

This document is being provided to give interested parties some general ideas on how a channel sharing arrangement might be structured and a starting point for considering how a channel sharing arrangement might be undertaken with another party. Channel sharing agreements, however, implicate a number of legal and regulatory issues and this document is not intended to provide any party with legal guidance on such sharing arrangements. Wiley Rein LLP is not undertaking to represent any party or provide any legal advice by making this document available. We strongly recommend that parties seek their own corporate and regulatory counsel in developing channel sharing agreements.

CHANNEL SHARING AND FACILITIES AGREEMENT

THIS CHANNEL SHARING AND FACILITIES AGREEMENT (this “Agreement”) is made as of _____, 201__ between [Insert Sharer entity] (“Sharer”) and [Insert Sharee entity] (“Sharee”).

Recitals

A. Sharer owns and operates the following television broadcast station, including its primary and all multicast streams (“Sharer’s Station”) pursuant to licenses issued by the Federal Communications Commission (the “FCC”):

[Insert Station owned by Sharer]

B. Sharee owns and operates the following television broadcast station, including its primary and all multicast streams (“Sharee’s Station”) pursuant to licenses issued by the FCC:

[Insert Station owned by Sharee]

C. Sharee desires to participate in the broadcast incentive auction conducted by the FCC under Section 6403 of the Middle Class Tax Relief and Job Creation Act (Pub. L. No. 112-96, § 6403, 126 Stat. 156, 225-230 (2012)) (“Incentive Auction”) under the channel sharing rules;

Both Sharer and Sharee may want to participate as bidders and file separate applications.

D. If Sharee’s participation in the Incentive Auction is Successful (as defined in Section 1.2(a) below), Sharee will relinquish the television channel currently licensed to it by the FCC, and Sharer and Sharee will share [Insert shared channel] (the “Shared Channel”), which is currently exclusively licensed to Sharer;

E. Sharer and Sharee desire to set forth their agreement with respect to the matters set forth herein, including to agree on how revenues received from the Incentive Auction will be divided and to provide for joint use of the Shared Channel and shared facilities;

F. If Sharee's participation in the Incentive Auction is Successful, Sharer will own and operate certain assets, including the transmitter located at [Insert transmitter site location] (the "Transmitter Site") and other equipment necessary for channel sharing that will be used by Sharer and Sharee in the operation of their television stations broadcasting on the Shared Channel (the "Shared Equipment," and together with the Transmitter Site, the "Transmission Facilities"); and

Formation of an Entity to Hold Shared Assets. This draft provides for Sharer to provide capacity to Sharee on facilities Sharer continues to own. A more durable scenario would involve the two broadcasters organizing a jointly owned entity ("Facilities JV"), for example a limited liability company, to own the transmitter site and other shared assets. Separate corporate documents (including a certificate of formation, subscription agreements and an LLC operating agreement) would govern organization, capitalization, voting and governance of this entity. The entity could own whatever assets are being shared, which may be limited to the physical transmitter site assets, or it may be broader, as determined by the parties. If such an entity is used, some of the provisions in this draft may be moved to the LLC operating agreement governing the entity (but the provisions required for inclusion in a channel sharing agreement under FCC rules would remain in this Agreement).

G. Sharer and Sharee desire to enter into an agreement that is in accordance with the FCC Report and Order adopted in GN Docket No. 12-268, released June 2, 2014 (the "Incentive Auction Order") and the Report and Order adopted in ET Docket No. 10-235, released April 27, 2012 ("Channel Sharing Order"), including without limitation the FCC regulations adopted at 47 C.F.R. §§ 1.2200-1.2209 and 73.3700, as amended (with the Incentive Auction Order and the Channel Sharing Order, the "Channel Sharing Rules") on the terms set forth in this Agreement.

Agreement

NOW, THEREFORE, taking the foregoing recitals into account, and in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1: AUCTION PARTICIPATION

1.1. Term. The term of this Agreement (the "Term") will begin on the date of this Agreement and, unless extended or earlier terminated in accordance with this Agreement, will continue until:

(a) if Sharee is Successful in the Incentive Auction, the date [twenty] years after the date of this Agreement, which Term shall thereafter automatically renew for successive terms of [twenty] years each, unless either party gives written notice of non-renewal at least 180 days prior to the end of the then-current Term or unless earlier terminated in accordance with this Agreement; or

(b) if Sharee is not Successful in the Incentive Auction, the first to occur of: (i) the date Sharee exits from the Incentive Auction, (ii) the date the FCC notifies Sharee it is not a qualified bidder in the Incentive Auction or (iii) the date the FCC's price for Sharee's channel in the Incentive Auction drops below the Reserve Price (as defined in Section 1.2(a) below).

1.2. Auction.

(a) Definition of Successful Auction Participation. For purposes of this Agreement, "Successful" participation in the Incentive Auction is defined as the FCC and Sharee entering into a binding commitment whereby the FCC will purchase Sharee's channel at a price equal to or greater than the Reserve Price, as set forth in Schedule 1.2(a). The Reserve Price may only be modified by mutual written agreement of Sharee and Sharer. Neither party shall take any action that would reasonably be expected to result in the loss of Sharee's eligibility to participate in the Incentive Auction.

(b) Division of Auction Revenue. The parties shall divide the revenue received from Successful participation in the Incentive Auction pursuant to the allocation set forth in *Schedule 1.2(b)*. If Sharee receives any payment from the FCC as a result of the parties' Successful participation in the Incentive Auction, then within one (1) business day after receipt of such payment, Sharee shall disburse the amount allocated to Sharer in *Schedule 1.2(b)* (without offset or deduction) by wire transfer of immediately available funds.

(c) FCC Application. Sharee shall timely file and thereafter diligently prosecute an application (the "FCC Application") to participate in the Incentive Auction as a channel sharer with Sharer agreeing to relinquish Sharee's channel. The parties shall cooperate in good faith with respect to the FCC Application and the Incentive Auction, and each party shall promptly provide the other with a copy of any pleading, order or other document served on it relating to the FCC Application, and shall furnish all information required by the FCC. Each party shall notify each other of all documents filed with or received from the FCC with respect to this Agreement or the transactions contemplated hereby. Sharer shall furnish Sharee with such information and assistance as Sharee may reasonably request in connection with Sharee's preparation of the FCC Application. Neither party shall take any action that would reasonably be expected to result in the dismissal of the FCC Application.

[If a Facilities JV will be created to hold shared assets, provide for the parties to cooperate and agree on an LLC agreement during the pendency of the Incentive Auction, and for the execution of organizational documents of the LLC within a few business days after the FCC determines Sharee is Successful in the Incentive Auction.]

ARTICLE 2: CAPACITY AND FCC LICENSES

Below is an example of how capacity allocation provisions could be covered and the types of points to be considered by broadcasters. The parties will need to consider if they will rigidly divide the capacity on the Shared Channel or allow continuously variable bandwidth usage. The parties may want to expand the section below to include additional technical sharing provisions and

engineering plans, including as to how the broadcasters' content will be combined (including the format and delivery of content to Sharer), any necessary modifications to the parties' FCC licenses, and how capacity available pursuant to upgrades will be allocated. Also parties may want to consider provisions with respect to restrictions on permitting others to use the Shared Channel in capacity lease or other similar arrangements.

2.1. Allocation of Bandwidth. Pursuant to the Channel Sharing Rules, Sharer and Sharee wish to share the 6 MHz Shared Channel (or 19.39 Megabits per second ("Mb/s") as allocated under the current ATSC system), as set forth in the Engineering Plan set forth as *Schedule 2.1*, which may be modified from time to time by mutual written agreement of the parties but which, at a minimum, shall provide that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition (SD) program stream at all times.

[Sharer and Sharee might agree to the fixed allocation method set forth in (i) below, or the variable allocation method set forth in (ii) below, or a different allocation.]

(i) Fixed Allocation: Each of Sharer and Sharee shall be entitled to 9.695 Mb/s of the Shared Channel for their respective broadcast needs. **[Modify if the fixed split will not be 50/50].** Other than the required common Program and System Information Protocol ("PSIP") information, each party may set the bit rates it elects for audio, video or other ancillary data to be broadcast on its television station using the Shared Channel. Sharer and Sharee shall allocate the requisite amount of bits of the Shared Channel for the common PSIP information necessary to provide the required tuning and guide information such that: (i) the bits devoted to the common requirements will be deducted equally from each party's bit allowance; (ii) the parties shall mutually agree to the minimum number of days of Event Information Table ("EIT") information to be provided; and (iii) the parties acknowledge that a number of null packets may be required for television receivers to respond properly (and the amount of required null packets shall be deducted equally from each party's bit allowance), and the parties shall cooperate to ensure proper reception and decoding of the signal. Notwithstanding anything herein to the contrary, each of Sharer and Sharee may elect to make a portion of their bit allowance on the Shared Channel available to the other for use under mutually agreed upon terms.

(ii) Variable Allocation: Sharer and Sharee shall implement a weighting system as allowed by the encoding pool to allow each party to prioritize its program streams rather than use a fixed allocation of bits of the Shared Channel. In connection therewith, (i) each of Sharer and Sharee will designate one program stream with the highest priority and (ii) other sub-channels will have a lesser priority as mutually agreed by the parties based on empirical testing by Sharer and Sharee, and the parties shall cooperate to devise a system that produces the best results for each party with minimum picture degradation. In the event the parties are unable to agree on a system, then the parties shall implement a fixed allocation of bits of the Shared Channel for their respective broadcast needs.

2.2. Encoding. [Sharer and Sharee may elect to have separate encoding facilities and have one combiner to join the separate streams together for transmission if technically possible, or Sharer and Sharee may elect to have one encoding pool.] Each of Sharer and Sharee shall have the right to monitor and audit the Shared Channel's encoding system to ensure compliance with Section 2.1. Each of Sharer and Sharee shall make all records of such encoding available to the other upon written request during normal business hours.

2.3. Changes to Allocation. In the event that a new standard of modulation is implemented by Sharer, Sharer and Sharee shall cooperate to divide the available bandwidth on an equal basis consistent with this Agreement. **[Modify if the fixed split will not be 50/50].**

2.4. Commitment to Provide Capacity. Sharer shall transmit content provided by Sharee using the Shared Equipment. Except as provided herein, Sharer shall not alter the content provided by Sharee; provided, however that Sharer may: (i) encode, compress and/or modulate the content as required to multiplex together Sharer and Sharee content streams using the parameters agreed to in this Agreement, and (ii) combine the EIT and other information into a common PSIP format for transmission as agreed to in this Agreement.

2.5. Payment for Capacity Use. [Parties may want to agree upon a compensation mechanism for use of Sharer's capacity by Sharee. The amount of such payments could be impacted by a broad range of factors, including the amount of the capacity used, the amount of the auction proceeds retained, and other considerations.]

2.6. FCC Licenses.

(a) Authorizations. Each of Sharer and Sharee represents and warrants to the other that it has obtained all FCC and any other governmental licenses, approvals and authorizations necessary for its operations on its respective station. Each of Sharer and Sharee shall maintain all such licenses, approvals and authorizations in full force and effect during the Term. [Neither party shall make any filing with the FCC to modify the Shared Channel without the prior written consent of the other party.]

(b) Compliance with Law. Sharer shall comply with this Agreement, the Channel Sharing Rules, and with all FCC and other applicable laws with respect to its ownership and operation of Sharer's Station and its use of the Shared Channel, and Sharee shall comply with this Agreement, the Channel Sharing Rules and with all FCC and other applicable laws with respect to its ownership and operation of Sharee's Station and its use of the Shared Channel. Sharer shall be solely responsible for all content it transmits on the Shared Channel, and Sharee shall be solely responsible for all content it transmits on the Shared Channel. The obligations of the parties under this Agreement are subject to the rules, regulations and policies of the FCC and all other applicable laws. In addition, if Sharee's participation in the Incentive Auction is Successful, Sharer and Sharee shall comply with all laws and leases, licenses or similar agreements applicable to the Transmission Facilities.

(c) Control. Consistent with FCC rules, Sharer shall control, supervise and direct the day-to-day operation of Sharer's Station (including Sharer's employees, programming

and finances), and Sharee shall control, supervise and direct the day-to-day operation of Sharee's Station (including Sharer's employees, programming and finances), and nothing in this Agreement affects any such respective responsibilities. Neither Sharer nor Sharee shall hold itself out as the licensee of the other's television station using the Shared Channel, and nothing in this Agreement shall give either party an ownership interest in the other party's station. Neither Sharer nor Sharee shall use the call letters of the other's television station in any medium.

(d) FCC Fees. Each of Sharer and Sharee shall be responsible for timely payment of all fees owed by it to the FCC with respect to its television station using the Shared Channel. [Each of Sharer and Sharee shall be responsible for fifty percent (50%) of any joint fees, if any, assessed by the FCC on the Shared Channel.]

(e) Cooperation. If Sharee's participation in the Incentive Auction is Successful, each of Sharer and Sharee shall cooperate with one another in good faith as to any reasonable requests made by the other with respect to operation of the Shared Channel or the Transmission Facilities. Neither Sharer nor Sharee shall take any action or fail to take any action which interferes with or is reasonably likely to interfere with the other's use of capacity on the Shared Channel or the Transmission Facilities.

ARTICLE 3: POST-AUCTION OPERATIONS

The terms of this Article 3 shall be effective only from and after the date (if any) that Sharee's participation in the Incentive Auction is Successful.

3.1. Transmission Facilities.

Assignment of Transmitter Lease to Facilities JV. If the parties use a Facilities JV, the lease for the transmitter site would presumably be contributed and assigned to the Facilities JV in a separate assignment and assumption agreement that is signed simultaneously with the execution of the LLC Agreement, and prior to assignment, the parties would obtain any necessary landlord consent for assignment of the lease to the Facilities JV and for subleasing (as needed) to Sharer and Sharee.

(a) Operations. Subject to any restrictions imposed by the owner of the Transmitter Site (if leased), Sharer shall provide Sharee with access to the Shared Equipment during normal business hours and upon 24 hours notice outside of normal business hours. Sharer and Sharee shall not act contrary to the terms of any lease for the Transmitter Site, permit to exist any lien, claim or encumbrance on the Transmission Facilities, make material alterations to the Transmission Facilities, or interfere with the business and operation of the other's television station or the other's use of such facilities. Each of Sharer and Sharee may use the Transmission Facilities only for the operation of its television station in the ordinary course of business and for no other purpose. Each of Sharer and Sharee shall comply in all material respects with all federal, state and local laws applicable to its operations from the Transmission Facilities. Each of Sharer and Sharee shall maintain, at its own expense, sufficient insurance with respect to its use of the Shared Equipment and operations from the Transmitter Site during the Term and shall name the other broadcaster as an additional insured under such policies.

[Some broadcasters may want to specify types and amounts of insurance required; if the parties use a Facilities JV, the Facilities JV may instead carry the insurance for the Transmission Facilities.]

(b) Shared Transmission Facilities. A list of all [material] items of Shared Equipment as of the date of this Agreement is attached hereto as *Schedule 3.1(b)*. During the Term, Sharer shall maintain and repair the shared Transmission Facilities in accordance with good engineering practices customary in the television industry and shall keep the other reasonably informed as to all material repairs to such facilities. Title to all such shared Transmission Facilities shall remain with Sharer, and neither Sharer nor Sharee shall move, damage or interfere with such facilities. **[If the parties use a Facilities JV, they may prefer to name one broadcaster to be in charge of maintaining and repairing the shared Transmission Facilities.]**

[Consider adding procedures if either broadcaster requests to modify or replace equipment include in the Shared Equipment.]

(c) Exclusive Equipment. Each of Sharer and Sharee shall maintain, repair and replace any equipment owned solely by it located at the Transmitter Site in accordance with good engineering practices customary in the television industry. Title to all such equipment solely owned by Sharer or Sharee shall remain with such broadcaster, and the other party shall not move, repair, damage or interfere with any such equipment.

(d) Contractors. All contractors and subcontractors of each of Sharer and Sharee who perform any service for Sharer or Sharee at the Transmitter Site or any other shared facilities shall hold licenses or governmental authorizations appropriate to and necessary for the work being performed. Any such contractor shall carry insurance issued by companies licensed in the state where the Transmitter Site or such other shared facility is located.

(e) Hazardous Materials. Each of Sharer and Sharee shall: (i) comply with all environmental laws applicable to its operations from the Transmitter Site and any other shared facilities, (ii) not cause or permit the release of any hazardous materials on, to or from the Transmitter Site or any other shared facilities in violation of any applicable environmental laws, (iii) not take any action that would subject the Transmitter Site or any other shared facilities to permit requirements for storage, treatment or disposal of hazardous materials and (iv) not dispose of hazardous materials on the Transmitter Site or any other shared facilities except in compliance with applicable law.

(f) Termination. [At the end of the Term (or upon any earlier termination of this Agreement), [Each of Sharer and] Sharee shall vacate the Transmitter Site and any other shared facilities, move all of its assets and employees (if any) from such site, surrender the Shared Equipment in substantially the same condition existing on the date of commencement of the Term (reasonable wear and tear excepted), and return all keys and other means of entry to Sharer [the Facilities JV].]

[Whether or not an Facilities JV is used, the parties may want to provide that if Sharer loses or surrenders its FCC licenses for its station, then Sharee has the right to acquire all shared assets [at no cost/at fair market value], free and clear of liens and have the Transmitter Site lease assigned to Sharee. While limitations currently exist on rights of first refusal and options on the other party's FCC license, the FCC is considering permitting those provisions.]

[Modify Section 3.1 if office space will also be shared.]

3.2. Interference. Each of Sharer and Sharee shall use commercially reasonable efforts to avoid interference with their respective operations from the Transmitter Site and to promptly resolve any interference that arises in connection with such operation. Neither party shall make changes or installations at the Transmitter Site or any other shared facilities that will impair or interfere in any material respect with the other party's signals or broadcast operations or use of the Shared Channel. In the event interference to such signals or operations does occur, the interfering party shall notify the other party in writing and take all commercially reasonable steps to correct such interference in all material respects within two business days.

[Insert additional appropriate interference provisions, including any necessary provisions as to how sharing the Shared Channel impacts video quality to viewers.]

3.3. Cooperation. In the event it is necessary for Sharer or Sharee to reduce, limit or temporarily cease use of the Shared Equipment, the Shared Channel or its own equipment located at the Transmitter Site or any other shared facilities so that the other party may install, maintain, repair, remove or otherwise work upon its broadcast equipment or the Shared Equipment at the Transmitter Site or any other shared facility, the requesting party shall cooperate in a commercially reasonable manner. If necessary, the non-requesting party shall temporarily reduce, limit or cease use of the Shared Equipment, the Shared Channel or its own equipment located at the Transmitter Site or any other shared facility, provided that the requesting party takes all reasonable steps to minimize the amount of time the non-requesting party shall operate with reduced facilities and that the requesting party takes all reasonable steps to schedule such installation, maintenance, repairs, removal or work at a time convenient to the non-requesting party.

3.4. Shared Services.

<p>If the parties desire to extend sharing beyond the transmission systems necessary for channel sharing to other equipment (<i>e.g.</i>, master control, studio) or personnel, the terms of such sharing could be enumerated in this section. Parties should be aware that any sharing of facilities and services beyond the systems necessary for channel sharing may implicate FCC rules and policies concerning control and attribution, and therefore counsel should be consulted.</p>

3.5. Force Majeure. Neither party shall be liable to the other for any default or delay in the performance of its non-monetary obligations under this Agreement to the extent that the default or delay is caused by an event outside of its reasonable control, including without

limitation a fire, flood, earthquake, war, act of terrorism, labor dispute, government or court action, failure of facilities or act of God.

[Possible inserts for provisions as to casualty events at the Transmitter Site, loss of the Transmitter Site as a result of condemnation or other events, or the Shared Channel going off the air temporarily.]

3.6. Expenses.

(a) Shared Costs. Sharee shall reimburse Sharer within ten (10) business days after invoice for [fifty percent (50%)] of the following costs reasonably incurred by Sharer in the ordinary course of business: [the amount of rent and other payments due under the lease for the Transmitter Site (if any), utilities for the Transmission Facilities, and any ad valorem taxes with respect to the Transmission Facilities.] **[If an Facilities JV is used, funding operational and other expenses associated with the Facilities JV should be moved to the Operating Agreement for the Facilities JV.]**

(b) Sole Costs. Each of Sharer and Sharee shall be solely responsible for its insurance costs for the Transmission Facilities, [costs for any necessary microwave link between its station's studio site and the Transmitter Site], any capital expenses related solely to its station using the Shared Channel, all expenses related to any equipment solely owned by it and located at the Transmitter Site, and all of its expenses not related to the Transmission Facilities.

[The parties need to determine responsibility for funding and payment of expenses for ordinary maintenance, non-ordinary course repairs and any capital expenses needed with respect to the Transmission Facilities, and for any initial equipment procurement and installation costs, either in this Agreement or—if an Facilities JV is used—in the LLC Operating Agreement.]

[If the Facilities JV contemplates shared employees, the Operating Agreement will need to determine allocable share of the base salaries and related payroll taxes and benefits of the employees providing the Services, and how such costs are reimbursed or paid.]

ARTICLE 4: INDEMNIFICATION

4.1. General Indemnification. Subject to Section 4.3, each of Sharer and Sharee shall indemnify, defend and hold the other harmless from and against any and all loss, liability, cost and expense (including reasonable attorneys' fees) arising from: (i) any breach of any representation or warranty made by it under this Agreement, (ii) failure to comply with the covenants and obligations to be performed by it under this Agreement and (iii) if Sharee is Successful in the Incentive Auction, its use of the Transmission Facilities or its use of the Shared Channel. Sharer hereby expressly disclaims any and all liability with respect to Sharee's Station, and Sharee hereby expressly disclaims any and all liability with respect to Sharer's Station. The prevailing party in a lawsuit brought to enforce the performance or compliance of any provision of this Agreement may recover reasonable attorneys' fees and costs from the non-prevailing party.

4.2. Programming Indemnification. Without limiting the terms of Section 4.1, subject to Section 4.3, if Sharee is Successful in the Incentive Auction, each of Sharer and Sharee shall indemnify, defend and hold the other harmless from and against any and all loss, liability, cost and expense (including reasonable attorneys' fees) arising from the operation of its television station using the Shared Channel and the programming or advertising broadcast on such station, including without limitation for indecency, libel, slander, infringement of trademarks or trade names, infringement of copyrights and proprietary rights, violation of rights of privacy and other violations of rights or FCC rules or other applicable law.

4.3. Liability. In no event shall either party have any liability, whether based on contract, tort (including negligence or strict liability), warranty or any other legal or equitable grounds, for any punitive, consequential, indirect, exemplary, special or incidental loss or damage suffered by the other arising from or related to the performance or nonperformance of this Agreement, including loss of data, profits, interest or revenue or interruption of business, even if such party has been informed of or might otherwise have anticipated or foreseen the possibility of such losses or damages.

4.4. Survival. The parties' obligations under this Article 4 shall survive any termination or expiration of this Agreement.

ARTICLE 5: TERMINATION AND REMEDIES

5.1. Termination.

(a) Breach. [Either party may terminate this Agreement by written notice to the other in the event of a breach of or default under this Agreement in any material respect which is not cured within five (5) business days after a monetary default or fifteen (15) calendar days after written notice of a non-monetary breach or default. **[Discuss remedy for termination for breach – would defaulting party owe liquidated damages; or is the remedy that the non-defaulting party can file a claim for damages?]]**

(b) Loss of License. This Agreement shall terminate automatically if the FCC authorization to operate on either Sharer's Station or Sharee's Station is revoked, relinquished, withdrawn, rescinded, canceled or not renewed. [This Agreement shall terminate automatically if (i) either Sharer or Sharee withdraws from the Facilities JV and no replacement member succeeds to its interests in the Facilities JV with respect to its television station or (2) the FCC authorization to operate on the Shared Channel granted to either of Sharer or Sharee is revoked, relinquished, withdrawn, rescinded, canceled or not renewed.]

(c) Bankruptcy. Either party may terminate this Agreement by written notice to the other upon (i) the institution by or against the other party of insolvency, receivership or bankruptcy proceedings, (ii) the other party making an assignment for the benefit of creditors or (iii) the other party's dissolution or ceasing to do business.

(d) Survival. No termination shall relieve a party of liability for failure to comply with this Agreement prior to termination. Notwithstanding anything herein to the contrary, Section 6.1 (and the confidentiality obligation set forth in Section 6.3(a)), Article 4, and

Section 3.6 and all other provisions related to obligations to pay expenses shall survive any termination of this Agreement.

5.2. Specific Performance. In the event of failure or threatened failure by either party to comply with the terms of this Agreement, the other party shall be entitled to an injunction restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement.

[What happens to shared assets on termination?]

ARTICLE 6: MISCELLAENOUS

6.1. Confidentiality. Subject to the requirements of applicable law, all non-public information regarding Sharer and Sharee and their respective businesses and properties that is disclosed in connection with the performance of this Agreement (including without limitation any financial information) shall be confidential and shall not be disclosed to any other person or entity. This Section shall survive any termination or expiration of this Agreement.

6.2. Authority. Each of Sharer and Sharee represents and warrants to the other that (i) it has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, (ii) it is in good standing in the jurisdiction of its organization and, if necessary, is qualified to do business in the state in which the Transmitter Site is located, (iii) it has duly authorized this Agreement, and this Agreement is binding upon it, and (iv) the execution, delivery, and performance by it of this Agreement does not conflict with, result in a breach of, or constitute a default or ground for termination under any agreement to which it is a party or by which it is bound.

6.3. Information.

(a) Effective only if and after Sharee is Successful in the Incentive Auction, within ninety (90) days after the end of each fiscal year during the Term, each party shall provide the other with its balance sheet and statement of operations for the year then ended (audited, if available) with respect to its television station using the Shared Channel. [In addition, upon reasonable request (but not more often than once per calendar quarter), each party shall provide the other with copies of financial statements prepared by the non-requesting party in the ordinary course of business with respect to its television station using the Shared Channel.] All such information shall be kept confidential by the receiving party.

(b) If either party becomes subject to litigation or similar proceedings before the FCC (including without limitation initiation of enforcement actions), Internal Revenue Service or other court or governmental authority that is reasonably likely to have a material adverse effect on such party or its television station using or proposed to be using the Shared Channel, then it shall immediately provide written notice of such proceeding to the other party and provide all information with respect thereto as reasonably requested by the other party.

(c) If either party files a petition in bankruptcy, has an involuntary petition in bankruptcy filed against it which is not dismissed within sixty (60) days of the date of filing, files for reorganization or arranges for the appointment of a receiver or trustee in bankruptcy or reorganization of all or a substantial portion of its assets or of the assets related to its television station using or proposed to be using the Shared Channel, or it makes an assignment for such purposes for the benefit of creditors, then it shall immediately provide written notice of such proceeding to the other party and provide all information with respect thereto as reasonably requested by the other party.

6.4. Assignment. No party may assign or sublease this Agreement, except that (i) Sharer shall assign this Agreement to any FCC-approved assignee or transferee of Sharer's Station [who succeeds to Sharer's membership interest in the Facilities JV] and who assumes this Agreement in a writing delivered to the other party to this Agreement, and (ii) Sharee shall assign this Agreement to any FCC-approved assignee or transferee of Sharee's Station [who succeeds to Sharee's membership interest in the Facilities JV] and who assumes this Agreement in a writing delivered to the other party to this Agreement. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns. No assignment shall relieve any party of any obligation or liability under this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their successors and permitted assigns.

[If permissible under FCC rules, the parties may want to consider a right of first refusal or right of first offer if one broadcaster elects to sell a station.]

6.5. Severability. The transactions contemplated by this Agreement are intended to comply with the Communications Act of 1934, as amended, and the rules of the FCC. If any court or governmental authority holds any provision of this Agreement invalid, illegal, or unenforceable under any applicable law, then so long as no party is deprived of the benefits of this Agreement in any material respect, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

6.6. Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed facsimile transmission or confirmed delivery by a nationally recognized overnight courier service, or on the third day after prepaid mailing by certified U.S. mail, return receipt requested, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Sharer: _____

Attention: _____
Facsimile No.: _____

with a copy (which shall not constitute notice to):

Attention: _____
Facsimile No.: _____

if to Sharee:

Attention: _____
Facsimile No.: _____

with a copy (which shall not constitute notice to):

Attention: _____
Facsimile No.: _____

6.7. Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of [_____] without giving effect to the choice of law provisions thereof.

6.8. Miscellaneous. This Agreement may not be amended except in a writing executed by both parties. No waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such waiver or consent is sought. No party shall be authorized to act as an agent of or otherwise to represent the other party to this Agreement. Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement. This Agreement constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings with respect to the subject matter hereof. This Agreement may be executed in separate counterparts.

[Tax review may be needed to assess any potential tax consequences of channel sharing arrangements. In addition, if a 501(c)(3) company is one of the sharing parties and an Facilities JV is used, need to assess 501(c)(3) status for the Facilities JV.]

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[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO CHANNEL SHARING AND FACILITIES AGREEMENT

IN WITNESS WHEREOF, the parties have duly executed this Channel Sharing and Facilities Agreement as of the date first set forth above.

SHARER: [SHARER]

By: _____
Name:
Title:

SHAREE: [SHAREE]

By: _____
Name:
Title:

SCHEDULE 1.2(a)

Reserve Price

[TBD]

SCHEDULE 1.2(b)

Revenue Allocation

[TBD]

SCHEDULE 2.1

Engineering Plan

[TBD]

SCHEDULE 3.1(b)

Shared Equipment

[TBD],

together with any replacements thereof or additions thereto