

Tower License Agreement

THIS TOWER LICENSE AGREEMENT, is entered into between Mauna Towers, LLC (“Licensor”), and Educational Communications of Colorado Springs, Inc. (“Licensee”), this ____ day of August, 2005.

WHEREAS, Licensor has space on an owned tower located at the Lookout Mountain Tower Site in Golden, Colorado, which it wishes to license to Licensee; and

WHEREAS, Licensee wishes to license space for two of its FM translator stations which shall share antenna space on Licensor’s tower.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, subject to the terms and conditions set forth herein, do mutually agree as follows:

1. **TOWER.** Licensor has a transmission tower located at the Lookout Mountain Tower Site in Golden, Colorado at the NAD 27 coordinates N39-43-46, W105-14-08. The ground elevation at the site is 2235 meters above mean sea level and the tower height is 12 meters. The Licensee will mount at a designated elevation between 4 and 12 meters above ground level FM translator antennas, and receive antennas or satellite dishes below on the antenna, and be provided with building space, to include an equipment rack, for its transmitter. Licensee is to verify that the proposed loading is within the tower’s specifications. The premises used or shared by the Licensee in and around the equipment building and on the tower shall be referred to as the “License Area”.

2. **LICENSE.** Licensor grants Licensee the non-exclusive license to use the License Area in the manner permitted by Paragraph 4 hereof. This license is granted for a term of 10 years, commencing on June 20, 2005, or, in the event that the ECCS translator has not yet commenced operations by that date, on the date that Licensee’s construction ends and its normal operations begin at the tower, and ending ten (10) years later (the “Term”). Licensee shall have an option to renew for an additional 10 years (the “Renewal Term”). The option will renew on Licensor written notice to Licensee of its intent to renew at least thirty (30) days before the expiration of the Term. During the Renewal Term all terms and conditions of this License other than Paragraph 3 shall apply.

3. **PAYMENT.** Licensor and Licensee agree that during the Term, Licensee shall not pay Licensor any rent, and that Licensee shall pay Licensor on the first day of each month during the Renewal Term the sum of One Hundred Dollars (\$100.00) per month. All electrical consumption fees shall be paid by the Licensee to the utility directly.

4. **USE PERMITTED.** Licensee shall be permitted to use the License Area solely for installation, operation and maintenance of such equipment, including antenna poles, mast, cabling, wiring and accessories used herewith (the “Equipment”) as Licensor shall approve prior to installation by Licensee. Licensee shall not utilize more than 500 watts of transmitter power.

Notwithstanding the above, in the event that Licensee's use of 500 watts of total transmitter power interferes with Licensor's use of the tower or in the use of the tower by any of Licensor's other tenants, then Licensee must reduce its power, as required, but in no event lower than 100 watts. Licensee will be limited to a maximum of two transmit and receive antennas for translator use exclusively. Notwithstanding the above, Licensee shall be entitled to a maximum of two transmit and receive antennas as long as tower space is available for such antennas and shall continue until and unless Licensor locates a tenant willing and able to lease space on the tower and such use precludes use of the second antennas. In such case, the second antennas must be removed by Licensee as requested by Licensor upon reasonable notice. Prior to the commencement of any construction or installation on the Premises or Tower by Licensee, Licensee shall furnish, for review and approval by Licensor, which approval shall not be unreasonably withheld, plans and specifications which may reasonably be required by Licensor for such construction or installation. Licensee shall not commence the construction or installation until Licensee has received written approval from the Licensor. If required by Licensor, Licensee shall conduct, a structural analysis and wind load analysis of the Tower which includes any existing loads as well as the load of Licensee's antennas, cabling and appurtenances. Also if required by Licensor, Licensee shall conduct a radio frequency interference analysis ("RF Analysis") of the Licensee's Equipment and all other Equipment on the Tower as of the Commencement Date. The cost and expense of the structural analysis, wind load analysis and RF Analysis shall be split evenly by Licensor and Licensee. Licensee shall use the contractor of Licensor's reasonable choice for structural analysis, wind load analysis, RF Analysis as well as the design and construction of platforms, antenna systems, cable runs and any other construction, installation or modification of any type to the Premises or Tower. Following the completion of any installation, modification or relocation Licensee shall provide to Licensor, at Licensor's request, updated as-built drawings, initialed by Licensee, documenting that all installed Equipment on the Premises and/or Tower conform to the plans and specifications previously approved by the Licensor. Following the completion of any installation, construction, modification or relocation, but prior to the activation of any Licensee Equipment affected thereby, at Licensor's request, Licensee, at Licensee's expense, shall engage a Licensor approved, independent inspector to perform an inspection of the Tower and to certify in writing to Licensor that all work has been properly performed in compliance with all applicable plans, specifications, drawings and/or other requirements.

5. OPERATIONS OF EQUIPMENT. Licensee agrees to install, operate and maintain its Equipment in accordance with all applicable laws and regulations and so not as to cause interference with any other radio or television transmitting or receiving equipment wheresoever presently located on the tower or in the transmitter building. If Licensee receives notice that any Equipment is causing interference, or an apparent electrical problem, and fails to correct such problem, Licensor shall have right to disconnect electrical power to the Equipment, or, at Licensee's expense, disconnect the antenna of any suspect Equipment. Installation crews and insurance shall be approved by Licensor. Licensor agrees that it shall not permit the future installation on any portion of the License Area of any equipment which results in technical interference problems with Licensee's radio broadcasting/transmission equipment located in, or about the License Area. If the equipment of a third party that has installed or materially modified its equipment after the date Licensee's equipment is installed ("Third Party") in, on or about the License Area causes interference with Licensee's Equipment, Licensor shall cause the

Third Party to shut down its equipment (except for intermittent operation for the purpose of testing). If the interference between the Licensee's and the Third Party's equipment cannot be resolved within thirty (30) days after Licensor is notified in writing by Licensee of such problem, then Licensor shall cause the Third Party to shut down completely and remove the equipment causing such interference. In the event that Licensor fails to cause the Third Party to cease such interference, Licensee shall have available any and all remedies against such Third Party, whether at law or in equity, including, but not limited, an action seeking direct, indirect and/or consequential damages. In no event shall Licensor be liable for such interference to Licensee if it has exercised with due diligence its obligations under its Agreement with the Third Party by notifying such Third Party to abate its interference to Licensee. All installation and electrical and mechanical hookup fees shall be paid by Licensee. Licensee agrees that Licensor shall have the right, upon reasonable written notice, to relocate Licensee's Equipment on the tower in order to accommodate other users; however, such relocation cannot result in interference to Licensee's Equipment or result in interference by Licensee's Equipment to other radio or television transmitters or receiving equipment located in the License Area. If such relocation causes interference, whether to or by Licensee's Equipment which cannot be corrected, then Licensor shall move Licensee's Equipment back to its former location at no cost to Licensee.

6. **LIABILITY.** Subject to Paragraph 5, Licensee agrees that, absent gross negligence or wilfull misconduct by Licensor or Licensor's agents, Licensor shall not have any liability for any loss, harm, damage or injury (to persons or property) whatsoever ("Loss") to Licensee or its employees or agents, including direct, indirect, incidental, or consequential damages or losses, including, without limitation, any such Loss resulting from a failure or loss of power, damage to or destruction of the tower, casualty loss, unsatisfactory or imperfect transmission or other operation of Licensee's Equipment, restrictions imposed by governmental authority, conditions beyond its control, or otherwise.

7. **INDEMNITY.** Licensee agrees to indemnify and hold Licensor harmless from and against any and all claims, actions, suits, damages, liabilities, costs, and expenses, including attorneys' fees, occasioned by, arising out of, or resulting from any use made of the tower or Equipment by Licensee or its employees or agents whatsoever and which are not caused by, or are a result of, Licensor's or Licensor's agent's negligence or misconduct. Licensee shall maintain public liability insurance with \$1,000,000 Bodily Injury, \$1,000,000 Property Damage and \$2,000,00 Aggregate.

8. **TERMINATION.** Licensee shall have the right, by written notice to Licensor given at least sixty (60) days in advance, to terminate this License Agreement and surrender the License Area to Licensor. Termination shall be effective on that date specified in Licensee's notice or when all of Licensee's equipment or fixtures have been removed from the License Area. Licensee shall have the right, by written notice to Licensor to terminate this License Agreement in the event that the FCC denies or dismisses the application for relocation of Licensee's FM Translator Stations K245AD and K214EB (which will share the antenna space) to the tower site. On and as of the effective date of such termination, Licensee shall be relieved from all further liability for rental or otherwise hereunder and shall deliver possession of the License Area to Licensor. Subject to Paragraph 9 hereof, Licensor shall have the right, in the event that it is not in default under this Agreement, by written notice to Licensor, to terminate this License

Agreement in the event that Licensee fails to pay the monthly amount due herein within fifteen (15) days after receipt of notice of its failure to pay, or if Licensee shall otherwise fail to perform any of its obligations or covenants under this Agreement and such failure shall continue for more than thirty (30) days after the receipt of Licensee notice thereof. Licensor and Licensee acknowledge and agree that the services provided by Licensor are unique and that Licensee would be damaged irreparably in the event Licensor fails to abide by the terms of this Agreement, and/or withdraws the license to use the License Area. Accordingly, Licensor and Licensee agree that Licensee shall be entitled to specific performance or other equitable relief as remedies for any breach by Licensee of its obligations hereunder; provided, however, that in no event shall Licensee be precluded from seeking damages up to the amount of but no greater than Thirty Thousand Dollars (\$30,000), in the event Licensee is unable to compel specific performance, or from seeking additional reasonable attorney's fee and expenses incurred in pursuing its remedies against Licensor. Licensor agrees to waive the posting of any bond in connection with any such remedies. Licensor shall not be entitled to the remedy of specific performance. In addition to all other rights of Licensor, if, after the expiration or earlier termination of this Agreement, Licensee shall fail to remove any equipment within thirty (30) days after receiving written notice, Licensor shall automatically become the owner thereof, with full right of disposition, and such shall not relieve Licensee of its obligations for the expense of removal.

9. **DEFAULT.** If Licensee shall fail to pay any monthly amount due herein within fifteen (15) days after receipt of notice of its failure to pay, or if Licensee shall otherwise fail to perform any of its obligations or covenants under this Agreement and such failure shall continue for more than thirty (30) days after receipt of notice thereof, Licensor shall have the right at its option to do any one or more of the following: (a) terminate power to or disconnect, at Licensee's expense, Licensee's Equipment; (b) declare all amounts payable under this Agreement immediately due and payable, without regard to the date when installments would otherwise be due, and bring suit to collect such amount; (c) terminate this Agreement, without limiting its right to other remedies; and (d) exercise any other right or remedy available to Licensor at law or in equity. No right or remedy referred to in this paragraph is intended to be exclusive, but each shall be cumulative, and shall be in addition to any other remedy provided for in this Agreement, or otherwise available, and may be exercised concurrently or separately from time to time.

10. **RISK OF LOSS.** Licensee agrees that it shall maintain casualty insurance covering the equipment and assume all risk of loss with regard thereto. Licensee agrees that Licensor shall not have any liability in the event such equipment is destroyed, damaged, stolen, or otherwise harmed.

11. **ATTORNEY'S FEES.** In the event either party is required to retain the services of an attorney to enforce the provisions of this Agreement upon a default by the other, the prevailing party in any such action shall be entitled to recover from the other all costs and expenses, including reasonable attorneys' fees, so incurred.

12. NOTICES. Any notice required or permitted to be given herein shall be either hand delivered or sent by certified mail, return receipt requested, or sent by a nationally recognized overnight courier. Such notices shall be sent as follows:

If to Licensor: Mauna Towers, LLC
6807 Foxglove Drive
Cheyenne, Wyoming 82009
Attn: Victor A. Michael, Jr.

With copy (which shall not constitute notice) to:

A. Wray Fitch, III, Esquire
Timothy Obitts, Esquire
Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807

If to Licensee: Educational Communications of Colorado Springs, Inc.
Attn: Dr. Ronald A. Johnson
1665 Briargate Blvd., Suite 100
Colorado Springs, Colorado 80920

With copy (which shall not constitute notice) to:

Lee Peltzman, Esquire
Shainis & Peltzman, Chartered
1850 M Street, N.W.
Suite 240
Washington, DC 20036

*Either party may by subsequent notice designate another address or party for the purposes of receiving notice.

13. WAIVER. The failure or delay on the part of either party to exercise any right, power, or privilege herein shall not constitute a waiver thereof. No waiver shall be effective unless in writing.

14. TOWER MAINTENANCE PROVISION. Licensor reserves the right to shut down transmitting equipment if necessary for tower maintenance.

15. LIENS. Licensee shall not permit any lien (including with respect to any Licensee financing, taxes, or materialmen or mechanics lien) to be placed against License Area, and upon notice from Licensor, shall discharge any such lien filed in relation to any action or failure to act by Licensee within ten (10) days after receipt of such notice.

16. Future Cooperation. In the event that future installations and/or modifications would place any user of the Tower in non-compliance with any FCC requirement regarding exposure to radio frequency radiation, which cannot be eliminated by limiting access to the Tower, Licensee shall not unreasonably withhold its consent, when requested by Licensor, to modify its Equipment so long as all costs associated with making such modifications to Licensee's Equipment are borne by the party proposing such installation and/or modification. Licensee further agrees that in the event that there is any change to applicable rules, regulations and procedures governing exposure to radio frequency radiation which place the Tower in non-compliance, Licensee will cooperate with Licensor and other users of the Tower to bring the Tower into compliance, which cooperation shall include, but not be limited to, sharing pro rata the costs associated with bringing the Tower into compliance.

17. Protection of Workers. Upon reasonable notice by the Licensor that any work is being performed on the Premises, Licensee agrees to reduce power or suspend operation of its Equipment if necessary to reduce the potential for exposure to radio frequency radiation.

18. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

19. Estoppel. Each party agrees to furnish to the other, within 10 days after request, such truthful estoppel information as the other may reasonably request.

20. Disclaimer of Warranties, Incidental and Consequential Damages. LICENSEE ACCEPTS THE PREMISES "AS IS". LICENSOR SHALL NOT BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED RESULTING FROM (i) LICENSEE'S USE OR LICENSEE'S INABILITY TO USE THE PREMISES; OR FOR (ii) DAMAGE TO LICENSEE'S EQUIPMENT WHICH IS CAUSED BY THE NEGLIGENCE OF LICENSOR.

In no event will Licensor be liable to Licensee for any special, indirect, consequential or punitive damages.

21. MISCELLANEOUS. Neither this Agreement, nor any right of Licensee herein, may be assigned by Licensee to any third party, including a purchaser of all or substantially all of Licensee's assets, and any such attempt to assign this Agreement to a third party shall be void, and shall constitute a default hereunder. However, Licensee may assign this Agreement and any rights and obligations which it holds herein to a parent, subsidiary or affiliate without Licensor's consent. Licensor may assign its rights and obligations under this Agreement to a third party. Time is of the essence in this Agreement. This Agreement constitutes the entire agreement of the parties as to the subject matter hereof, and shall supersede any prior offers, negotiations and agreements whatsoever. This Agreement may not be amended or modified, except by writing, signed by both parties. It is agreed that the provisions of Paragraphs 5, 6,7,8 and 10 shall survive any termination of this Agreement. Licensor represents and warrants that the tower does now and shall, during the term of this Agreement, comply with all applicable Federal, State and Local statutes, laws, regulations and ordinances, as may be applicable thereto.

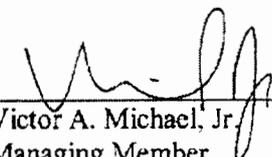
22. **AUTHORITY.** The Parties signing this License represent that they have been duly authorized by their respective principals and by all necessary corporate action to enter into and execute this License.

23. **CONSTRUCTION.** This License shall be governed, construed, and enforced in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

LICENSOR:

Mauna Towers, LLC

By: 
Victor A. Michael, Jr.
Managing Member

LICENSEE:

Educational Communications of
Colorado Springs, Inc.

By: _____
Dr. Ronald A. Johnson
Chairman

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