

G. Blackouts.

(i) Notwithstanding anything to the contrary in this Agreement, TNS, Inc.'s right to provide certain programming which is contained on a Service may be limited by various arrangements or agreements with professional sports leagues and associations (e.g., the National Basketball Association ("NBA"), Major League Baseball ("MLB"), and National Hockey League ("NHL")) (each a "Sports League"). TNS, Inc. shall notify AFFILIATE of any black-out or territorial restrictions imposed by Sports Leagues.

AFFILIATE agrees not to distribute any program in any area which is subject to restriction,

Additionally, AFFILIATE acknowledges that the Sports Leagues establish rules and regulations, which may be amended from time to time (collectively, "League Rules and Regulations") governing the telecast of their respective team games and the advertising content therein. AFFILIATE acknowledges and agrees that AFFILIATE shall abide by such League Rules and Regulations.

Nothing herein shall be construed as conferring on AFFILIATE rights to any sports programming in areas other than those outlined herein, and each of the NBA, MLB and NHL may, at its discretion, change the territories within which their games are permitted to be telecast at any time.

H. Multiservice Affiliation Agreement. TNS, Inc. and AFFILIATE acknowledge that the Services have been made available separately and AFFILIATE has chosen to license the Services under one agreement but with separate Terms as set forth in Paragraph 6.A. Except as otherwise provided herein, the parties agree that the rights and obligations set forth herein with regard to each Service are separate and divisible.

I. Signal Transport. TNS, Inc. hereby grants to AFFILIATE the right to provide signal transport services (exercisable at AFFILIATE's option) to authorize any satellite master antenna television distribution system(s) ("SMATV") with a valid and current distribution agreement with TNS, Inc. to receive AFFILIATE's digital signal of the Services in order to distribute the Services to such SMATV's subscribers, provided that AFFILIATE executes an agreement substantially in the form of Schedule A, which is attached hereto and incorporated herein by reference.

3. Description of Services.

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- G. Turner South shall consist of a twenty-four (24) hour per day, satellite-delivered, advertiser-supported video programming television service

REDACTED

REDACTED

K. TNS, Inc. reserves the right to change the name of any Service.

4. Commencement and Use of Services.

A. At all times throughout the Term, AFFILIATE shall reuplink each of the Services, in its entirety, displayed full screen, and deliver the signal for each Service to Customers each on a single designated channel dedicated solely to the full-time delivery of such Service without any editing, delay, addition, alteration or deletion. Notwithstanding the foregoing, AFFILIATE shall have the right to digitally compress and encrypt and decrypt and decompress to the extent necessary to transmit and receive the Services; provided, as a result of such processes, the compressed signal(s) continues to meet the specifications of Paragraph 5.B herein.

B. (i) AFFILIATE shall have the right to utilize up to the following number of minutes, subject to the conditions set forth herein, which time shall be specifically identified by TNS, Inc. (in its sole discretion) in each hour of Turner South,

REDACTED

own commercial promotions and commercial advertising on each System ("Affiliate Avails"), including the sale by AFFILIATE of such minutes for advertising avails (and the retention of all proceeds by AFFILIATE from such promotions and/or advertising):

for AFFILIATE's

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stet

REDACTED

(c)

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The insertion of any such advertising in Turner South by AFFILIATE during any professional sporting event distributed by AFFILIATE shall be governed by, and AFFILIATE shall comply with all League Rules and Regulations that may be communicated to AFFILIATE from time to time;

including, but not limited to, any restriction on advertising during overtime periods or extra innings in NBA, NHL and MLB games (subject to the notice procedures set forth in Paragraph 2.G). AFFILIATE may not use advertisements that constitute an endorsement (express or implied) of such advertiser's products or services by any sports league/association, team and/or employee thereof. Except with respect to the commercial advertising described in this Paragraph 4.B, AFFILIATE may not, electronically or otherwise, insert any commercial advertising during any professional sporting event distributed by AFFILIATE. Additionally, in no event may AFFILIATE cover, delete or replace, electronically or otherwise, any in-venue signage during any professional sporting event distributed by AFFILIATE.

AFFILIATE shall not permit products or services to be advertised during or adjacent to the sports programming telecasts if such advertisements are impermissible according to the applicable League Rules and Regulations. AFFILIATE acknowledges that this Agreement does not assign or convey any right or license to AFFILIATE to utilize any name, logo, trademark, service marks or other intellectual property of the various sports teams and/or their opponents, nor does it assign or convey any right or license to use any name, likeness and/or biographical material of any player of any team playing in the games in the telecasts. For avoidance of doubt, AFFILIATE may not engage in promotions, contests or sweepstakes involving any professional sports team or sporting event, with or without the use of any team intellectual property, and AFFILIATE agrees not to engage in any such activities unless authorized to do so by the relevant sports league.

REDACTED

C. TNS, Inc. shall insert (or cause to be inserted) cue tones or triggers in the Services to identify the placement of Affiliate Avails in the Services using a Wegener Cue Tone System or other generally used technology.

F. Customers shall not be able to receive the audio portion of any Service separate from the video portion of such Services. AFFILIATE shall not record or duplicate any of the Services' programming nor shall it authorize any such recording or duplication, unless specifically and expressly authorized in writing by TNS, Inc. Subject to Paragraph 4.D. above, the foregoing shall not be deemed to restrict or prohibit AFFILIATE's practice of enabling its Customers to utilize home recording and playback technology for such Customer's private, noncommercial use.

5. Delivery of Services.



A. (i) TNS, Inc. shall cause delivery of each of the Services to a domestic communications satellite for reception and reuplink by AFFILIATE at the Facility. The signal for each Service as delivered for reception by AFFILIATE

AFFILIATE agrees to acquire and maintain, at AFFILIATE's sole expense, any equipment which may be necessary, from time to time, to Secure, decode, unscramble or decompress the satellite signal for each Service as provided by TNS, Inc. Additionally, AFFILIATE agrees to acquire and maintain, at AFFILIATE's sole expense, any equipment and licenses which may be necessary, from time to time, to Secure, encode, scramble, compress and deliver the satellite signal for each Service for distribution from the Facility to Customers.

B.

At all times throughout the Term, AFFILIATE will employ receivers and encoders that process the signal for encoding using either ASI or SDI formats.

C. TNS, Inc. retains and reserves any and all rights in and to the signal distribution capacity contained within the bandwidth of the signal of the Service(s) between TNS, Inc.'s uplink facilities and the Facility.

**6. Term and Rates.**

A. Unless earlier terminated pursuant to the provisions hereof, this Agreement shall commence on the Effective Date and terminate on:

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B. (i) On or before  
throughout the Term, AFFILIATE shall pay to TNS, Inc., at the address specified by TNS, Inc., the relevant monthly rate specified in Schedule B, as applicable, based upon {

TNS' failure, for any reason, to send an invoice for a particular monthly payment shall not relieve AFFILIATE of its obligation to make a monthly payment in a timely manner consistent with the terms of this Agreement.

C. If from time to time during the Term, TNS, Inc. audits AFFILIATE pursuant to Paragraph 8 hereto, and TNS, Inc. determines that the amount AFFILIATE is obligated to pay TNS, Inc. resulted in any underpayment(s) to TNS, Inc. for amounts due under this Agreement, then AFFILIATE shall reimburse TNS, Inc. for the amount of the underpayment within <sup>10</sup> For avoidance of doubt, the Parties acknowledge that in no event will AFFILIATE remit payment for fewer than the number of days existing in the Term, unless this Agreement is terminated prior to the expiration of the Term in accordance with its terms.

D. Past due payments shall bear interest at a rate equal to or (ii) the maximum interest rate permitted under New York law.

7. Calculating the Number of Bulk Customers.

For the purposes of this Paragraph 7, "Bulk Property" shall mean those properties that meet the specifications as set forth below:

or

**8. Reports and Audits.**

A. On or before

monthly report

the following information unless otherwise indicated herein, with each category broken down by level of service,

- (i) the number of Total Subscribers;
- (ii) the total number of bulk rate subscribers for each Service;
- (iii) the total number of Service Subscribers for each Service (a) that do not meet the definition of a Bulk Property and (b) are not located in a Hospitality Outlet;
- (iv) the total number of Service Subscribers for each Service located in a Hospitality Outlet;

after the Effective Date,

B. Upon request, AFFILIATE shall provide a copy of each System's (i) channel line-up cards and (ii) published rates for each of the System's satellite-delivered video programming packages and a la carte services.

C. AFFILIATE shall keep complete and accurate books and records  
in accordance with generally accepted  
accounting principles.

9. **Confidentiality.** The terms and conditions, \_\_\_\_\_ of this Agreement shall be kept confidential by the parties hereto and shall not be disclosed by either party to any third party (other than their respective officers, directors and employees, in their capacity as such, and each parties' respective auditors, consultants, financial advisors, lenders, attorneys (subject to such parties agreeing to be bound by the provisions of this Paragraph 9)) except: (i) to the extent necessary to comply with the law or the valid order of a court of competent jurisdiction, in which event the disclosing party shall so notify the other party, if permitted to do so, as promptly as practicable (and, if possible, prior to making any disclosure), redact this Agreement to the extent possible and seek confidential treatment of such information; (ii) as part of the auditing procedure outlined in Paragraph 8.C and as part of its normal reporting or review procedure to its parent company provided that any person conducting such audit executes a commercially reasonable non-disclosure agreement prior to commencing such audit; and (iii) in order to enforce any of a party's rights pursuant to this Agreement.

10. **Promotion.**

B. At all times throughout the Term, the Services shall be listed in AFFILIATE's electronic program guide or other navigational tools in the Systems.

11. **Default.**

12. **Force Majeure.** Neither party shall be liable to the other hereunder for any delays, preemptions or other failure to perform when such delays, preemptions or failures are due to

any cause beyond the control of the party whose performance is so affected. In the event of any such delay, preemption or failure, the affected performing party shall promptly notify the other party of the nature and anticipated length of continuance of such force majeure, and during such period both parties shall be excused, to the extent necessary, from performance hereunder.

**13. Cumulative Remedies.** All rights and remedies of a party hereunder shall be cumulative and in addition to such rights and remedies as may be available to a party at law or in equity.

**14. Severability.** The invalidity under applicable law of any provision of this Agreement shall not affect the validity of any other provision of this Agreement, and in the event that any provision hereof would be determined to be invalid or otherwise illegal, this Agreement shall remain effective and shall be construed in accordance with its terms as if the invalid or illegal provision were not contained herein; provided, however, that both parties shall negotiate in good faith with respect to an equitable modification of the provision, or application thereof, with respect to this Agreement.

**15. Relationship of the Parties.** Nothing herein shall be deemed to create any joint venture, partnership or agency relationship between the parties, and neither party is authorized to or shall act toward third parties or the public in any manner, which would indicate any such relationship with the other. No Customer shall be deemed to have any privity of contract or direct contractual or other relationship with TNS, Inc. and no supplier of advertising or programming included in a Service(s) by TNS, Inc. shall be deemed to have any privity of contract or direct contractual or other relationship with AFFILIATE by virtue of this Agreement.

**17. Applicable Law.** This Agreement shall be governed by and interpreted under the laws of the State of New York in all respects, subject to applicable provisions of the Communications Act of 1934, as amended, The Cable Communications Policy Act of 1984, as amended, the Cable Television consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996 and any applicable federal orders, rules or regulations.

**18. Assignment.** This Agreement shall inure to the benefit of and be binding upon, the parties hereto and their successors. Notwithstanding the foregoing, neither this Agreement nor AFFILIATE's rights or obligations hereunder shall be assigned or transferred by AFFILIATE, in whole or in part, voluntarily or by operation of law, without the prior written consent of TNS, Inc., which consent shall not be unreasonably withheld;



19. **Authorization.** The parties acknowledge that TNS, Inc. is the agent of the Services and is authorized to act for and on behalf of the Services in the negotiation and administration of this Agreement.

20. **Time of Essence.** The parties acknowledge and agree that time is of the essence in the performance of this Agreement.

21. **Notices.** All notices required hereunder shall be in writing and shall be deemed given when personally delivered, or if mailed by certified mail, return receipt requested, or registered mail, when deposited in the United States Mail, postage prepaid, or if telecopied, when telecopied, if receipt is verified by facsimile confirmation, or if sent by courier service, when deposited with such service, or if sent by overnight delivery service, on the next business day following delivery to such service. Notices shall be addressed as follows (unless either party at any time or times designates another address for itself by notifying the other party thereof in a manner provided herein for notices):

**If to AFFILIATE:**

EchoStar Satellite L.L.C.  
9601 S. Meridian Blvd.  
Englewood, Colorado 80112  
Telecopier: (303) 723-1999  
ATTN: Vice President, Programming

**If to TNS, Inc.:**

Turner Network Sales, Inc.  
101 Marietta Street, NW, 21<sup>st</sup> Floor  
Atlanta, Georgia 30303-2774  
Telecopier: (404) 827-1050  
ATTN: President

**With a copy to:**

EchoStar Satellite L.L.C.  
9601 S. Meridian Blvd.  
Englewood, Colorado 80112  
Telecopier: (303) 723-1699  
ATTN: General Counsel

**With a copy to:**

Turner Network Sales, Inc.  
101 Marietta Street, NW, 21<sup>st</sup> Floor  
Atlanta, Georgia 30303-2774  
Telecopier: (404) 858-1360  
ATTN: Vice President and Asst.  
General Counsel, Legal and Business  
Affairs

22. **Entire Agreement.** This Agreement, including the "Whereas" clauses, shall constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous written or oral agreements and representations between the parties with respect thereto. This Agreement may not be amended, modified or altered in any manner, unless such amendment, modification, or alteration is in writing and is signed by duly authorized representatives of the parties. AFFILIATE and TNS, Inc. acknowledge and agree that effective June 4, 2005, the Affiliate Agreement between TNS, Inc. and AFFILIATE dated as of January 1, 2000, as amended (the "Prior Agreement"), shall be terminated and superceded by this Agreement.

**23. Taxes.** TNS, Inc. shall not be liable for, and AFFILIATE shall pay and hold harmless TNS, Inc. from any federal, state, or local taxes, including any fees payable to local franchising authorities, which are based upon revenues derived by or operations of AFFILIATE or a System.

**24. Reservation of Rights.**

A. All licenses, rights and interests in, to and with respect to the Services, the elements and parts thereof and the media of exhibition and methods of distribution not specifically granted herein to AFFILIATE (including, without limitation, all rights of copyright in the Services, their respective names, logos and programs) shall be entirely reserved, as between the parties, to TNS, Inc. and may be fully exploited and utilized by TNS, Inc. without limitation and without regard to the extent to which any such rights may be competitive with AFFILIATE or the license granted herein.

B. TNS, Inc. represents and AFFILIATE hereby acknowledges that the names and marks

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"Turner South," and such other tradenames, logos, and trademarks or service marks as TNS, Inc. or any affiliated entity elects to call or associate with the Services or any parts thereof (and the names and marks of certain programs which appear in the Services) (collectively the "Licensed Marks"), and the programs themselves and all elements thereof are, as between the parties, the exclusive property of the Services and their suppliers and that AFFILIATE has not and shall not acquire any proprietary rights therein by reason of this Agreement or otherwise. TNS, Inc. shall have the right to approve any of AFFILIATE's mentioning or using of such Licensed Marks and publicity about TNS, Inc., the Services or the products or programming included in the Services.

**25. Waiver.** No term or condition of this Agreement shall be waived, and no breach shall be excused, unless such waiver or excuse is in writing and signed by the party against whom

such waiver or excuse is claimed. 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.

**26. No Inference Against Author.** AFFILIATE and TNS, Inc. each acknowledge that this Agreement was fully negotiated by the parties and, therefore, no provision of this Agreement shall be interpreted against any party because such party or its legal representative drafted such provision.

**27. Approval.** This Agreement shall be binding on the parties only when signed by their authorized representatives named below.

**28. Captions and Headings.** The captions and headings are inserted in this Agreement for convenience only, and shall in no event be deemed to define, limit or describe the scope or intent of this Agreement, or of any provision hereof, nor in any way affect the interpretation of this Agreement.

**29. Survival of Provisions.** The provisions of Paragraphs 8.C, 9, 16, 17, 23, 24, 29, 30 and 31 hereof shall survive termination of this Agreement.

**30. Representations and Warranty.**

A. TNS, Inc. Warranties.

(i) TNS, Inc. warrants and represents that (a) it has the power and authority to enter into this Agreement and to fully perform its obligations hereunder and that this Agreement, when executed, shall constitute a valid and binding Agreement, enforceable against TNS, Inc., **REDACTED** and TRENI, in accordance with its terms;

(iii) no third party has, or to the best of TNS, Inc.'s knowledge no third party has claimed, any rights which would be inconsistent with the rights granted to AFFILIATE hereunder;

(vi) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder.

B. AFFILIATE Warranties. AFFILIATE warrants and represents that (i) it has the power and authority to enter into this Agreement and to fully perform its obligations hereunder and, when executed, this Agreement shall constitute a valid and binding agreement, enforceable against AFFILIATE in accordance with its terms; (ii) it shall distribute the Services in the Territory in accordance with the terms set forth in this Agreement; (iii) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder; (iv) it shall comply, in all material respects, with all applicable laws regarding, with respect to and/or arising out of its obligations under this Agreement; (v) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder; and (vi) it is a limited liability company organized under the laws of the State of Colorado and duly formed and validly existing, with its principal place of business in the State of Colorado.

31. Indemnification.

32. Termination Rights.

**33. Closed Captioning.** TNS, Inc. shall display the audio portion of its programming in a video format ("Closed Captioning") at least to the extent and in a manner as is consistent with any applicable governmental regulation applicable to TNS, Inc. and/or any affiliated entity such that AFFILIATE's carriage of the Services shall comply with such applicable governmental regulation, (including, without limitation, Section 713 of the Telecommunications Act of 1996) without additional insertion of content by AFFILIATE.

EXECUTION COPY





IN WITNESS WHEREOF, the parties, through their duly authorized representatives, hereto have duly executed this Agreement as of the day and year first written above.

**TURNER NETWORK SALES, INC.**

**ECHOSTAR SATELLITE L.L.C.**

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Type or Print Name of Signatory)

\_\_\_\_\_  
(Type or Print Name of Signatory)

Title: \_\_\_\_\_

Title: \_\_\_\_\_