

EDUCATION AND GOVERNMENT CHANNEL USER AGREEMENT

EPB FIBER OPTICS &

This Agreement is entered into as of the ____ day of _____, 20____ (“Effective Date”) by and between the Electric Power Board of Chattanooga, an independent board of the City of Chattanooga, Tennessee, acting by and through its cable and internet division (“EPB”) and _____, a/an (corporation, limited liability company, partnership, individual, sole proprietorship, governmental entity) (“Programmer”).

WHEREAS, EPB Fiber Optics is a cable operator subject to various legal requirements, including the obligation to provide a channel for use by educational and governmental programmers; and

WHEREAS, Programmer is an educational or government programmer and desires to produce and provide content to be aired on EPB Fi TV Channel 4 on EPB’s communications system.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree to be legally bound as follows:

1. Term and Termination. The initial term of this Agreement shall be for a period of one (1) year, which may be renewed for additional one (1) year periods upon mutual consent of the parties. Either party may terminate this agreement in the event of a breach by the other party upon thirty (30) days’ written notice and an opportunity to cure. Additionally, EPB may terminate this Agreement if Programmer defaults on its payment upon ten (10) days’ notice of default from EPB and Programmer’s failure to cure.
2. General Statement of Purpose. The purpose of this Agreement is for EPB to comply with its obligations under 47 U.S.C. § 531 and the stated objectives of EPB’s various franchise authorities. EPB does not endorse, approve or express any opinion about the content or message of any programming submitted by Programmer.
3. Compliance with EPB Policies and Technical Requirements. Programmer agrees to comply with all EPB Policies, including the applicable Channel Acceptable Use Policy. Programmer further agrees to comply with all technical requirements communicated by EPB.
4. Determination of Time Slot. Educational and governmental programming will be show on FiTV Channel 4. Determinations about time slots and channel placement will be made according to applicable law and franchise requirements. Requests for specific times will be granted on a first-come, first serve basis. EPB will use postmark date to determine the order of submission, and programs submitted with the same postmark date will be assigned at random using a system developed by EPB.

5. Prohibition on Content Not Protected by the First Amendment. EPB will not air programming which contains obscenity or other material that is not protected by the United States Constitution. Programmers are required to notify EPB in advance if programming contains material which might be considered obscene or defamatory. Programmer shall indemnify, defend and hold EPB harmless from and against any and all claims based upon programming that contains or is alleged to contain obscenity, libel, slander, defamation, invasion of privacy or publicity rights, violation or infringement of copyright or music performance rights or dramatic or literary rights.
6. Use of EPB Logo and Service Marks. Programmer acknowledges that EPB's trademarks, service marks, trade names, and logos ("Marks") are the property of EPB and that Programmer has no rights to use EPB's Marks in any way whatsoever.
7. Programmer Representations and Warranties. Programmer makes the following representations and warranties.
 - a. Programmer has the power and authority to enter and fully perform its obligations in this Agreement and is under no legal or contractual obligation that would prevent its full and complete performance.
 - b. Programmer has obtained all necessary copyrights and other intellectual property rights in all of its programming.
 - c. Programmer's programming does not contain any material that would reasonably be considered obscenity, defamation, libel or slander, that would invade privacy or publicity rights, copyright, music performance rights, or dramatic or literary rights.
8. Indemnity. Programmer agrees to indemnify, defend and hold EPB harmless from and against any and all claims arising out of or related to Programmer's breach of this Agreement or any of its terms; Programmer's misrepresentation or breach of any of the representations and warranties contained in §8 of this Agreement; or claims alleged by third parties against EPB arising out of or related to Programmer's actions, negligence or willful misconduct.
9. Insurance. During the term of this Agreement, Programmer shall carry general liability insurance in an amount of Five Million Dollars (\$5,000,000). Prior to the execution of this Agreement, Programmer shall submit certificates of insurance showing the requisite coverage and listing EPB as an additional insured. The certificate shall provide that coverage shall not be canceled or materially altered except upon thirty (30) days notice to EPB. Upon request, Programmer shall provide EPB with a complete copy of its insurance policy.
10. Dispute Resolution. If Programmer wishes to dispute a decision made by EPB with respect to this Agreement, Programmer shall submit its dispute in writing to EPB's Vice President, Fiber Optics within ten (10) days of the decision leading to the dispute. EPB will provide a written response within ten (10) days of its decision. If Programmer is not satisfied with EPB's response, then Programmer may file a complaint with the applicable franchise authority.