found, and recommended that the Board of Directors find, that the Transactions are fair to the Corporation and its subsidiaries; and (b) Messrs. DeFranco, Vogel, Goodbarn and Howard, and the Audit Committee have approved, and recommend that the Board of Directors approve, the Transactions on substantially the same terms and conditions described in the memo and spreadsheet distributed at 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;

3.3 NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendations of management, Messrs. DeFranco, Vogel, Goodbarn and

Howard and the Audit Committee regarding the Transactions; and further

3.4 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 Transactions are fair to the Corporation; and further

3.5 RESOLVED, (a) that the Transactions be, and thus hereby are, approved on substantially the same terms and conditions described in the memo and spreadsheet distributed at 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 Transactions as any proper officer shall approve, shall constitute conclusive evidence that such transactions have been approved hereby; and further

3.6 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

3.7 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 4. LITIGATION UPDATE

Mr. Dodge will present a report on the status of the significant litigation in which the Corporation and/or its affiliates are presently involved.

**THE REPORT PRESENTED BY MR. DODGE AND ANY ENSUING DISCUSSIONS ARE
SUBJECT TO THE ATTORNEY/CLIENT AND WORK PRODUCT PRIVILEGES**

ITEM 5. APPROVAL OF FORM AND FILING OF QUARTERLY REPORT ON FORM 10-Q AND REPORT ON ACTIVITIES OF AUDIT COMMITTEE

1. Introduction.

1.1 Mr. Tom A. Ortolf, Chairman of the Audit Committee, will present 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, 2009.

2. Recommendation.

2.1 It is recommended by the Audit Committee that the Board of Directors approve (a) as to form the draft Form 10-Q attached hereto as Exhibit 5A, with such non-material changes as the General Counsel and Chief Financial Officer of the Corporation shall deem necessary and appropriate, and (b) the filing with the Securities and Exchange 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, pursuant to the following resolutions.

3. Proposed Resolutions.

3.1 WHEREAS, the Corporation is required to file with the Securities and Exchange Commission (the "Commission") by May 11, 2009, a Quarterly Report on Form 10-Q for the quarter ended March 31, 2009 (the "Form 10-Q");

3.2 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);

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

3.4 WHEREAS, management has recommended that the Audit Committee 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

3.5 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;

3.6 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-Q; and further

3.7 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

3.8 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

3.9 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

3.10 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

3.11 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 of the foregoing resolutions; and further

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

ITEM 6. QUARTERLY REVIEW OF OPTION GRANTS TO EMPLOYEES OTHER THAN EXECUTIVE OFFICERS AND REPORT ON ACTIVITIES OF THE EXECUTIVE COMPENSATION COMMITTEE

1. Introduction.

1.1 Mr. Steven R. Goodbarn, Chairman of the Executive Compensation Committee, will present 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 2009, a list of which is attached hereto as Exhibit 6A.

2. Recommendation.

2.1 It is recommended by the Executive Compensation Committee that the Board of Directors determine 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 June 5, 2008, pursuant to the following resolution.

3. Proposed Resolution.

3.1 WHEREAS, the Corporation adopted the Amended and Restated 1999 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;

3.2 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;

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

3.4 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;

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

3.6 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;

3.7 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;

3.8 WHEREAS, however, the number of options granted to specific employees are not

based on any objective criteria;

3.9 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;

3.10 WHEREAS, Charles W. Ergen, Chairman and Chief Executive Officer of the Corporation, 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;

3.11 WHEREAS, at the Annual Meeting of the Board of Directors held on June 5, 2008, (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 Compensation Committee;

3.12 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 Plan and an incentive stock option agreement to be approved by the Chief Executive Officer of the Corporation; and

3.13 WHEREAS, (i) the date of grant of such Options is March 31, 2009 (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;

3.14 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 June 5, 2008.

ITEM 7. APPROVAL OF STOCK OPTION EXCHANGE

Mr. Ergen will lead a discussion regarding the proposed option exchange for certain non-performance based options granted to employees of the Corporation and its subsidiaries (the "Option Exchange"). Mr. Ergen will note that materials describing the Option Exchange were distributed to members of the Board of Directors via email prior to the meeting.

ITEM 8. APPROVAL OF AMENDED AND RESTATED AUDIT COMMITTEE CHARTER

1. Introduction.

1.1 Mr. Ortolf will present a report regarding certain proposed changes to the Amended and Restated Audit Committee Charter, which are shown in redline form in the revised charter attached hereto as Exhibit 8A.

2. Recommendation.

2.1 It is recommended by the Audit Committee that the Amended and Restated Charter of the Audit Committee, in substantially the form attached hereto as Exhibit 8A, be approved, ratified and adopted by the Board of Directors in all respects, pursuant to the following resolutions.

3. Proposed Resolutions.

3.1 WHEREAS, the Audit Committee has recommended that the Amended and Restated Charter of the Audit Committee, in substantially the form attached as Exhibit 8A to the board book for the meeting, be approved, ratified and adopted by the Board of Directors in all respects;

3.2 NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby approves, ratifies and confirms the recommendation of the Audit Committee concerning the approval, ratification and adoption of the Amended and Restated Charter of the Audit Committee Charter; and further

3.3 RESOLVED, that the Board of Directors after due deliberation hereby approves, ratifies and adopts the Amended and Restated Charter of the Audit Committee of the Board of Directors of the Corporation, in substantially the form attached as Exhibit 8A to the board book for the meeting; and further

3.4 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

3.5 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 9. D&O INSURANCE UPDATE

Mr. David K. Moskowitz, a member of the Board of Directors of the Corporation, will provide an update on his research regarding the current market for D&O insurance.

ITEM 10. INVESTMENT POLICY UPDATE

Mr. Moskowitz will provide an update on his research regarding the investment policies of the Corporation.

ITEM 11. 700 MHz SPECTRUM UPDATE

Mr. Orban will lead a discussion regarding the 700 MHz Spectrum held by the Corporation. A summary of Mr. Orban's presentation will be distributed to the members of the Board of Directors by email prior to the meeting.

ITEM 12. REVIEW OF CERTAIN ITEMS PREVIOUSLY APPROVED BY THE BOARD OF DIRECTORS

Mr. Dodge will review certain items approved by the Board of Directors year-to-date and the status of each such item, as well as certain items approved by the Board of Directors in prior years that authorized the expenditure of over \$100 million and that remain active. To assist the members of the Board of Directors, a list of such items is set forth below.

Items Approved Year-To-Date

Action	Date	Status
Approval of employment by the Corporation of Mrs. Cantey M. Ergen and other members of the Ergen family	2/24/2009	Remains Active
Waiver of any potential conflict of interest in relation to Carl E. Vogel's position as a member of the board of directors of Shaw Communications, Inc. ("Shaw") and recusal of Mr. Vogel from any matters involving Shaw	2/24/2009	Remains Active
Waiver of any potential conflict of interest in relation to Carl E. Vogel's position as a member of the board of directors of iBAHN Corporation ("iBAHN") and recusal of Mr. Vogel from any matters involving iBAHN	2/24/2009	Remains Active
Approval of employment by the Corporation of Mr. Connor Vogel, son of Mr. Carl Vogel, Senior Advisor to the Corporation and a member of the Board of Directors	2/24/2009	Remains Active
Waiver of any potential conflict of interest in relation to Mr. Gary Howard's position as a member of the board of directors of WildBlue Communications Inc. ("WildBlue") and recusal of Mr. Howard from any matters involving WildBlue	2/24/2009	Remains Active
Waiver of any potential conflict of interest in relation to the ownership of 9% of the stock of Spectrographics, Inc. by the limited liability partnership of which Mr. Tom A Ortolf is a partner and the recusal of Mr. Ortolf from any matters involving Spectrographics, Inc.	2/24/2009	Remains Active
Approval of employment by the Corporation of Ms. Courtland Wood Colantonio, daughter of Mr. Stephen Wood, Executive Vice President of Human Resources	2/24/2009	Remains Active
Approval of the following agreements with EchoStar Corporation ("SATS") and/or its subsidiaries: (i) an amendment to the 301 Receiver Agreement to revise the pricing of certain model 301 receivers; (ii) payment of \$5 million from the Corporation to SATS for the use of five frequencies at the 72.7 orbital slot; and (iii) a trademark license agreement for the Corporation to use the EchoStar name on certain satellites;	2/24/2009	Remains Active
Appointment of KPMG LLP as independent auditors for year ended December 31, 2009	2/24/2009	Remains Active
Approval of 2009 Stock Incentive Plan	2/24/2009	Remains Active
Approval of the amendment to the 301 Receiver Agreement to include the sale of model 322 receivers	3/30/2009	Remains Active

Approval of Revised 2009 Stock Incentive Plan	3/30/2009	Remains Active
Approval of the Amended and Restated 1995 Stock Incentive Plan	3/30/2009	Remains Active
Approval of the Amended and Restated 1999 Stock Incentive Plan	3/30/2009	Remains Active
Approval of the Amended and Restated 2001 Nonemployee Director Stock Option Plan	3/30/2009	Remains Active

Items Approved in Prior Years in Excess of \$100 Million That Remain Active

Action	Date	Status
Follow-on Satellite for 77° W.L. with totality of terms and conditions at least as favorable to EchoStar as AMC-16 (QuetzSat-1 Satellite Services Agreement with SATS signed on 11/24/2008).	3/14/05	Active
Spot Beam Satellite Construction (\$200 million authorized, and \$175 million paid for EchoStar 14) and Launch Vehicle Procurement for EchoStar 14 or another satellite (\$150 million authorized).	11/06/06	Active
Lease of Satellite (50% up-front payment, NTE 11% after-tax IRR and NTE \$250 million for construction, launch, insurance for L+1) and program management costs, or Construction, Launch and Insurance (L+1) of Satellite (NTE \$250 million)	5/8/07	Active
Issuance of up to \$2 billion in debt securities (other than convertible notes) not to exceed 9%.	1/22/08	Active (\$750 million issued to date)
Approval of Smart Card Swap	4/11/08	Active
Stock Repurchase Authorization (\$1 billion authorized through 12/31/09, and \$980,580,000 remaining as of 3/31/09).	11/06/08	Active

ITEM 13. REVIEW OF SCHEDULE FOR NEXT REGULAR MEETINGS OF THE BOARD OF DIRECTORS, AUDIT COMMITTEE AND EXECUTIVE COMPENSATION COMMITTEE

Mr. Dodge will lead a discussion reviewing the schedule for the regular meetings of the Board of Directors, Audit Committee and Executive Compensation Committee for the next year. 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 May 2009 through March 2010 have been attached hereto as Exhibit 13A.

ITEM 14. OTHER BUSINESS

EXHIBIT 709

EXHIBIT 709

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From: joey@ecreekgroup.com
Sent: Wednesday, July 28, 2010 5:30 PM
To: Montano, Joey <Joey.Montano@dishnetwork.com>; Scott@ecreekgroup.com
Cc: Davis, Bob <Bob.Davis@dishnetwork.com>; Dexter, Amy <Amy.Dexter@dishnetwork.com>
Subject: RE: Request for DNC/TCPA Policies and Procedures
Attach: eCreek DNC Policy.doc; eCreek DNC Procedure.jpg

Here you go Joey.



Joey Dang
eCreek Solutions Group
Director of Operations

720.939.0142 (Mobile)
720-524-0250 #110 (Office)

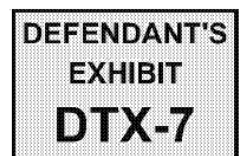
joey@ecreekgroup.com
<http://www.ecreekgroup.com/>

From: Montano, Joey [mailto:Joey.Montano@dishnetwork.com]
Sent: Wednesday, July 28, 2010 3:21 PM
To: Scott@ecreekgroup.com; joey@ecreekgroup.com
Cc: Davis, Bob; Dexter, Amy
Subject: Request for DNC/TCPA Policies and Procedures

Scott/Joey,

Can you provide us official copies of any and all of your Do-Not-Call and TCPA policies and procedures?

Joey Montano
Resource Manager
CSC Administration & Management
Dish Network, LLC
Meridian: (720)-514-6479
Desk Ext: 46479
Email: joey.montano@dishnetwork.com



Confidential-US v. Dish

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eCreek Solutions Group "Do Not Call" Policy

Revised March 18th, 2010

The following sets forth eCreek Solutions Group's (eCreek) policy for creating, maintaining and complying with "do not call" (DNC) requests. A copy of this Policy shall be made available immediately upon consumer request and will be sent by US Mail.

- In conducting telemarketing campaigns, eCreek shall establish and maintain a company-specific DNC List, which shall include those customers and potential customers who have directly requested to eCreek that they not be telemarketed. The individuals on this DNC List shall be excluded from any future live and pre-recorded telephone solicitations. Once your number has been placed on our DNC list, it will be removed from all telemarketing campaigns which eCreek conducts for any and all clients going forward.
- Consumers may request, by telephone or in writing, that eCreek stop calling them and place their name on our internal DNC list. Although we may ask for your name, address and telephone number, we will accept your request even if you only provide your telephone number. You have a right to have calls stopped and to be put on our DNC list even if you are still a customer with an established business relationship with any of eCreek's clients.
- When we receive a consumer request, that telephone number is added to our internal DNC list. We will expedite the request as quickly as possible, however it may take up to 30 days for that name and telephone number to be removed from any sales programs that are currently underway. Request will stay on our list for at least 5 years. If a consumer moves, changes their telephone number, or adds an additional telephone number, they must provide us with the new telephone number in order for us to prevent calls to that number. We will not share the information you provide with anyone except affiliated companies or subsidiaries without prior written permission.
- All employees that engage in outbound telephone solicitation are trained in this policy and made aware of these procedures before they are allowed to place calls to consumers. Managers, supervisors, and trainers review the policy with these employees periodically.
- If a consumer notifies us that they have received a telephone call from us after they have already requested to be placed on our internal "Do Not Call" list, we will apologize for the intrusion and have a manager or supervisor investigate. The manager or supervisor will also personally confirm that the telephone number is on our internal "Do Not Call" list. Upon request, we will mail the consumer a confirmation that their telephone number is on the list.
- If a Consumer requests a copy of our DNC policy, we will take down the customer's information and send a copy by US Mail.

- The Federal Trade Commission offers a free service to consumers that allows them to place their residential phone number on a National Do Not Call Registry. This service will reduce the number of telemarketing calls received. Consumers may add their residential phone number to the list either by calling 888-382-1222 or through the Internet at www.donotcall.gov. It may take several weeks before you notice a reduction in calls.
- eCreek shall not telemarket to consumers' phone numbers registered with the Federal DNC List or State DNC Lists, unless eCreek or one of eCreek's clients has an "established business relationship" with the consumer, as defined in the relevant statute and allowed by the FTC, FCC or the State. However, once a consumer with an established business relationship with eCreek or one of eCreek's clients requests directly to eCreek to be placed on the eCreek DNC List, that consumer shall be placed on the eCreek DNC List and will not receive future telemarketing sales calls from eCreek. eCreek shall update its DNC List in accordance with the requirements of all applicable Federal and State law. eCreek shall incorporate the Federal and applicable State DNC Lists as frequently as required by law.
- According to the FCC, an established business relationship is defined as a "prior or existing relationship formed by voluntary two-way communication between a person or entity and a business or residential subscriber with or without an exchange or consideration on the basis of an inquiry, application, purchase or transaction by the business or residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party".
- Companies that have an established business relationship with a customer also may call for up to 18 months after the last purchase, payment or delivery.
- eCreek strives to maintain a high level of professionalism and integrity in the execution of its business. Employees who do not meet the appropriate level of performance will receive appropriate coaching or disciplinary action, including possible termination, when not in compliance with the Do Not Call Policy.
- The methods and procedures in this "Do Not Call" policy are reviewed by the Compliance Manager quarterly.

If you have any questions, comments or concerns please contact us at: Compliance Manager; eCreek Solutions Group, 1355 S. Colorado Blvd, suite c-201, Denver CO, 80222

Isaac Falkowski
Compliance Manager
eCreek Solutions Group

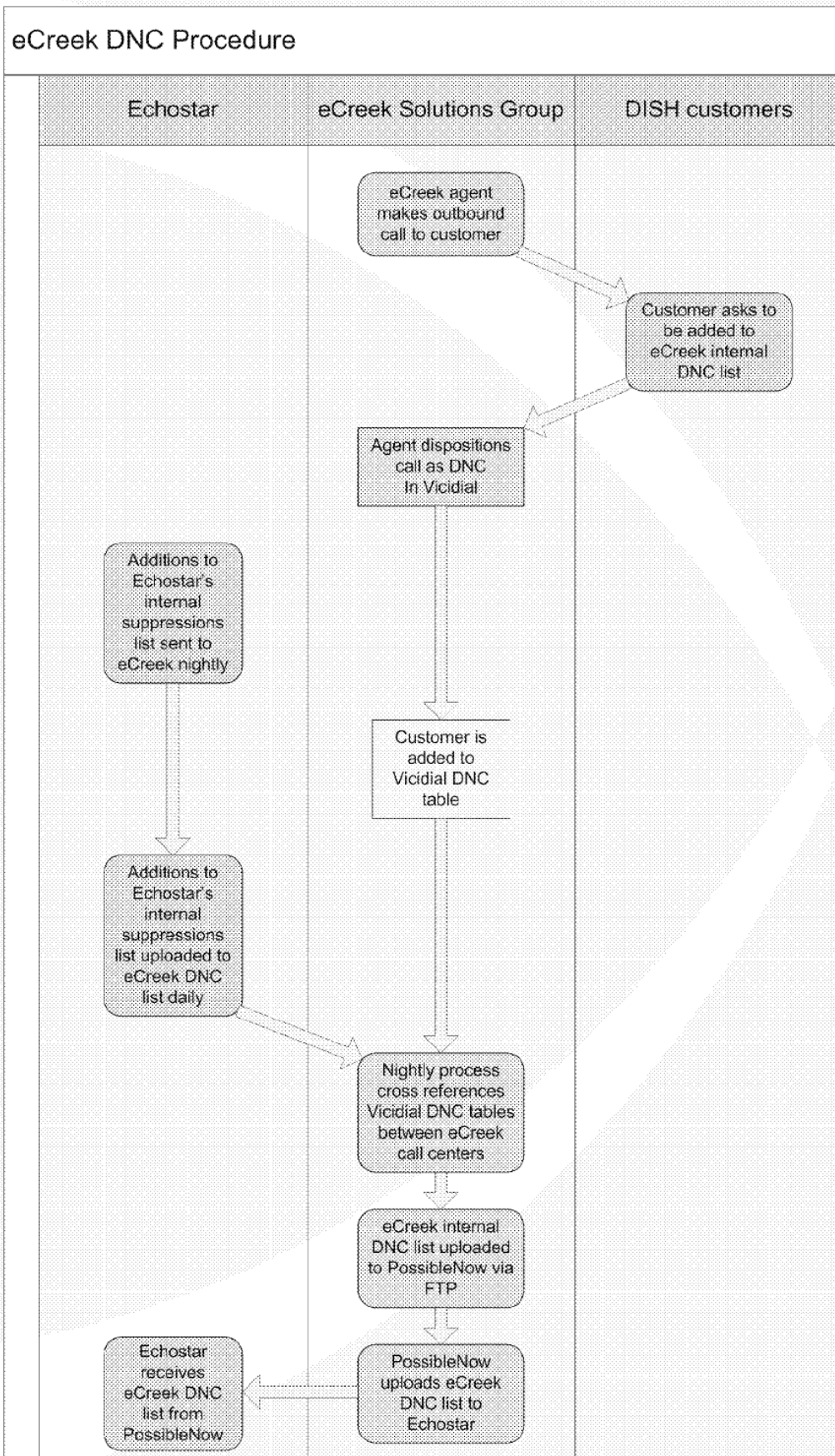


EXHIBIT 710

EXHIBIT 710

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Message

From: Steele, Dana [/O=ECHOSTAR COMMUNICATIONS CORP/OU=ECHOSTAR/CN=RECIPIENTS/CN=DANA.STEELE]
Sent: 8/11/2006 2:01:59 AM
To: Moskowitz, David [david.moskowitz@echostar.com]; Carlson, Erik [erik.carlson@echostar.com]; Blum, Jeffrey [jeffrey.blum@echostar.com]
CC: Dodge, Stanton [stanton.dodge@echostar.com]
Subject: Fw: telemarketing call

REDACTED-ATTORNEY-CLIENT PRIVILEGED

ATTORNEY/CLIENT AND WORK PRODUCT PRIVILEGES MAY APPLY/
DO NOT DISCLOSE WITHOUT THE PRIOR CONSENT OF GENERAL COUNSEL

Dana E. Steele
Director & Senior Corporate Counsel
EchoStar Satellite L.L.C.
P.O. Box 6655 (for regular mail)
Englewood, Colorado 80155

9601 S. Meridian Blvd. (for FedEx/UPS)
Englewood, Colorado 80112

Phone (303) 723-1621
Fax (303) 723-2571
E-mail: dana.steele@echostar.com

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-----Original Message-----
From: Ken Teleis <ken@teleis.com>
To: Steele, Dana
Sent: Thu Aug 10 22:50:04 2006
Subject: telemarketing call

Hello Ms. Steele,

Thank you for taking the time to speak to me today.

As we discussed, here are the relevant facts:

At approximately 5:32 PM Eastern Time today, I received a call on my home telephone 330-655-5594 from caller ID 800-741-5484. This call played a prerecorded message advertising a satellite TV promotion and that I should press 1 for more information. I pressed 1 and was connected to "Andy" who asked if I wanted to sign up. Knowing that I would never be able to identify the caller without placing an order I said I would sign up and provided a name and my true address. He then asked me for a credit card number and I told him I need to know more about who was calling since I was concerned about credit card fraud and could he please give me a phone number of his company. He said his company was "Satellite Sales" and that they don't have a number for incoming calls that they just call out. I explained that I really need to know more about his company again just to prevent fraud. He did tell me that he was in Portland, Oregon. I asked him how far he was from Banks, OR since I have a friend in Banks and he said about 100 miles (Banks is 25 miles from Portland)

He then put a supervisor on the line who identified himself as "Robert Simms" who explained that they have all sorts of fraud control in place and that once I give him my credit card number and social security number, they will give me my "authorization number" and an account number and I can then call

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800-333-dish and can get all the information I need. I asked what company he worked for and he said Dish Network. I asked him if he was a dish network employee and he said he was. I asked this again if he was on the dish network payroll and he said he was. I said ok, I will go ahead and give them the information.

Andy came back on the phone and I gave him my credit card number but my dead grandfather's social security number and he immediately told me that my credit score was too low and did I have someone else's name I could put this under. I told him I would need to ask my roommate if I could use his name and could I call him back. He again told me I couldn't call him but he could call me back. I told him to go ahead and call me back in 15 minutes and I'll check with my roommate.

Andy called me back at 6:10 PM, this time from a number that did not transmit caller ID (shows up as unknown number). I told him he could put the account under my name and provided my Amex number and my SSN. He immediately got an approval and gave me an authorization number - 161248. He also gave me my dish network account number: 8255 9093 6780 3092. He gave me the phone number 800-333-3474 to call for any information I may need. We set up an installation appointment for August 19 in the morning and he told me someone would call me before they come out to make sure I was home.

After I concluded that call, I called 800-333-dish and asked what company had called me to set up this account. The representative provided a name "United Satellite" and a phone number of 866-599-9179. I asked for an address for them and she didn't know. I asked for a supervisor and ultimately got a supervisor who gave me the same number. I explained that I was calling in relation to a legal matter from this call and that I really need the address for this company and ultimately I was transferred to "Morgan" Operator S5A in the executive offices. I explained to him why I was calling and asked for the address for this "business partner". He would/could only provide the phone number as well. I asked him that surely someone at Dish knows where to send a check to this company and that perhaps your legal department could provide this information and how can I contact the legal department as I would otherwise have no choice but to file suit.

Ultimately a person named "Lupita" came on the line and I explained the same situation to her. She told me that since this was a legal matter I would need to speak to the legal department. I asked her how I can reach the legal department and she told me she didn't have that information. She also said that if I am an attorney then I would know how to contact the legal department. I advised her that I would be filing a lawsuit tomorrow but if she would take my cell phone number and forward it to the legal department, I would be willing to wait until later tomorrow in the event someone there wanted to discuss the matter. Again she said I would need to speak to the legal department at which point I asked her how I could do that and she said she didn't have that information and that if I am an attorney I would know how to reach the legal department. Upon being informed that I was recording the call, she decided to "release the call".

All of the above telephone calls are on tape with the exception of a few seconds of the conversation with Robert Simms which were lost when I flipped the tape.

I did then try calling the telephone number provided above 866-599-9179 - it goes to voice mail that just says "Allen". It does not identify the company. When you hit zero, it says that is not a valid extension. Upon trying a few other extensions at that number I got a law firm in Irvine California and also Dana Capital Corporation. It is apparently a shared voice mail system. I did not leave a message for Allen.

A google search for the number which showed on my caller ID does show that someone else has received Dish Network telemarketing calls with that number on their Caller ID also. No other reference to that number can be found. When I try to call that number 800-741-5484 I get a network error saying the call cannot be connected.

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I did call American Express to investigate charges on my account and they informed me that a charge in the amount of \$49.00 and an authorization for \$1.00 were placed by Dish Network on my Amex account number 3712 912687 81008 on today's date.

I subsequently researched Ohio Secretary of State records to find corporate filings for Dish Network and Echostar but did not find a telephone number in those records. I did, however, find Mr. Dodge's name. Since there does not appear to be an easily locatable phone number on Echostar's web site, I reviewed one of your SEC filings which contained a telephone number for the corporate office. Upon calling that I was able to get to Mr. Dodge and ultimately to you and again I appreciate your time in speaking to me.

Proposed Resolution:

As you know, prerecorded telephone calls are prohibited by the TCPA, 47 USC 227 and its companion regulation 47 CFR 64.1200, absent certain exceptions, none of which apply to me thus the call was unlawful from the start. Additionally, as you also know the TCPA has mandatory identification requirements of VOLUNTEERING the name of the caller, the name of the company on whose behalf they are calling and a telephone number or address at which the company can be reached. Also, transmission of caller ID information is mandatory in telemarketing calls.

Ohio Law, specifically the Consumer Sales Practices Act, Ohio Revised Code 1345.01 et seq. (CSPA) also applies in addition to the TCPA. Probably the Ohio Telephone Solicitation Sales Act applies also in this case. Prerecorded calls, failing to volunteer a FULL NAME (not just first name), failing to properly ID the company and failing to transmit caller ID have all been declared to be unfair and deceptive acts in Ohio and those cases have been placed on file in the Attorney General's public inspection file. As such, conduct in violation of these requirements is automatically willful and/or knowing.

As you know, the TCPA provides damages of \$500 per violation and these damages are trebled for willful conduct. The Ohio CSPA provides additional statutory damages of \$200 per violation.

If my math is correct, I am counting no less than 4 violations of the TCPA - a) Prerecorded call; b) failure to volunteer full name; c) failure to volunteer the correct name of the company on whose behalf they were calling and d) failure to volunteer a telephone number or address at which that company can be reached. One could also argue that spoofing the caller ID is also an ID violation.

Thus we have potential TCPA damages of \$1500 each for \$6,000. Additionally, these would also have \$200 statutory damages per violation under the Ohio CSPA for \$800 total. Also, the caller ID spoofing and failing to transmit caller ID (on the second call) would yield \$200 damages each under the Ohio CSPA (this was declared unfair and deceptive in the case of Teleis v. Warrior Custom Golf) which can be found in the Ohio AG's PIF at <http://www.opif.ag.state.oh.us> <<http://www.opif.ag.state.oh.us/>>. Totalling this all up, I get \$7,200 in statutory damages available plus attorney fees which would also likely be awarded by the court.

These are only statutory damages and do not reflect potential punitive damages for the misrepresentations made by the agents. I would remind you that I am in the same appellate jurisdiction as the court in Irvine v. Beacon Journal in which a jury awarded \$100,000 in punitive damages against a telemarketer and these damages were upheld by the court of appeals.

While I realize your position is that Dish Network did not place the call to me directly, clearly there is a partnership between Dish and whoever the telemarketer is since they are able to place the credit card charge directly via your system. The partnership issue aside, clearly there is some joint and several liability here and while the actual telemarketer may be more responsible party, Dish bears some liability and thus I can collect from either entity.

I propose the following:

1) Dish shall immediately credit all monies charged to my credit card and shall cancel any account that has been created with Dish Network.

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2) Dish shall erase the inquiry on my credit report from whatever credit reporting agencies it obtained the report from.

3) Dish shall immediately place the following 3 telephone numbers on its do-not-call list and shall share these numbers with any affiliated companies:

a) 330-655-5594

b) 330-474-1020

c) 330-328-6621

4) Dish shall mail me a copy of its written policy for the maintenance of its do-not-call list;

5) Dish shall immediately provide me the full name, address, and local (not 800/866/888/877) telephone number of the telemarketing company who placed the call to my residence, as well as any additional identifying information on this entity including but not limited to tax ID numbers, statutory agents, etc.

6) Dish shall immediately issue payment to me in the discounted amount of \$6,000 in full settlement of any and all claims I may have against Dish/Echostar and the unknown telemarketing agency who created my dish account. Said funds shall be delivered to me no later than one week from today, to-wit, by August 18, 2006 at 12:00 Noon Eastern Time.

7) I will upon receipt of said settlement funds execute a full and complete release of Dish/Echostar and if desired, the telemarketing agency who made the offending call..

I think this covers everything that we discussed this evening.

My contact information is as follows:

Kenneth R. Teleis

5187 Camden Dr.

Stow, OH 44224

Office/cell 330-328-6621

Email: attorney@teleis.com

I will be unavailable from 5:30 PM Eastern on Friday August 11 until mid-day Saturday and then until late Sunday. I do have voice mail on the above number and you can this contact me at any time. Email is also an efficient medium as I am in meetings often during the day and thus sometimes unable to converse.

Again, thank you for your taking the time to speak to me this evening and for your kind courtesies in this matter. Obviously I would like to get the matter resolved soon and would rather not have to resort to filing suit. However, time is of the essence so I would like to establish whether a resolution is possible so that I may decide how to proceed.

Would you kindly let me know your position as soon as possible.

Sincerely,

Kenneth R. Teleis,

Attorney at Law (and yes, I really am an attorney, Ohio Bar Number 0061855).

CONFIDENTIAL

SLC_ DNC_ Investigation 007538
9A014423
013151

TX 102-013687

EXHIBIT 711

EXHIBIT 711

JA014426
013152

TX 102-013688

To: Origer, Robb[Robb.Origer@echostar.com]
From: Werner, Bruce
Sent: Fri 9/29/2006 6:37:03 PM
Subject: RE: TCPA - Barron, Laura

We have not recorded any other complaints that we can track to Brandvein.

Bruce M. Werner
General Manager of Risk in Retail Services
720.514.5745

CONFIDENTIAL - SUBJECT TO ATTORNEY / CLIENT AND WORK PRODUCT PRIVILEGES

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From: Origer, Robb
Sent: Friday, September 29, 2006 2:16 PM
To: Werner, Bruce
Subject: FW: TCPA - Barron, Laura

Do we have any other detail on this Retailer -

From: Moskowitz, David
Sent: Friday, September 29, 2006 1:44 PM
To: Steele, Dana
Cc: Blum, Jeffrey; Carlson, Erik; Origer, Robb; Neylon, Brian
Subject: RE: TCPA - Barron, Laura

I would like to meet Tuesday with you and Jeff, and whatever combination of Erik, Brian and Robb is appropriate.

Thanks

From: Steele, Dana
Sent: Friday, September 29, 2006 1:30 PM
To: Moskowitz, David
Cc: Blum, Jeffrey; Carlson, Erik; Origer, Robb; Neylon, Brian
Subject: TCPA - Barron, Laura

David,

Per your request, Legal researched the claims by Ms. Barron. Although we have her set up to perform a sting, I contacted the 1-800# she provided in her e-mail complaint and was eventually connected with OE retailer Discount Communications. Discount researched the allegation and admitted that they placed the calls to Ms. Barron. Below (and attached) is the body of their response admitting they did not scrub the number before it was called.

TCPA history for Discount:

1. Barron, Laura
2. Wallace, Melissa – Discount settled with Melissa yesterday for \$6,500 for 4 abandoned calls and 2 live calls (Although Discount representatives properly ID themselves: “Jennifer with Discount Communication for Dish Network,” they did not provide written copies of the DNC policy as requested.
3. Mitchell, Jeffrey v. EchoStar et al. – Discount is a named defendant in this action after Mitchell purchased a system tracked to Discount

Confidential

SLC_ DNC_ Investigation 0012356
9A014427
013153

TX 102-013689

I will pass this info on to Reji, Bruce and Denise for tracking and documenting, but we should discuss what action should be taken, if any, with Discount. Please let me know if you have questions or would like additional information. Thank you,
- Dana

Dana,

We have researched the phone number in question and we have found the following:

1. The number was called a total of six times between the 10th and the 13th of September. (see dialer report attached .xls file). The first five calls were met with an answering machine and on the sixth call, the phone was answered and the person on the other end asked to be put on the internal DNC (please review voice file attached .zip file). The call was then terminated and the number was subsequently removed from our database.
2. The number was reported in our National DNC scrub in July and was removed from our master national list at that time. This customer was called as a result of a loophole in our process. The agent received this number as a referral and the agent proceeded to manual dial the number without first proceeding through the process for scrubbing (review excerpt from our call center ops sop).

There is no excuse for the fact that we called this number after July so I will not try to come up with one. Suffice it to say that we will do our very best to never let this happen again.

Please get a hold of me should you have any additional questions or concerns

Allan G. Brandvein

Dana Steele

ATTORNEY/CLIENT AND WORK PRODUCT PRIVILEGES MAY APPLY/
DO NOT DISCLOSE WITHOUT THE PRIOR CONSENT OF GENERAL COUNSEL

From: Moskowitz, David
Sent: Wednesday, September 27, 2006 6:50 PM
To: Steele, Dana
Cc: Blum, Jeffrey
Subject: FW: Dish Network

Dana,

I called her. She should be calling you, but please proactively call her and get her involved in a sting.

Let me know the results.

Thanks,

David

From: Ergen, Charlie
Sent: Wednesday, September 27, 2006 10:55 AM
To: Moskowitz, David
Subject: FW: Dish Network

please contact customer..sounds like they may help..
c

Confidential

SLC_ DNC_ Investigation 200609357
9A014428
013154

TX 102-013690

-----Original Message-----

From: Barrons [mailto:slnssbarron@adelphia.net]
Sent: Wednesday, September 27, 2006 8:53 AM
To: Ergen, Charlie
Subject: Re: Dish Network

Thank you Charlie,

I would be happy to help in any way I can.

Please let Mr. Moskowitz know he can reach me at 661-722-4487 (my business line.) I'm not always there to answer it, but it will pick up messages.

- Perhaps I could just say yes to them and order their product? But I wouldn't want to give out my financial information in case it is some type of phishing.

This is very considerate of you. I feel slightly ashamed now of my ranting and for bothering you.

Sincerely,
Laura.

----- Original Message -----

From: Ergen, Charlie
To: Barrons
Cc: Moskowitz, David
Sent: Tuesday, September 26, 2006 5:36 PM
Subject: RE: Dish Network

Dear Laura,

Thank you for your note. I can assure you that this is NOT Dishnetwork calling you. We are aware there is a company or companies who have been calling who may misrepresent themselves as dishnetwork.

We would like your assistance to find this company.

I have copied our general counsel, David Moskowitz. I would like him to contact you so we can solve this mutual problem.

Again, thank you for bringing this to my attention

Charlie

-----Original Message-----

From: Barrons [mailto:slnssbarron@adelphia.net]
Sent: Tuesday, September 26, 2006 5:55 PM
To: Ergen, Charlie
Subject: Dish Network

Mr. Ergen,

Perhaps you can help me, perhaps not. If not, please send my request through to someone at dish network who can help me and thousands more listed on the "Do Not call us" registry.

You have some marketing or dealer at 1-800-701-8414 who continues to call 4 times a evening, almost every single day for Dish Network. I have ask them not to call. I am on the do not call registry. We are talking about calls coming in for months.

It is making your company look bad. I have called Dish network headquarters and they say it must be some local dealer. Could be, could be out of the US. Either way, they are selling your product. They are a dealer for you and marketing it. It has created such tension in our household these annoying calls. I do not want to ever purchase your products only because of this. And this is illegal. And I have reported it to the FTC in your company's name.

I have no power to stop this. I can't even find out who the 800 number belongs to, but I know you can. You or your associates can find out who this is by using your company records and pull the dealership from them. Put a stop to it, please. Be someone who doesn't ignore the problem, but someone who cures it. Check the site to see all the feedback you are getting and the bad name dish network is receiving.

Confidential

SLC_ DNC_ Investigation 2006 0358
JAO 14429
013155

TX 102-013691

<http://whocalled.us/lookup/8007018414>

If this was my company, it wouldn't be happening. I wouldn't have any company representing me in this manner.

Sincerely,
Laura Barron

Confidential

SLC_ DNC_ Investigation 2010 0359
9A01430
013156

TX 102-013692

To: Origer, Robb[Robb.Origer@echostar.com]
From: Werner, Bruce
Sent: Fri 9/29/2006 6:37:03 PM
Subject: RE: TCPA - Barron, Laura

We have not recorded any other complaints that we can track to Brandvein.

Bruce M. Werner
General Manager of Risk in Retail Services
720.514.5745

CONFIDENTIAL - SUBJECT TO ATTORNEY / CLIENT AND WORK PRODUCT PRIVILEGES

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To: Steele, Dana
Cc: Blum, Jeffrey; Carlson, Erik; Origer, Robb; Neylon, Brian
Subject: RE: TCPA - Barron, Laura

I would like to meet Tuesday with you and Jeff, and whatever combination of Erik, Brian and Robb is appropriate.

Thanks

From: Steele, Dana
Sent: Friday, September 29, 2006 1:30 PM
To: Moskowitz, David
Cc: Blum, Jeffrey; Carlson, Erik; Origer, Robb; Neylon, Brian
Subject: TCPA - Barron, Laura

David,

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TCPA history for Discount:

1. Barron, Laura
2. Wallace, Melissa – Discount settled with Melissa yesterday for \$6,500 for 4 abandoned calls and 2 live calls (Although Discount representatives properly ID themselves: “Jennifer with Discount Communication for Dish Network,” they did not provide written copies of the DNC policy as requested.
3. Mitchell, Jeffrey v. EchoStar et al. – Discount is a named defendant in this action after Mitchell purchased a system tracked to Discount

Confidential

SLC_ DNC_ Investigation 0010356
9A01431
013157

TX 102-013693

I will pass this info on to Reji, Bruce and Denise for tracking and documenting, but we should discuss what action should be taken, if any, with Discount. Please let me know if you have questions or would like additional information. Thank you,
- Dana

Dana,

We have researched the phone number in question and we have found the following:

1. The number was called a total of six times between the 10th and the 13th of September. (see dialer report attached .xls file). The first five calls were met with an answering machine and on the sixth call, the phone was answered and the person on the other end asked to be put on the internal DNC (please review voice file attached .zip file). The call was then terminated and the number was subsequently removed from our database.
2. The number was reported in our National DNC scrub in July and was removed from our master national list at that time. This customer was called as a result of a loophole in our process. The agent received this number as a referral and the agent proceeded to manual dial the number without first proceeding through the process for scrubbing (review excerpt from our call center ops sop).

There is no excuse for the fact that we called this number after July so I will not try to come up with one. Suffice it to say that we will do our very best to never let this happen again.

Please get a hold of me should you have any additional questions or concerns

Allan G. Brandvein

Dana Steele

ATTORNEY/CLIENT AND WORK PRODUCT PRIVILEGES MAY APPLY/
DO NOT DISCLOSE WITHOUT THE PRIOR CONSENT OF GENERAL COUNSEL

From: Moskowitz, David
Sent: Wednesday, September 27, 2006 6:50 PM
To: Steele, Dana
Cc: Blum, Jeffrey
Subject: FW: Dish Network

Dana,

I called her. She should be calling you, but please proactively call her and get her involved in a sting.

Let me know the results.

Thanks,

David

From: Ergen, Charlie
Sent: Wednesday, September 27, 2006 10:55 AM
To: Moskowitz, David
Subject: FW: Dish Network

please contact customer...sounds like they may help..
c

Confidential

SLC_ DNC_ Investigation 0010357
9A01432
013158

TX 102-013694

-----Original Message-----

From: Barrons [mailto:slnssbarron@adelphia.net]
Sent: Wednesday, September 27, 2006 8:53 AM
To: Ergen, Charlie
Subject: Re: Dish Network

Thank you Charlie,

I would be happy to help in any way I can.

Please let Mr. Moskowitz know he can reach me at 661-722-4487 (my business line.) I'm not always there to answer it, but it will pick up messages.

- Perhaps I could just say yes to them and order their product? But I wouldn't want to give out my financial information in case it is some type of phishing.

This is very considerate of you. I feel slightly ashamed now of my ranting and for bothering you.

Sincerely,
Laura.

----- Original Message -----

From: Ergen, Charlie
To: Barrons
Cc: Moskowitz, David
Sent: Tuesday, September 26, 2006 5:36 PM
Subject: RE: Dish Network

Dear Laura,

Thank you for your note. I can assure you that this is NOT Dishnetwork calling you. We are aware there is a company or companies who have been calling who may misrepresent themselves as dishnetwork.

We would like your assistance to find this company.

I have copied our general counsel, David Moskowitz. I would like him to contact you so we can solve this mutual problem.

Again, thank you for bringing this to my attention

Charlie

-----Original Message-----

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Sent: Tuesday, September 26, 2006 5:55 PM
To: Ergen, Charlie
Subject: Dish Network

Mr. Ergen,

Perhaps you can help me, perhaps not. If not, please send my request through to someone at dish network who can help me and thousands more listed on the "Do Not call us" registry.

You have some marketing or dealer at 1-800-701-8414 who continues to call 4 times a evening, almost every single day for Dish Network. I have ask them not to call. I am on the do not call registry. We are talking about calls coming in for months.

It is making your company look bad. I have called Dish network headquarters and they say it must be some local dealer. Could be, could be out of the US. Either way, they are selling your product. They are a dealer for you and marketing it. It has created such tension in our household these annoying calls. I do not want to ever purchase your products only because of this. And this is illegal. And I have reported it to the FTC in your company's name.

I have no power to stop this. I can't even find out who the 800 number belongs to, but I know you can. You or your associates can find out who this is by using your company records and pull the dealership from them. Put a stop to it, please. Be someone who doesn't ignore the problem, but someone who cures it. Check the site to see all the feedback you are getting and the bad name dish network is receiving.

Confidential

SLC_ DNC_ Investigation 0019358
9A01433
013159

TX 102-013695

<http://whocalled.us/lookup/8007018414>

If this was my company, it wouldn't be happening. I wouldn't have any company representing me in this manner.

Sincerely,
Laura Barron

Confidential.

SLC_ DNC_ Investigation 2010359
9A01434
013160

TX 102-013696

EXHIBIT 712

EXHIBIT 712

JA014435
013161

TX 102-013697

From: Calbert, Robert <Robert.Calbert@Dishnetwork.com>
Sent: Thursday, March 12, 2009 9:08 PM (GMT)
To: DeFranco, Jim <Jim.DeFranco@Dishnetwork.com>; McElroy, Steve <Steve.McElroy@Dishnetwork.com>; Van Emst, Blake <Blake.VanEmst@Dishnetwork.com>
Subject: Re: Urgent matter from Apex Satellite

Jim,
We had no issue with his sales process. The issue is that he was illegally telemarketing using spoofed caller I'd's. Once he made us aware of what he was doing he also stated he would not stop unless we gave him more money. He currently has 126 TCPA violations that we are aware of, but since he spoofs his number, many can't find him so there are countless more which never get correctly placed. Once hearing this, I contacted Steve and Blake to determine course of action fearing that no action would make us complicit in his illegal activity. Blake can speak more to where we are in the hold/termination process.

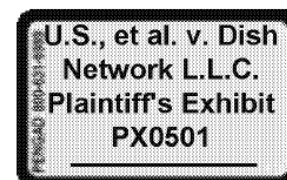
Sent from my BlackBerry Wireless Handheld

From: DeFranco, Jim
To: McElroy, Steve; Van Emst, Blake; Calbert, Robert
Sent: Thu Mar 12 14:58:58 2009
Subject: FW: Urgent matter from Apex Satellite

What is happening on this?

From: Mohammadreza Akhavanfard [mailto:reza980@hotmail.com]
Sent: Monday, March 09, 2009 10:39 AM
To: steve.mackelroy@dishnetwork.com; rob.calbert@dishnetwork.com; Mills, Mike; DeFranco, Jim; DeFranco, Jim
Subject: Urgent matter from Apex Satellite

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PX0501-001

Confidential - U.S. v. DISH

DISH11-028401
SLC_ DNC_ Investigation 001270
9A014436
013162

TX 102-013698

EXHIBIT 713

EXHIBIT 713

JA014437
013163

TX 102-013699

From: Wener, Kathleen <KATHLEEN.WENER@dish.com>
Sent: Thursday, July 26, 2018 3:52 PM
To: Burton, Emily
Cc: #IT-eDiscovery; Burg, Michael
Subject: Shared Files from DISH

Note to Recipient: mID03939 (Plumbers Local Union No. 519 Pension)

You will be receiving an email from the DISH file-sharing site DropZone concerning a legal matter. Please follow these steps to retrieve your file(s):

1. Login or create a new DropZone account. (Do NOT use the password below to login to Dropzone)
2. Download the file(s) to your computer
3. Right click the file and select 'Extract Here' to open a password dialogue
(If not already installed, you will need 7Zip to decrypt the file. Download here <http://www.7-zip.org/>)
4. Enter the password to complete the decryption. The zip file password is: isobath guy fribble ulcer bijou prismoid

Please also be aware that the DropZone location will **only be active for 7 days**, so let us know if you have any issues as quickly as possible. Thanks!

Kathleen Wener, CEDS
Business Analyst II



9601 S. Meridian Blvd.
Englewood, CO 80112
(303) 723-1000 Main
(720) 514-6472 Direct
kathleen.wener@dish.com

EXHIBIT 714

EXHIBIT 714

JA014439
013165

TX 102-013701

To: Retail Audit and Risk Attention Reji
From: JSR Enterprises

This letter is in response to the email received on 1/17/07 regarding alleged DNC violations.

JSR enterprise is always concerned when a complaint arrives regarding an alleged violation of a DNC. JSR has taken additional steps to ensure ethical marketing for our sales team, with the employ of a Call Center Compliance Corporation, which enables us to fully comply with all the current 16 states that maintain their own DNC rules. With this enhancement, we anticipate a reduction in any claims state dnc violations.

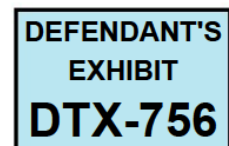
JSR has researched the aforesaid complaints and found the following:

1. 9-28-06 Thomas Jones 414-483-9957 was researched in our DNC database and at the time of contact, this number was not registered. Thomas Jones has been removed from our database.
2. 10-19-06 Mike Brawner 858-756-7562 is registered on the DNC. And do not know why this person was contacted from our organization. The phone number has been deleted from our database, and will not be contacted again.
3. 11-7-06 "wildman" 717-770-0832 was contacted by an affiliate, and has been deleted from our database. And the affiliate?
4. 11-10-06 Jennifer Marcellud 530-577-5856 is not registered in the Federal dnc database, thus a formal DNC complaint does not exist. In the spirit of good business practices, has been removed internally. If I am not mistaken, TCPA violations can include things like asking to be removed and not being taken of internal lists, rude/obscene behavior, frequent, persistent and unsolicited phone calls and pre-recorded messages. The consumer does NOT have to be on the Fed or St DNC to lodge a complaint.
5. 11-15-06 Jose Herndadez 541-6724954 Is on in the federal DNC database, which was contacted by our affiliate. We have removed this number internally. And the affiliate?

In summation, we appreciate the attention to any DNC complaints sent to us by you, which allows us to further implement the necessary tools for us to grow our client database.

JSR further acknowledges that it will indemnify Echostar if needed.

By Richard Goodale
1/22/07



Confidential-US v. DISH

DTX 756 Page 1 of 1

DISH5-0000015178

JA014440
013166

TX 102-013702

EXHIBIT 715

EXHIBIT 715

JA014441
013167

TX 102-013703

Message

From: Delaney, Brian [/O=ECHOSTAR COMMUNICATIONS CORP/OU=ECHOSTAR/CN=RECIPIENTS/CN=BRIAN.DELANEY]
Sent: 11/19/2010 12:42:27 PM
To: Delaney, Brian [brian.delaney@dishnetwork.com]; Ergen, Charlie [charlie.ergen@dishnetwork.com]; Han, Bernie [bernie.han@dishnetwork.com]; Dodge, Stanton [stanton.dodge@dishnetwork.com]
Subject: RE: DISH Network Behavior Complaint

C,

Turns out, Dish called the customer once, and the retailer that originally signed the customer this April, made all the other calls. I have discussed this with Blake and his team and they are reviewing why the retailer kept calling the customer after they declined the offer.

From: Delaney, Brian
Sent: Thursday, November 18, 2010 1:09 PM
To: Ergen, Charlie; Han, Bernie; Dodge, Stanton
Subject: RE: DISH Network Behavior Complaint

Charlie,
My previous email was poorly written. Sales agents would not talk to the same former customer 4 times. The dialer calls the former customer, if the customer does not answer, the dialer is programmed to call the customer 3 more times over approximately 72 hours. If on any of the 4 calls, the customer answers, then our outbound sales agent is required to disposition the call. If the customer states they are not interested in the offer, the call is dispositioned as "not interested" The customer record is then removed from that specific dialing list. We are reviewing our outbound records and they show we called this customer one time in the last month and he refused the offer and asked to be put on the "do not call list." We have not called this customer since. We are now researching whether a third party or retailer is outbounding this former customer. We have more homework to do before we have a clear picture of what exactly happened.

From: Ergen, Charlie
Sent: Thursday, November 18, 2010 12:34 PM
To: Delaney, Brian; Han, Bernie; Dodge, Stanton
Subject: RE: DISH Network Behavior Complaint

How does that work...the auto dialer calls the customer and when the customer answers , we have our win back sales guy ready to talk to the customer. ?

Seems you are missing a key ingredient...i.e when the sales person talks to the customer , he has the ability to take the customer out of the auto dialer if it is clearly a losing cause. Why not do that. We save money by not calling customers who we have no chance at, and we don't irate as much. The key of course is the judgment of the win back team. ..i wouldn't take a genius to figure out if we dinged the guy for \$315 and he paid us , and he told us to quite calling , that we probably had a losing cause on this guy

From: Delaney, Brian
Sent: Thursday, November 18, 2010 11:51 AM
To: Ergen, Charlie; Han, Bernie; Dodge, Stanton
Subject: RE: DISH Network Behavior Complaint

Privilege...

Confidential

SLC_ DNC_ Investigation 0002074
9A014442
013168

TX 102-013704

It is us calling the customer to win them back. Up until a month ago, the outbound dialer limited it to a maximum number of 6 calls, I lowered the maximum to 4 calls in Oct because our success rate was very low on the 5 and 6th attempt and it was upsetting our former customers. This customer received the 4 call maximum. I will review with retention again this practice. There is a balance between successfully winning formers back and irritating them.

From: Ergen, Charlie
Sent: Thursday, November 18, 2010 11:10 AM
To: Han, Bernie; Delaney, Brian; Dodge, Stanton
Subject: FW: DISH Network Behavior Complaint

Privilege...is this us calling the guy or someone else. If it is us calling the guy, do we have a system not to call people at some point?...(maybe another side to this story)

c

From: Walt Newcomb [mailto:we.newcomb@gmail.com]
Sent: Wednesday, November 17, 2010 8:25 PM
To: President of Dish Network; charles.ergen@dishnetwork.com; charles.w.ergen@dishnetwork.com; Ergen, Charlie
Subject: DISH Network Behavior Complaint

Mr. Ergen:

I am a now-former DISH customer in Idaho Falls, Idaho. Because we are moving, I called to cancel our DISH service a week ago or so. I paid \$315.00 for the privilege of canceling that service when the jerks I spoke to finally closed their mouths and listened to my VERY SPECIFIC INSTRUCTIONS.

Since then, on 4 separate occasions, DISH representatives have called me and my wife - she in Idaho and me at my new work location. They are **offensively INCAPABLE of listening** when each of us has told them, over and over, that **WE WANT TO CANCEL OUR SERVICE**. We don't want to transfer our service or anything else - we want to CANCEL. Do YOU understand that simple declarative statement?

Repeatedly insisting that they "...want to save [us] money...", they have repeatedly and offensively asked my wife "... who is the decision maker in your family...?", making the clear implication that SHE is not. This is customer disservice beyond my comprehension.

After today's offensive behavior, we are **filing a formal harassment complaint with the Attorney General of the State of Idaho** and **informing our attorney that DISH is repeatedly harassing us**.

DISH needs to do two things:

- DISH needs to inform its personnel that **we are NEVER to be called again**. I'm confident the Idaho AG will help DISH remember to take this step.
- DISH needs to **teach its employees to listen to the customer and to behave as though they have manners**. Our experience is that DISH will have a more difficult time making that happen.

We expect that this **will be the LAST TIME there is a need for us to communicate with DISH**.

Yours very seriously - Walter Newcomb

--

Confidential

SLC_ DNC_ Investigation 0002075
9A01443
013169

TX 102-013705

Walter Newcomb * Cell: 208.821.0300 * Fax: 208.906.1949
OpenPGP Fingerprint 3A0F 3029 182E 9C9F CB40 9501 6086 C741 3423 0003 * Key ID 0x34230003

Confidential

SLC_ DNC_ Investigation 2002076
3A0F 3029 182E 9C9F CB40 9501 6086 C741 3423 0003
013170

TX 102-013706

EXHIBIT 716

EXHIBIT 716

JA014445
013171

TX 102-013707

Message

From: Han, Bernie [/O=ECHOSTAR COMMUNICATIONS CORP/OU=ECHOSTAR/CN=RECIPIENTS/CN=BERNIE.HAN]
Sent: 9/25/2008 7:21:18 AM
To: JD Chambers [she@bellsouth.net]
CC: Metzger, Marciedes [marciedes.metzger@echostar.com]
Subject: RE: phone solicitation

james,

if and when you do get to the point of being given an account number and an installation date, let me know. i think we'll have what we need at that point and can cancel your account (unless you actually want dish service of course). that way you won't need to go through the hassle of getting installed. good luck with your conversation and let me know what you're able to find out from them

thanks,

bernie
720-514-5152

From: JD Chambers [mailto:she@bellsouth.net]
Sent: Wednesday, September 24, 2008 2:16 PM
To: Han, Bernie
Subject: Re: phone solicitation

bernie,
662-342-9245 anytime today

----- Original Message -----

From: Han, Bernie
To: Ergen, Charlie ; JD Chambers
Sent: Wednesday, September 24, 2008 2:43 PM
Subject: RE: phone solicitation

james,

what is a good number and time for me to reach you?

bernie

From: Ergen, Charlie
Sent: Wednesday, September 24, 2008 11:09 AM
To: 'JD Chambers'
Cc: Han, Bernie
Subject: RE: phone solicitation

Dear James,

I am sorry about this. you are NOT receiving calls from Dishnetwork but probably somebody who wants to sell your name to a retailer against our rules. I will have Bernie Han (our CFO) call you and maybe we can get this stopped. Thanks for communicating

charlie

Confidential

SLC_ DNC_ Investigation 2008174
9A01446
013172

TX 102-013708

From: JD Chambers [mailto:she@bellsouth.net]
Sent: Tuesday, September 23, 2008 7:10 PM
To: Ergen, Charlie
Subject: phone solicitation

Mr. Ergen

I have repeatedly been called from this phone number(702) 520-1480 with a solicitation for dish network for several months now I pushed the number 2 to be removed from the calling list. It has not happened yet. This time I selected one on the list to talk with someone, and gave them my phone number to be removed. as soon as I said I wanted to be removed I was told to "suck a dick faggot". I am not sure who you have selling dish network nor do I care, but this I know is illegal, for someone to call my house and use profanity to sexually harass me. I would like a full apology, and this company whoever it is doing your telemarketing, to do it.

James D. Chambers
Consultant
Superior Home Enterprises

Confidential

SLC_ DNC_ Investigation 2007175
9A01447
013173

TX 102-013709

EXHIBIT 717

EXHIBIT 717

JA014448
013174

TX 102-013710

Audit and Risk Accomplishments Week Ending 06/14/06

Item	Comments
<ul style="list-style-type: none"> Retail Services – Audit 	<ul style="list-style-type: none"> Started a new process for creating Executive Summaries for all proposed terminations. Letters from legal for TCPA, DNC violations are still pending. Outbound project for identifying retailers that flip DISH Network subscribers to DTV has been placed on hold. IT requires BRD etc. to proceed. Continued to report on International No SSN Promotion. Pending Termination for retailer Bethany Digital OE # 11693818 AP # 479805 completed. Charged back amount of \$46,675 (227 duplicate accounts). Pending Termination for Wireless Innovations – Mis-use of SSNs to qualify new customer activations. Processed Quad City Satellite OE #94289 termination. Churn audit started for Quad City. 1st full week provided 179 disconnected accounts; only 14 accounts have disco reason to DTV. Will continue churn report weekly. Active sub list for Quad City Satellite totals 11,294 active accounts. Co-Op <ul style="list-style-type: none"> RS&I retailer Worldwide Satellite is pending chargeback for invalid flyer mailings for 63,300.00 RS&I retailer LA Activation OE# has been submitting claims from a vendor that cannot be verified. Continued Audits – <ul style="list-style-type: none"> Sat Systems OE # 821970 completed sample audit, continue Dup/Churn. Jose May Multi Services OE # 11652210, sample audit was completed 11 duplicates accounts found and possible \$2690.00 chargeback. Made retailer contact with Radar Satellite (OE# 81155) – Audit identified duplicate accounts. Continue research of Andrew Martinez DBA Michaels Boots for less & repair OE# 13698264 should complete by next week. Completed Sample Activation Audit for Advance Satellite OE# 11148395, in queue for QA. Verified that RAT is reviewing split accounts that triggered incentive payments. Charge back is pending.

Plans for Next Week

Item	Comments
<ul style="list-style-type: none"> Retail Services – Audit 	<ul style="list-style-type: none"> Continue to report on International No SSN promo, begin training of other team members Charge Back incentives paid in error for Receiver Audit Team split accounts. Meet with Internal audit to review process flow and Retail fraud testing. Review /reopen audit on Mr. Jim Alexander / JAMAR Marketing. Retailer is involved in pirating. We are waiting on a list from James Riley for list of receivers sold this year. Review and revise potential Showroom Business Rule changes. Finalize Vendor Partner Agreement. Perform appropriate due diligence for identified vendors. Provide Executive Summary on Sacramento retailer named Satellites and More, currently pulling EFT notification details for payment history and any additional information to Curt Maleri / Denver FBI regarding Satellites and More. Finalize investigation of RS&I retailer LA Activations' co-op claims. Verifying connections between Chris Skinner and Russell Barnett. Review and finalize Co-Op claim denial for American Wireless for \$33820.00 Finalize chargeback for Puerto Rico retailer named Today's Television OE# 215777 amount \$30000 +, waiting for retailer contact for ok on chargeback. Begin team project to define department procedures, work with team members for audit process analysis. Start cross training of team for higher team diversity. Finalize Executive Summaries for investigation into five Dallas retailers who we suspect may be colluding and creating phantom accounts Palena Vision OE# 462978, Vision Satellite OE# 12806993 and RAC Communication, Evolution Communications OE # 13901172 and Bethany Digital OE # 1163818. JC Satpro OE 834529 appears to be connected to this group. Finalize Distributor Chargebacks for duplicate houses possible amount of \$80000.00, waiting for distributor response before chargeback begins. Received follow up from, ok to chargeback CV Productions OE# 19544 ~ \$2500.00 Waiting for responses from Retailers for Chargebacks. Sent follow up emails for below C/B's due to Summit gave more research time. <ol style="list-style-type: none"> Digital Satellite Inc OE# 451930~\$2020.00 Excel Communications OE# 694598~\$5095.00 Jason Witty OE# 10769145~\$18887.50 USA Overseas OE# 9099~\$3132.50 Friendly Satellite OE# 778714~\$2310.00 EL Contador Latino OE# 166152 ~\$3980.00

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SLC_ DNC_ Investigation 0002769
9A014450
013176

TX 102-013712

EXHIBIT 718

EXHIBIT 718

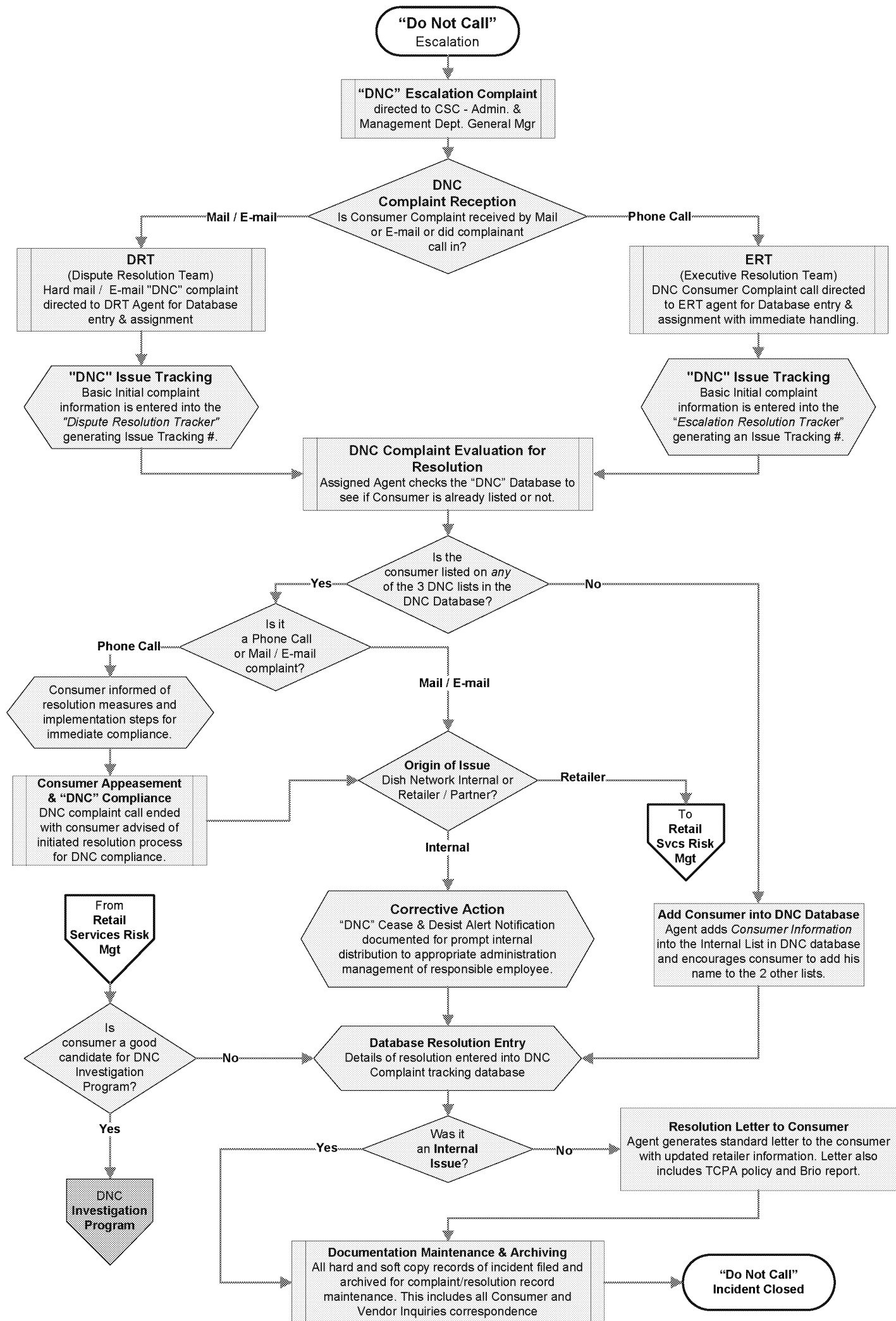
JA014451
013177

TX 102-013713

“DNC” (Do Not Call) Escalation

Complaint Administration

Escalation/Resolution Process Flow (A) DRT / ERT



Do Not Call Escalation v2.3

10/10/06

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SLC_DNC_Investigation 0002795
JAO 14432
013178

TX 102-013714

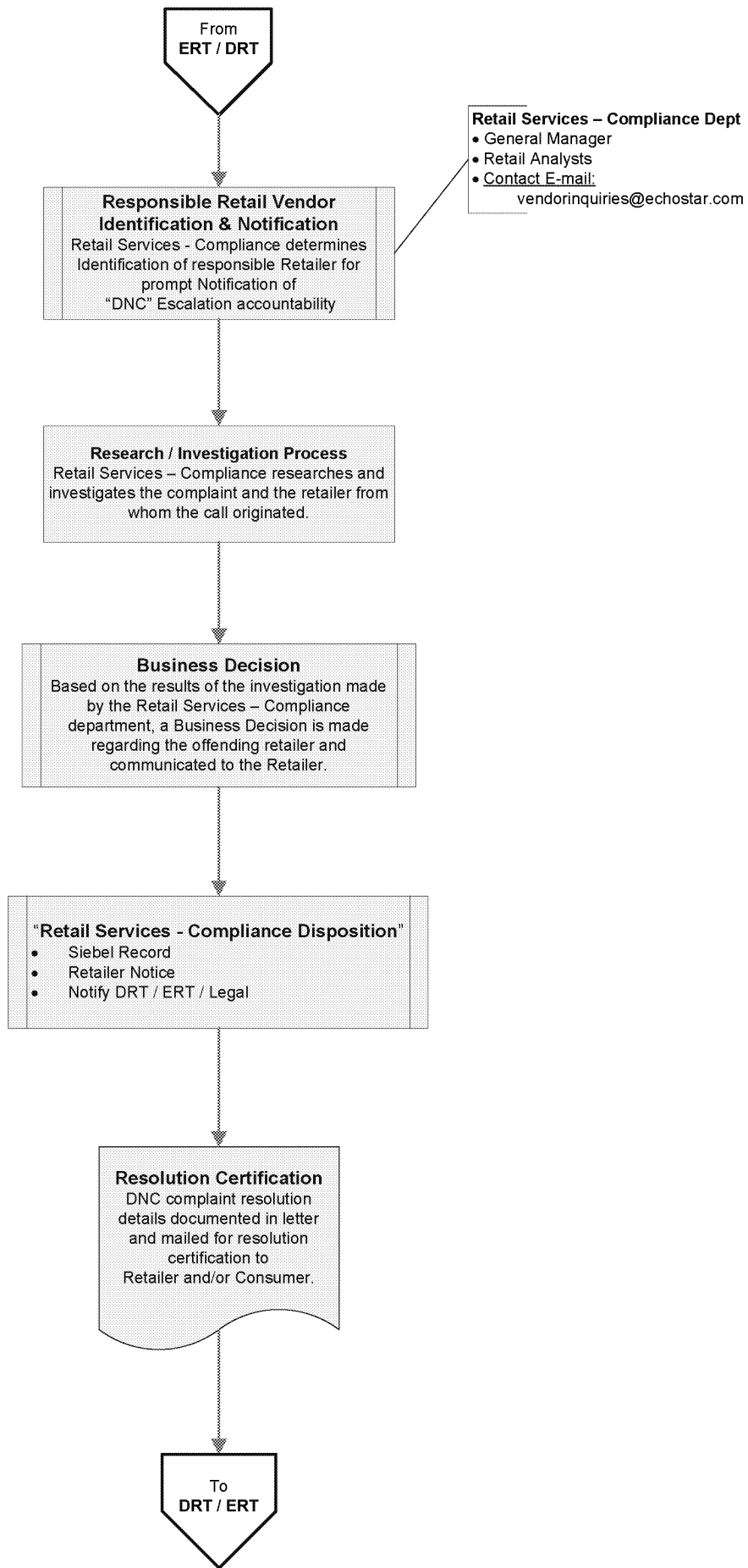
←

“DNC” (Do Not Call) Escalation

Complaint Administration

Escalation/Resolution Process Flow

(B) Retail Services – Compliance Dept.



DO NOT CALL ESCALATION

Complaint Administration
Escalation/Resolution Process Flow
(C) DNC Investigation Program

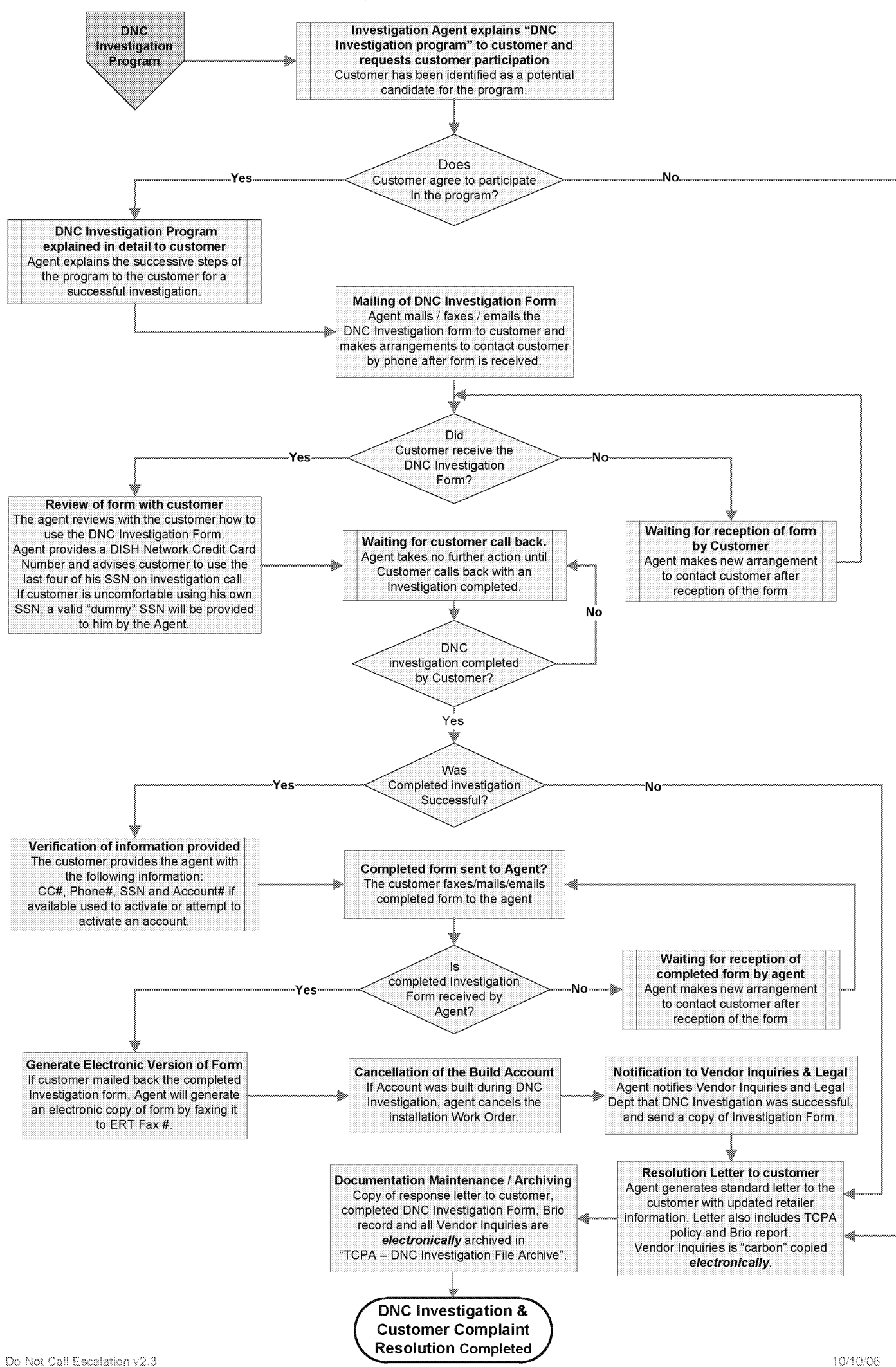


EXHIBIT 719

EXHIBIT 719

JA014455
013181

TX 102-013717

Musso, Reji

From: Musso, Reji
Sent: Wednesday, January 10, 2007 8:45 AM
To: Origer, Robb; Mills, Mike; Neylon, Brian
Cc: Werner, Bruce
Subject: RE: Jerry Dean Grider dba JSR Enterprises

We can certainly do that - what fine would you like to impose?

The first complaint of record was in September - a sting - initiated by legal and the documentation from JSR was with a "dish network affiliate."

Then they ignore the Fax Blast on affiliates and another "sting" initiated by CSC identifies them - this is an affiliate.

Subsequently a report from LA led us to the 5 additional complaints. All since September.

I don't think we can ignore this disregard for the contractual agreement any longer. It impacts our credibility.

Reji J. Musso
Manager - Compliance
Retail Services
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reji.musso@echostar.com

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-----Original Message-----

From: Origer, Robb
Sent: Wednesday, January 10, 2007 8:13 AM
To: Musso, Reji; Mills, Mike; Neylon, Brian
Cc: Werner, Bruce
Subject: Re: Jerry Dean Grider dba JSR Enterprises

A demand letter to provide detail and a warning of up to and including?

-----Original Message-----

From: Musso, Reji
To: Origer, Robb; Mills, Mike; Neylon, Brian
CC: Werner, Bruce
Sent: Tue Jan 09 16:52:54 2007
Subject: RE: Jerry Dean Grider dba JSR Enterprises

Based on the identification of the "voice" on a phone number submitted by the Louisiana AG, we have provided JSR contact information to the state of LA and have also identified 5 other complaints in our tracker. Letter will be ready for Robb's signature on Friday.

I think, based on the fact that they did NOT share affiliate info and this latest "discovery" that we should consider a formal penalty.

Reji J. Musso
Manager - Compliance
Retail Services
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reji.musso@echostar.com

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-----Original Message-----

From: Origer, Robb
Sent: Friday, December 22, 2006 6:49 AM
To: Musso, Reji; Mills, Mike; Neylon, Brian
Cc: Werner, Bruce
Subject: Re: Jerry Dean Grider dba JSR Enterprises

My 'their' applies to all of them - this isn't new or that difficult...these are smart business people that are choosing to not provide the info. They know where the leads and sales come from.

Robb Origer
Retail Services
P|303.723.1202
F|303.723.2057

-----Original Message-----

From: Musso, Reji
To: Origer, Robb; Mills, Mike; Neylon, Brian
CC: Werner, Bruce
Sent: Fri Dec 22 06:46:59 2006
Subject: RE: Jerry Dean Grider dba JSR Enterprises

Understood and I don't necessarily disagree; I just "think" that we can trust them from this point forward. Unlike some of our other players - who are not forthcoming even when caught red-handed.

Sterling is now mentioned as having used this Philippines operation...they seem to pop up everywhere.

Reji J. Musso
Manager - Compliance
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-----Original Message-----

From: Origer, Robb
Sent: Friday, December 22, 2006 6:44 AM
To: Musso, Reji; Mills, Mike; Neylon, Brian
Cc: Werner, Bruce
Subject: Re: Jerry Dean Grider dba JSR Enterprises

I'm not sure what is so unclear -

Their agreement and Nov Facts Blast say 'anyone that is not an employee' must have approval -

Then - you and Reji both ask for that list.

If they aren't forthcoming - I have less interest in a progressive discipline track.

Robb Origer
Retail Services
P|303.723.1202
F|303.723.2057

-----Original Message-----

From: Musso, Reji
To: Mills, Mike; Neylon, Brian
CC: Origer, Robb; Werner, Bruce
Sent: Thu Dec 21 20:19:35 2006
Subject: RE: Jerry Dean Grider dba JSR Enterprises

I agree with Mike. Perhaps this is what we need for our approach to affiliates for the NC AG. We do need a process and something standard.

I think JSR is the least of our worries.

Reji J. Musso
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-----Original Message-----

From: Mills, Mike
Sent: Thursday, December 21, 2006 7:29 PM
To: Neylon, Brian; Musso, Reji
Cc: Origer, Robb; Werner, Bruce
Subject: Re: Jerry Dean Grider dba JSR Enterprises

Don't have the OE grid but I believe they are around 1,500 to 2k activations per month.

At the time of launch this was not discussed nor did they disclose that they would be doing any marketing other than outbound out of their office. I met with these guys last week and they told me they were using a center out of the Philippines. I indicated that it was in their best interest to discontinue that relationship. They said they would be done with that center within 10 days.

If what they say is correct and they are now 100% in house I don't think we should terminate but would support a fine.

In the bigger picture we need to work with legal on a standardized affiliate program template including what they can do, can't do, who they can use, how much they can pay out to affiliates, etc. This is going to continue until we get something in writing that we enforce.

Mike

-----Original Message-----

From: Neylon, Brian
To: Musso, Reji
CC: Mills, Mike; Origer, Robb; Werner, Bruce
Sent: Thu Dec 21 19:08:38 2006
Subject: RE: Jerry Dean Grider dba JSR Enterprises

Mike,

What is his volume? Why would i r...ust terminate?
Where is he located? I assume he...made aware when launched on the OE...that voilations of the telemarketing
laws of the United States will not be tollerated????

From: Musso, Reji
Sent: Thu 12/21/2006 4:28 PM
To: Neylon, Brian
Cc: Mills, Mike; Origer, Robb; Werner, Bruce
Subject: Jerry Dean Grider dba JSR Enterprises

I had a lengthy discussion with Richard Goodale yesterday. This latest allegation is probably a violation. It was done by a
3rd party call center.

Reji J. Musso

Manager - Compliance

Retail Services

303.723.3262 (tel)

720.514.8288 (fax)

reji.musso@echostar.com

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