

Attachment C

DESCRIPTION OF WORK TO BE PERFORMED:

Service Provider and State Responsibilities

The State will supply the Service Provider with BTV Programming content at the switch in SBC/Pacific Bell's San Francisco central office (the "Switch"). The Service Provider will receive that programming and will transmit it to Echostar Communication's uplink site in Cheyenne, WY ("Uplink Facility"). For reference, the AOC is currently using a compressed video signal (MPEG, 6 Mbit) delivered via point-to-point fiber.

A. The Service Provider's Responsibilities

1. **Transmission:** Subject to the terms and conditions of this Agreement, the Service Provider shall use commercially reasonable efforts to transmit the BTV Programming, during the Term of this Agreement, from the SBC/Pacific Bell Switch to the Echostar Uplink Facility. The Service Provider shall have no obligation to transmit any BTV Programming for which arrangements have not been made in accordance with the terms and conditions set forth in this Agreement. Notwithstanding anything to the contrary set forth herein, the Service Provider shall have the sole and absolute right to refuse to transmit or to continue to transmit any BTV Programming if the Service Provider, in its sole and absolute discretion, determines that such BTV Programming is inappropriate, undesirable, or negatively impacts the Service Provider in any tangible or intangible manner. The State acknowledges and agrees that the Service Provider has no obligation to transmit BTV Programming in any manner which is now, or at any time hereafter may be, prohibited under applicable local, state, or federal laws or regulations, including without limitation statutes, laws, rules, regulations, or orders enforced, administered, promulgated, or pronounced by the Federal Communications Commission.
2. **Availability of Bandwidth:** In the event that the Service Provider loses transmission capacity, and the availability of bandwidth for the State's Telecasts is affected, the Service Provider will make reasonable efforts to provide an alternate means of transmission.
3. **Interruption of BTV Programming:** In the event that a Telecast in progress is interrupted, provided the interruption does not occur as a result of: (i) the fault or negligence of State or any of its employees or agents; (ii) the failure of any interconnecting facilities or other equipment not under the direct control of the Service Provider; (iii) any planned interruption agreed to in advance by the State; or (iv) a Force Majeure Event as defined below, the State shall be entitled to a credit defined as a "Transmission Credit". This Transmission Credit shall be specified in the Service Provider's attached Fee Proposal (Attachment E).
4. **Preemption:** The State understands and agrees that if any equipment or transmission lines transmitting the Service Provider's programming fails or

Attachment C

- malfunctions in whole or in part, or in the Service Provider's sole and absolute discretion requires maintenance, testing, or relocation (any of the foregoing, a "Preemptive Event"), then the Service Provider may, in its sole discretion, preempt the BTV Programming in whole or in part, providing as much notice to State as is practicable under the circumstances. Under no circumstances shall the Service Provider be liable to the State or to any third party for any liability resulting from or arising out of a Preemptive Event.
5. **Alternative Service:** In the event that the State's Programming cannot be transmitted as scheduled due to either a Preemptive Event or a Force Majeure Event as defined below, the Service Provider may, but shall not be obligated to, shift transmission of the BTV Programming to another transmission vendor or make other arrangements to provide alternative Transmission Services to State on either a temporary or permanent basis.
 6. **SBC/Pacific Bell Circuit:** the State requests that the Service Provider coordinate with SBC/Pacific Bell to provision the SBC/Pacific Bell circuit. The State shall reimburse the Service Provider the actual cost that Pacific Bell bills the Service Provider for such circuit, not including any markup from the Service Provider. Upon request, the Service Provider shall provide a copy of the Pacific Bell invoice/bill.
 7. **Cancellation Charges:** Charges may apply to any Firm Booking cancelled prior to broadcast, billed on a sliding scale based on length of advance notice. The Service Provider should specify any charges based on notice 2 weeks prior, 1 week prior, 3 days prior, 1 day prior, and 8, 6, 4, and 1 hours prior to broadcast.
 8. **Transmission Credit:** When an interruption occurs, the Service Provider will provide the State with a Transmission Credit, the value of which shall be based on the amount of time of the interruption. Intervals shall include 1, 5, 10, 15, 30, 45, and 60 minutes. The Transmission Credit may take the form of cost reimbursements, future transmission time, or some other form of compensation.
 9. **"Force Majeure Event":** This event is when a delay which impacts the timely performance of Work which neither the Contractor nor the State are liable because such delay or failure to perform was unforeseeable and beyond the control of the party. Acts of Force Majeure include, but are not limited to:
 - i. Acts of God or the public enemy;
 - ii. Acts or omissions of any government entity;
 - iii. Fire or other casualty for which a party is not responsible;
 - iv. Quarantine or epidemic;
 - v. Strike or defensive lockout;
 - vi. Unusually severe weather conditions or other natural disasters; and
 - vii. Failure of wire, radio, satellite, fiber optics, or any other equipment not under the control of the Contractor, or other causes beyond either party's reasonable control (financial inability excepted).

Attachment C

B. The State's Responsibilities

1. **Delivery of BTV Programming:** During the Term of this Agreement, the State shall deliver at its sole expense, in conformance with the terms of the "Signal Quality Specifications" and "Transmission Booking Arrangements" sections below, a broadcast quality video and audio signal of the BTV Programming to the SBC/Pacific Bell hub, enabling the Service Provider to transmit the BTV Programming to the Echostar Uplink Facility (each individual transmission, a "Telecast").
2. **Transmission Booking Arrangements:** Broadcast Event Request ("BER"). A BER form will be completed by the State and faxed to the Contractor for each requested Telecast or series of Telecasts. A sample BER form is attached as Attachment D. The BER form will be submitted no later than one (1) day and no earlier than one (1) year prior to the Telecast. The Service Provider will acknowledge receipt of the BER form by fax, email, or telephone, and will further confirm the broadcast via telephone either prior to, or on, the date of the Telecast. A BER is a commitment by the State to utilize the Service Provider's transmission services for a specified number of hours for a Telecast. The State agrees to pay the Service Provider a Cancellation Charge, as specified in the Service Provider's attached Fee Proposal (Attachment E), if it cancels a Telecast after a BER has been made by the State and accepted by the Service Provider.
3. **Signal Quality Specifications:** (a.) Video. Video shall be delivered to the Switch in NTSC format at 100 IRE luminance for white, -40 IRE for sync, 40 IRE for Colorburst with set-up (Black) at 7.5 IRE. Video must be clear and free from sparkle, tearing, humbars, or other anomalies. VHS playback or VHS quality is unacceptable.
(b.) Audio. Average audio levels should fall between -3 dBm and +1 dBm for program audio. Stereo audio must be in phase with levels balanced between left and right channels. Audio must be clear and free from static, hiss, pops, or other anomalies.
4. **Transmission Rights:** The State hereby authorizes the Service Provider to transmit the BTV Programming provided to the Service Provider by the State, by fiber transmission, to the Uplink Facility. The State shall secure in advance of each and every Telecast, all rights, licenses, permissions, releases, and consents (including without limitation, all those pertaining to copyright, trademark, and music performance and synchronization rights) necessary and appropriate for the BTV Programming.
5. **Representation, Warranties, and Covenants:** The State represents, warrants, and covenants to the Service Provider that: (i) the BTV Programming will not contain any material which is libelous, slanderous, defamatory, obscene, or indecent, nor will it contain any elements constituting a lottery or a game of chance as such lotteries or games are defined under any applicable laws, rules, and regulations; (ii) all applicable fees for performance and synchronization rights to musical compositions contained in the BTV Programming have been paid and will continue to be paid to the applicable music performance societies during the term of this Agreement, and the Service Provider shall have no responsibility or liability for any services, elements, or products performed,

Attachment C

synchronized or provided in connection with the BTV Programming by any person, firm, or corporation or for the making of any payments to any person; (iii) it will not, without the Service Provider's prior written consent, use the name of the Service Provider or make any statements with respect to the Service Provider in the course of any BTV Programming or in any media or at any other time or place so as to state or imply that the Service Provider is in any way responsible for the production of, or content of, any of the BTV Programming; that the Service Provider endorses, or is responsible for, any products, services, or other benefits promoted or advertised in connection with BTV Programming; or that State is employed by, the agent of, or in any way under the control or direction of the Service Provider; (iv) nothing contained in or related to the BTV Programming, nor any exercise of the transmission rights granted to the Contractor hereunder will violate, infringe or conflict with any rights of any person or entity, including, without limitation, any copyright, literary, musical, dramatic, artistic, trademark, contract, privacy or publicity rights, or the rights to be free from unfair competition or defamation, or any other property or personal right; or result in any liability, monetary or otherwise, to the Service Provider; (v) it shall not knowingly or willfully engage in any activity or business transaction which is damaging to the Service Provider's image or goodwill, and it will not take, authorize, or permit to be taken, any action which would or could in any way impair any of the rights licensed to the Service Provider hereunder; (vi) it shall comply with all applicable governmental statutes, laws, rules, regulations, ordinances, codes, directives, and orders (whether federal, state, municipal, or otherwise) relating to the subject matter of this Agreement (for purposes of this paragraph, "Laws"), including but not limited to all applicable Laws concerning consumer finance, consumer leasing, and the taxation of leased or rented consumer electronic devices.

END OF ATTACHMENT