



FULLY EXECUTED

### ADDITIONAL PROGRAMMING AND HD ADDENDUM

This Additional Programming and HD Addendum (this "Addendum") is made by and between FOX SPORTS DIRECT, a division of ARC Holding, Ltd. (successor to SportsChannel Ohio Associates and SportsChannel Cincinnati Associates) ("Network"), and ECHOSTAR SATELLITE L.L.C. (successor to EchoStar Satellite Corporation) ("Affiliate"), as of September 1, 2006 (the "Effective Date").

#### Recitals

- A. Network and Affiliate, among others, are parties to a letter agreement dated as of January 1, 2003 (as amended by this Addendum and as otherwise amended from time to time, the "Affiliation Agreement"), pursuant to which Affiliate distributes the video programming services currently known as "FSN Cincinnati" ("FSN Cincinnati") and "FSN Ohio" ("FSN Ohio") to its subscribers. Capitalized terms used in this Addendum and not otherwise defined will have the meanings set forth in the Affiliation Agreement.
- B. Network has acquired the right to distribute additional sports events that are not otherwise available as part of *FSN Cincinnati* or *FSN Ohio*, as applicable.
- C. Network desires to grant Affiliate the right to distribute, and Affiliate desires to accept the right and obligation to distribute, additional sports events available as of the Effective Date to be included as part of *FSN Cincinnati* or *FSN Ohio*, as applicable, under the Affiliation Agreement on the terms and conditions set forth below.

#### Agreement

In consideration of the mutual promises and covenants set forth in this Addendum, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties, intending to be legally bound, agree as follows:

1. **ADDITIONAL EVENTS.** The "Additional Events" mean:
2. **TERM.** This Addendum will commence on the Effective Date and will terminate automatically on (i) \_\_\_\_\_ or (ii) if earlier, any termination or expiration of the Affiliation Agreement; provided that any accrued payment obligations (as set forth in Section 4) will survive the termination or expiration of this Addendum until paid in full.
3. **LICENSE.** Subject to the Affiliation Agreement, Network licenses Affiliate the nonexclusive right to distribute, and Affiliate accepts the nonexclusive right and the obligation to distribute all Additional Events (as part of the applicable RSN Territory) to all applicable RSN Territory Subscribers within the league-authorized distribution area of the

as applicable, within the *FSN Cincinnati* RSN Territory or *FSN Ohio* RSN Territory, as applicable,

The Additional Events of the to be part of *FSN Cincinnati* and the Additional Events of the are deemed to be part of *FSN Ohio*, and Network's delivery and Affiliate's distribution of the Additional Events as part of *FSN Cincinnati* or *FSN Ohio*, as applicable, will comply with the Affiliation Agreement as amended by this Addendum. Network agrees it will deliver the Additional Events to Affiliate as part of *FSN Cincinnati* or *FSN Ohio*, as applicable, and not as an additional or alternate feed.

- 4. **BASE RATE INCREASE.** The Monthly Rate Per RSN Territory Subscriber for *FSN Cincinnati* will be increased as follows (the "FSN Cincinnati Increase):

The Monthly Rate Per RSN Territory Subscriber for *FSN Ohio* will be increased as follows (the "FSN Ohio Increase):

For clarification, the *FSN Ohio Increase* is attributable to the corresponding NBA season as follows:

Each of the *FSN Cincinnati Increase* and the *FSN Ohio Increase* may be referred to herein as a "Base Rate Increase". The *FSN Cincinnati Increase* will accrue during distribution of each Additional Event of the *Cincinnati Reds* and the *FSN Ohio Increase* will accrue during distribution of each Additional Event of the *Cleveland Cavaliers*. Each *Base Rate Increase* accrual will be calculated on a pro rata basis based on the number of Additional Events with respect to such team actually delivered prior to the expiration or termination of this Addendum. If this Addendum expires or terminates prior to 1, Affiliate shall remit to Network within 45 days of the last day of

the reporting period (as such term is used in the Affiliation Agreement) during which such expiration or termination occurs, unless otherwise agreed to in writing by the parties, a pro-rated Base Rate Increase for any Additional Events already delivered with regard to a particular MLB or NBA season if less than all Additional Events have been delivered with regard to such MLB or NBA season.

For clarity, such pro-ration payment shall only apply to the Base Rate Increases and Affiliate shall have no obligation to pay any Base Rate after the date of expiration or termination.

#### 5. SHORTFALLS.

6. **MISCELLANEOUS.** Each reference in the Affiliation Agreement to "this Agreement" or words of similar meaning will mean and be a reference to the Affiliation Agreement as amended and supplemented by this Addendum. Except as expressly modified by this Addendum, the Affiliation Agreement is, and will continue to be, in full force and effect, and this Addendum will not operate as a waiver of any provision of the Affiliation Agreement. This Addendum (i) constitutes the entire understanding between Network and Affiliate concerning the subject matter of this Addendum and supersedes any other agreement with respect to the express subject matter of this Addendum, whether oral or written; (ii) may not be assigned by Affiliate without the prior written consent of Network; and (iii) may be executed in counterparts, each of which is an original and all of which together constitute one and the same agreement. Signatures to this Addendum may be delivered by facsimile and will be binding upon the parties.

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IN WITNESS WHEREOF, each of Network and Affiliate is executing this Addendum as of the Effective Date by its duly authorized representative.

FCC SPORTS DIRECT,  
a division of ARC Holding Ltd.

ECHOSTAR SATELLITE L.L.C.

By: [Signature]  
Name: Michael Weiser  
Title: SVP

By: [Signature]  
Name: [Signature]  
Title: [Signature]



FOX MOVIE CHANNEL AFFILIATION AGREEMENT

THIS AGREEMENT is made as of the 30<sup>th</sup> day of June, 2000 by and between FXM NETWORKS, L.L.C., a Delaware limited liability company ("Network"), and ECHOSTAR SATELLITE CORPORATION, a Colorado corporation ("Affiliate").

FOR AND IN CONSIDERATION of the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

1. **DEFINITIONS.**

(a) "Related Entity" shall mean, with respect to any person or entity, any person or entity controlling, controlled by or under common control with such person or entity.

(b) "Satellite" or "Affiliate's Satellite" shall mean, collectively, the satellite or satellites utilized by Affiliate and any additional or successor (including any temporary replacement) satellite utilized by Affiliate or any Related Entity of Affiliate for the transmission and distribution of television programming to subscribers; provided that any such satellite's transmission coverage area shall, at a minimum, include the entire Continental United States. Affiliate's satellites which currently meet the foregoing definition of "Satellite" are at orbital locations at 110 W.L. and 119 W.L. and are generally known as "Echostar I," "Echostar II" and "Echostar V."

(c) "Service Subscribers" shall mean those Subscribers (including Residential and Commercial Subscribers) who receive the Service from the System.

(d) "Subscriber" shall include any customer of Affiliate receiving any level of television service directly from the System, including each residence, office, hotel, motel, hospital room or commercial establishment;

"Residential Subscriber" shall include any Subscriber receiving the Service in a single-family residence; and "Commercial Subscriber" shall include any Subscriber receiving the Service at a commercial location, including but not limited to a hotel, motel, inn or similar place of accommodation, bar, tavern, restaurant or other similar establishment for eating, drinking or entertainment, school, dormitory, nursing home, hospital, prison or office or business location.

Commercial Subscribers may not include any public viewing area or location for which an admission fee is charged and this Agreement is not intended to grant any right to distribute to any such location.

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Affiliate may not distribute the Service to any hotel, motel, inn or similar place of accommodation unless the Service is received by each guest room therein as well as all other television sets in such hotel and no special fee or charge is imposed by Affiliate or anyone else for the privilege of receiving or viewing the Service.

(e) "System" or "Affiliate's System" shall mean any "direct-to-home" satellite

*Affiliate consisting of the Satellite and related facilities and operations authorized by the Federal Communications Commission ("FCC") to transmit video and other programming services for direct-to-home reception and Affiliate's equipment for receiving such services directly from the Satellite.*

(f) "Territory" shall mean that area within the fifty (50) United States, its territories and possessions, subject to the blackout requirements set forth in Section 5(j) below.

## 2. GRANT OF RIGHTS.

(a) Network grants to Affiliate the non-exclusive right, license and obligation during the Term of this Agreement to distribute and exhibit the programming currently known as the "Fox Movie Channel" (the "Service") to Affiliate's Subscribers solely by means of direct-to-home satellite transmission technology. Network reserves the right to change the name of the Service in which case Network shall notify Affiliate of such name change as promptly as practicable.

(b) In the exercise of its distribution rights hereunder, Affiliate shall have the right to receive the signal of the Service from Network, to digitize, compress or otherwise technologically manipulate the signal of the Service, and to transmit the signal as so altered to Affiliate's Satellite for redistribution to Subscribers; provided that Affiliate's exercise of its rights as set forth herein and any transmission, redistribution, reception or other use of the signal for the Service shall not result in a material change in a viewer's perception of the video or audio quality of the Service as compared with the quality of the Service's signal as delivered by Network. Affiliate shall use its best efforts to maintain and transmit a video and audio signal of the Service which is a high technical quality and which at a minimum meets the specifications, if any, of the FCC.

(c) It is specifically agreed and understood that (i) Affiliate shall have no right to distribute the Service by any other technology or technologies other than by direct-to-home satellite transmission directly to subscribers and, accordingly, Affiliate shall have no rights to distribute or to "transport" the Service by or through any other video delivery system, including, without limitation, cable television, over-the-air broadcast television, SMATV, MDS, MMDS, video dialtone, or open video system; and (ii) Affiliate shall have no right to subdistribute the Service (i.e., Affiliate shall not be permitted to sell the Service other than at retail directly to Subscribers). Network acknowledges and agrees that Affiliate shall be permitted to provide the Service to its



Subscribers in multiple dwelling units provided that such Subscribers are receiving Affiliate's programming via the System.

(d) The license granted herein is limited to the geographic boundaries of the Territory. Affiliate will not knowingly distribute or authorize any third party to distribute or exhibit the Service, in whole or in part, via any technology, to any location outside the geographic boundaries of the Territory. Affiliate shall use commercially reasonable efforts to ensure that each Service Subscriber shall be located within the Territory; Affiliate shall not knowingly authorize service to any such Service Subscribers located outside of the Territory and Affiliate shall use commercially reasonable efforts to prevent any such authorization.

(e) Notwithstanding anything contained herein to the contrary, Affiliate shall not have the right to distribute the Service in any public viewing area or location for which an admission fee is charged.

(f) All rights not hereby granted to Affiliate are hereby reserved by Network.

3. **TERM.**

The term of this Agreement (the "Term") shall begin on the date hereof and shall expire

4. **CONTENT OF SERVICE.**

(a) The Service. The Programming on the Service shall consist primarily of

the selection, scheduling, substitution and withdrawal of any





All rights  
and title in and to the entire contents of the Service, including, but not limited to, films and recordings thereof, title or titles, names, trademarks, concepts, stories, plots, incidents, ideas, formulas, formats, general content and any other literary, musical, artistic, or other creative material included therein shall, as between Network and Affiliate, remain vested in Network.

(b) Affiliate shall not sell the Service nor any programming contained therein, in whole or in part, for sponsorship without the express prior written consent of Network. Without limiting the generality of any other provision contained herein, Affiliate acknowledges that it shall have no right to insert any commercial announcements into the Service.

## 5. DELIVERY AND DISTRIBUTION.

(a) Delivery of the Service. Network shall deliver the Service by means of a domestic communications satellite, which satellite is commonly used for cable television transmissions and which satellite may be changed from time to time by Network. Affiliate shall, at its own expense, cause the Service to be received from Network's designated satellite at Affiliate's downlink facility and Affiliate shall re-uplink and distribute the Service to Service Subscribers in the sequence and manner transmitted by Network and in its entirety, without addition, deletion, alteration, editing, or amendment, including, without limitation, all advertising and promotional material, copyright notices, credits and billings. Affiliate shall acquire, install and operate all decryption devices necessary to receive and distribute the Service's signal. Except as specifically provided herein, Affiliate shall not distribute or retransmit any portion of the Service without the prior written authorization of Network.

(c) Full-Time Distribution. Affiliate agrees that it shall only carry the Service on a full-time basis and it shall have no right

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during the Term of this Agreement to downgrade the Service from full-time to part-time carriage. Affiliate agrees that it shall distribute the Service only on a simultaneous carriage basis (i.e., Affiliate shall retransmit the Service at the same time as transmitted by Network). Affiliate agrees that it shall have no right to distribute all or any portion of the programming contained in the Service on an interactive, time-delayed, video-on-demand or similar basis.

(d) Navigation System: Channel Position.

(e) Affiliate Obligations. Affiliate shall assign a full-time twenty-four (24) hour channel dedicated to the Service and used solely for the delivery and reception of the Service.

(f) Change in Network Satellite. Network shall provide written notice to Affiliate of any planned permanent change in satellite not less than \_\_\_\_\_ days prior to the change, if practicable.

~~For purposes hereof, a "commonly used satellite" shall mean (i) Galaxy 7, or (ii) a satellite from which cable television system headends representing no less than \_\_\_\_\_ of cable television households in the United States are receiving programming services. If a temporary change in delivery satellite is required, Network and Affiliate shall each use their respective reasonable efforts (including the earliest practicable notice by Network to Affiliate of such event) to avoid any interruption of or disruption in delivery of the Service to Service Subscribers.~~

(g) Vertical Blanking Interval.



(h) Unauthorized Use. Affiliate shall not itself and shall not authorize others to, copy, tape or otherwise reproduce any part of the Service without Network's prior written authorization and shall take reasonable and practical security measures to prevent the unauthorized or otherwise unlawful copying or taping by others. Subject to existing law, Network acknowledges that this paragraph does not restrict Affiliate's practice of connecting its Subscribers' videotape recorders, other recording devices or digital set-top boxes for non-commercial duplication or other in-home storage and/or manipulation (e.g., time-delay, pause) of video programming, including the Service. Affiliate shall at all times during the Term use its commercially reasonable best efforts to protect the security of the System and the encoding/decoding of the Service.

(i) No Deletion; No Migration.

(j) Blackouts and Substitute Programming. Network's ability to provide certain programming and Affiliate's rights to distribute such programming included in the Service may be limited by various arrangements or agreements with third parties and, accordingly, in the event that, upon \_\_\_\_\_ days prior written notice, Network advises Affiliate that certain programming must



be blacked out in any area(s) located outside of the fifty (50) United States served by Affiliate's System, Affiliate shall not distribute such programming in such designated area(s).

**6. LAUNCH AND PACKAGING.**

(a) Affiliate shall use commercially reasonable efforts to launch the Service on Affiliate's Satellite on its System on or before \_\_\_\_\_; provided however that, in any event, the Service shall be launched no later than \_\_\_\_\_ (the date on which the Service is launched on Affiliate's Satellite on its System is referred to herein as the "Service Launch Date"). At all times throughout the Term commencing as of the Service Launch Date, Affiliate shall distribute the Service on one single channel of transmission on which the Service shall be distributed in its entirety.

(b) At all times during the Term commencing with the Service Launch Date, the Service shall be distributed via the System as part of Affiliate's \_\_\_\_\_ package or other equivalent package of television programming services; provided however that in any event, the Service shall be distributed via the System in \_\_\_\_\_

(c)

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(d) With respect to any tier, level or package permitted by clause (b) or (c) above, Network reserves the right to disallow any proposed combination of the Service with any other programming services, if in the sole opinion of Network, such service contains "X" or "NC-17" rated content.

**7. SERVICE FEES; REPORTING REQUIREMENTS.**

(a) Monthly Fees for Residential Subscribers. In consideration of the terms and conditions set forth herein, for each calendar month during the Term, Affiliate shall pay Network license fees per Service Subscriber determined in accordance with the provisions of Exhibit I (the "Monthly License Fees").



(b) Monthly Fees for Commercial Subscribers. In consideration of the terms and conditions set forth herein, for each calendar month during the Term, Affiliate shall pay Network a license fee (

; provided that such monthly license fee is subject to increase as set forth in this Section 7(b).

(c) Bulk Rate Subscribers. Affiliate may provide the Service on a bulk-rate basis to Service Subscribers in multiple dwelling complexes including, without limitation, apartments, hotels, motels, hospitals and universities; provided that (i) each such complex subscribes to and receives the Service through the System; (ii) all units in each such complex have the capacity to receive the Service; and (iii) with respect to hotel and motel units served by Affiliate under this section, the Service is included as a convenience of occupancy without additional charge. /

The number of Bulk Rate subscribers per complex shall be determined in accordance with the following formula:

Each Bulk-Rate Subscriber shall be deemed a Service Subscriber in calculating Affiliate's monthly license fees to be paid to Network.



(d) A la Carte Fees.

(e) Payment Terms. Payment of the license fees pursuant to this Section 7 for each month shall be made no later than \_\_\_\_\_ days following the end of the calendar month for which payment is due. Past due payments shall bear interest at a rate of \_\_\_\_\_ per month, or the maximum allowed by law, whichever may be less, and Affiliate shall be liable for all reasonable costs and expenses (including, without limitation, reasonable attorney's fees) incurred by Network in collecting any past due payments.

(f) Complete Records. Affiliate shall keep accurate and complete records and accounts of billings, and all matters which pertain to Service Subscribers and are relevant to or required by this Agreement. Network's independent auditors shall have the right to examine and audit those records and accounts

(g) Officer's Certificate. On or about the thirtieth (30) day of each calendar month during the Term, Affiliate shall provide Network a true and complete report for the prior calendar month signed by an authorized officer of Affiliate, specifying the following information: (i) the service package on which the Service is carried; (ii) the average number of Service Subscribers; (iii) the total number of Bulk Rate Service Subscribers; (iv) the total number of Commercial Subscribers; and upon Network's written request, (v) the channel on which the Service is carried; and (vi) the retail rate charged to non-Bulk Rate Residential Subscribers for the service package which includes the Service.



**8. PROMOTION AND RESEARCH.**

(a) Affiliate shall include the Service name and logo in media in which Affiliate advertises or promotes all the programming services included in the package or level of service in which Affiliate distributes the Service. Affiliate shall include the Service programming schedule in any television listings and program guides it distributes to its Subscribers and potential subscribers.

(b) Network may, from time to time, undertake marketing tests and surveys, rating polls and other research in connection with the Service. Network need not seek Affiliate's consent to conduct any tests or surveys if Network does not seek cooperation or assistance from Affiliate.

(c)

**9. TRADEMARKS.**

Affiliate acknowledges that the service marks, trademarks, trade names, logos, and other Service indicia used for the distribution and promotion of the Service (the "Marks") are the exclusive property of Network and Affiliate does not acquire any proprietary rights in those names or marks by reason of this Agreement. Subject to Network's prior review and approval, Affiliate shall have the right to use the Marks for the purpose of promoting the Service and the Network. Network retains the right to approve the use of any materials promoting or publicizing the Service, which approval will not be unreasonably withheld. Notwithstanding the foregoing, promotional materials provided by Network and uses of the Marks in a factual manner in routine promotional materials such as program guides, program listings, and bill stuffers, if consistent with Network's prior uses shall be deemed approved unless Network notifies Affiliate to the contrary. Affiliate hereby acknowledges the right, title and interest of Network and its affiliated and related entities, in and to the Marks and the right of Network to use and license the use of the Marks, and Affiliate agrees not to claim any title to the Marks or any right to use the Marks except as expressly permitted by this Agreement. Affiliate shall not directly or indirectly question, attack, contest or in any other manner impugn the validity of the Marks or Network's rights in and to the Marks. Affiliate shall at no time adopt or use, without Network's prior written consent, any variation of the Marks or any work or mark likely to be similar to or confused with the Marks. Any and all goodwill arising from Affiliate's use of the Marks shall inure solely to the benefit of Network.





10. **CONFIDENTIALITY.**

Neither Affiliate nor Network shall disclose to any third party (other than its respective employees, in their capacity as such), the terms of this Agreement or any confidential business information concerning the other derived in the course of performance of this Agreement, including, but not limited to, any information relating to identification of Subscribers or financial material obtained through an audit, except: (i) to the extent necessary to comply with law or the valid order of a court of competent jurisdiction, in which event the party making such disclosure shall so notify the other as promptly as practicable (and, if possible, prior to making such disclosure) and shall seek confidential treatment of such information; (ii) as part of its normal reporting or review procedure to its parent company, auditors and attorneys who agree to be bound by the provisions of this Section 10; (iii) in order to enforce its rights pursuant to this Agreement, and (iv) if mutually agreed by Affiliate and Network in writing.

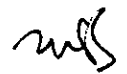
11. **REPRESENTATIONS AND INDEMNIFICATIONS.**

(a) **Network Representations.** Network represents and warrants to Affiliate that (i) Network is a limited liability company duly organized and validly existing under the laws of the State of Delaware, (ii) Network has the power and authority to enter into this Agreement and to perform fully its obligations hereunder; and (iii) Network is under no contractual or other legal obligation which shall in any way interfere with its prompt and complete performance hereunder.

(b) **Affiliate Representations.** Affiliate represents and warrants to Network that (i) Affiliate is a corporation duly organized and validly existing under the laws of the State of Colorado; (ii) Affiliate has the corporate power and authority to enter into this Agreement and to perform fully its obligations hereunder; (iii) Affiliate is under no contractual or other legal obligations which shall in any way interfere with its full, prompt and complete performance hereunder; (iv) Affiliate owns, of the System and possesses, directly or indirectly, the power to direct or cause the direction of its management and policies including, without limitation, controlling the distribution and marketing of all programming services; (v) Affiliate has permission and authorization granted by the FCC to operate the Satellite at the frequencies associated with the Satellite's orbital location, and (vi) Affiliate has the technical capability to blackout the distribution of certain programming to Affiliate's Subscribers as required pursuant to Section 5(j) hereof.

(c) **Network Indemnities.**

(d) Affiliate Indemnities.

A handwritten signature in black ink, appearing to be 'mfs', located in the bottom right corner of the page.

attorney fees and enforcement costs.

**12. TERMINATION.**

(a) Either party, in addition to all other remedies that may be available to it under this Agreement or under applicable law, may elect to terminate this Agreement and be relieved of any further liabilities and obligations hereunder in the event of any default as hereinafter described on the part of the other party. Either party shall be deemed in default hereunder:



**13. ACQUISITIONS.**

Without limiting the generality of any other provision of this Agreement, whenever in this Agreement an obligation is imposed upon Affiliate with respect to its Subscribers as of the date hereof, Affiliate acknowledges and agrees that such obligation shall be deemed imposed upon all Subscribers which are acquired by Affiliate or otherwise become Subscribers subsequent to the date hereof.

**14. NOTICES.**

Unless otherwise specifically provided, all notices given under this Agreement shall be in writing, and shall be delivered by personal delivery, certified or registered mail, return receipt requested, postage or charges prepaid, telegram, overnight courier or facsimile machine at the addresses listed below. If notice is given by personal delivery, notice shall be deemed given on delivery; if notice is mailed, notice shall be deemed given on the fifth day following mailing thereof; if notice is sent by an overnight courier service, notice shall be deemed given on the day following delivery of notice to the overnight courier service.

If to Network:

Fox Cable Networks  
1440 South Sepulveda Boulevard  
Los Angeles, CA 90025  
Attn: Senior V.P., Affiliate Sales  
Fax: 310-914-8782

With copies to:

Fox Cable Networks  
1440 South Sepulveda Boulevard  
Los Angeles, CA 90025  
Attn: Michael J. Angus, Esq.



Telephone: 310-444-8356  
Fax: 310-966-6212

If to Affiliate:

Att: Vice President, Programming  
EchoStar Satellite Corporation  
5701 South Sante Fe Drive  
Littleton, Colorado 80120  
Telephone: (303) 723-1901  
Facsimile: (303) 723-1999

With a copy to:

General Counsel  
At the same address

Either party may change its address by giving notice to the other in the manner set forth above.

15. **ASSIGNMENT.**

(a) **Assignment.**

(b) **Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon, the parties hereto and their respective successors and permitted assigns.

16. **OTHER SERVICE AGREEMENTS.**



17. **MOST FAVORED NATION PROVISION.**

18. **GENERAL.**

(a) **Complete Understanding.** This Agreement contains the full and complete understanding of the parties with respect to its subject matter and supersedes any previous agreements between the parties. This Agreement cannot be changed orally and no waiver by either party of any breach of this Agreement shall constitute a waiver of any other such breach. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against either party. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.

(b) **No Agency.** Neither Affiliate nor Network shall be, or shall hold itself out to be, the agent of the other under this Agreement. No Subscriber shall be deemed to have any privity of contract or direct contractual or other relationship with Network by virtue of this Agreement or Network's delivery of the Service to the System hereunder. Nothing contained herein shall be deemed to create, and the parties do not intend to create, any relationship of partners or joint



venturers as between Affiliate and Network with respect to this Agreement.

(c) **Applicable Law.** The obligations of Affiliate and Network under this Agreement are subject to all applicable federal, state and local laws, rules, and regulations (including the rules and regulations of the Federal Communications Commission, as amended from time to time).

(d) **Reservation of Rights.** All rights to the Service and its contents are specifically reserved to Network and may be exercised and exploited by Network by any means and in any location during the Term, freely and without restriction.

(e) **Force Majeure.** Neither Network nor Affiliate shall be liable to the other 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, including, without limitation, an act of God, fire, war, strike, riot, labor dispute, natural disaster, technical failure (including the failure of all or part of any necessary equipment), failure of performance of any entity with which Network has a contract for the supply of programming, or any other reason beyond the control of the party whose performance is prevented during the period of such occurrence, including any legal prohibition, decree, regulation, or requirement of any governmental authority having jurisdiction. 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 from performance; ~~provided however~~, that if either party determines that based on reasonable good faith business judgment, it is not commercially or technically feasible for such force majeure to be remedied, then \_\_\_\_\_ from the date of notice of such force majeure as provided above, either party may terminate this Agreement upon \_\_\_\_\_ days prior written notice to the other party unless such force majeure is no longer in effect.

(f) **Governing Law.** This Agreement and all collateral matters relating thereto shall be construed in accordance with the laws of the State of \_\_\_\_\_ applicable to agreements fully made and to be performed therein, irrespective of the place of actual execution and/or performance of the parties hereto.



IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first set forth above.

**ECHOSTAR SATELLITE CORPORATION**

By: 

Name: M. Schmitt

Title: VP-PROG. Mgmt.

**EXM NETWORKS, L.L.C.**

By: 

Name: Ray Hopkins

Title: SVP Mktg. Sales



**EXHIBIT I**  
**LICENSE FEES; MARKETING SUPPORT**

1. **Monthly License Fees.** The Monthly License Fees per Service Subscriber shall be set and determined on a calendar year basis. The applicable Monthly License Fee to be paid by Affiliate in each calendar year per each Subscriber to the Service is set forth below:

| <u>Calendar Year</u> | <u>Standard License Fees</u> |
|----------------------|------------------------------|
|----------------------|------------------------------|

2. **Marketing Support.**

*KSP*