

## BULK SERVICES AGREEMENT

THIS BULK SERVICES AGREEMENT (the "Agreement") is made this 13<sup>th</sup> day of August, 2005, by and between Cox Southwest Holdings L.P. ("Cox") and Stephen F. Austin State University d/b/a SFA ("Owner").

WHEREAS, Cox, itself and/or through its affiliates, is a full-service provider of communications, telecommunications and information services including, but not limited to cable television service, high speed Internet access and telephone service (when available) (collectively the "Services"); and

WHEREAS, Owner holds title to, or is the authorized managing agent for Owner of, the real property located at Stephen F. Austin State University in Nacogdoches, Texas, which presently includes improvements located thereon totaling 2,320 existing cable drops with proposed additions of approximately 1230 more totaling 3,577 drops. commonly known as Stephen F. Austin State University (collectively, the "Premises").

WHEREAS, Owner desires to purchase cable television service from Cox for Cox to provide to individuals occupying or renting Owner's dwelling units ("Tenant(s)"); and

WHEREAS, Cox is willing and desires to provide the Services to Tenants at the Premises upon the terms and conditions set forth hereafter; and

WHEREAS, the parties desire to establish the ownership of certain facilities and equipment installed by Cox or its predecessors within the Premises.

NOW, THEREFORE, in consideration of the promises and covenants contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Purpose, Term of Agreement and Rates. The purpose of this Agreement is to state the terms and conditions under which Owner will provide access to the Premises to Cox and Cox will make Services available to units in the Premises on a bulk rate basis. The parties agree that Owner is only liable for payment for cable television service.

This Agreement shall commence on September 1st, 2005, and terminate on August 31st, 2010. At the end of the original term, or any successive term, this Agreement will automatically renew for successive terms of one (1) year each unless either party gives written notice of its intent not to renew to the other party at least ninety (90) days prior to the expiration of the previous term (the "Term").

Owner shall pay to Cox the fees set forth in Exhibit "B" attached hereto for the cable television service (the "Service Fee"). The Service Fee is due and payable Net 30 days from the receipt of the invoice. Late charges may be assessed only in accordance with the Prompt Payment Act of Texas. Failure to pay the Service Fee in full in accordance with the above payment terms shall be a material default under this Agreement. In such event, Cox shall have the right (in addition to all other available remedies) to immediately terminate the cable television service and this Agreement upon sixty (60) days' prior written notice.

Cox shall provide the cable television service in accordance with the Franchise, applicable law and the rules and regulations of the Federal Communications Commission ("FCC"). Cox retains the right to control, add to, delete and/or change the cable television service. Proper notice of any changes in rates or cable television service shall be given to Owner. If Owner requests services provided by Cox other than those specified in this Agreement, Cox shall furnish such additional services at its established rates then in effect or, in the absence of established rates, at a reasonable charge as mutually agreed by and between Owner and Cox, but in no way exceeding the rates offered to individual subscribers in Nacogdoches, Texas.

Tenants shall have the right to individually subscribe to any and all additional services that Cox offers in the market. Cox acknowledges and agrees that Owner shall have no financial responsibility for any services that a tenant subscribes to directly with Cox. The University shall have no right to restrict, limit or otherwise interfere with Cox's providing such additional services to Tenants except as provided in the Marketing Agreement, Exhibit F.

2. Grant of Easement and Access Rights. Cox shall have reasonable access to the Demarcation Point, the buildings and other areas of the Campus as necessary to install, connect, disconnect, transfer, improve, maintain,

service, repair, remove and/or replace its equipment and the Distribution System (as hereafter defined), as necessary to provide the Services and to do all other acts necessary to ensure continued operation of the Services at the Premises. COX shall notify the Director of the University's Physical Plant Department or his designee as to its entry onto the Campus for performing any of the work or services provided for hereunder when such notice shall be reasonably possible. In no case shall COX enter into the confines of a private residence, apartment or residence hall room without the prior approval and consent of the University. The University further reserves the right to restrict access by COX to certain buildings on Campus during certain hours and under certain conditions as necessary to the enforcement of the University's residence hall visitation policies and as necessary to avoid the disruption of the University scholastics and business. The University will not interfere nor permit its agents and employees to interfere with the operations of Cox, nor will Cox interfere or permit its agents and employees to interfere with the operations and activities of the University except as herein provided. The provisions of this Section 2 shall survive the expiration or earlier termination of this Agreement.

### 3. Distribution System and Inside Wiring.

A. "Cox's Distribution System" shall mean (1) the fiber (node) running from Cox's off-premises headend to the Demarcation Point on Owner's campus, but specifically excluding Inside Wiring defined below and Owner's Distribution System, and (2) all customer reception equipment furnished by Cox at the Premises. The installation of the Cox's Distribution System and Owner's separate Distribution System behind the Demarcation Point by Cox will meet all applicable FCC specifications and will be installed in a good, workmanlike manner. The Demarcation Point is Owner's headend in the Boynton Building, or such other headend location designated by Owner. If Owner requests or changes the demarcation point on the Campus Owner will pay Cox for the relocation of such demarcation point.

B. Ownership of the Cox's fiber Node Distribution System on Campus to the Demarcation point shall at all times be and remain in Cox and shall be used exclusively by Cox operations. Upon expiration or termination of this Agreement, Cox shall continue to own and control this fiber node Distribution System. Upon expiration or termination of this Agreement, Owner's distribution system as defined as all of the inside wiring and all distribution behind the demarcation point in the Boynton Building will remain in Owner to own and control.

C. "Inside Wiring" shall mean all wiring installed on the Premises from Owner's headend to each individual room or building. Ownership of the Inside Wiring shall at all times be and remain in Owner.

4. Maintenance and Repairs. Cox at its expense will maintain the Distribution System and Inside Wiring in a good, workmanlike manner in accordance with all applicable codes, regulations, or laws for the duration of this agreement. All work related to the Distribution System shall be coordinated with the Assistant Director of Networking and Telecommunications or his designee. All work related to Inside Wiring shall be coordinated with the Physical Plant Director or his designee.

5. Cable Television Programming. Owner acknowledges that Cox's performance of this Agreement may be subject to the rules and regulations of federal, state or local regulatory powers and that Cox is not guaranteeing the provision or availability of any particular program or channel. The cable television service initially available to the Premises will consist of Cox's current channel lineup which may be modified from time to time solely at Cox's discretion. Cox's channel lineup may not be changed or altered by Owner or others without Cox's prior written permission. It is specifically understood that in providing cable television service, Cox makes use of certain programming owned by others. Owner agrees that it will make no claims nor undertake any legal action against any person or entity, including Cox, if certain programming is interrupted, discontinued or substituted; provided that Cox will provide to Owner its standard cable television channel lineup at all times. The cable television services initially provided to the Premises will consist of the channel lineup set forth in Exhibit "C", Channel Lineup, and such channel lineup may be modified from time to time.

6. Interference. Owner will work with Cox to minimize use of any equipment that causes interference or is otherwise incompatible with the Distribution System, the reception equipment, or Cox's right to provide Services under this Agreement. Owner will work with Cox to minimize disruption to their service should there be a need to move, disturb, alter, change, or connect any other device to the Distribution System.

7. Marketing Compensation. As compensation for Owner's exclusive marketing and sales of Company's services and pursuant to the terms and conditions of the Marketing Agreement attached hereto as Exhibit F,

Company will pay Owner compensation pursuant to the Company's penetration of cable sales at the Premises. "Penetration" means, as of the first day of each full or partial calendar quarter during the Term, the number of residential units at the property for which Company or its affiliate holds a valid and in good standing written subscriber agreement, for cable services to such unit divided by the total number of residential units with an active drop as of the beginning of this agreement or added during the term of this agreement, whether occupied or unoccupied.

8. Miscellaneous. Cox may assign this Agreement and all of its rights hereunder without Owner's consent to any entity which controls, is controlled by or is under common control with Cox or to any entity pursuant to a merger, sale or exchange of stock, or sale or exchange of assets. This Agreement is the entire understanding between the parties and supersedes any prior agreements or understandings whether oral or written. This Agreement may not be amended except by a written instrument executed by both parties. Failure of either party to exercise any of its remedies as set forth in this Agreement or at law or in equity in the event of any default by the other party shall not constitute a waiver of the right of the non-defaulting party to exercise the same in the event of a subsequent default by the defaulting party. The prevailing party in any action brought under this Agreement shall be entitled to recover from the other party reasonable attorney's fees, costs and necessary disbursements. This Agreement shall be governed by the laws of the state in which the Premises are located except where the laws of the United States have precedence. This Agreement and the obligations of the parties shall be subject to all applicable laws, regulations, court rulings, administrative orders, and Presidential decrees, as they may be amended from time to time.

10. Alternate Dispute Resolution. To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by SFASU and the Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Vice President for Business Affairs of SFASU shall examine Contractor's claim and any counter claim and negotiate with Contractor in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor, except as provided in Section 1 of this Agreement, (ii) neither the issuance of this Contract by SFASU nor any other conduct, action or inaction of any representative of SFASU relating to this contract constitutes or is intended to constitute a waiver of SFASU's or the state's sovereign immunity to suit; and (iii) SFASU has not waived its right to seek redress in the courts.

11. Insurance. The Contractor shall not commence work under this Contract until he has obtained all the insurance required hereunder and certificates of such insurance have been filed with and reviewed by the Owner. Acceptance of the insurance certificates by the Owner shall not relieve or decrease the liability of the Contractor.

If policies are not written for the amounts specified below (except Worker's Compensation and Employer's Liability), Contractor shall carry Excess Liability insurance for any difference in amounts specified. If Excess Liability insurance is provided, it shall follow the form of primary policy.

This insurance shall not be canceled, limited in scope of coverage, or non-renewed until after thirty (30) days prior written notice, or ten (10) days for non-payment of premium, has been given to the Owner.

Contractor's insurance shall be deemed primary with respect to any insurance carried by Stephen F. Austin State University for liability arising out of operations under this Contract.

Stephen F. Austin State University, its officials, directors, employees, representatives and volunteers shall be named as additional insured to the extent of Contractor's operations and obligations under this Agreement. This is not applicable to the workers' compensation policy.

The workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the Owner.

The workers' compensation insurance coverage must include the responsibility of the Contractor to provide coverage for every worker either under the Contractor's policy or under the policy provided by a subcontractor. The Contractor's policy shall provide that, in the event that a subcontractor's policy fails to provide worker's compensation coverage of a worker, that such insurance coverage is provided by the Contractor's policy.

Unless otherwise provided for herein, the Contractor shall provide and maintain, until the Work covered in this Contract is completed and accepted by the Owner, the minimum insurance coverage as follows:

<b>TYPE OF COVERAGE</b>	<b>LIMITS OF LIABILITY</b>
A. Workers' Compensation	Statutory
B. Employer's Liability	\$500,000 each occur/aggregate
C. Comprehensive General Liability	
a. Bodily Injury	\$500,000 each occur
b. Property Damage	\$300,000 each occur/aggregate
D. Comprehensive Automobile Liability	
a. Bodily Injury	\$500,000 each person, each occur
b. Property Damage	\$300,000 each occur

## 12. Termination

A. Either party hereto shall have the right to terminate this Agreement in accordance with the following:

(i) Upon default of any provision set forth herein, if such default is not cured within thirty (30) days after receipt of written notice from the non-defaulting party of the nature of such default, provided, however, that if such default is a non-monetary default, and is not reasonably capable of being cured within such thirty (30) day period, the defaulting party shall be granted sufficient time to cure such non-monetary default so long as such party is diligently pursuing a cure; or

(ii) Immediately upon written notice to the other party, if the service contemplated herein is legally determined to violate any existing or future law, rule or regulation of the United State of the State of Texas.

B. In the event either party fails to comply with the terms and conditions of this Agreement, the other party shall have the following remedies: 1) provide 30 days written notice of termination based on a breach of this Agreement, 2) permit the other party a reasonable period of time to correct the breach, and 3) terminate this Agreement if the other party fails to rectify the breach within a reasonable time.

C. Either party shall have the right to terminate this Agreement without cause upon twelve (12) months written notice at any time after July 31, 2007 and paying Company a fee calculated as follows: The number of residential units (currently 2197) X \$6.95 X one half the number of months from the date of termination through the following July 31, but in no case less than 6 months. Additional residential units added to this agreement during the term shall also be used in the calculation of the termination fee. The University may only exercise this clause if the Board of Regents requests that a new solicitation be issued for the services. Should such request be made, the Contractor will be permitted to submit a response. For example, the fee for termination of the Bulk Services arrangement on August 1, 2007 is \$144,031.18, or 3,454 X \$6.95 X 6. (Note the 3454 number of units is estimated based on the current number plus the estimated number of additional units to be added over the next 12-15 months.) If terminated with 12 months notice, the last 12 months after the effective date of termination of this agreement by Owner, the rate per unit shall be \$10.95 per unit per month. The \$10.95 rate shall not be used as the calculation fee for termination.

D. The University shall have the right to terminate this Agreement with notice of cancellation and without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature; provided that funds are not appropriated for competing services from another provider.

13. Independent Contractor. Contractor recognizes that it is engaged as an independent contractor and acknowledges that University shall have no responsibility to provide vacation, insurance or other fringe benefits normally associated with employee status. Contractor, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself consistent with such status that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of University by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of University, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Contractor hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement, effective as of the date first written above.

Cox Southwest Holdings LP  
D/b/a Cox Communications

Stephen F. Austin State University

By:   
Its:   
Address: \_\_\_\_\_  
Fax: \_\_\_\_\_

By:   
Its: \_\_\_\_\_  
Address: \_\_\_\_\_  
Fax: \_\_\_\_\_

TSA Bulk

### Exhibit A

Property Description			
SFA Proposed New Residence Hall *Jan.06	SFA Campus – East College Street – QUANTITY IS CURRENTLY CORRECT AS SHOWN BUT MAY BE SUBJECT TO CHANGE	*457	Basic/Extended Service
SFA Proposed New Residence Hall *Aug. 06	SFA Campus – Griffith/Clark Blvd – QUANTITY SHOWN IS APPROXIMATE ONLY AND SUBJECT TO CHANGE	*800	Basic/Extended Service
SFA AUSTIN BLDG 1 – Public Affairs 1 – Housing 1 – Advancement 1 – President's Office	2102 N ALUMNI DR Austin 124/122 Austin Housing Breakroom Austin 314 Austin 3 <sup>rd</sup> Floor	4	Basic/Extended Service
SFA BIRDWELL BUILDING 5 – Student Affairs 2 – Student Publications	2028 NORTH ST Birdwell 212, 213, 107 & 126 Birdwell 111E	7	Basic/Extended Service
SFA BOYNTON BLDG 8 – Communications	2126 N ALUMNI DR Boynton 101C, 103, 107, 202, 208-B, 208-E, 211, 301B	8	7 – Basic/Extended Service 1 – Converter ADDR CONV-TOCOM
SFA COLISEUM	1002 E COLLEGE ST 3 – 1 <sup>st</sup> floor 4 – 2 <sup>nd</sup> floor	7	Basic/Extended Service
SFA HUMAN SERVICES/TELECOM BLDG 4 – Disability Services 1 - Telecommunications	2100 RAGUET ST Human Services 325, 325D, 325M, 325B, 112	5	Basic/Extended Service
SFA HALL 10	605 W HORSESHOE DR	79	Basic/Extended Service
SFA HALL 11 - MAYS HALL	519 S HORSESHOE DR	77	Basic/Extended Service
SFA HALL 12 - SOUTH HALL	507 E HORSESHOE DR	54	Basic/Extended Service
SFA HALL 14	514 E COLLEGE ST	219	Basic/Extended Service
SFA HALL 15 -GRIFFITH HALL	118 E GRIFFITH BLVD	270	Basic/Extended Service
SFA HALL 16	2117 N WILSON DR	220	Basic/Extended Service
SFA HALL 17 EAST - STEEN HALL	609 E COLLEGE ST APT A	191	Basic/Extended Service
SFA HALL 17 WEST - STEEN HALL	609 E COLLEGE ST	194	Basic/Extended Service
SFA HALL 18 - KERR HALL	218 E GRIFFITH BLVD	271	Basic/Extended Service
SFA HALL 19 - GARNER APTS	1929 N WILSON DR	134	Basic/Extended Service
SFA HALL 20	805 E COLLEGE ST	203	Basic/Extended Service
SFA HALL 5 - WISELY HALL	221 E AIKMAN DR	42	Basic/Extended Service
SFA HALL 7 - TODD HALL	418 E GRIFFITH BLVD	57	Basic/Extended Service
SFA HALL 9 - NORTH HALL	619 W HORSESHOE DR	54	Basic/Extended Service
SFA E COLLEGE CAFETERIA	608 E COLLEGE ST Main Office	1	Basic/Extended Service
SFA EDUCATIONAL BLDG 1 – Dean of Education	2006 N RAGUET ST Education 456	1	Basic/Extended Service
SFA FERGUSON BG 5 – History 1 – Dean, Applied Arts &	2009 N RAGUET ST F 472, 474, 475, 477, 480 F 273	6	Basic/Extended Service

Sciences/Liberal Arts			
SFA FIELDHOUSE	712 E HAYTER ST Rooms 101, 102, 108, 112, 114, 116, 120, 124, 125, 127, 128, 130, 131, 132, 136, 137, 138	17	Basic/Extended Service
SFA FORESTRY BLDG	2212 RAGUET ST Rooms 107D, 101A	2	Basic/Extended Service
SFA HOUSING OPS GIBBS HALL	1706 N CLARK BLVD	2	Basic/Extended Service
SFA LIBERAL ARTS NORTH 2 – History 1 – Sociology	4252 AIKMAN DR LAN 317/318, 142 LAN 335	3	Basic/Extended Service
SFA LIBRARY	2100 RAGUET ST Staff Lounge Student Lounge	2	Basic/Extended Service
SFA MCGEE BLDG 1 – Dean, Business 1 – Economics & Finance 1 – Accounting 2 – General Business 1 – Mgmt, Mkt & Int'l Business	1908 N RAGUET ST McGee 137 McGee 392 McGee 292 McGee 229C, 229N McGee 486	6	Basic/Extended Service
SFA MILITARY SCIENCE BLDG	709 E COLLEGE ST	2	Basic/Extended Service
SFA GROUNDS AND TRANSPORTATION	1305 E STARR AVE	1	Basic/Extended Service
SFA NEW RAGUET APTS	2420 RAGUET APT DR	100	Basic/Extended Service
SFA NORTON HPE COMPLEX 2 – Kinesiology	50000 RAGUET ST HPE 203, 204	2	Basic/Extended Service
SFA NURSING BLD 1 – Nursing	901 W EAST LIBRIARY DR NM 104	1	Basic/Extended Service
SFA PHYSICAL PLANT ADMIN	2104 N WILSON DR Electronic Shop	1	Basic/Extended Service
SFA PRES HOUSE	513 E STARR AVE	3	Basic/Extended Service plus 1 – HBO 1 – Cinemax 1 – Digital Gateway 2 – Digital Converter
SFA SAFETY OFFICE	403 E STARR AVE (pending change of address within the next month)	2	Basic/Extended Service
SFA SCIENCE BUILDING 2 – Dean, Science & Math	RAGUET ST Rooms 127C, S100	2	Basic/Extended Service
SFA SHELTON GYM 3 – Intramurals	1812 N RAGUET ST Shelton Gym A-101, A-102, Lobby	3	Basic/Extended Service
SFA STADIUM PRESS BOX	630 E HAYTER ST	19	Basic/Extended Service
SFA TUCKER HOUSE	2900 RAGUET ST	1	Basic/Extended Service
SFA UNIV HEALTH CTR	2106 E RAGUET ST Lobby, Room 136	2	Basic/Extended Service
SFA UNIVERSITY CENTER	1921 N ALUMNI DR 1 – Information Desk 1 – Lobby 2 – Union Station 1 – Grand Ballroom	9	Basic/Extended Service

