

**PUBLIC VERSION**

**Before the  
LIBRARY OF CONGRESS  
Copyright Royalty Board**

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In the Matter of )  
 )  
ADJUSTMENT OF RATES AND TERMS ) Docket No. 2006-1 CRB DSTR  
FOR PREEXISTING SUBSCRIPTION )  
SERVICES AND SATELLITE DIGITAL )  
AUDIO RADIO SERVICES )  
\_\_\_\_\_)

**WITNESS EXHIBITS OF  
XM SATELLITE RADIO INC.**

**Volume 1**

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*Counsel for XM Satellite Radio Inc.*

January 17, 2007



A photograph of a hand pointing towards a row of chairs in a lecture hall. The scene is dimly lit, with the hand and the chairs in the foreground being more visible than the background. The chairs are arranged in rows, and the hand is positioned as if pointing towards them. The overall mood is one of focus and direction.

# Content Strategy

- Appeal to the Mass Market
- Target Growth Segments
- Balance the Cost of Content
- Develop and Build XM Brands and Talent

October, 2006

To: Rob Johnston  
XM Satellite Radio

From: John Carey, Ph.D.  
Greystone Communications

Sources For Charts: Time to Reach 1 Million, 2 Million, 4 Million, 5 million and 7 million Subscribers/Users

Technology/Service	Years To Reach				
	1 Million	2 Million	4 Million	5 Million	7 Million
Cable TV	12.0	15.7	17.5	18.7	20.8
Online Subs	9.5	11.3	14.6	15.1	15.6
Satellite Subs	7.5	8.4	9.6	10.6	11.8
VCR	4.8	6.8	7.8	8.5	9.1
Cellphone	4.6	5.9	7.3	7.8	8.7
Car Radio	4.5	6.0	7.1	8.0	10.5
DVR/PVR	4.3	4.6	5.4	5.6	6.0
Broadband	4.1	4.7	5.2	5.4	5.9
Radio	3.3	4.0	5.3	5.8	6.6
TV	3.3	3.6	4.6	4.7	4.9
MP 3 Players	2.4	3.6	4.5	4.8	5.5
CD Player	2.3	3.1	4.4	4.7	5.9
XM	1.9	2.6	3.5	3.8	4.8
DVD Players	1.7	2.1	2.7	2.8	3.1

### *Broadband*

Broadband was widely discussed in the 1980s (see Elton, 1991) and it was available to businesses in the form of T-1 lines during the 1980s. Broadband for the home was first available through ISDN (a predecessor to DSL). An ISDN standard was created in 1991 and the service was available in 1995. Cable broadband was test marketed in 1994. In May, 1995, one of the largest ISPs (Prodigy) began to offer ISDN service (Multichannel News, April 24, 1995, p. 60). We use this as the start of broadband. Broadband grew slowly at first but accelerated as more forms of broadband service were added. Broadband reached 1 million subscribers in June, 1999 (The Wall Street Journal, Jan 8, 2003, p. A-1); 2 million subscribers in Jan, 2000 (Morgan Stanley, cited in Telecommunications, September, 2003, p. 10); 4 million in Q-3, 2000 (Morgan Stanley, op. cit.); 5 million in early Q-4 2000 (Morgan Stanley, op. cit) and 7 million in Q-1, 2001 (Morgan Stanley, op. cit).

### *Cable TV*

Cable television began in 1949, as a service for rural areas (Mannes, p. 83). By 1952, cable had spread to a number of communities and the US Dept of Commerce began to track subscribers. We use this as year one of availability. By 1964, 12 years later, 1 million US households were subscribing to cable television service (Historical Statistics of the US., p. 796). Cable reached 2 million subscribers at the end of Q3, 1967 (Historical Statistics of the US p. 796), 4 million subscribers in June, 1969 5 million in Q-3, 1970 and 7 million in Q-4, 1973 (NCTA Cable TV Development, Mar 1981, p. 1).

### *Online Subscribers*

Online services for the public began in the UK in 1978 (the service was called Prestel). They were launched in the US in 1978 by both CompuServe and The Source. By 1980, they were available nationally through dial-up telephone service and reached several thousand subscribers (Carlson, 1999). We use this as year one of availability. Online subscribers reached 1 million US households at the end of Q 2, 1989 (NY Times, July 12, 1989, p. D5). The 2 million subscriber mark was reached by Q1, 1991 (New York Times, 7/12/94, p. D-4); the 4 million mark was reached in June 1994 (Arlan Communications); the 5 million mark was reached in Q-1, 1995; the 7 million mark was reached in June, 1995 (Veronis and Suhler, 1998, p. 316.)

### *Backyard Satellite Dish*

Backyard satellite dishes (TVROs - Television Receive Only dishes) were available in limited numbers in 1978 at a high cost of \$25,000 (EIA, 1984, p 18). Approximately 4,000 were sold in 1980 (USA Today, February 17, 1987, p. 6A), the year when the industry began to track sales. By the end of 1984, 1 million homes had purchased a dish, but no one was paying for the service (Satellite Broadcasting Association, cited in the NY Times, October 16, 1989, p. D-1). Shortly thereafter (1986), satellite service providers began to scramble their signals and dish owners who wished to receive a full lineup of channels had to pay to receive service (Cable World, December 16, 1996, p. 67). This is year one in our chart. By the second quarter of 1993, there were one million paying satellite subscribers (Kagan Media Index, January 1995, p. 3). DBS service was launched in 1994. At this point, there were both paying C-Band subs (who quickly began to convert to the smaller DBS dishes) and DBS subs. By Q-1 1994, there were 2 million total paying satellite subs; by Q-3 1995, there were 4 million paying satellite subscribers; by Q-3, 1996, there were 5 million paying subscribers; and by October, 1997, there were 7 million subscribers (Veronis and Suhler, 1998, p. 168).

### *VCR*

In the late 1960s, Ampex and CBS tried to introduce early versions of VTRs (video tape recorders) for the home but they were not successful. Sony introduced its betamax VCR in mid 1975 (Klopfenstein, pp. 21-39). VCRs penetrated 1 million households in Q 2 of 1980 (Statistical Abstract of the US 1991, p. 556). VCRs penetrated 2 million homes by the end of Q 2, 1982, 4 million homes by Q-2, 1983, 5 million by Q-1, 1984, and 7 million by Q-3, 1984 (Klopfenstein, p. 25).

### *Digital Video Recorders (DVR)*

Digital Video Recorders (DVRs), also called Personal Video Recorders (PVRs), began shipping in March, 1999 (Meyer, The Future of Television). By the end of June, 2003, Tivo reported 793,000 subscribers and claimed just over 80 percent of the market (Frankel, p. 6). This would put the total subscriber base at approximately 965,000 at the end of June. Tivo also said that they were adding subscribers at a rate of 30,000 per month. This would put PVR subscribers at 1 million by the end of July or early August, 2003. Beginning in summer, 2003, DVR technology was put in some satellite and digital cable boxes. This boosted growth and they reached the 2 million subscriber mark in October, 2003 (The New York Times, 10/20/2003), 4 million in August, 2004 (USA Today, 11/25/04, p. B-1), 5 million in October, 2004 (The Los Angeles Times, 1/18/2005, p. C-1), and 7 million by March, 2005 (Video Business)..

### *Car Radio*

Radios were first available in cars in 1930. By Q2 1934, there were 1 million cars with a radio. Car radios reached the 2 million mark at the end of 1935, the 4 million mark in Q-1, 1937, the 5 million mark in December, 1937, and the 7 million mark by June, 1940 (Sterling and Haight, p. 367).

### *Cellphones*

Cellphone service was launched in 1983. They reached the 1 million subscriber mark in Q-3, 1987, 2 million subscribers in Q-4, 1988, 4 million subscribers in Q-2, 1990, 5 million in November, 1990, and 7 million in Q-3, 1991 (Cellular Telephone Industry Association, cited in Statistical Abstract of the U.S. 1994, p. 571).

### *Television*

Television was broadcast on an experimental basis in the 1920s. It was launched at the World's Fair in April, 1939. More than a dozen stations were broadcasting and 10,000 sets were sold (Barnouw, p. 128). However, with the onset of World War II, most

stations went off the air. Television was re-launched after WW II. By the summer of 1946, RCA was once again selling TV sets (Barnouw, p 243). We use the fall 1946 as the start of television, although it was actually a re-starting of television. Television penetrated 1 million US households at the beginning of Q 1 1950, 2 million households at the end of Q-2, 1950, 4 million in early Q-1, 1951, 5 million by the end of Q-1, 1951 and 7 million in Q-3, 1951 (Sterling and Haight, p. 372).

### *Radio*

Radio was invented/discovered in the 1890s. The first experimental broadcast was in 1895. Radio telegraphy was common in the period 1905 to 1920. Radio development was halted during WW I, as the government took control of radio frequencies. A number of experimental stations were broadcasting in 1919, e.g., 2XG in November, 1919 and 8XK, in late 1919. By March, 1920, a cluster of radio stations were broadcasting in the San Francisco area. More than a dozen stations were broadcasting by the summer of 1920 (see [www.earlyradiohistory.us](http://www.earlyradiohistory.us)). In September, 1920, radio sets were advertised in The Sun in Pittsburg (Barbouw, p 68). On October 27, 1920, KDKA was licensed to operate as a commercial station. Most media historians consider this the start of commercial broadcast radio in the US. KDKA broadcast the November election results Lewis, p. 153).

However, we take a more conservative stand and consider wider availability of radio sets. Barnouw reports that radios were widely available in department stores by June, 1921 (Barnouw, p. 71). This is the start date we use. The US Department of Commerce reports that there were 400,000 households with a radio set at the end of 1923 and 1.25 million by the end of 1924 (Historical Statistics of the US, p. 796). We extrapolate from these data and set the 1 million mark at the end of Q 3, 1924. Radio penetrated 2 million households by the end of Q-2, 1925, 4 million by Q-3, 1926, 5 million by the end of Q-1, 1927, and 7 million in Q-1, 1928 (Sterling and Haight, p. 367).

### *MP 3 Players*

MP-3 players were first offered in Summer, 1998. They reached 1 million users at the end of Q-4, 2000, 2 million in Q-1, 2002, 4 million in Q-1, 2003, 5 million at the end of Q-2, 2003, and 7 million at the beginning of Q-1, 2004 (CEA data in Lexis Nexis, 1/03, Billboard 1/17/04, p. 60, and Twice, September 20, 2004)

### *CD Players*

CD players were introduced in Japan in 1982. They were introduced in the US market in mid 1983 (BSN Publications, p. 1) and 35,000 players were sold that year. The first players cost over \$1,000, but the price declined rapidly. They penetrated 1 million US homes early in the fourth quarter of 1985 (USA Today, 3/3/87, p. D5). They reached 2

million households by the end of Q-2, 1986 (USA Today, 11/03/86, p. 6E), 4 million households in November, 1987 (Statistical Abstract of the U.S., 1990, p. 764), 5 million in early Q-2, 1988, and 7 million at the end of Q-2, 1989 (Statistical Abstract of the U.S., 1992, p.756).

#### *XM Satellite Radio*

Data from XM Satellite Radio: launch in November 2001; reached 1 million subs in October, 2003; reached 2 million subscribers in June, 2004; reached 4 million subscribers in May, 2005; reached 5 million in September, 2005; and reached 7 million in Q-3, 2006 (Source: XM Satellite Radio).

#### *DVD Players*

DVD players went on sale in the US in March, 1997 (Wall Street Journal, 12/9/99, p. B1). They penetrated 1 million US households in December, 1998 (Thomas, May, 2002). They reached 2 million households at the end of Q-2, 1999 (Gannett News Service, 1/2/01) 4 millions households in November, 1999 (USA Today, 11/23/2001, p. 4E), 5 million households at the beginning of Q-1, 2000, and 7 million in early Q-2, 2000 (Adams Media Research, cited in MPAA, 2003).

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## SKYFi AUDIO SYSTEM NAMED BEST OF CES FINALIST

Delphi Portable XM Satellite Radio Honored at 2003 International Consumer Electronics Show

Washington D.C., January 13, 2003 -- Delphi Product & Service Solutions, part of Delphi Corporation (NYSE: DPH), and XM Satellite Radio (NASDAQ: XMSR) announced today that the new SKYFi Audio System was named a finalist for the Best of CES award for 2003 in the portable audio category.

The SKYFi Audio System, a self-contained "boom box," provides the flexibility to take XM anywhere a subscriber could enjoy XM's 101 channels of revolutionary programming. Delphi, a pioneer of in-vehicle entertainment and electronics, and XM, America's leading satellite radio service, recently teamed to offer the Delphi XM SKYFi Radio receiver, an attractive, compact unit that provides the most advanced user features of any satellite radio on the market today.

The SKYFi Audio System with the SKYFi receiver retails for \$229.99 (MSRP). The System contains a pair of high-quality speakers with an integrated high gain antenna and a port for the SKYFi receiver. It can be powered by an A/C adaptor to create a high quality countertop/ bookshelf XM system for the home or office, or used with six "D" batteries to experience XM in virtually any location. XM listeners who already own the SKYFi receiver can purchase the boom box portion alone for \$99.99 (MSRP).

The SKYFi receiver, an affordable next-generation XM radio, offers the most advanced user features of any satellite radio on the market today, and all the features XM fans have been demanding most: portability, a large display, direct channel entry, the ability to preview and search XM channels by artists and song titles, and 20 channel presets. The compact receiver, along with vehicle and home accessory kits, arrived at major retail outlets in October. XM won "Best of CES" in the automotive category in 2001.

Factors that could cause actual results to differ materially from those in the forward-looking statements in this press release include demand for the company's service, the company's dependence on third party vendors, its continuing need for additional financing, as well as other risks described in XM Satellite Radio Holdings Inc.'s Form 8-K filed with the Securities and Exchange Commission on 12-24-2002. Copies of the filing are available upon request from XM Radio's Investor Relations Department

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## **BUSINESSWEEK NAMES DELPHI XM ROADY RADIO A "BEST PRODUCT OF 2003"**

**Roady wireless FM adapter available this month; Free Roady home adapter available through holiday promotional offer**

Troy, Mich. and Washington D.C., December 09, 2003 -- The Delphi XM Roady satellite radio has been named a "Best Product of 2003" by BusinessWeek, the world's most widely read business magazine, in its December 15 issue. Delphi Corp. (NYSE: DPH) and XM Satellite Radio (NASDAQ: XMSR) also announced the introduction of new accessories for the Roady: a wireless FM adapter for car radios and a free Roady home adapter available through a special holiday promotion.

In its annual list of the year's most innovative products, BusinessWeek wrote, "With coast-to-coast channels and few commercials, subscription satellite radio is the biggest change in radio since FM. There's no easier way to get it than Delphi's Roady."

The Roady, the first complete satellite radio solution for under \$120, is the most affordable option for listening to XM's 101 channels of music, news, sports, and entertainment on the road or at home. As a BusinessWeek "Best Product of 2003," the Roady is part of an elite group, including Intel's Pentium M chip, the new \$20 bill, and the AIDS medicine Fuzeon. Also selected were the Cadillac XLR roadster and the Scion xB, two of the more than 80 vehicles that feature XM Satellite Radio.

"The Roady is proving to be a very hot product this holiday season," said Hugh Panero, President and CEO of XM Satellite Radio. "We're flattered to be recognized by BusinessWeek as a 'best product of 2003,' and we're grateful to the more than 1 million customers that have made XM one of the fastest-growing entertainment media in history."

"We are very proud of this important recognition for the Delphi Roady," said Francisco (Frank) A. Ordonez, president, Delphi Product & Service Solutions and vice president, Delphi Corporation. "As we expand our product portfolio in the consumer electronics market, our satellite radios featuring XM continue to collect awards and accolades for being the best products in their class."

In addition to the BusinessWeek list, XM and Delphi were recently spotlighted as a holiday gift recommendation by several major publications, including People magazine and The New York Times. Best Buy, the nation's leading consumer electronics and mobile electronics retailer, recently announced that the Roady is the "most-wanted mobile electronic accessory this holiday season" and declared XM to be the "hottest trend in car audio."

The new Roady wireless audio adaptor (MSRP \$29.99), designed for car radios without cassette decks, transmits XM to a vehicle's FM radio and powers the Roady receiver. This sleek accessory plugs conveniently into the vehicle's cigarette lighter.

The new Roady home adaptor allows Roady to work with home stereos equipped with RCA audio-in connectors or with a set of powered speakers. In a special holiday promotion, XM is making its home adaptor (a \$39.99 value) available free-of-charge for consumers who purchase a Roady before Dec. 31, 2003. Roady customers who send in proofs of purchase will receive the home adaptor by mail delivery.

"The Roady wireless vehicle adaptor and home adaptor make a very appealing product even more attractive to holiday gift buyers," Panero said.

For more information about Roady, visit <http://roady.xmradio.com> or [www.delphi.com/ce](http://www.delphi.com/ce).

#### About XM Satellite Radio

XM is America's # 1 satellite radio service. With more than 1 million subscribers today, XM is on pace to exceed 1.2 million subscribers by year's end. Broadcasting live daily from studios in Washington, DC, New York City and Nashville, Tennessee at the Country Music Hall of Fame, XM provides its loyal listeners with 101 digital channels of choice: 70 music channels, more than 35 of them commercial-free, from hip hop to opera, classical to country, bluegrass to blues; and 31 channels of premiere sports, talk, comedy, kid's and entertainment programming. Compact and stylish XM satellite radio receivers for the home, the car, the computer and even a boombox for on the go are available from retailers nationwide. In addition, XM is available in more than 80 different 2004-car models. XM is a popular factory-installed option on more than 40 new General Motor's models, as well as a standard feature on several top-selling Honda and Acura models.

XM is proud to actively support the lifesaving efforts of The Marrow Foundation and the National Marrow Donor Program to increase the size and diversity of the national Registry of unrelated blood stem cell and marrow donors. For more information about XM, visit <http://www.xmradio.com>.

#### About Delphi

The first satellite radio receiver system for the automotive market was introduced by Delphi in 2001. Since that time, Delphi has continued to expand its in-vehicle and consumer electronics technologies. Delphi has a broad portfolio of products to answer a wide variety of information and entertainment needs.

For more information, visit <http://www.delphi.com/media>.

Factors that could cause actual results to differ materially from those in the forward-looking statements in this press release include demand for the Company's service, the Company's dependence on technology and third party vendors, its potential need for additional financing, as well as other risks described in XM Satellite Radio Holdings Inc.'s Form 8-K filed with the Securities and Exchange Commission on 6-03-03. Copies of the filing are available upon request from XM Radio's Investor Relations Department.

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## **POPULAR SCIENCE HONORS DELPHI XM SKYFI2 SATELLITE RADIO AND XM NAVTRAFFIC WITH 2004 BEST OF WHAT'S NEW AWARDS**

Washington D.C., November 10, 2004 -- Popular Science, the world's largest science and technology magazine, has selected the Delphi XM SKYFi2 satellite radio and the XM NavTraffic service to receive 2004 Best of What's New Awards.

Each year, the editors of Popular Science review thousands of products in search of the top 100 tech innovations of the year -- breakthrough products and technologies that represent a significant leap in their categories. The winners--The Best of What's New-- are awarded inclusion in the much-anticipated December issue of Popular Science, the most widely-read issue of the year since the birth of Best of What's New in 1987.

"Best of What's New is the ultimate Popular Science accolade, representing a year's worth of work evaluating thousands of products," said Editor Mark Jannot. "These awards honor innovations that not only impact the way we live today, but change the way we think about the future."

The Delphi XM SKYFi2 satellite radio, which is now available at retail stores across the country, was chosen by Popular Science for a Best of What's New Award in the Gadgets category. XM NavTraffic, powered by NAVTEQ Traffic, is the groundbreaking new service that provides current traffic information for vehicle navigation systems. It received honors in the Auto Tech category.

The SKYFi2 offers the first-ever "pause" and "replay" functions for satellite radio. The unit allows you to pause or replay up to 30 minutes of live programming on XM. The SKYFi2 continuously and automatically saves the last 30 minutes of programming, including programming from different XM channels. The product also has a stock ticker, sports scores ticker, built-in wireless FM modulator, and several other innovative features.

The SKYFi2 is available at retail for \$129.99 MSRP. Home and vehicle adaptor kits for the SKYFi2 are available for \$69.99 MSRP. Portable boom box units are available for \$99.99 MSRP and \$199.99 MSRP.

"We are thrilled that Popular Science has chosen the Delphi XM SKYFi2 for this prestigious award," said Dan Murphy, Senior Vice President of Product Marketing and Distribution, XM Satellite Radio. "The SKYFi2 is a major advancement in satellite radio. For the first time, you can replay a favorite song that you hear on XM, or you can pause the programming. You can choose your favorite sports teams and see the latest scores, and you can pick up to 20 stock quotes. It's a must-have for the holidays."

Just as the SKYFi2 is a major innovation in radio hardware, the new XM NavTraffic service represents an important breakthrough in traffic information.

XM NavTraffic is the nation's first satellite traffic information service that enables a vehicle navigation system to display current traffic information for a driver's personal route. XM NavTraffic is powered by NAVTEQ Traffic, a new product by NAVTEQ, the leading global provider of digital map data for vehicle navigation systems.

XM NavTraffic displays information about traffic incidents, traffic speeds, and estimated travel times based on current road conditions. Traffic flow is displayed on the navigation screen with different colors: a green roadway indicates traffic moving 40 mph and above, a yellow route represents traffic moving at 20 to 40 mph, and red means traffic moving at less than 20 mph. Icons on the screen represent accident sites, road construction and street closures. This information is delivered to the navigation system by the XM satellites, which cover the U.S. from coast to coast. XM NavTraffic currently provides traffic data for 20 major metropolitan areas across the nation.

XM NavTraffic recently debuted as a standard feature of the 2005 Acura RL. It also will be available as an option in certain models of the 2005 Cadillac CTS. Last week, Pioneer unveiled the AVIC-N2 multi-function navigation system, the first aftermarket in-car navigation unit to offer XM NavTraffic.

"XM NavTraffic is an incredibly powerful tool that helps drivers avoid traffic," Murphy said. "It is the most comprehensive traffic information service ever offered to U.S. drivers. XM NavTraffic takes navigation to a whole new level, and we're very proud that the service has been selected to receive a Best of What's New Award."

Founded in 1872, Popular Science is the world's largest science and technology magazine with a circulation of 1.45 million and 6.5 million monthly readers. Each month, Popular Science reports on the intersection of science and everyday life, with an eye toward what's new and why it matters. Popular Science is published by Time4 Media, a subsidiary of Time Inc., which is a wholly owned subsidiary of Time Warner Inc.

#### About Delphi

Delphi was the first company to integrate a radio into the dashboard in 1936, the first to bring satellite radio to the vehicle in 2001 and the first to bring a portable satellite radio boombox to the market in 2002. Delphi continues to expand its in-vehicle and consumer electronics technologies. Delphi has a broad portfolio of products to answer a wide variety of information and entertainment needs. For more information, visit <http://www.delphi.com/media>.

#### About XM Satellite Radio

XM (Nasdaq: XMSR) is America's #1 satellite radio service with more than 2.1 million subscribers. Broadcasting live daily from studios in Washington, DC, New York City and Nashville, Tennessee at the Country Music Hall of Fame, XM's 2004 lineup includes more than 130 digital channels of choice from coast to coast: 68 one-hundred-percent commercial-free music channels, featuring hip hop to opera, classical to country, bluegrass to blues; more than 40 channels of premier sports, talk, comedy, children's and entertainment programming; and 21 channels of the most advanced traffic and weather information for major metropolitan areas nationwide. For more information about XM, visit [www.xmradio.com](http://www.xmradio.com).

Factors that could cause actual results to differ materially from those in the forward-looking statements in this press release include demand for XM Satellite Radio's service, XM's dependence on technology and third party vendors, its potential need for additional financing, as well as other risks described in XM Satellite Radio Holdings Inc.'s Form 10-K filed with the Securities and Exchange Commission on 3-15-04. Copies of the filing are available upon request from XM Radio's Investor Relations Department.

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## **XM SATELLITE RADIO RECOGNIZED WITH 12 AWARDS FROM CONSUMER ELECTRONICS ASSOCIATION; MYFI AND XM NAVTRAFFIC TAKE TOP HONORS**

Washington D.C., November 11, 2004 -- XM Satellite Radio (NASDAQ: XMSR), the nation's leading satellite radio service with more than 2.5 million subscribers, announced that a total of 12 XM products have been recognized as honorees for the Innovations 2005 Awards, including two "Best of Innovations" distinctions for the Delphi XM2go MyFi™ in the portable audio category, and XM NavTraffic™ Powered by NAVTEQ™.

Sponsored by the Consumer Electronics Association (CEA) and endorsed by the Industrial Designers Society of America (ISDA), the Innovations Awards, now in its 15th year, honor excellence in consumer technology design and engineering. The top Innovations 2005 Honorees from each category are named "Best of Innovations".

"We are truly honored to have both MyFi - the first portable XM2go product - and XM NavTraffic recognized as the Best of Innovations 2005 Honorees," said Dan Murphy, Senior Vice President of Product Distribution and Marketing for XM Satellite Radio. "To have twelve products selected as Innovations Honorees is an absolute thrill. Along with our manufacturing partners, Alpine Electronics, Audiophase, Delphi, Eton, Garmin, NAVTEQ, Pioneer and Polk, we are successfully establishing XM as a mainstay in the car, in the home, and on the go."

Unveiled in New York last month by XM Satellite Radio and manufacturing partner Delphi Corp., MyFi is the first personal, portable XM2go satellite radio. MyFi features an integrated antenna, as well as two methods to enjoy XM's more than 130 digital channels: a "live" listening mode and a time-shifting "memory" mode.

XM NavTraffic is the nation's first satellite traffic information service that enables a vehicle navigation system to display current traffic information for a driver's personal route. XM NavTraffic is powered by NAVTEQ Traffic, a new product by NAVTEQ, the leading global provider of digital map data for vehicle navigation systems. XM NavTraffic currently provides traffic data for 20 major metropolitan areas across the nation. XM NavTraffic recently debuted as a standard feature of the 2005 Acura RL and will be available in certain models of the 2005 Cadillac CTS. Beginning in 2005 XM NavTraffic also will be available in aftermarket navigation systems, including those made by Alpine Electronics and Pioneer Electronics.

In all, 12 products from XM and its manufacturing partners were among the Innovations 2005 Honorees selected by an independent panel of engineers, designers and journalists.

Product Name	Manufacturer	Innovations 2005 Honoree Category
NVE-N872A Navigation System with HCE-100XM XM NavTraffic Data Receiver	Alpine Electronics	Mobile/Vehicle Electronics Navigations, Safety and Security
SKYBOX	Audiophase	Audio
XM2go MyFi	Delphi Corporation	Portable Audio (Best of Innovations Honoree)
XM SkyFi2	Delphi Corporation	Audio

Please use your browser's print function to print this page, then click the back button to return to XM.



## PRESS RELEASES

### **PORTABLE XM2GO RADIOS RECEIVE TOP HONORS FROM POPULAR SCIENCE, WIRED, AND USA TODAY NOW; XM OFFERS \$50 MAIL-IN REBATE FOR HOLIDAY SHOPPERS**

*XM2go radios are first and only portable, handheld satellite radios for listening to live programming and stored content in the car, at home, and on the go*

Washington D.C. , October 11, 2005 -- XM Satellite Radio, the nation's leading satellite radio company with more than five million subscribers, is the winner of top honors from three national magazines for its portable XM2go satellite radios as XM offers a \$50 mail-in rebate for a variety of XM radios for holiday shoppers:

- Popular Science magazine has chosen the MyFi XM2go radio by Delphi for its prestigious "Best of What's New 2005" award. The MyFi will be displayed at a public exhibition hosted by Popular Science at Grand Central Terminal's Vanderbilt Hall in New York City November 8-10.
- WIRED magazine has named the portable Tao XM2go radio its "Editor's Pick" atop the list of satellite radio receivers reviewed in its annual consumer product buying guide.
- USA Today's brand-new consumer tech guide USA TODAY NOW Personal Technology has chosen the portable Pioneer AirWare XM2go radio as one of the top ten coolest tech products for the holidays.

XM2go radios are the first and only satellite radios that allow users to listen to live programming or stored content in the car, at home, and on the go. XM2go radios deliver XM Satellite Radio's 150-plus channels of commercial-free music and premier sports, news, and talk programming. The wearable radios come with a complete set of accessories, including car and home kits, headphones, belt clip, and other items for listening to XM from coast to coast.

XM2go radios are now available for \$149.99 after the special \$50 mail-in rebate. This rebate is available through December 31, 2005, for consumers who purchase one of a variety of XM products for themselves or as gifts at participating retailers. The "Listen Large... Save Big" rebate applies to XM2go radios, various plug-and play receivers, and other products for the car and home. Details about the rebate and the rebate order form can be found online at [www.xmradio.com](http://www.xmradio.com).

"Holiday shoppers have a fantastic opportunity to get XM's award-winning radios for themselves and everyone on their gift lists," said Dan Murphy, senior vice president of product marketing and distribution, XM Satellite Radio. "The holiday shopping season promises to be the busiest in the history of XM, and this special retail promotion is a key part of that effort. As these recent awards demonstrate, XM2go radios have the

SkyFi Marine Kit	Delphi Corporation	Accessories
Roady2 Personal Audio System	Delphi Corporation	Accessories
PD7140 PD1	Eton Corporation	High Performance Audio
PD7141 PD2	Eton Corporation	Personal Electronics
XM WX Satellite Weather GPSMAP 3010C Chartplotter with GDL	Garmin International Inc.	Mobile/Vehicle Electronics Navigations, Safety and Security
XM Reference Tuner Xrt12	Polk Audio	Audio Components
Pioneer AVIC-N2 Multi-Function Navigation System with XM NavTraffic	Pioneer Electronics	Mobile/Vehicle Electronics Navigations, Safety and Security
XM NavTraffic Powered by NAVTEQ Traffic	XM Satellite Radio	Mobile/Vehicle Electronics Navigations, Safety and Security (Best of Innovations Honoree)

XM Radio -

advanced features that consumers want, and we match our high-quality radios with the greatest variety of content in satellite radio, including the most music channels and the most live sports."

**About XM Satellite Radio**

XM (NASDAQ: XMSR) is America's number one satellite radio service with more than 5 million subscribers. Broadcasting live daily from studios in Washington, DC, New York City and Nashville at the Country Music Hall of Fame, XM's 2005 lineup includes more than 150 digital channels of choice from coast to coast: the most commercial-free music channels, plus premier sports, talk, comedy, children's and entertainment programming; and 21 channels of the most advanced traffic and weather information. XM was named Best Radio Service at the 2004 Billboard Digital Entertainment Awards.

XM, the leader in satellite-delivered entertainment and data services for the automobile market through partnerships with General Motors, Honda, Toyota, Hyundai, Nissan and Volkswagen/Audi, is available in more than 130 different vehicle models for 2006. XM's industry-leading products are available at consumer electronics retailers nationwide. For more information about XM hardware, programming and partnerships, please visit <http://www.xmradio.com>.

*Factors that could cause actual results to differ materially from those in the forward-looking statements in this press release include demand for XM Satellite Radio's service, the Company's dependence on technology and third party vendors, its potential need for additional financing, as well as other risks described in XM Satellite Radio Holdings Inc.'s Form 10-Q filed with the Securities and Exchange Commission on 11-7-05. Copies of the filing are available upon request from XM Radio's Investor Relations Department.*

XM Radio Contact  
Chance Patterson  
Phone: 202-380-4318  
[chance.patterson@xmradio.com](mailto:chance.patterson@xmradio.com)

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## XM Satellite Radio Wins Top Honors at the 2006 Consumer Electronics Show

WASHINGTON, Jan. 9 /PRNewswire/ -- XM Satellite Radio, the nation's leading satellite radio company with more than six million subscribers, won top honors for its ground-breaking satellite radios at the 2006 International Consumer Electronics Show (CES) in Las Vegas, Nev.

(Photo: <http://www.newscom.com/cgi-bin/prnh/20060109/DCM014> )

(Logo: <http://www.newscom.com/cgi-bin/prnh/20000724/XMSATLOGO> )

XM unveiled the world's first portable audio players that receive live satellite radio and play MP3 music, combining the two most popular forms of audio entertainment of the past 20 years. Samsung and Pioneer plan to introduce the next-generation XM2go radios -- the Samsung Helix and Pioneer Inno -- at retail in the first quarter of 2006.

The Pioneer Inno XM2go won the Best of CES 2006 People's Voice Award hosted by CNET. Dr. Stell Patsiokas, XM executive vice president of technology and engineering, accepted the prestigious award from CNET editors Brian Cooley, Tom Merritt, and Molly Wood during a ceremony at CES. "More than 5,000 of you voted in our online poll, and your clear choice was the Pioneer Inno," CNET said.

The Pioneer Inno also won Last Gadget Standing, the annual CES competition hosted by PC Magazine. The online audience chose the Pioneer Inno among ten cutting-edge products picked by editors and online visitors.

In addition to these honors, XM's first-generation XM2go radio, the Delphi MyFi, received Editor's Choice Awards from the consumer electronics magazines Sound & Vision and E-Gear at separate events during CES. Plus, five XM products were recognized as honorees for the Innovations 2006 Awards, which recognize outstanding product engineering and design, sponsored by the Consumer Electronics Association (CEA), the host of CES.

These award-winning products complement XM's industry-leading programming, which offers the most commercial-free music, premier sports, news, talk and entertainment channels on satellite radio. Exclusive shows on XM include one-of-a-kind music programs hosted by music legend Bob Dylan, hip-hop superstars Snoop Dogg and Ludacris, rock hero Tom Petty, and jazz giant Wynton Marsalis. XM is also the exclusive satellite radio home for public radio icon Bob Edwards, Opie & Anthony, Air America, Major League Baseball, World Cup Soccer, NASCAR, "Good Morning America Radio," and "The Ellen DeGeneres Show."

### About XM Satellite Radio

XM is America's number one satellite radio service with more than six million subscribers. Broadcasting live daily from studios in Washington, DC, New York City and Nashville at the Country Music Hall of Fame, XM offers 160 digital channels of choice from coast to coast: the most commercial-free music, premier sports, talk, comedy, children's and entertainment programming; and the most advanced traffic and weather information.

XM, the leader in satellite-delivered entertainment and data services for the automobile market through

partnerships with General Motors, Honda, Toyota, Hyundai, Nissan, Porsche, and Volkswagen/Audi, is available in more than 130 different vehicle models for 2006. XM's industry-leading products are available at consumer electronics retailers nationwide. For more information about XM hardware, programming and partnerships, please visit <http://www.xmradio.com/>.

Factors that could cause actual results to differ materially from those in the forward-looking statements in this press release include demand for XM Satellite Radio's service, the Company's dependence on technology and third party vendors, its potential need for additional financing, as well as other risks described in XM Satellite Radio Holdings Inc.'s Form 10-Q filed with the Securities and Exchange Commission on 11-7-05. Copies of the filing are available upon request from XM Radio's Investor Relations Department.

Photo: NewsCom: <http://www.newscom.com/cgi-bin/prnh/20060109/DCM014>

<http://www.newscom.com/cgi-bin/prnh/20000724/XMSATLOGO>

AP Archive: <http://photoarchive.ap.org/>

PRN Photo Desk, [photodesk@prnewswire.com](mailto:photodesk@prnewswire.com)

SOURCE: XM Satellite Radio

CONTACT: David Butler of XM Satellite Radio, +1-202-380-4317,  
[david.butler@xmradio.com](mailto:david.butler@xmradio.com)

Web site: <http://www.xmradio.com/>

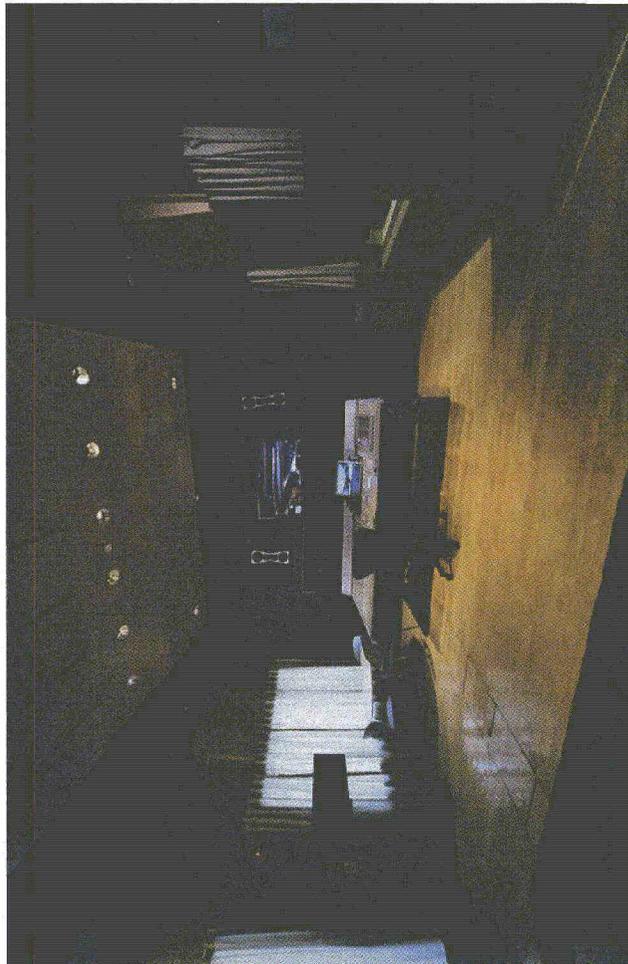
EXHIBIT LIST FOR ANTHONY J. MASIELLO

Exhibit No.	Description
1	Floorplan of XM's D.C. Studio Complex (Confidential)
2	Photograph of XM's Lincoln Center Studio
3	Photograph of XM's Nashville Studio
4	Photograph of XM's Chicago Studio
5	Photograph of XM's D.C. Broadcast Center
6	Photograph of XM's D.C. Control Center
7	Photograph of an XM's Satellite
8	Photograph of an XM's Repeater
9	Photograph of XM's Parabolic Satellite Dishes Used in XM Uplinks
10	Early Radio and Antenna
11	Early Radio and Antenna
12	Photograph of a First Generation "Plug and Play" Radio
13	Photograph of a SKYFi Radio
14	XM2Go and MyFi (with integrated antenna) Radio
15	XM2Go and MyFi (with integrated antenna) Radio
16	Photograph of an XM Mini-Tuner
17	Photograph of an Inno Radio
18	Web Page Describing XM's WX Satellite Weather Service
19	Web Page Describing XM's NavTraffic Service

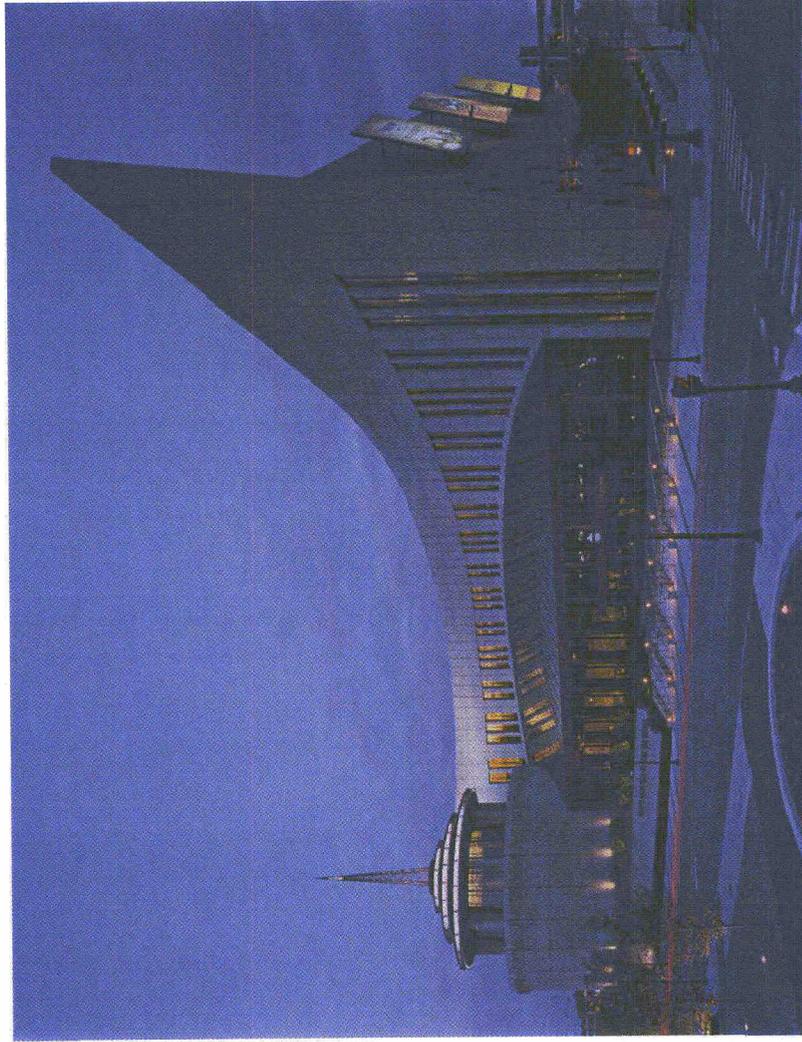
**RESTRICTED - Subject to Protective Order  
in Docket No. 2006-1 CRB DSTRA**

# Studios

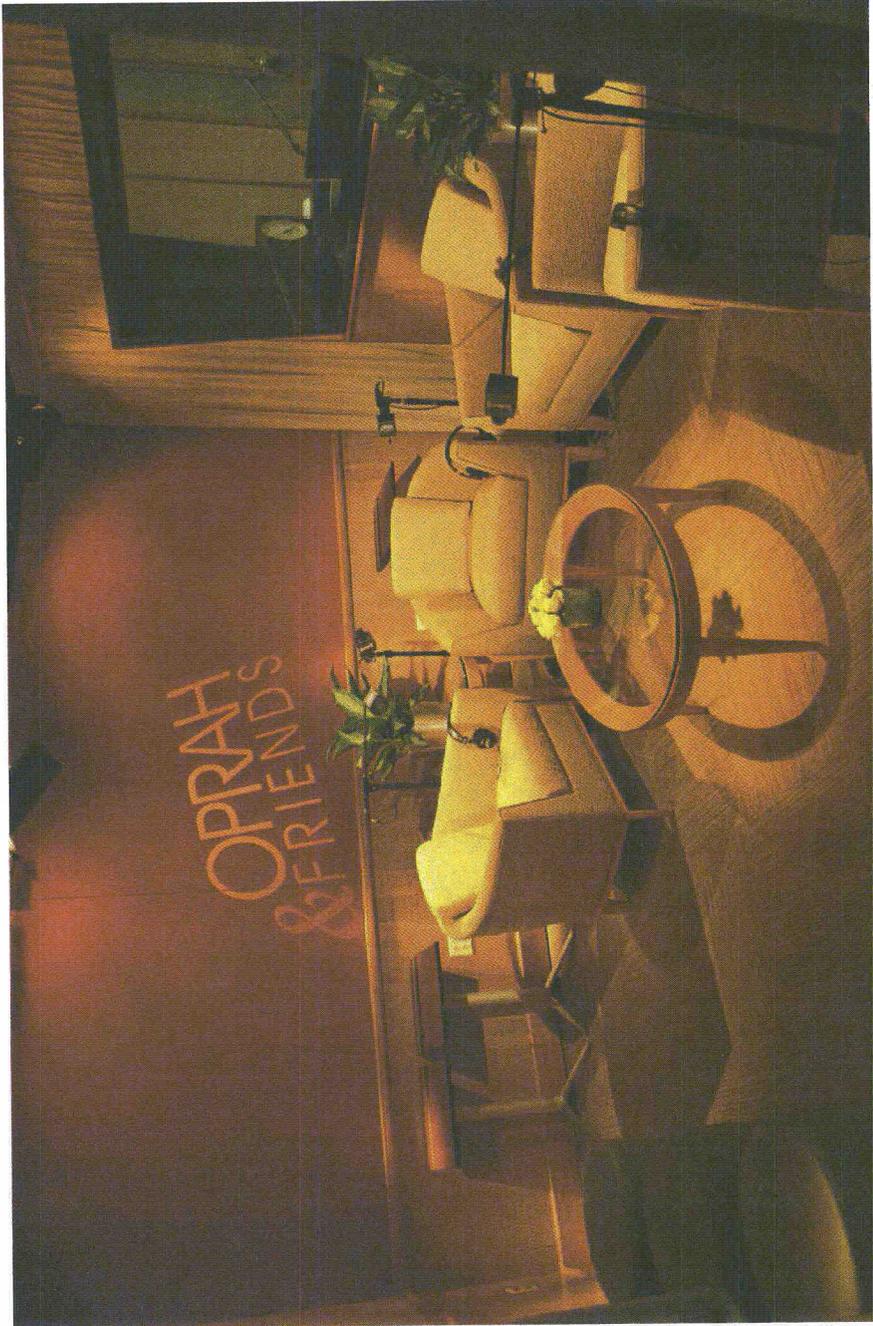
## New York



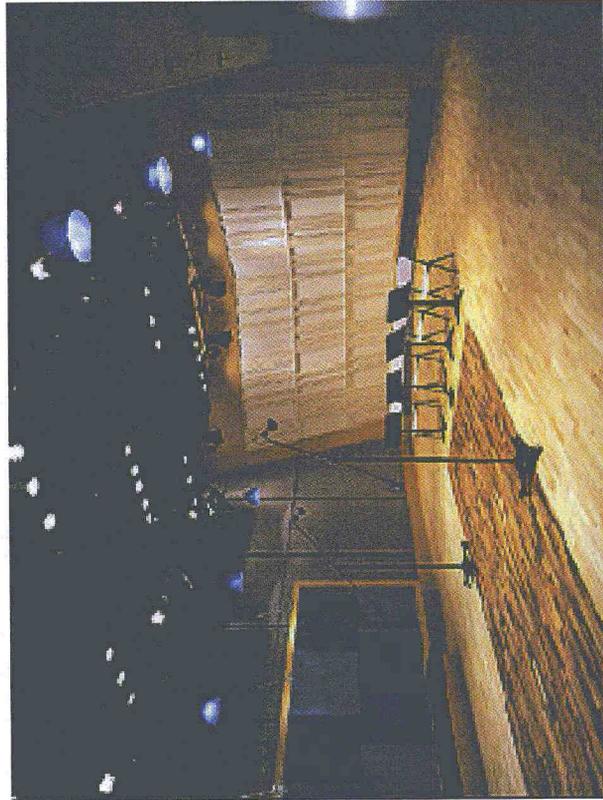
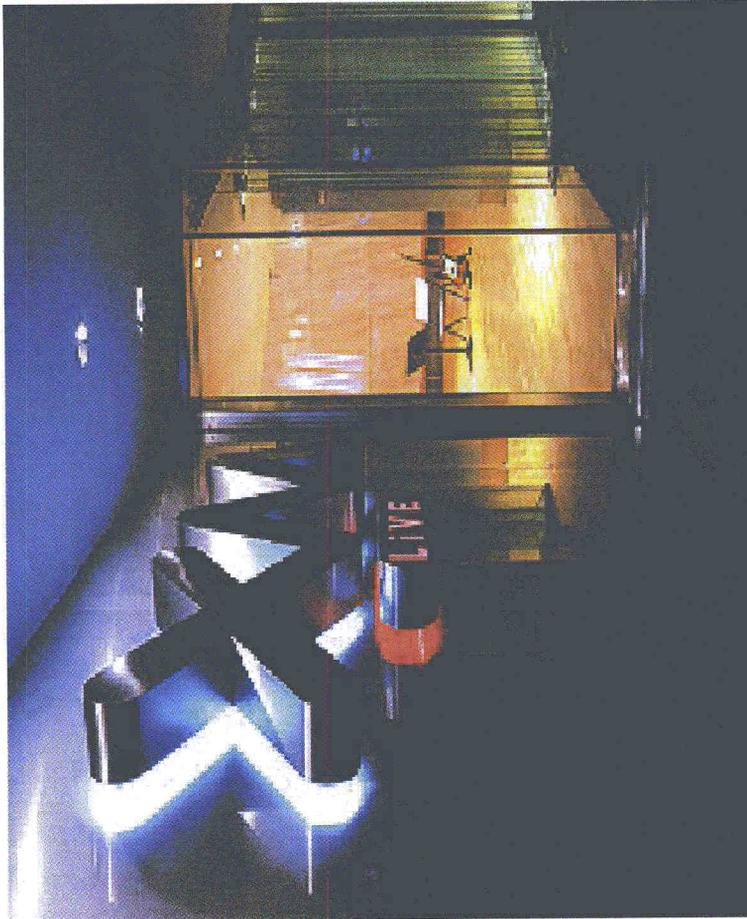
# Studio Nashville – Country Music Hall of Fame



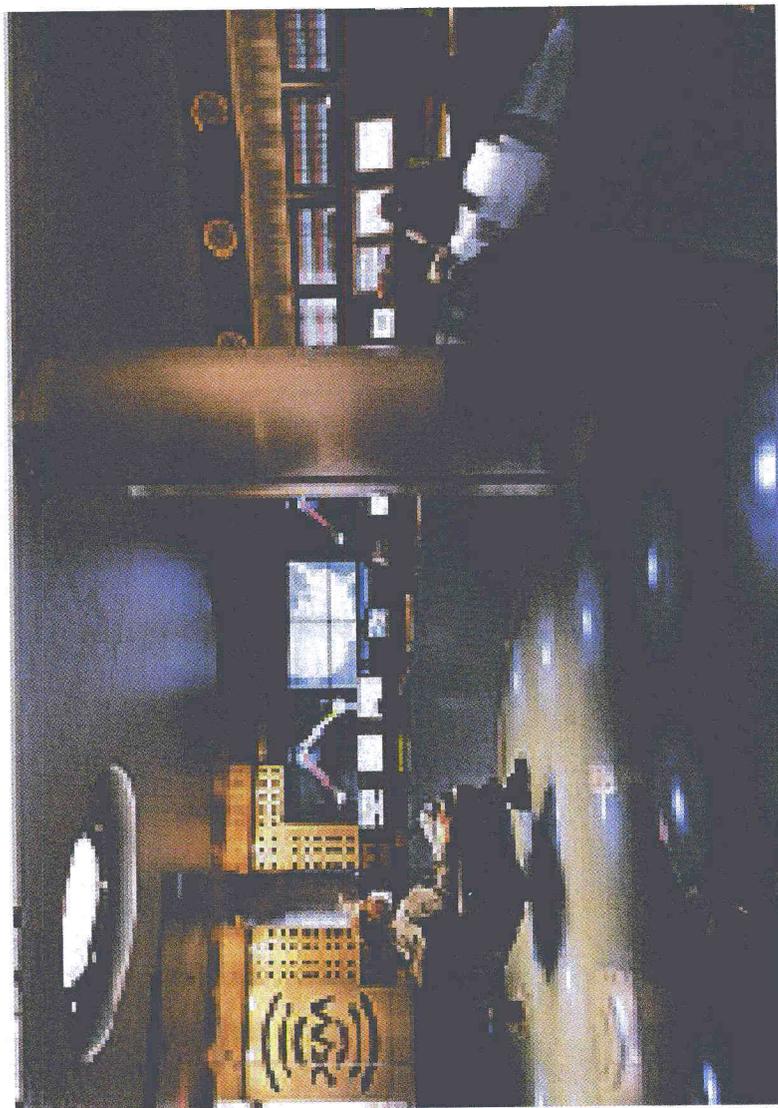
# Studios Chicago



# Washington, DC



# Control Centers



**Prime Contractor**  
Spacecraft Platform  
Orbital Locations  
Operational Life  
Peak EIRP  
End of Life Power  
Liftoff Mass

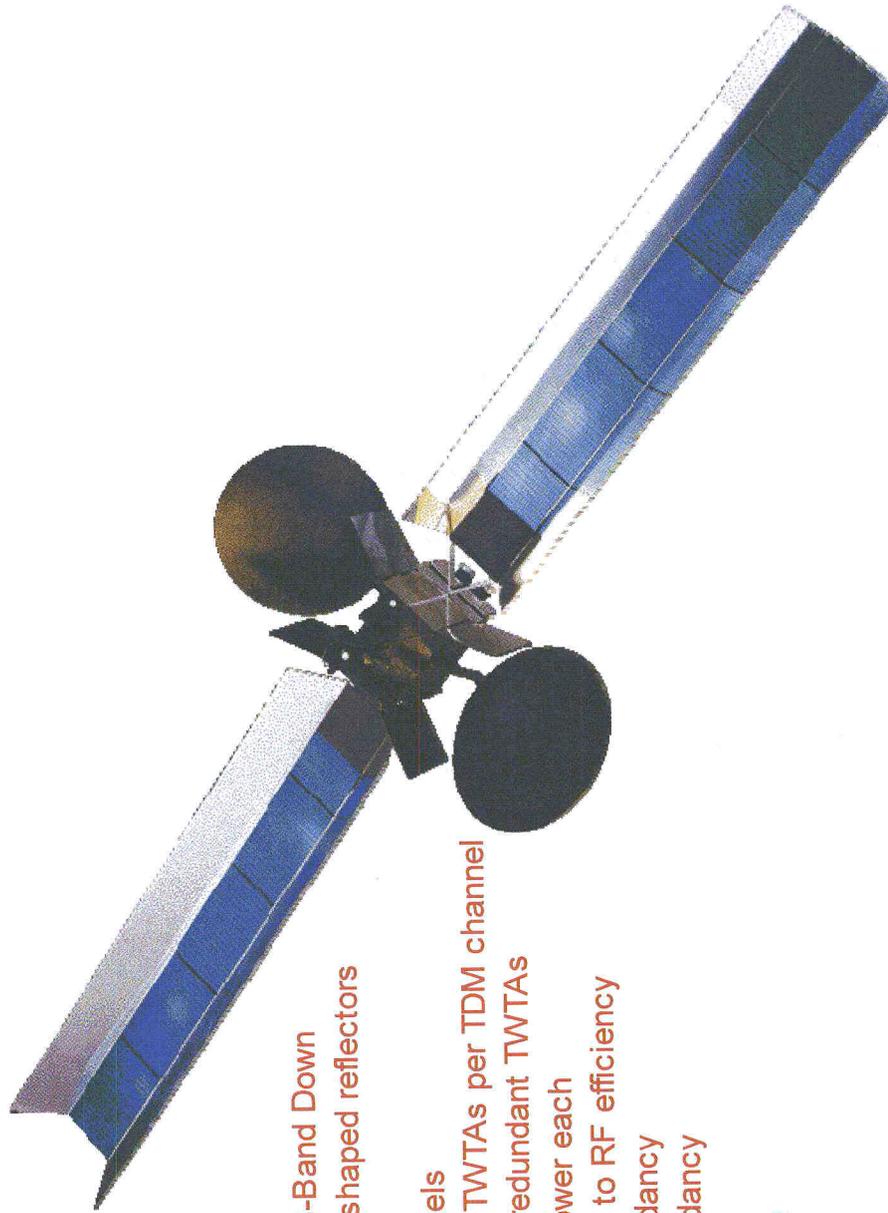
**Boeing**  
HS-702  
85°W and 115° W  
15 years  
68 dBW  
15 kW  
4650 kg

**Payload Supplier**  
Payload DC Power  
Frequencies  
Reflectors  
TWTA Power  
Channelization  
TWTAs

**Alcatel**  
13.5 kW  
X-Band Up, S-Band Down  
Two 5 meter shaped reflectors  
220 W each  
2 TDM channels  
16 paralleled TWTAs per TDM channel  
4 x 11 for 8 redundant TWTAs  
216 W RF power each  
over 55% DC to RF efficiency  
4 for 1 redundancy  
4 for 2 redundancy

**Receivers**  
IF Demultiplexers

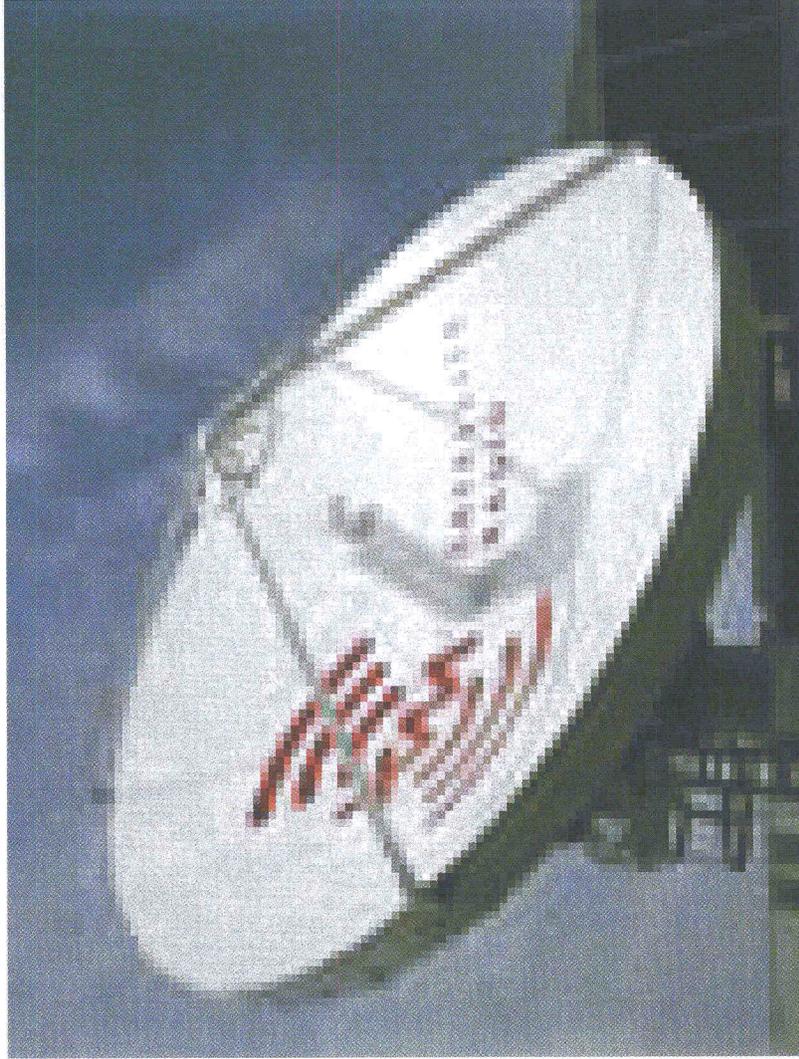
**Launch Vehicle**  
Sea Launch



# Typical Repeater Installation

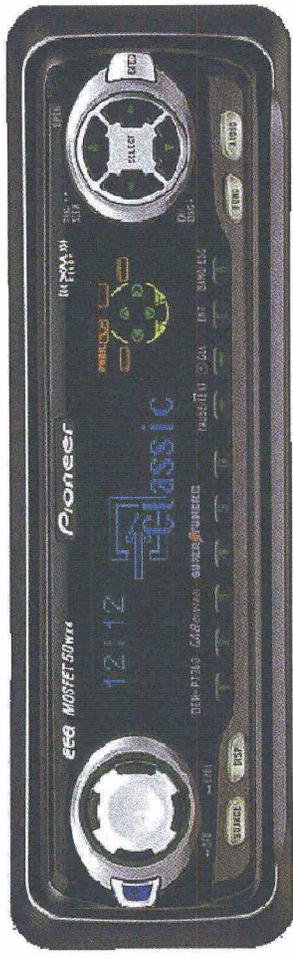


# Satellite Uplink Dish

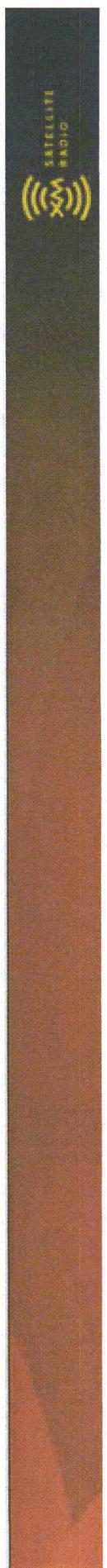
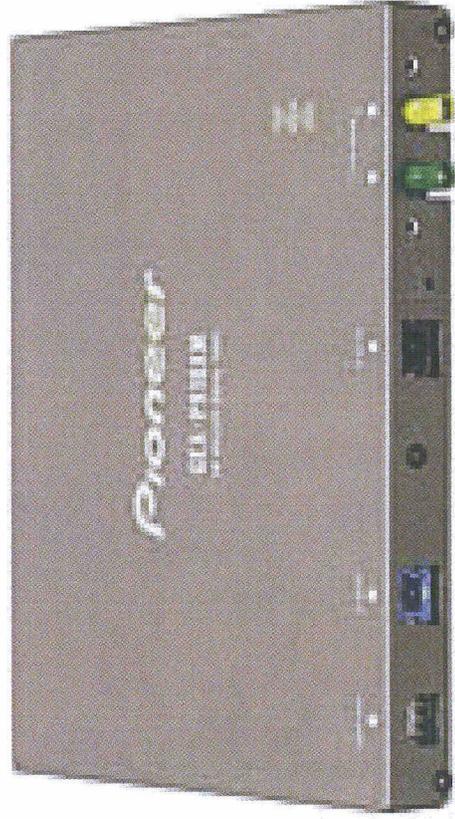


# One of First XM Radios

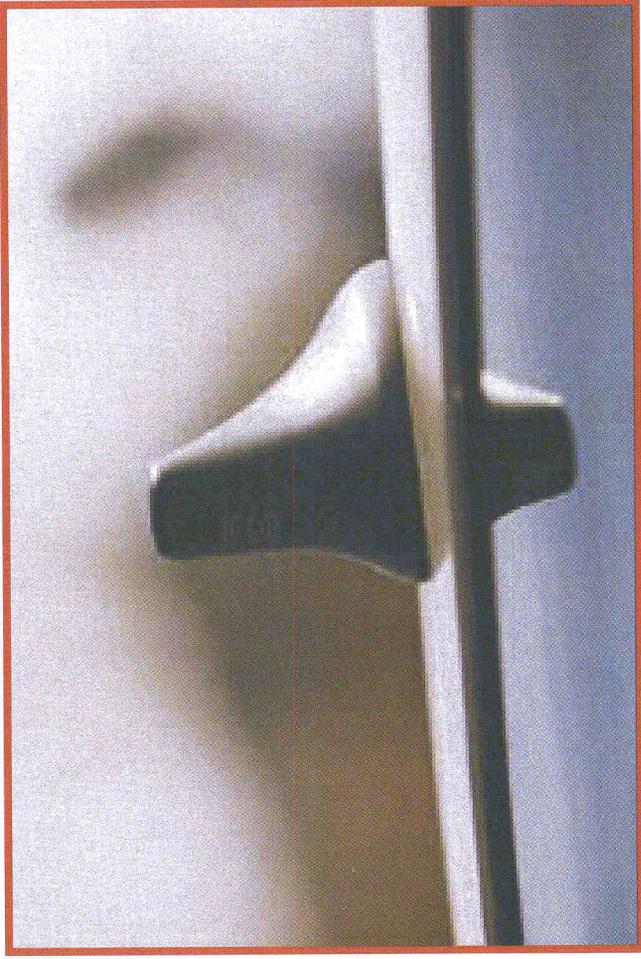
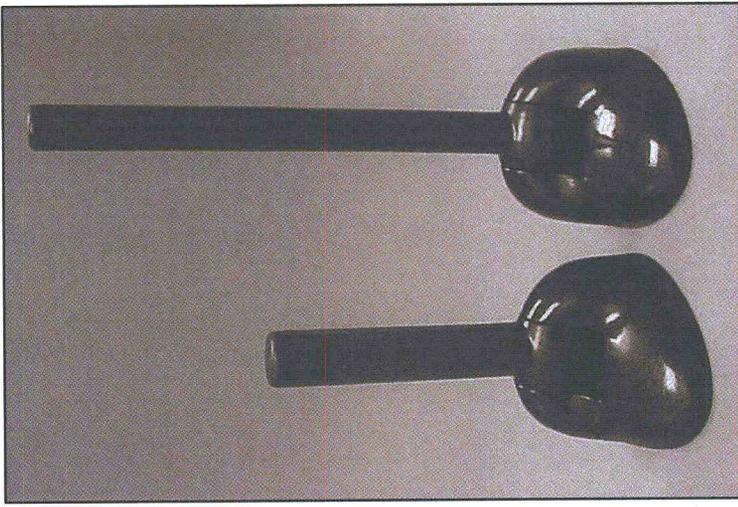
Pioneer Head Unit



Pioneer XM Tuner Box



# One of First XM Radio Antennas



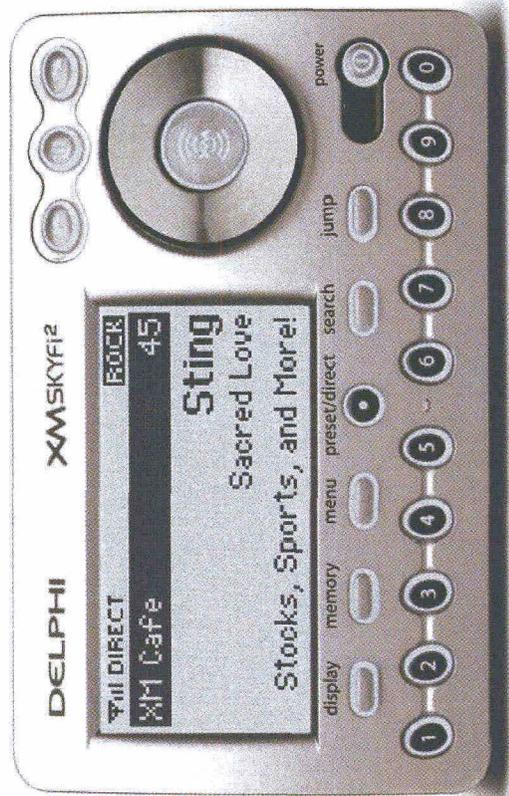
# Sony Plug and Play



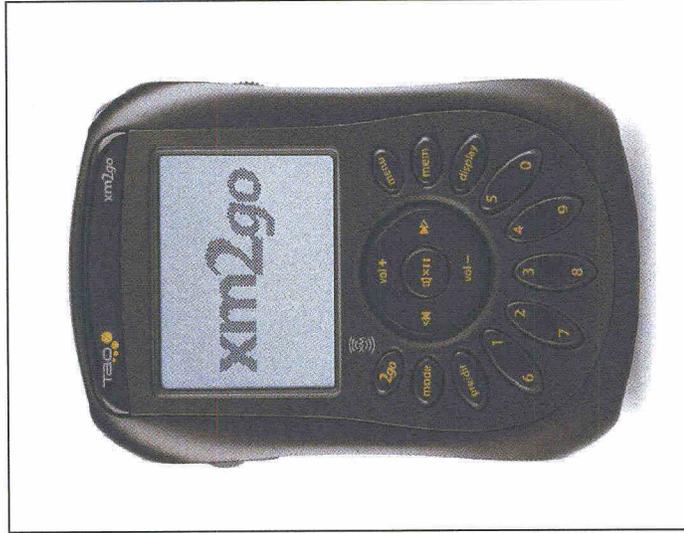
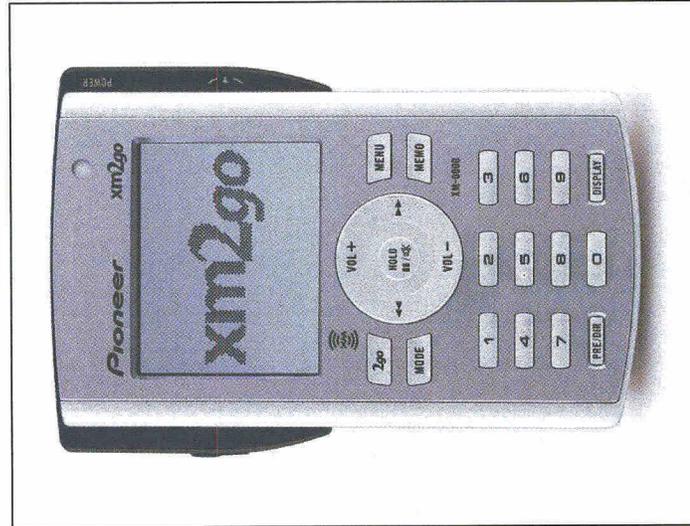
**Sony Plug & Play**  
**(Car Cassette or Home)**  
***Product discontinued***



# XM SKYFi Radio



# XM2Go Radios



# XM MyFi Radio



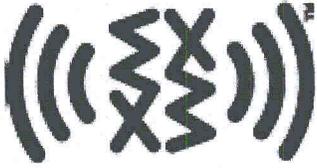
# XM Mini-Tuner



# XM inno

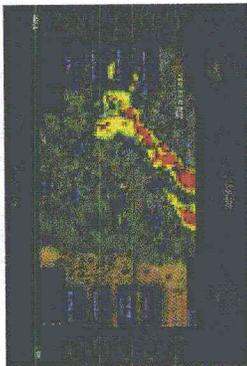


# XM WX Satellite Weather

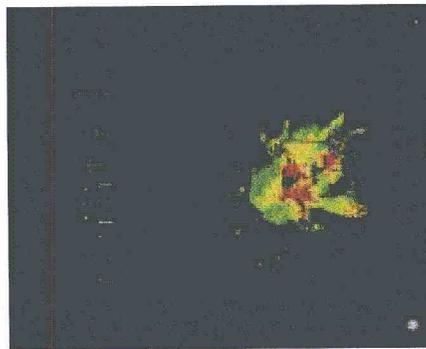


**SATELLITE  
WEATHER**

XM WX has been widely adopted by leading avionics and navigation manufacturers as the new industry standard for aviation, marine and emergency response



**AVIDYNE**



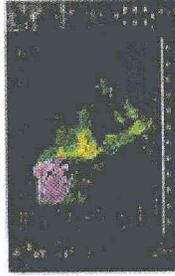
**Rockwell  
Collins**



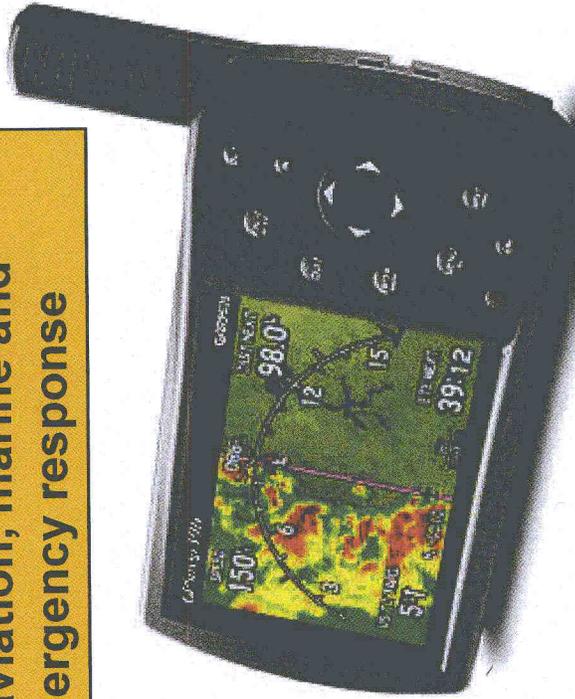
GNS 530



MX 20



G1000



**GARMIN®**

Flying Magazine Editors' Choice Award 2005

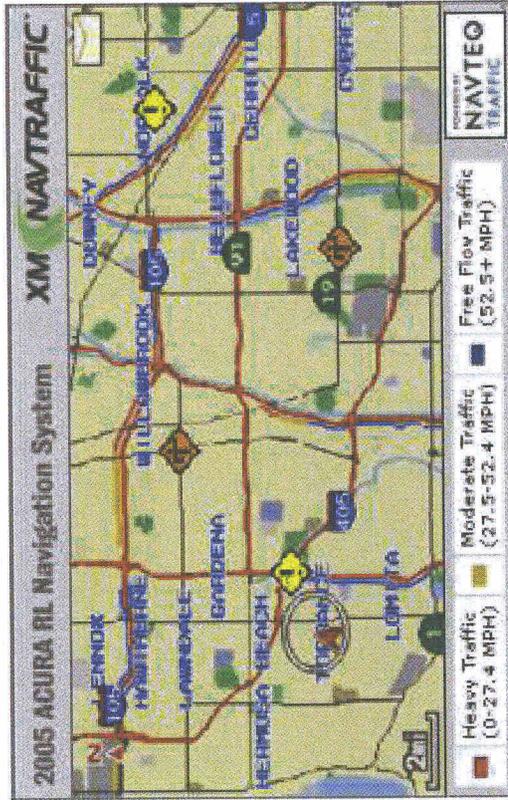
XM WX is now factory-specified on over 80% of all new General Aviation aircraft



# XM NavTraffic



- The nation's first satellite traffic data information service, enhancing the vehicle's navigation system with continuously updated traffic data
- Enables on-board navigation systems to provide personalized traffic information for each driver's needs
- The best available traffic information, aggregated from multiple government and commercial sources
- Adds daily relevance to navigation and helps congestion mitigation
- Widely adopted by leading automotive manufacturers and aftermarket navigation systems providers



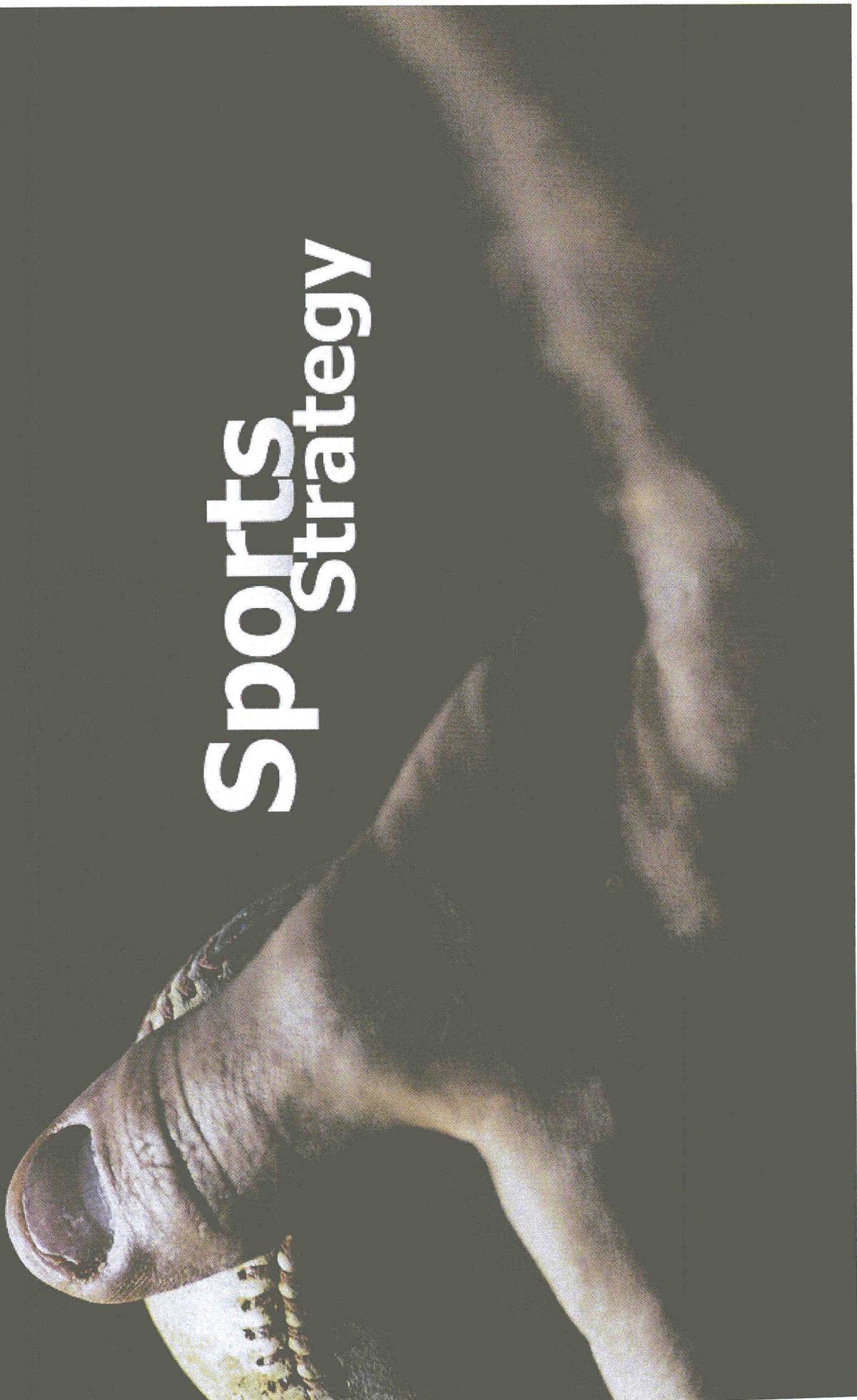


# Content Strategy



- Appeal to the Mass Market
- Target Growth Segments
- Balance the Cost of Content
- Develop and Build XM Brands and Talent

# Sports Strategy



## The Most Sports Talk & Live Play-by-Play

### Sports Play-by-Play

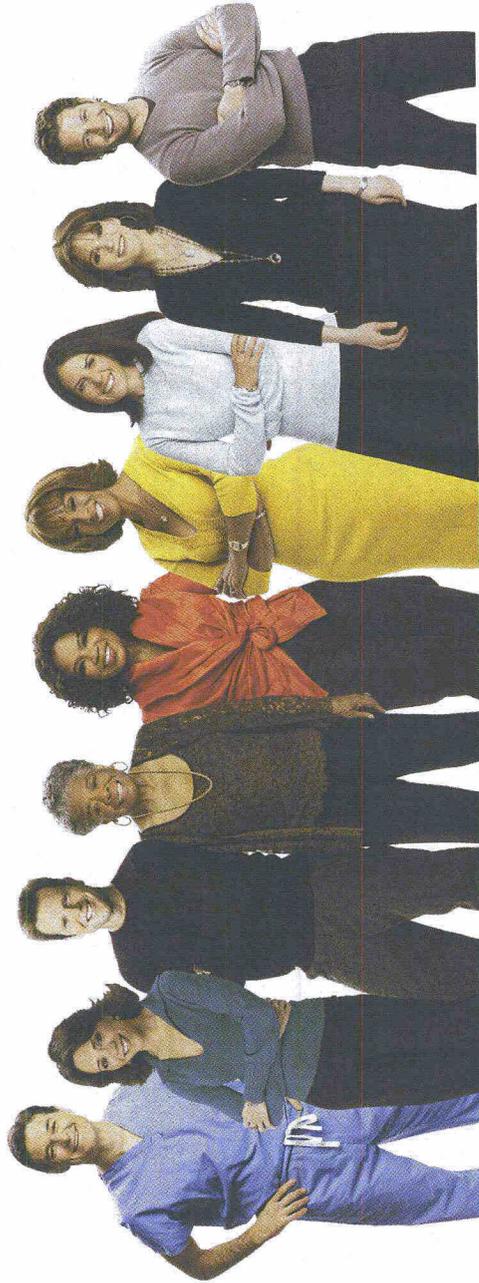


### Sports Talk



**Over 5,000 live sporting events covered annually**

**XM** Women's Strategy



# OPRAH & FRIENDS

Launched September 25<sup>th</sup>

- **Cost effective, blockbuster programming (XM 156)**
- **Exclusive, original programming with Oprah and Expert Friends including:**
  - Gayle King
  - Bob Greene
  - Nate Berkus
  - Marianne Williamson
  - Dr. Maya Angelou
  - Dr. Robin Smith
  - Dr. Oz
  - Jean Chatzky
- **Ideal match with XM's superior brand image**

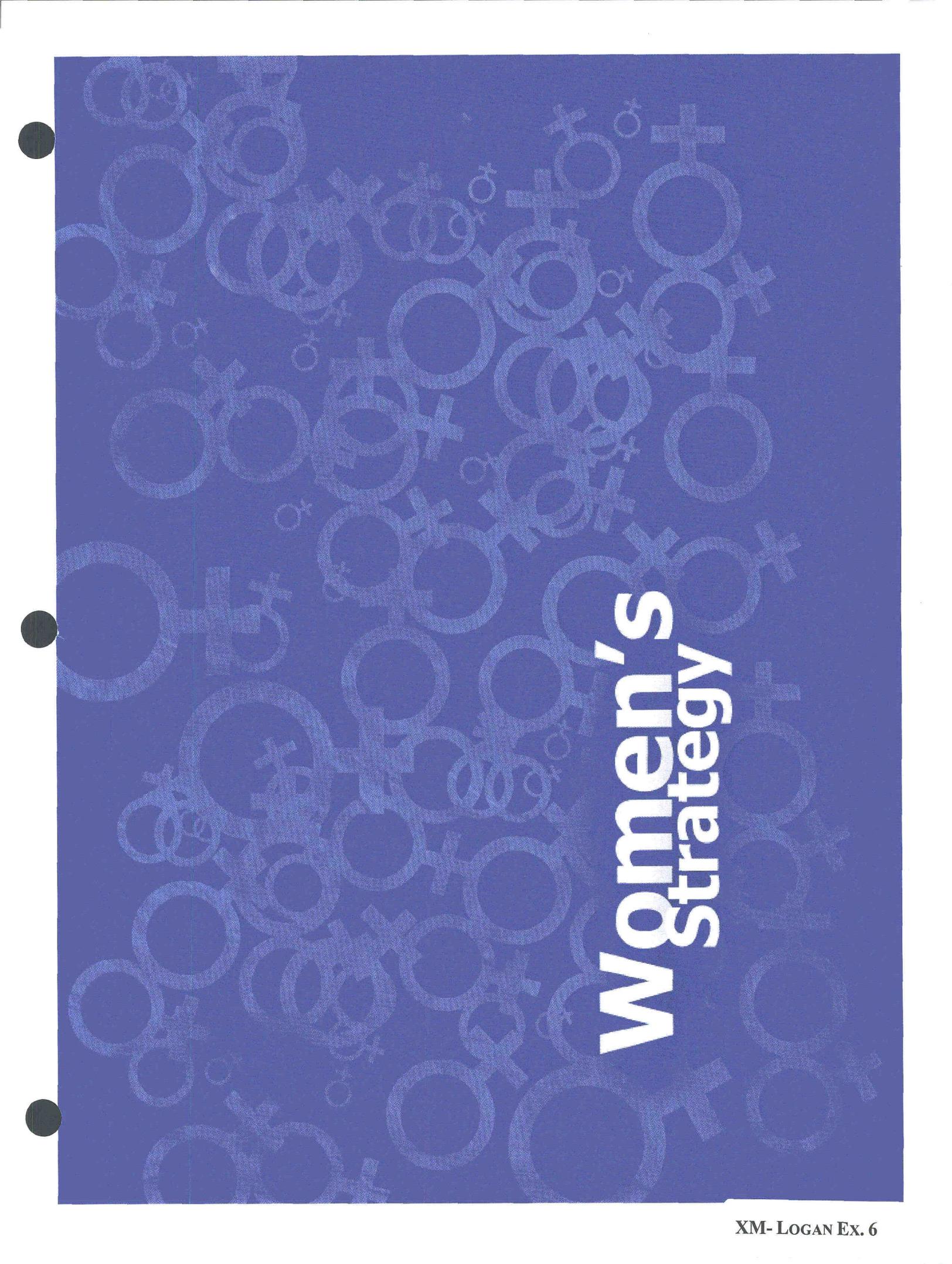
A photograph of a woman in a red top holding a camera on a beach. A large, dark umbrella is open behind her. The background shows the ocean and a clear sky. The text 'Talk & News Strategy' is overlaid in white, bold, sans-serif font.

# Talk & News Strategy

## The Best in News, Talk, Entertainment & Information

- **Provide choice**
- **Balance exclusive and non-exclusive talent**
  - Marquee talent versus home grown talent
- **Complete service elements**
  - News
  - Traffic
  - Weather & Emergency Alerts
- **Key category in advertising**

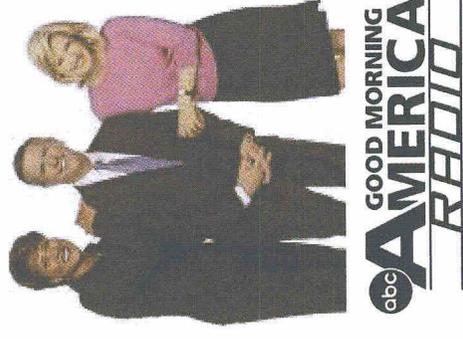
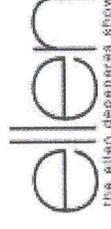


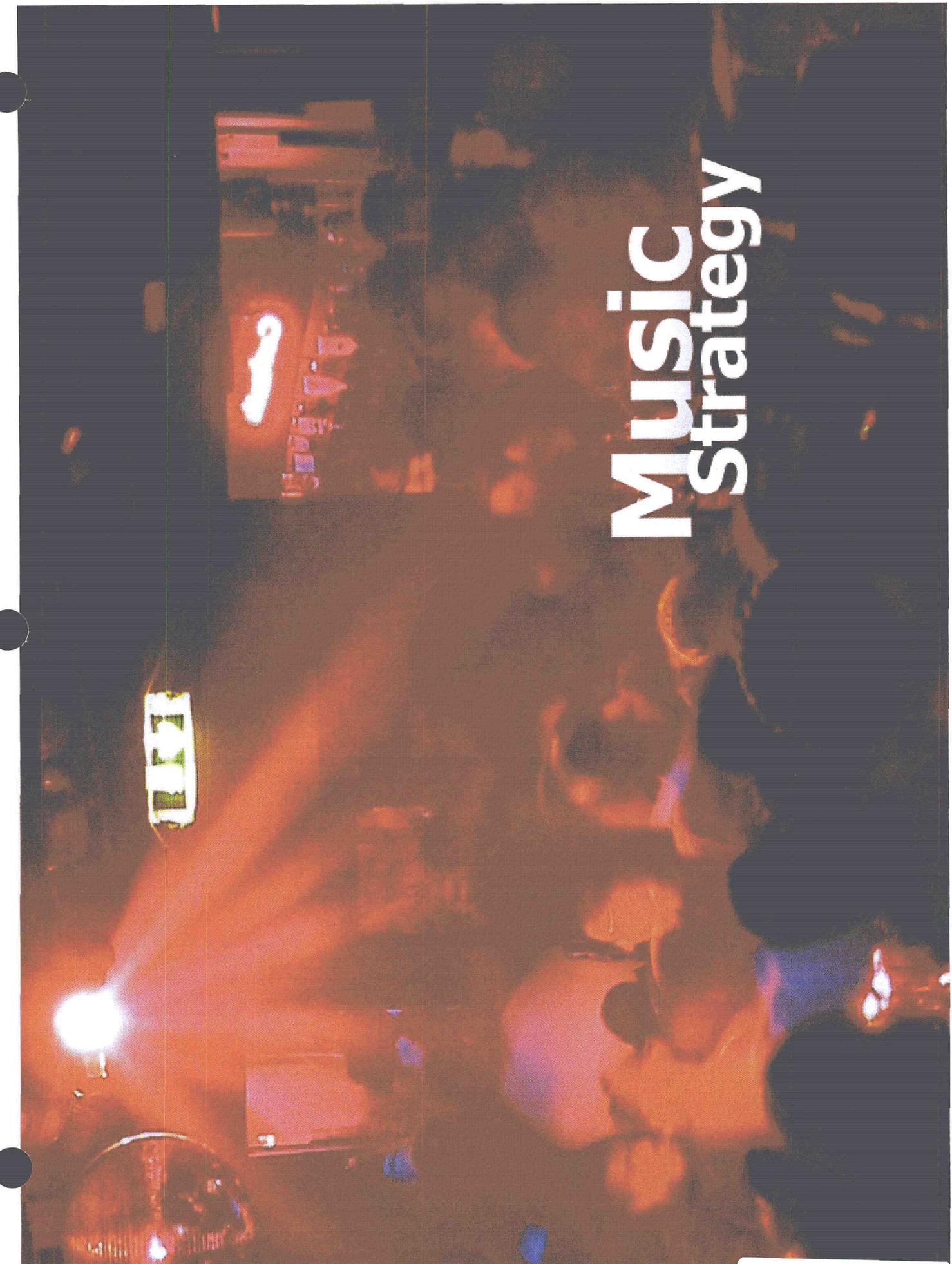
The background of the page is a solid blue color with a repeating pattern of light blue female symbols (a circle with a vertical line and a horizontal crossbar). The symbols are scattered across the page in various sizes and orientations. On the left side of the page, there are three black circular punch holes.

# Women's Strategy

## Strategic Approach to Key Segments Example: Women's Content

- **62M Women between 25-54 yrs**
- **Creation of an XM SuperBrand**
  - Take Five (XM 155) – Dedicated women's interest and lifestyle channel
  - Brand name talent attracts subscriber interest
  - Platform to grow XM exclusive personalities
- **Advertisers desire highly targeted sales opportunities**





# Music Strategy

➔ **Targeting Music Enthusiasts**

- Musical Depth with enough hits based channels targeted to the mainstream

➔ **Connecting to Music Enthusiasts through Innovative Programming and Exclusive, Original Series:**



**THEN...AGAIN...LIVE!**

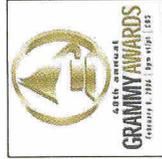
➔ **XM Artist Family – The Most Respected Names in Music**

- Quincy Jones, Wynton Marsalis, Tom Petty, Snoop, BB King

➔ **Live 8**



➔ **Strategic Music Partnerships**



**THE BEST PLACE TO FIND GRAMMY AWARDS WINNING ARTISTS BESIDES THE RED CARPET: XM SATELLITE RADIO.**

**XM IS THE PREMIERE SATELLITE RADIO PARTNER OF THE 49th GRAMMY AWARDS**

XM Satellite Radio is the best place to hear the exclusive performances and shows from the XM studios. Now GRAMMY Award-winning artists and ensembles live exclusively, every year—live from the XM Studio. From McCartney to Stevie Nicks, B.B. King to Steely Dan to Ring Starr, XM brings you 22 hours of unrestrained GRAMMY Award coverage and behind-the-scenes with an XM® superstationer. GRAMMY Radio Channel 16 is also your best place to hear the award-winning artists. XM Satellite Radio is the only place to hear the award-winning artists. XM Satellite Radio is the only place to hear the award-winning artists. XM Satellite Radio is the only place to hear the award-winning artists.

**LISTEN LARGE™**

GET XM TODAY. SHOP.XMRADIO.COM

Available at retailers, including: Amazon, Best Buy, CompUSA, Fry's, Home Depot, RadioShack, Sam's Club, Target, Wal-Mart, and more.

## DECADES

Channel #	Show Title	Show Description
	<i>IT - The History of Pop Music</i>	Country legend and Hall of Famer Bill Anderson looks back at definitive moments in country music history. Inside stories from Brenda Lee, Eddy Arnold, Willie Nelson, Dolly Parton, Merle Haggard, and Porter Wagoner.
4	40s	Exclusive XM Channel. <u>D-Day Invasion</u> Re-creation of the radio coverage of the day, V-E Day and V-J Day. <u>Harmony Square</u> An hour of barbershop music. Includes full-fledged newscast for the month & day focused on a year somewhere between 1936 and 1950.
5	50s	<u>Harlem</u> R&B and Early Soul. <u>The Strip</u> The Las Vegas Rat Pack Era. <u>Pink &amp; Black Days</u> Memphis Blues Scene.
6	60s	<u>Wolfman Jack</u> 11pm - 12mid M-F. <u>Sweet 16 Music Machine</u> The 16 songs from this week for a year from 1960 – 1969. 3 times per day M-F. <u>Sonic Sound Salutes</u> Highlights a great Top-40 radio station from back in the 60s.
7	70s	<u>American Top 40 w/ Casey Kasem</u> The original shows without the commercials. Wed. night and 12 noon Saturday. <u>Citizen's Band</u> Listener channel takeover with a list of their favorite songs and shout outs.
8	80s	<u>The Ultimate 80s Personal Playlist</u> Listeners choose what gets played for an hour each weekday morning at 9am Eastern. <u>Channel Takeovers</u> Major 80s artists like Eddie Money, Mike Reno of Loverboy, and Asia come in and take over XM 80s on 8 and play and say what they want. <u>American Top 40 w/ Casey Kasem</u> The original shows without the commercials. Thurs. night and 12 noon Sunday.
9	90s	Exclusive XM Channel.

## COUNTRY

Channel #	Show Title	Show Description
10	<i>Bill Anderson Visits with the Legends</i>	Country legend and Hall of Famer Bill Anderson looks back at definitive moments in country music history. Inside stories from Brenda Lee, Eddy Arnold, Willie Nelson, Dolly Parton, Merle Haggard, and Porter Wagoner.
10	<i>Ranger Doug's "Classic Cowboy Corral"</i>	This one-hour, weekly program is hosted by Riders In The Sky's very own Ranger Doug and features all the great singing cowboys of the silver screen.
12	<i>The X in Texas</i>	The first and third weeks of each month, hear the Armadillo Radio Hour from Threadgill's World HQs in Austin.  The second and fourth weeks of each month, it's Jack Ingram's Real American Music Hour! X Country XM Channel 12.
12	<i>Smoke Stack</i>	The Southern Boogie Show hosted by the band Blackfoot. Four hours of new and old Southern Rock and Rockin' Country from legends like Lynyrd Skynyrd, The Allman Brothers, and the Charlie Daniels Band.
13, 10	<i>Highway 16 Driver's Ed</i>	Get to know the Rookie Drivers on Highway 16 as we introduce you to the new talent coming out of Music City and put them to the ultimate test - a live performance!
13	<i>Willie Nelson's "Western Express"</i>	Willie Nelson is the proprietor of Willie's Place, a place where the honky tonk never closes. There's a cast of characters and the sounds of traditional country from the 50s and 60s.
14	<i>The "Studio Special" Series</i>	Ride the train that brings you exclusive, live performances from XM's Nashville studio each week. This is where you really get to know the people who make the music, as they share their lives and careers with XM's Kyle Cantrell and share their music with you.
14	<i>Grassroots</i>	It's two hours of the history of bluegrass, told through the music of the legends: Bill Monroe, Flatt & Scruggs, the Stanley Brothers, Reno & Smiley, the Country Gentlemen, Jim & Jesse, the Seldom Scene. . . they're all here, every week on Bluegrass Junction XM Channel 14.

15

*The Village*

Songs to Hang from Stars Folk music has been on a long journey over the years. The Village lives the entire history of folk music, but do you want to know what's new? Mary Sue Twohy is an award-winning folk singer/songwriter, and every week explores contemporary folk music on the Village.

Christine Lavin Show Christine Lavin is a New York City-based singer/songwriter who founded the Four Bitchin' Babes - she is very popular across the United States and has a one-of-a-kind sense of humor.

John McEuen's Acoustic Traveler The founder of the Nitty Gritty Dirt Band guides us through the cross-pollination between acoustic folk and pop music. Armed with his trusty guitar, John shares behind-the-scenes stories from his tours and brings a breadth of music history knowledge to his show from his recording studio in California.

## POP & HITS

Channel #	Show Title	Show Description
27	<i>The Big Score</i>	A movie score aficionado's paradise. Two hours of some of the best score music ever recorded for celluloid. From classic composers such as Max Steiner and Bernard Herrmann to modern day composers such as John Williams, Thomas Newman and Danny Elfman.
27	<i>PopFlix</i>	A look into the world of movies, presented in Cinemagic Segment form (clips and music), via the source/pop music that is featured in each film. From <i>Ferris Bueller's Day Off</i> to <i>Saturday Night Fever</i> , PopFlix is your soundtrack to the movies.
27	<i>Reel Time</i>	An hour long interview show that looks at the world of movies from those that make them. From composers such as Howard Shore and Mark Isham, to directors such as Ridley Scott and Spike Lee, we talk to the people that influence the industry.
27	<i>Hi-Fi/Sci-Fi</i>	Enter the world of Hi-Fi/Sci-Fi. . . Cinemagic's look into the world of horror and science fiction movies by featuring clips and music from specific movies as well as updating what is going on in the world of horror and science fiction films.
28	<i>Talkback</i>	For the first time from a Broadway theater, following a performance of a show, the stars and creative team of the show answer questions from the audience and XM-28 On Broadway host John von Soosten and Roundabout Theatre Company's education dramaturge Ted Sod. And you get to eavesdrop on the conversation.
28	<i>Downstage Center</i>	Downstage Center is a weekly theatrical interview show, featuring the top artists working in theatre both on and Off-Broadway and around the country and abroad. XM-28 On Broadway host John von Soosten and Howard Sherman, Executive Director of the American Theatre Wing, have welcomed guests including actors Angela Lansbury, Bernadette Peters, Matthew Broderick, Joel Grey, Brian Stokes Mitchell, Sutton Foster, Audra McDonald, John Lithgow; composers and/or lyricists Jerry Herman, Charles Strouse, Tom Jones; directors Susan Stroman, Kathleen Marshall, Des McAnuff, Doug Hughes; and playwrights A.R. Gurney, Paula Vogel and Alan Ayckbourn.

28	<i>On the Aisle</i>	Host Bill Rudman combines succinct commentary, historical information and showtunes in a lively hour on a different theme each week.
28	<i>John's Understudy</i>	When XM-28 On Broadway host John von Soosten takes a day off, his "understudy" fills in. Past understudies have included Broadway stars Sutton Foster, Patrick Cassidy, Victoria Clark, Matthew Morrison and Maureen McGovern.

## CHRISTIAN

Channel #	Show Title	Show Description
33	<i>Ole School (Gospel Classics)</i>	This one hour show takes the fans back down memory lane. Songs from legends like Sam Cooke and The Soul Stirrers, Mahalia Jackson, Aretha Franklin, and Rev. James Cleveland. This is a request show where listeners can call in or email their favorites.
33	<i>Spirit Weekends</i>	<p>On The Spirit our weekends begin Thursday and continue through Sunday and every weekend is special. Here is a sample of the weekends:</p> <ul style="list-style-type: none"> <li>• 70's Weekend—music from the 70's with artists like Shirley Caesar, Walter Hawkins, Edwin Hawkins, etc.</li> <li>• 80's Weekend—music from the 80's with artists like The Winans, Commissioned, Albertina Walker, etc.</li> <li>• 90's Weekend—music from the 90's with artists like Rev. James Cleveland, Kirk Franklin, Yolanda Adams, etc.</li> <li>• Sisters in The Spirit Weekend—spotlights the divas in Gospel—Shirley Caesar, Yolanda Adams, Albertina Walker, etc.</li> <li>• Gentlemen Of Soul Weekend—highlighting the brothers in Gospel like Daryl Coley, John P. Kee, Kirk Franklin, etc.</li> <li>• Classic Gospel Weekend—Songs our fans haven't heard in years.</li> <li>• Spoken Word Weekend—Preaching, Teaching, &amp; Testimonies—The Word in Song.</li> <li>• The Singing Preachers Weekend—Huge artists from the Pulpit like Bishop T.D. Jakes, Bishop Paul Morton, etc.</li> <li>• Travelin' Weekend—The Spirit goes from Chicago Mass to Mississippi Mass to Georgia Mass and all stops in between.</li> </ul>

## ROCK

Channel #	Show Title	Show Description
40	<i>Deep Tracks</i>	<p><u>The King Biscuit Flower Hour</u> These are the original shows that ran on Album Rock stations all over the country during the 70s and 80s . . .some of the greatest rock and roll bands captured live.</p> <p><u>Theme Time Radio Hour</u> With music hand-selected from his personal collection, Bob Dylan takes you to places only he can. Listen as Bob Dylan weaves his own brand of radio with special themes, listener emails and a little help from his friends.</p>
41	<i>The Rock of Jericho</i>	WWE Superstar & Fozzy lead singer Chris Jericho is a walking hard rock encyclopedia. He plays 2 hours of his favorite songs each Sunday.
43	<i>Regular Shows</i>	<p><u>Absolute Zero featuring Billy Zero</u> Monday through Saturday mornings beginning at 5am west, 8am east.</p> <p><u>The After School Special with Tobi</u> Monday through Friday afternoons beginning 1pm west, 4pm east.</p>
43	<i>Special Features</i>	<u>The Radar Report</u> The most notable unsigned and indie music is on XMU every Thursday, 6pm west, 9pm east.

1. XMU will be going to CMJ Music Marathon on November 1st, broadcasting live from our New York studios.
2. XMU will be recording another *Live From The Knitting Factory* set on the Monday following CMJ in New York.
3. XMU will re-cast the ACL music festival in November.
4. XMU will be an anchor channel for the movie *Before The Music Dies* and will handle much of the work to get this plugged-in across the network.
5. XMU will have "XM Mew Day" on November 11<sup>th</sup>. The band Mew will take over the channel with their music, including a live set and acoustic set recorded at XM and a Campus Revolt.
6. The Blue Man Group Scattercast will be November 14th for our 5 year anniversary. We will be playing some of the best live performances we've collected since the beginning.
7. In December we will launch the first Student Exchange program special.  
12 hours, 12 different people XM and outside XM that will host an hour of songs they pick, and each person will get one hour. The goal is to do one per semester, maybe more.

44	<i>Weekly Features</i>	<p>Tuesdays @ 4am, 12noon, 11pm ET</p> <p><u>Tsunami</u></p> <p>Lambert goes into Fred's archives for an hour of New Wave sounds from the 70s and 80s. Artists include The Soft Boys, Psychedelic Furs, The Go-Betweens, O.M.D., The Nerves, Haircut 100, The Cars, The Only Ones, and the English Beat. Tuesdays @ 4am, 12noon, 11pm ET</p> <p><u>Surface Noise</u></p> <p>Bill Kates hosting an hour going deep into the archives of Fred's music collection, often including an eclectic mix of artist interviews, performances and insane takeovers of Fred's studios. Past visitors include David Byrne, Gary Numan, Erasure, The Alarm, and World Party. Wednesdays @ 4am, 12noon, 11pm ET</p> <p><u>One Revolution (Around The Sun)</u></p> <p>Bachmann takes you on a one-hour flashback, featuring the music, news and events of a featured year in Fred's era each week. Thursdays @ 4am, 12noon, 11pm ET</p>
44	<i>Specialty Features</i>	<p>These can vary year to year, except for one, major, on-going feature on Fred that tends to be Fred's most popular:</p> <p><u>The Fred Essentials</u></p> <p>The massive countdown of 2,044 of Fred's most essential songs each year. This year was "Version 6."</p> <p>First Run: Leading up to Memorial Day</p> <p>Second Run: Leading up to Labor Day</p> <p>Final Run: Between Christmas and New Years Day</p> <p>Some of the Special Features on Fred thus far in 2006 include:</p> <ul style="list-style-type: none"> <li>• <u>Fred's 44 Artist Boxset</u></li> <li>• <u>Ten Revolutions Around The Sun</u></li> <li>• <u>Club Retro Summer Party</u></li> </ul>
45	<i>XM Café Live</i>	<p>Your chance to enjoy XM Cafe artists in a concert setting! You're in the front row for the XM Café's biggest names including Dave Matthews Band, Tori Amos, The Police, Sheryl Crow, Sting, Suzanne Vega, Crowded House and Shawn Colvin. Hosted by Brian Chamberlain.</p>

45	<i>Song Stories with Graham Nash</i>	The legendary Graham Nash hosts as some of the greatest singers and songwriters of all time reveal the ingenious process behind creating truly classic songs. Hear the stories behind the songs on SongStories, a half-hour, bi-weekly show.
46	<i>Top Tracks</i>	<p><u>Live Tracks</u> Weekend or Holiday feature playing an hourly set of in concert recordings from Top Tracks artists. The material featured is from the artists' live album releases.</p> <p><u>Top 46 Albums</u> Weekend or Holiday feature playing several song sets of Top Tracks most important albums such as Dark Side of the Moon, Hotel California, Led Zeppelin IV, etc. in countdown fashion.</p> <p><u>Concert Soundcheck</u> XM 46 features an extended set of a major Top Tracks artist prior to their live concert appearance in major markets across America. The sets are programmed approximately 6:30 PM local concert time. Artist featured: Rolling Stones in Chicago, The Who in Seattle, Eric Clapton in Washington, D.C., Roger Waters (Pink Floyd) in Phoenix, etc.</p>
47	<i>Pandemic</i>	The New Alternative First! Listen to this weekly show hosted by music guru and industry insider: Stabwalt. He digs deep in the scene to find the best new bands before anyone else has even heard of them! Listen to cutting edge new alternative months before the CD has even been pressed . . . Pandemic on Ethel.
47	<i>Mix Show</i>	Rock by day . . . but we dance at night! We take out the turn tables every Saturday night and start spinning records from our huge library of vinyl. Expect to hear remixes by The Strokes, Bloc Party, Shiny Toy Guns, The Rapture, Blur, Gorillaz, as well as music by The Chemical Brothers, Hot Chip, Fatboy Slim, and many more! It's Ethel's Alternative Dance Party!
47	<i>Flannel Hour</i>	Grunge music (sometimes also referred to as the Seattle Sound) is a genre of alternative rock inspired by hardcore punk, heavy metal, and indie rock. Ethel pauses for an hour once a week to re-live the late 80s/early 90s Seattle Grunge scene. Expect the unexpected . . . we'll play rare Nirvana tracks, MXPX, The Gits, The Melvins & many more! We keep grunge alive . . . on Ethel.
48	<i>Big Uns</i>	The biggest songs of the week on Squizz are featured each Saturday at 3PM ET/Noon Pacific. An encore is aired on Sunday at Noon ET/ 9 AM PT.

48	<i>Nation Penetration</i>	Squizz features songs from a brand new CD every hour on the day of its release.
48	<i>Seizure</i>	A band takes control of Squizz for about an hour, playing and saying whatever they want.
48	<i>Bodhi's Sic 360 &amp; Grant's Random Selection</i>	Both daily features that allow the jocks to pick a song and let the audience give feedback.
48	<i>Squizz Intel</i>	This is recurring segment where Squizz bands give background, or intelligence, on their music.
48	<i>The Largest Krip of Korn Ever Heard</i>	Every 4 <sup>th</sup> of July, Squizz pays tribute to one of our biggest bands, Korn.
48	<i>Zombie Hell</i>	This is an annual Halloween show featuring the music of Rob Zombie, along with interview clips of Rob Zombie talking about his music, and various movie projects, which are mostly horror-based.
48	<i>Sqwazz, The Year That Was</i>	This is an annual look back at the year in Squizz music, airing at the end of the year.
50	<i>From the Living Room to The Loft</i>	Don't get off that couch! Direct from New York's Lower East Side, it's an hour-long, bi-weekly show, featuring performances and interviews with Lofty singer-songwriters (both familiar and new), all recorded live at The Living Room . . . exclusively for The Loft - XM 50.
50	<i>Mixed Bag Radio</i>	A 60-minute weekly show featuring radio legend Pete Fornatale, who interviews the most influential musicians of our time and showcases live in-studio performances. Pete's guests run the musical gamut: rock, folk, jazz, pop, legends, heritage artists, newcomers . . . truly a Mixed Bag.
50	<i>The Loft Sessions</i>	Ditch your shoes, grab a bean bag and join us for the Loft Sessions . . . where we invite our favorite artists up to the Loft and ask them to create their ideal intimate musical session, especially for you. And as always at the Loft, the music is paramount, so you'll hear everything from hit gems to adventurous covers - even the occasional choice insight - all at each artist's discretion. The Loft Sessions. Meet the artists as they are.
53	<i>Rancid Radio</i>	It's the show hosted by the guys in Rancid! They're the DJ's, they pick the tunes, they play the tunes, they book the guests, they interview the guests, they answer the mail and do everything else for the show. Tons of unsigned and indie artists. This could be the best hour of radio you ever hear.

53	<i>Hee Haw Hell</i>	Psychobilly & cowpunk music. Dash Rip Rock, Reverend Horton Heat, Nekromantix, Tiger Army and tons more. You also get founders of the genre like Eddie Cochran and Robert Gordon.
53	<i>Duped</i>	Punk and ska covers. Some of them are great, brilliant and wonderful. Some of them are not. A glorious musical car wreck of cover song sickness.
53	<i>Slam A Lot</i>	The magical kingdom of hardcore. Catch bands like Hatebreed, Sick of It All, Strung Out and dozens of others!
53	<i>Skantorreha</i>	We play ska throughout the day on Fungus 53 but put it together in concentrated doses for Skantorreha. Along with groups like Less Than Jake, Reel Big Fish, Big D & the Kids Table and Pietasters we throw in old stalwarts of the genre like The Specials, Selecter and The Skatalites.
53	<i>Kowabunga Uber Alles</i>	Fungus style surf music. Hear punk bands doing surf songs mixed with old school surf music by artists like Dick Dale, Silly Surfers, The Ventures and Link Wray.
53	<i>Oi!sters</i>	Two hours of the best Oi! music ever heard by man or beast. Peter & the Test Tube Babies, UK Subs, Anti Nowhere League and all the other great Oi! bands of the ages.
53	<i>Kingdom of Swine</i>	A three hour musical excursion to the happy land of Industrial music. NIN, Revolting Cocks, Ministry, KMFDM, God Lives Underwater, Machines of Loving Grace and others are mixed with artists like The Residents into a cheery audioscape guaranteed to send you into a downward spiral of mental decay. Don't listen after a break up.
53	<i>Complete Control Radio</i>	Punk legend Joe Sib joins the Fungus 53 lineup with his weekly, one hour show. He delves into his incredible punk library and chats up a Who's Who of music each week from his home base in Los Angeles. Sunday Night at 12 Midnight with replays Tuesday 3 PM and Friday 9 AM. All times Eastern.
53	<i>The AP Show</i>	Since its debut as a photocopied fanzine, Alternative Press has become one of the most respected and admired publications on the planet. AP now presents "Alternative Press Radio" exclusively on XM's Fungus 53. Join them each for a behind the scenes look at all that is new and true in the world of rock.

## HIP HOP & URBAN

Channel #	Show Title	Show Description
62	<i>After Hours "The Adult Playground"</i>	The slow jam show with an erotic edge. Su-Th Midnight east / 9PM west.
62	<i>The Ultimate Slow Jam Tape Extended Play</i>	Extended version of Cayman's Wednesday afternoon feature. 10PM East.
62	<i>Music Honors</i>	We pay tribute to the accomplishments of R&B singers, song writers & producers. Recurring 1x per month.
62	<i>Dinner and a Show</i>	Live R&B performances from the XM Performance Theater. Recurring 1x per month.
62	<i>Suite Talk</i>	Hosted by Cayman Kelly: interviews with some of your favorite artists.
62	<i>Release</i>	Artist walks listeners through newly released CD track by track talking about the songs making CD.
64	<i>From Be Bop to Hip Hop</i>	Chronicle of Quincy Jones career 1940's through Present. 6 one-hour shows.
64	<i>RNBQ</i>	The History of Rhythm & Blues as told by Quincy Jones. 6 one-hour shows.
64	<i>Hot Buttered Soul</i>	Nightly slow jams from the 70's and early 80's.
65	<i>Snoop Dogg "Welcome to Da Chuuch"</i>	Every week, step into Snoop's world, as one of hip-hop most prolific and outspoken legends opens up the doors of his "Chuuch", with humor, insight, and the best old school jams...fa schizzle! Fridays at 11pm EST.
65	<i>The III Out Show with Prince Paul</i>	One of the most respected producers in the hip-hop game, Prince Paul brings his keen sense of old school shenanigans to the Rhyme, every Monday at 11p EST.
65	<i>Spitkicker Radio</i>	Your Spitkicker hosts take you on a musical journey each week, with the likes of De La Soul, A Tribe Called Quest, and many more! Saturdays at 6pm EST.
66	<i>DTP Presents Open Mic w/Ludacris</i>	Weekly show of exclusive music from Ludacris, his DTP artist and others. Funny skits, color commentary, etc. Hosted by Ludacris, Poon Daddy & Juicy, Saturdays 6 & 10PM EST.
66	<i>Chamilitary Radio w/Chamillonaire</i>	Weekly show spotlighting Chamillonaire's favorite hip hop records as well as some exclusive music. Hosted by Chamillonaire and DJ Ebonix, Fridays 6 & 9PM EST.

66	<i>Behind the Beats</i>	Feature spotlighting the artists' life up close and personal, previewing new music from their upcoming projects in front of a studio audience in our Performance Theatre.
67	<i>From Scratch</i>	We take you on a journey through the lives of some of the biggest artists in hip hop and r&b. Infusing the art of scratching throughout the ride, each artists tells their life story in their words and music from scratch.
67	<i>Product and the Power</i>	Hosted by DJ Nabs. With one ear to the streets and a foot in the boardroom, join DJ Nabs in The Lab every Sunday live from Atlanta. Nabs brings the Product with all the hottest artists and celeb's in The City and he'll expose you to the Power, the most influential people that you may not know in the hip hop world. Plus Nabs welcomes the Def DJ Squad in the Lab each week.
67	<i>Celebnick Picnic-Memorial Day Weekend</i>	Get inside the City for this annual celebration to kick off to "Summer in the City." Last year, we barbequed with the best of them! Busta Rhymes, T-Pain, Letoya and Jagged Edge were just a few that hung out in The City Memorial Day Weekend. We'll take this party to the next level, as we get ready for the CP2007.
67	<i>Penthouse Special</i>	Hang with Lisa aka Sexy Chocolate and some of her favorite celebs. She'll serve up their favorite dish as long as they give up all the dirt! Everyone doesn't make it up to the Penthouse, so if Lisa lets them in, you know it's serious. Celeb's that hang in the Penthouse-Mariah Carey, Jermaine Dupri, Beenie Man, Mary J. Blige, John Legend and more!
67	<i>City Sessions</i>	Catch live performances inside The City from some of the freshest artists in town. Past performances include Chris Brown, Beenie Man, Floetry, Dwele, 112.
67	<i>What Was Really Good?</i>	Join The City's entertainment reporter, Tiff Square, every Sunday for the weekly download of the biggest news and gossip that you might have missed during the week.

## JAZZ & BLUES

Channel #	Show Title	Show Description
70	<i>American Jazz</i>	Dick Golden and special guest Tony Bennett open up the Great American Song Book for two hours of swingin' classic jazz and vocals
70	<i>Ben Sidran On the Record</i>	Ben Sidran presents a program of classic interviews with artists like Miles Davis, Herbie Hancock and Sonny Rollins.
70	<i>In the Swing Seat with Wynton Marsalis</i>	America's Jazz Ambassador takes on a journey into the world of jazz exploring the genius of artists like John Coltrane, Louis Armstrong, Duke Ellington and Thelonious Monk. We learn how to identify artists by their playing styles, we learn the connection between jazz and other art forms and we hear from people who are playing and make new music when artists stop by the studio to play and discuss their music.
70	<i>Manteca</i>	3 hours of sizzling Latin Jazz with artists like Dizzy Gillespie, Tito Puente, Eddie Palmieri, Cal Tjader, Paquito D'Rivera, Chucho Valdes and Moacir Santos
70	<i>Maxx Myrick</i>	Live from the XM studios at Jazz at Lincoln Center's House of Swing in New York City
70	<i>Night Moods</i>	Based on the feeling of artist, composer and genius Thelonious Monks classic 'Round Midnight. Night Moods is 4 hours of elegant, sensual and romantic jazz music for whatever "mood" you're in.
70	<i>Organized</i>	One hour of cooking Hammond B3 music with artists like Jimmy Smith, Jack McDuff, Shirley Scott, Joey DeFrancesco, Dr. Lonnie Smith.
70	<i>Real Jazz Live</i>	Live concerts from Jazz At Lincoln Center's "House Of Swing," Dizzy's Club Coca Cola and classic concerts recorded live.
70	<i>Swing Street</i>	Three hours of swingin' music featuring big bands and orchestras from yesterday and today
70	<i>The French Quarter</i>	A rollicking journey through the soul of New Orleans with three hours of traditional New Orleans jazz music.

71	<i>The Gallery</i>	Lily is your curator for The Gallery. She swings the doors wide open for an audio exhibit of our favorite new C-Jazz songs on Watercolors for the week. The exhibits are subject to change - or not change - as determined by the Watercolors staff. Music and art lovers converge weekly for this tasteful and timely aural presentation.
72	<i>Email Reply Hour</i>	Every Sunday it's the EMAIL REPLY HOUR from 6-7 PM ET (3-4 PM PT), Russ Davis spends an hour responding to email messages by playing requested songs, answering listener questions and reading listener comments that have been emailed to him at <a href="mailto:beyondjazz@xmradio.com">beyondjazz@xmradio.com</a> .
72	<i>If It's Friday, This Must Be Fusion</i>	It's a Beyond Jazz exclusive feature that focuses on the moment in jazz history when the music became electric and all the musical influences of the world blended with jazz to create the Fusion Era. Beginning at 7AM ET and running each hour until Midnight ET you'll hear a classic fusion nugget and get the stories behind this controversial idiom. Some say Fusion ruined jazz, others say it saved the music. Listen and make up your own mind. If It's Friday, This Must Be Fusion on XM 72, Beyond Jazz.
72	<i>Jammin Jazz</i>	Jazz For The New Generation. Hosted by Michelle Sammartino. What's it all about? Well here's how Michelle describes what you'll hear on the show: Anything with that "jam-band" jazz, acid jazz, brass band, swamp boogie, funk influenced, booty-movin' feel that ya just can't hear anywhere else. You'll hear bands that range from New Orleans' Bonerama, Johnny Sketch and the Dirty Notes, Galactic, and Robert Walter, to NY's Medeski Martin & Wood, Garage A Trois, Charlie Hunter, The Benevento-Russo Duo, Antibalas, New England's Jazz Mandolin Project, Soulive, San Francisco's Will Bernard, Garaj Mahal, Bill Frisell, Lonnie Smith, the UK's Up Bustle and Out, Brand New Heavies, Courtney Pine and more!

72	<i>Live @ BJ's</i>	Every Wednesday night at 8 PM Pacific/11 PM Eastern and Sunday night at 5 PM Pacific/8 PM Eastern, spend an hour in the world's only imaginary modern jazz club, BJ's, for rare live performances by the biggest stars of Modern Jazz. You'll hear music you can't hear anywhere but on XM, recorded live at our Performance Studio One, from the legendary BBC archives, and rare performances recorded in clubs and concert halls around the world. Plus you'll meet the characters that inhabit BJ's and probably become a regular yourself.
72	<i>Words &amp; Music</i>	Conversations with the most influential artists in modern jazz including Chick Corea, Herbie Hancock, Pat Metheny, John Scofield, Bobby McFerrin and Dianne Reeves.
72	<i>Monday with the Masters</i>	On Mondays we present the special feature... Monday With The Masters on Beyond Jazz featuring an hour of the classic music by one of the masters of modern jazz. It's the music of the artist interspersed with some of their own words as they tell the stories that shed light on their legendary career. Listen Monday at Noon ET/9AM PT, with a reply Monday night at 11PM ET/8PM PT.
72	<i>Premier Sunday</i>	On Sunday evenings we present the last of our Sunday Specials by playing cuts from the newest releases of the week on a special feature we call Premier Sunday on Beyond Jazz. Cuts from the new releases begin the hour, each hour from 9 PM to Midnight. Beyond Jazz listeners want the new music and we give it to them on Premier Sunday.
73	<i>Jonathan Schwartz on XM</i>	Jonathan Schwartz, "the Dean of American Pop Standards," brings to XM his encyclopedic knowledge and 30 years of experience as an anchor personality.
74	<i>Friday Jook Joint</i>	For the first time ever a nationwide all request blues show. You say it and we play it for four solid hours. But make sure the request is a blue one.
74	<i>Song Cycle</i>	Each week, we pick one song and play as many different versions as we can find of that song that have something to do with the blues!
74	<i>Stone Blue</i>	Aaron Lee moves to the outskirts of Bluesville to spin Rockin' Blues. These ain't your mother's blues. These tunes are loud, rocking and in your face. Dave Hole, Gary Moore, Tab Benoit, Tinsley Ellis and Walter Trout are all regulars in Stone Blue. Not for the faint-hearted.

74	<i>The Front Porch</i>	If acoustic blues is your cup of tea then "The Front Porch" is for you! XM 74 plays an hour of all non-electric blues including the forefathers and foremothers, as well as the contemporary players
74	<i>Rack of Blues</i>	A countdown of our weekly "Picks to Click." The newest blues platters from number 15 to number 1, in order and uninterrupted.

## DANCE

Channel #	Show Title	Show Description
81	<i>BPM</i>	<p>Hop aboard the BPM party plane as the resident BPM DJs help you dance across America. Every week, we touch down in a different city from New York to San Francisco. Just remember, there are no rules on Air 81.</p> <p>Junior's World with BPM resident DJ Junior Vasquez Join legendary new York DJ Junior Vasquez as he takes you on a trip around the world of dance music. Junior's World - - only on XM81 BPM. Saturday nights 11p east, 8 west.</p> <p>Matt Darey presents nocturnal. Saturday nights 8p east, 5 west. Join international superstar DJ Matt Darey from London England as he takes you on a journey into the future.</p>
	<i>Louie Vega</i>	<p>Grammy award winner in 2006. New York legend packs them in at his weekly residency Roots. Live recording, crowd cheers. Plays to house loving crowds worldwide. Aside from his production work, Vega dedicates two-thirds of every year to a rigorous DJ schedule, which finds him playing to thousands of people around the globe, in clubs from Mykonos to Johannesburg.</p>
	<i>Carl Cox</i>	<p>So much has been said about one of the greatest DJs in the world. Carl Cox has excelled as a producer, artist, remixer, radio DJ, businessman, and ambassador for dance music. In the UK he is a full-blown 'Pop Star.' As anyone who has met him will attest, Carl Cox is the living embodiment of the perfect gentlemen, the DJ diplomat and progressive music pioneer. Launching late Oct., Fridays 9:00pm ET</p>
	<i>John Digweed</i>	<p>While lesser DJs bow to the whims of clubland fad and fashion, Digweed continues to stand as a reliable, steadfast pillar of dance floor excellence. His resume of accomplishments makes his protégés swoon and his contemporaries nervous. He was the first U.K. DJ (with Sasha) to hold a club residency in the U.S. He's consistently voted one of the top 10 international DJs in prestigious club culture publications such as DJ Magazine and Muzik.</p>

*Pete Tong*

Britain's best-loved dance DJ. He doesn't need an award to prove his popularity and he won't act cool to keep his credibility. The host of Radio 1's ground-breaking Essential Mix show for a staggering eight years, he works within the mainstream, but is respected by the underground. "The Essential Mix" is now the most listened to radio show on the internet attracting a global audience of over 12 million.

## LATIN

Channel #	Show Title	Show Description
90	<i>Reggaeton Channel</i>	This channel can only be found on XM. The only place you will hear Daddy Yankee, Ivy Queen, Tego Claderon, Luny Tunes, Aventura, Hector El Father. Discover all the new Reggaeton songs first on XM.
92	<i>Exclusive Regional Mexican Music Channel</i>	Ramon Ayala, Los Tigres Del Norte, Vicente Fernandez, Jenni Rivera, and all of the regional Mexican artists exclusively on XM.
94	<i>Caliente XM 94</i>	Salsa, Salsa, Salsa with a splash of Merengue and Bachata too! Today's Salsa to the best classic Salsa.

## WORLD

Channel # :	Show Title	Show Description
101	<i>Jamaica Talkin'</i>	Reports directly from the Island, Dennis Howard brings you the complete info on what's hot this minute in the Jamaican music scene.
101	<i>Dubwise</i>	Every night your Joint host and Reggae scholar Dermot Hussey delves into the history of one of reggae's most popular styles. Dub music is still enormously popular, remixing classic Reggae tracks without the lyrics. Get wise to Dubwise on The Joint.
101	<i>Dancehall Daze</i>	Most of the XM Nation knows the biggest names in Jamaican Dancehall music – Sean Paul, Beenie Man, etc. But there's far more where that came from – get your free-style on nightly and get on the floor, inside The Joint.

## CLASSICAL

Channel #	Show Title	Show Description
110	<i>Steinway's Black and White Blockbusters</i>	A weekly 2-hour journey into the world of piano music – hear legendary pianists and up and coming superstars perform the finest piano music ever written.
110	<i>XM in Concert</i>	XM brings the majesty of the concert hall directly to you, no tickets required. XM is a nationwide home for the likes of American powerhouses: the New York Philharmonic, the Seattle Symphony Orchestra, and the Detroit Symphony Orchestra; and XM spans the globe for the finest orchestras in the world, like the Vienna and Israel Philharmonics. It's all on XM 110.
110	<i>Gramophone Editor's Choice</i>	Want to know what's new in Classical? Every month XM Classics' Martin Goldsmith and Paul Bachmann are joined by the Editor-in-Chief of Gramophone Magazine, James Jolly, for an in-depth examination of the best of the best in new classical CD's: the Top Ten "Editor's Choices."
112	<i>Opera Stage</i>	VOX 112 presents the best opera performances from around the world with operas from Covent Garden, the Vienna State Opera, the Bolshoi, Bologna, Bavaria and Carnegie Hall in New York - and in the 2006-2007 season for the first time, the entire Ring Cycle of Wagner recorded live at the 2006 Bayreuth festival. Opera Stage always features the finest singers of today performing in the same opera houses that have made Opera what it is for centuries.
112	<i>The Big Ticket</i>	It's your daily ticket to bring the Opera to wherever your XM is – VOX's Robert Aubry Davis has one of the largest opera collections in radio history available to the XM Nation, and features daily performances of operas that go well beyond "the top 25." Even if you're a long-time opera fan, you'll find – sometimes familiar and sublime, and sometimes brand new to you – something to love on the Big Ticket.

112	<i>Voices of the Night</i>	Far from only being a home of the Opera, VOX also features the finest variety of Classical Vocal Music across a wide spectrum. For example, Voices of the Night features the most beautiful choral singing on XM every night. VOX also features art songs, lieder, spirituals . . . simply a celebration of the instrument that is the human voice.
113	<i>Pops LP</i>	Even though XM Pops specializes in Classical's Greatest Hits, sometimes it's nice to sit back, relax, and enjoy a complete masterpiece. Enter Pops LP. The Long Play brings you classical music's best known works, presented in their entirety in XM Pops' signature XM HD Surround Sound, complete with a brief introduction by XM's Paul Bachmann.
113	<i>Boundaries</i>	The nation's first show dedicated to what some call "Classical Crossover" music, XM considers Boundaries to be more like "Classical with a twist." A twist of what? You decide – you'll hear anything from Andrea Bocelli to Il Divo, from Bond to Klazz Bros. and Cuba Percussion, to Barbra Streisand and Aretha Franklin singing opera. It's always interesting, and always redefines the boundaries of what's classical.

## XM KIDS

Channel #	Show Title	Show Description
116	<i>HiJinxInc</i>	Now under new management, HiJinxInc is open for business! Weekends on XMKiDS Saturdays from 2-4PM ET/11AM-1PM PT and Sundays at 5PM ET/2PM PT. We manufacture fun at HiJinxInc -- where the future is tomorrow!
116	<i>The XMK Animal Farm</i>	Funny thing about Kenny. He was the last to see what everyone around him knew all along: he was born to do children's broadcasting. In college, when he was looking for sane, respectable work, his roommate sent him to audition for the clown/co-host role on a children's TV show. "You'll be perfect for this," he said. Kenny got the job. Still an undergraduate with serious acting aspirations, Kenny landed a role in a movie for adults called "Cry-Baby." Coincidence? We don't think so.

## COMEDY

Channel #	Show Title	Show Description
151	<i>Stand Up and Sit Down</i>	Sit down interviews and stand up routines with today's biggest names like Bill Cosby, Robert Schimmel, Mitch Hedberg, John Pinette, Brian Regan and many more.
151	<i>New Comic on the Block</i>	Presenting uninterrupted and uncensored concerts by today's hot new up and coming comics.
151	<i>Exclusive Concerts</i>	Recorded for XM Comedy only at some of Comedy's hottest clubs. Including the DC Improv, Atlanta's Punchline, Rascals clubs and many, many more.
151	<i>Chickenman</i>	<p>Chickenman</p> <p>He's Everywhere! He's Everywhere!</p> <p>The caped crusader, winged warrior, and day time shoe salesman better known as Benton Harbor fights "EEEVILLL" in this classic 60s radio series every day on Laugh USA 151. Join our superhero and his secretary Miss Hellfinger as they bring justice (and fun for the whole family) to XM.</p>
151	<i>Comedy Pinata</i>	A weekly program featuring a different special every week like world premiers of new standup CDs, uninterrupted presentations of classic comedy albums from artists like Bob Newhart and Shelly Berman, and special salutes like "The Rednecks of Comedy" and "Laugh USA's funniest females." Interview specials with Jim Gaffigan, Brian Regan, Bill Cosby and many more.

## The Airwaves, They Are A-Changin'

Advertisement

Bob Dylan Signs With XM Satellite Radio to Host a Weekly Show

By Paul Farhi  
Washington Post Staff Writer  
Wednesday, December 14, 2005; A01

Bob Dylan -- singer, songwriter, former counterculture figure and voice of a generation -- has added another line to his rsum: radio DJ.

The enigmatic troubadour has signed on to host a weekly show on XM Satellite Radio, the D.C.-based pay-radio provider. Dylan will select the music, offer commentary, interview guests and answer e-mail from listeners during the one-hour program, which will start in March, XM said yesterday.

Dylan's hiring is not just a coup for XM, which is in a fierce battle for new subscribers with Sirius Satellite Radio, but also another score for satellite radio over conventional broadcasting.

XM and Sirius have been wooing big names and making high-priced sports deals to differentiate their offerings from terrestrial radio, and from each other. Sirius is counting on shock jock Howard Stern, who will move to the service Jan. 9, to help it close the subscriber gap with XM, which boasts more than 5 million customers to Sirius's 2 million.

XM's chief programmer, Lee Abrams, said his company talked with Dylan's management for about two years about the Grammy-winning artist becoming a host. XM declined to say what Dylan would be paid for the multiyear agreement. Howard Stern signed a \$500 million, five-year contract with Sirius.

Abrams said that Dylan was attracted by the promise of a national audience, a commercial-free program and "total creative freedom" to air whatever he likes. Dylan also will broadcast from wherever he wants.

"This will be a peek inside the mind of one of the most important songwriters and poets of the 20th century," Abrams said. "He's a mystery to most people."

Once an almost reclusive figure, Dylan, 64, lately has attained about as much exposure as an Olsen twin. This year he gave his first TV interview in 19 years on "60 Minutes," and was the subject of a Martin Scorsese-directed documentary series on PBS in September. His memoir "Chronicles, Vol. 1" spent 19 weeks on the New York Times bestseller list last year.

He also appeared in, and provided the musical soundtrack for, a Victoria's Secret TV commercial last year. The women's undergarment chain, in turn, sold one of his promo CDs, "Lovesick," in its stores.

For Dylan, the XM deal might represent a way to reach younger music fans and stay "relevant" with those who have followed him for decades, said Tom Taylor, editor of the industry newsletter Inside Radio. "Great artists want to stay in front of their fans and want to be discovered by new generations," he said. "They don't need the money or the other things, but they do want to keep their hand in and stay current."

Dylan, who performs as many as 100 dates a year, is easily the biggest musical name to host his own radio program. Steve Van Zandt, of Bruce Springsteen's E Street Band, hosts a weekly two-hour show, "Little Steven's Underground Garage," that's syndicated to stations across the country (including WARW-FM locally). And XM previously signed programming deals with Tom Petty, Snoop Dogg and Quincy Jones.

Taylor said Dylan has a loyal following but has "never been a huge seller. He's a tastemaker, someone other artists watch." As such, his

hiring "is a niche for XM. It's prestige."

Taylor added: "It's for the older baby-boomer subscriber. A lot of the early adopters [of satellite radio] are baby boomers. This will put an additional name on the marquee. It's an additional reason to subscribe."

XM and Sirius essentially are battling for the same pool of potential customers -- those who like radio enough to pay about \$13 per month and, in many cases, buy a new radio (for about \$50) for scores of channels, which are mostly music and mostly commercial-free. Although XM and Sirius have been growing -- each expects to add hundreds of thousands of subscribers this holiday season -- both have recorded heavy start-up losses. Neither has made a profit since the companies first sold their stock to the public in 1994 and 1999, respectively.

Taylor compares the signings of such big-name talent as Stern and Dylan to the rivalry between the old American Football League and the NFL, which fought each other for the best players in the 1960s. The signings make for great publicity, he said, but in the long run, that might not be enough to sustain both.

"Just like in football," he said, "at some point, do you have a merger and have one satellite service instead of two? Some people think that's eventually what's going to happen."

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## New York Daily News - <http://www.nydailynews.com>

### XM serves up a Bobathon

By DAVID HINCKLEY  
DAILY NEWS STAFF WRITER  
Monday, October 9th, 2006

It's still unclear where satellite radio will finally find its foothold in the avalanche of music and audio programming available these days.

But both XM and Sirius offer some superb programs that won't be heard anywhere on terrestrial radio, and XM will wisely spotlight one of those Wednesday.

To mark the 24th episode of **Bob Dylan's** "Theme Time Radio Hour," XM will run all 24 shows consecutively from midnight to midnight on Ch. 15.

The 24th episode, with the theme of "Time," will also be heard in its regular 10 a.m. Wednesday debut spot on Ch. 40.

"Theme Time Radio Hour" conjures the kind of radio shows Dylan has said he listened to while he was growing up in northern Minnesota - strange and wonderful music from distant places, painting vivid scenes of unexplored worlds.

Dylan talks between records, offering anecdotes about the songs and characters like **Andre Williams**, Howlin' Wolf and the Louvin Brothers who sang them.

The show has a lot of humor, mostly served dry and never at the expense of the music. It's clearly not a joke to Dylan, for instance, that a statue of Western swing pioneer Bob Wills was vandalized.

The music, it's true, may not be for everyone. While Dylan spins a few hits like **Van Morrison's** "Brown-Eyed Girl," he mostly throws curveballs and changeups.

He plays the unexpected because that's the territory he's always roamed - but also because he's challenging the listener.

You may not have heard of The Rev. J.M. Gates or Charlie Patton or Wynonie Harris or even Hank Snow and the Flamingos, he's saying, but you should have. The fact so few other hosts on the radio are playing these foundation artists of American music is precisely the reason he does.

Depending on the theme, the music runs toward vintage blues, R&B and country, sprinkled with Jack Teagarden or **Prince**. So far he's played no Bob Dylan songs.

His themes have been as narrow as "coffee" or "baseball" and as wide as "drinking," "divorce," "dogs," "weather" and "maps," all with flexible borders.

His narrative doesn't give away any of the personal secrets he's always felt are none of our business, but they do confirm he's a big fan of words and the way they sound. He will recite lyrics just to savor them, or tick off synonyms for "jail."

After almost 50 years as a performer he's at ease with a microphone. Some of the material is clearly scripted - papers can at times be heard rustling - but he will also break into an unexpected laugh or exclaim something like "Holy Moley, that's good!" after particular favorites.

With Dylan reportedly signed for a year, both his fans and XM, which says "Theme Time Radio Hour" is one of its most popular shows, hope he will reup.

Whether he does or not, he's shone a light on a lot of great popular music that Americans have too often and quite inexplicably over the years tossed aside.

"Theme Time Radio Hour" reminds us how good much of that music remains. Crackling over the radio, it still opens up whole other worlds.

**WFUV ESSENTIALS:** To liven up pledge week, WFUV (90.7 FM) today starts to reveal the results of its listener-voted poll for "90 Essential Albums."

Winners are likely to include the likes of Dylan, **Bruce Springsteen**, Louis Armstrong and **Lucinda Williams**.

The full list will be rolled out on Friday.

**R&R AWARDS:** Several local stations are winners in the annual Radio & Records magazine awards:

**WRKS** (98.7 FM), top urban adult contemporary station.

**Wendy Williams** of **WBLS** (107.5 FM), urban AC personality.

**Vinny Brown** of **WBLS**, cowinner for urban AC program director.

**WLTW** (106.7 FM), top adult contemporary station.

**Morgan Prue** of **WLTW**, AC music director.

**Scott Shannon** and **Todd Pettengill** of **WPLJ** (95.5 FM), hot adult contemporary personalities.

**Tony Mascaro** of **WPLJ**, hot AC music director.

**Tom Poleman**, senior vice president of programming for Clear Channel New York, top programming

executive.

**Paul (Cubby) Bryant**, now at WKTU (103.5 FM), top-40 music director for his work at WHTZ (100.3 FM).

**AROUND THE DIAL: Rob Miller**, long-time program director of adult contemporary WALK (97.5 FM) on the Island, is now also programming WKTU (103.5 FM)... Former Virginia Gov. **Mark Warner** guests tomorrow morning with **Sam Greenfield** and **Armstrong Williams** on WWRL (1600 AM)... The FCC has slapped a \$10,000 fine on two men it says have run a pirate station at 89.7 FM in New York, **Moises** and **Juan Cabrera**.... With the famous **Zacherle** just having turned 88, radio historian **Herb Hollander** of Queens notes it was 40 years ago that Zach hosted the music show "Disc-O-Teen" on Ch. 47.

## Dylan makes 'Modern' magic at the Forum

BY GLENN WHIPP, Staff Writer  
U-Entertainment

Article Last Updated:10/21/2006 02:05:55 AM PDT

Bob Dylan's Never-Ending Tour touched down in Los Angeles Friday night at the Forum and, judging from the crowd's reaction, most of the those in attendance had been listening to - and loving - Dylan's new album, "Modern Times."

Dylan played four numbers from "Modern Times" in a 16-song set that featured a typical mix of material from the 1960s and his recent artistic renaissance. Hearing the new songs performed live just weeks after the album's release gave the Friday concert a special significance to long-time fans, many of whom made the pilgrimage to Bakersfield earlier in the year to see Dylan. (Dylan will perform again tonight at the Long Beach Arena.)

Dylan recorded "Modern Times" earlier this year with his current touring band, a group that he has played with now since the spring of 2005. Dylan has called the band - which includes bassist Tony Garnier, drummer George Recile, guitarists Stu Kimball and Denny Freeman and jack-of-all trades Donnie Herron - the best band he has ever been in, "man for man."

That may strike some as hyperbole, given Dylan's prior association with the Hawks, but the current lineup made a pretty solid case Friday, continuing to evolve and tighten as a blistering performing unit. The difference in "It's Alright Ma (I'm Only Bleeding)" from Bakersfield to Inglewood was pronounced, and the group handled the new songs with considerable finesse. Opening the encore with "Thunder On the Mountain" is a stroke of genius, reinvigorating the night's last leg.

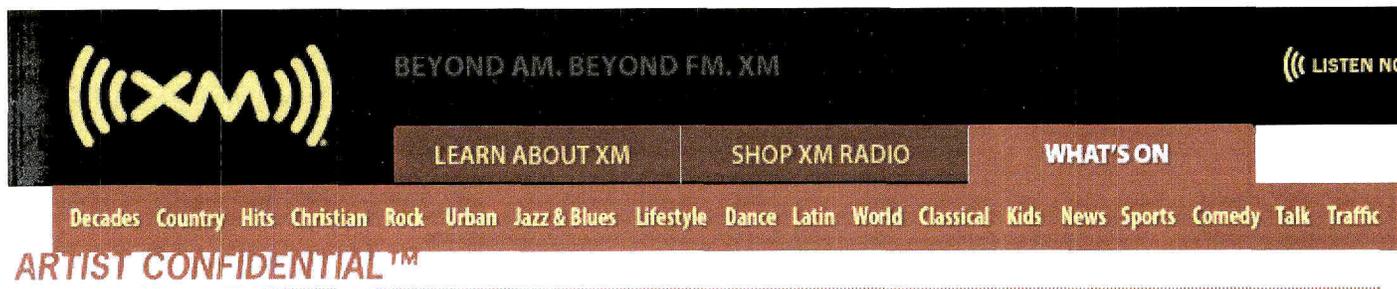
Dylan celebrated his 65th birthday in May, but you'd never know it from the energy radiating off him on stage. Leading the band from the behind the keyboard, Dylan bobbed and weaved, grooved and gyrated, singing with a power and expressiveness that just continues to deepen with age. His reading of his 1963 anti-war song "John Brown" managed to be both biting and heartbreaking, a musical companion piece to Clint Eastwood's just-released "Flags of Our Fathers."

Both "John Brown" and "Flags" focus on breaking down war-related mythology. Dylan, however, only continues to add to his own legend - but here's the rub. Everything Dylan does these days - performing, recording, writing, working as a DJ on his wonderfully entertaining "Theme Time Radio Hour" on XM Radio - is rooted in an excellence that you can feel with every fiber of your being. No tall tales here. (Well, maybe in "Chronicles," but that was part of the fun.) For Dylan, modern times have never been better.

Glenn Whipp, (818) 713-3672 [glenn.whipp@dailynews.com](mailto:glenn.whipp@dailynews.com)

## Artist Confidential - Broadcast Schedule to Date

Show Number	Artist	Original Premiere Air Date
1	Bonnie Raitt	9/12/2004
2	Bob Weir	9/26/2004
3	Rush	10/10/2004
4	Don Henley	10/24/2004
5	Emmy Lou Harris	11/14/2004
6	Arif Mardin (Perf. By Raul Midon)	11/28/2004
7	Neil Sedaka	12/12/2004
8	Bruce Hornsby	12/26/2004
9	Ani DiFranco	1/17/2005
10	Lenny Kravitz	2/7/2005
11	Al Jarreau	2/14/2005
12	Wynton Marsalis	2/21/2005
13	Lamont Dozier	2/28/2005
14	Phil Collins	3/7/2005
15	Judy Collins	3/21/2005
16	Randy Newman	4/4/2005
17	Brian Wilson	4/18/2005
18	George Winston	5/9/2005
19	Robert Plant	5/23/2005
20	Coldplay	6/13/2005
21	Hall & Oates	6/27/2005
22	Willie Nelson	7/11/2005
23	Loggins & Messina	7/25/2005
24	Def Leppard	10/3/2005
25	Tori Amos	10/17/2005
26	Herbie Hancock	11/7/2005
27	Clint Black	11/21/2005
28	Paul McCartney	11/21/2005
29	Santana	12/5/2005
30	Mannheim Steamroller	12/19/2005
31	Cyndi Lauper	1/16/2006
32	Rosanne Cash	1/23/2006
33	Tracy Chapman	2/6/2006
34	Odetta	2/20/2006
35	Joan Baez	3/6/2006
36	Andrea Bocelli	4/17/2006
37	Trey Anastasio	5/1/2006
38	Alan Parsons (5.1 Surround)	5/15/2006
39	David Gilmour	6/5/2006
40	Dixie Chicks	6/19/2006
41	Doobie Brothers	7/3/2006
42	INXS	7/24/2006
43	Pretenders	8/7/2006
44	Stephen Stills	8/14/2006
45	Pink	Aug-06
46	Gamble & Huff	Aug-06
47	Amy Grant	Aug-06
48	Ludacris	9/15/2006
49	Sting	10/9/2006
50	Chicago	Aug-06



**XM Exclusive Music Series:**

- **Artist Confidential™**
- **Then...Again...Live!™**
- **Artist 2 Artist**
- **The Complete Series**
- **Classical Confidential**
- **Offstage**
- **Theme Time Radio Hour with Your Host Bob Dylan**
- **Tom Petty's Buried Treasure**
- **Welcome to da Chuuch with Big Snoop Dogg**
- **Disturbing Tha Peace Presents Ludacris' Open Mic**
- **Dunk Rider Radio with Trick Daddy**

**Network Live Series:**

- **Mainstage**
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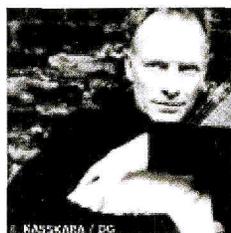
**Artist Confidential™**  
Music & Conversation... Up Close & Personal

Spotlighting one artist per episode, XM's George Taylor Morris sits down with music's most fascinating personalities for revealing and candid one-on-one interviews. This intimate conversational forum unfolds before an audience of fans and friends in XM's Performance Theater.

In addition to hearing music legends offer insights into their life, art, and the creative process, listeners experience XM-exclusive musical performances that are part of every episode. From Rush sharing an adventurous personal journey to Neil Sedaka recounting the dawn of rock 'n' roll first-hand, many unheard tales are told.

**About the Host**

George Taylor Morris is one of the most passionate and experienced music interviewers on the planet with vast experience and a deep and personal understanding of how musicians think. When Artist Confidential™ was launched, there was little doubt that George Taylor Morris simply had to be the host. His casual but studied manner *literally defines the show*, and his rapport with artists is beyond reproach as artists from Coldplay to McCartney have commented on the positive experience of XM's Artist Confidential™. Whether it's Wynton Marsalis or Def Leppard, George Taylor Morris has the knowledge and vibe to engage the artists and audience that make Artist Confidential™ a premiere XM presentation.



**Sting**

**Monday, October 16 at Noon ET**

This autumn Sting ventures into new musical territory...and by "new" we mean old music.... The new album, *Songs from the Labyrinth*, features the music of the Elizabethan songwriter, John Dowland (1563-1626). Sting is joined on this recording by acclaimed lutenist Edin Karamazov, in what Sting describes as 'a soundtrack to Dowland's life in words and music'. Songs from this remarkable CD will be performed live in a rare performance at XM's Artist Confidential, featuring an interview with XM's Paul Bachmann and questions from the fans, from the stunning Allen Room at Jazz at Lincoln Center in New York. Plus, you'll hear some classic songs like "Fields of Gold," "Message In A Bottle," & a special Blues song by Robert Johnson. Another unique presentation of the XM Exclusive Music series!

Mon, Oct. 16 at Noon ET & XM Pops - XM 113  
9PM ET



- Weds, Oct. 18 at 10:30 PM ET Vox - XM 112
- Thurs, Oct. 19 at 8PM ET Fine Tuning - XM 76
- Fri, Oct. 20 at 6PM ET HEAR Music - XM 75
- Sat, Oct. 21 at 3PM ET Fine Tuning - XM 76
- Sat, Oct. 21 at 6PM ET XM Pops - XM 113
- Sat, Oct. 21 at 10:30 PM ET Vox - XM 112
- Sun, Oct. 22 at 10:30 PM ET XM Pops - XM 113



**Ludacris Thursday, October 26 at 7PM ET**

Artist Confidential goes Hip Hop and it's insane. XM's Mz. Kitti takes the stage for an hour of intense and crazed dialogue with Ludacris crankin out live songs and interacting with the XM Performance Theatre mob. This ain't a normal Artist Confidential.

- Thurs, Oct. 26 at 7PM ET RAW - XM 66
- Fri, Oct. 27 at 8AM ET RAW - XM 66
- Sat, Oct. 28 at Noon ET, 6PM ET, & 10PM ET RAW - XM 66
- Mon, Oct. 30 at 11AM ET RAW - XM 66

**New Albums:**

- Released Aug. 29th *Disturbing tha Peace*
- Released Sept. 26th *Release Therapy*

**XM Artist Confidential, Vol. 1**



XM Artist Confidential, Vol. 1 showcases performances by top artists recorded solely for XM's original music series, Artist Confidential. Produced by XM Satellite Radio exclusively for Starbucks Hear Music, XM Artist Confidential, Vol. 1 includes live renditions of songs by Coldplay, Willie Nelson, Tori Amos, Robert Plant and many others.

**Past Performances:**



**Chicago Monday, October 2 at 10PM ET**

They've been together for 40 years...and it shows. XM's Artist Confidential, live from the XM Performance theater--Chicago. What does 25 or 6 to 4 really mean? They'll tell us...and play the song along with other songs, new and old...and stories from the Rock n Roll trenches. CHICAGO...Artist Confidential. 40 years of musical magic...in one hour of radio magic.

- Mon, Oct. 2 at 10PM ET The Blend - XM 25
- Tues, Oct. 3 at 10PM ET 70's - XM 7
- Weds, Oct. 4 at 7PM ET The Blend - XM 25



**Amy Grant** **Monday, September 25 at 7PM ET**

She's done it all and you will hear about it as Amy Grant talks and plays for the XM Nation in the latest installment of Artist Confidential. Plus, you'll hear songs from her new album, *Time Again...Amy Grant Live*, before it hits stores Wednesday, September 26th. She's so much more than Country...or Pop...She's Amy Grant and she tells it and plays it like it is on XM's Artist Confidential.

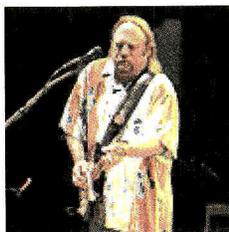
- Mon, Sept. 25 at 7PM ET      The Message - XM 32
- Weds, Sept. 27 at Noon ET      The Message - XM 32
- Fri, Sept. 29 at 7PM ET      The Message - XM 32
- Sat, Sept. 30 at 3PM ET      The Message - XM 32
- Sun, Oct. 1 at 11AM ET      The Blend - XM 25



**Pink** **Monday, September 4 at 10PM ET**

Pink invades the XM Performance Theater with her band and brash outlook on music, politics and life. Never one to hold back, Pink engages the full house with heartfelt stories, insights and songs that deliver a rollercoaster ride of emotion and soul.

- Mon, Sept. 4 at 10PM ET      XM Hitlist - XM 30
- Sat, Sept. 9 at 4PM ET      XM Hitlist - XM 30
- Sun, Sept. 10 at 11AM ET      XM Hitlist - XM 30



**Stephen Stills**

Stephen Stills takes time off to bring his band into the XM Performance Theater for a stunning Artist Confidential where he tells stories about his long fabled career and plans for the future. Another SRO crown of fans interacts with Stephen before he launches into another CS&N tour and New solo album.

- The Loft - XM 50                      The 70's - XM 7
- Deep Tracks - XM 40                      XM Café - XM 45



**Pretenders**

Recorded in an intimate performance at the Irving Plaza Club in New York City, The Pretenders are as outrageous and straight shooting as ever. The no B.S. edge permeates the band and the audience as they rocket through a hard core set with not shortage of potent commentary and straight forward for the audience.

- Deep Tracks - XM 40                      Fred - XM 44

**INXS**

As eclectic as ever, in front of a full house in the XM Performance Theater, listen as the past and future music



of this pop alternative supergroup perform classic hits and new music. Armed with a new singer, INXS delivers a powerful hour of interactive radio magic.

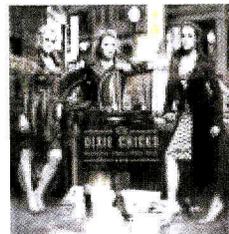
The 80s - XM 8                      Flight 26 - 26  
 Fred - XM 44



**Doobie Brothers**

The Doobie Brothers Roll through their hits and history with stunning harmonies in front of an electric audience. Hear an exclusive performance and interview that tells the 38 year old story of these legendary artists. From the late 60's to today, their music continues to be part of a part of the American soundtrack.

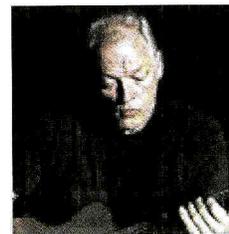
Top Tracks - XM 46                      The 70s - XM 7  
 The Loft - XM 50                      Deep Tracks - XM 40  
 The Blend - XM 25



**Dixie Chicks**

The Dixie Chicks gather in XM's Studio A in Frederick P. Rose Hall, Home of Jazz at Lincoln Center for an unedited and uncensored hour of dialogue with George Taylor Morris and 100 fans from around the Country. Performing acoustically between the fascinating Q&A, Artist Confidential once again delivers a rare and intimate peek behind the curtain of these icons of popular Music.

US Country - XM 17                      Highway 16 - XM 16



**David Gilmour**

David Gilmour helps unravel his history, present and future in an Artist Confidential recorded at Sony's legendary West Side studios. Accompanied by Phil Manzanera of Roxy Music fame, David plays selections from his newest work, as well as, engages in conversation with fans from around the World who showed up for this remarkable event.

Deep Tracks - XM 40                      Fine Tuning - XM 76  
 XM Café - XM 45                      The Loft - XM 50



**Alan Parsons (5.1)**

Recorded in brilliant 5.1 Surround Sound, Alan Parsons and his band perform a series of songs in stunning cinematic sound, as Alan walks us through his career with The Beatles, Pink Floyd, The Alan Parsons Project and his current endeavors. An audio tour de force with a true master of sound.

The 70s - XM 7                      Deep Tracks - XM 40

Fine Tuning - XM 76



### Trey Anastasio

After over 20 years with Phish, Trey Anastasio tries the solo life and tells all in this installment of Artist Confidential. Armed with his array of guitars, Trey performs songs from Phish & plays new songs from his solo album. He also tells us about his future works. The audience of fans came from all over the Country to be one on one with this remarkably gifted and honest artist.

XM Café - XM 45

The Loft - XM 50

Deep Tracks - XM 40



### Paul McCartney

The Paul McCartney Artist Confidential from XM's Performance Theater is a defining moment in radio. Paul talks through his career and future with a focus on his American tour and current release "Chaos and Creation in the Backyard". Musically, Paul demonstrates songwriting techniques, performs selections from his current CD, and even invites members of the audience to join him in a song. An incredibly powerful and positive look into the life and music of this timeless musical and cultural icon.

The 60s - XM 6

Deep Tracks - XM 40

The Loft - XM 50

The 70s - XM 7

**Watch the XM Artist Confidential  
TV spot featuring Paul McCartney (0:30)**

Low (56k) | High (300k)



### Andrea Bocelli

Andrea Bocelli is one of the best-known singers in the world. Internationally, his classical and pop albums have sold over 50 million copies - and most recently, billions saw him perform during the Closing Ceremonies of the Olympic Games in Torino, Italy. His latest CD, Amore, spent weeks in the top 10 along side Rock, Pop, R&B and Rap's biggest stars - an album that features appearances by Christina Aguilera, Stevie Wonder and Kenny G. Bocelli performed Live from The Allen Room, Home of Jazz at Lincoln Center.

XM Pops - XM 113

Vox - XM 112

Fine Tuning - XM 76

Hear Music - XM 75

### Santana

For almost forty years, Carlos Santana has been shaping musical culture with his fluid, visionary sound. Now he's live from New York in XM's Studio A in Frederick P. Rose



Hall, Home of Jazz at Lincoln Center, engaging XM listeners with a stunning performance and intimate dialogue on music and life.

Deep Tracks - XM 40                      The 70s - XM 7  
 XM Café - XM 45                      Hear Music - XM 75



**Joan Baez**

In an enchanting edition of XM's Artist Confidential, folksinger/activist Joan Baez reveals to host George Taylor Morris where her passion for peace comes from, how she picks both her causes and her songbook, and her thoughts about many of her contemporaries, including Bob Dylan.

The Village - XM 15                      Deep Tracks - XM 40  
 The Loft - XM 50



**Odetta**

Associate of Dr. Martin Luther King, confidant to Bob Dylan, and one of the most important artists of the 20th Century, Odetta talks candidly about a wide range of topics from Spirituals to Folk Music to human rights, along with a powerful performance that defines the audio magic of XM's Artist Confidential.

The Village - XM 15                      Spirit - XM 33  
 Fine Tuning - XM 76



**Tracy Chapman**

Tracy Chapman talks through her with career with George Taylor Morris, performing a wide range of songs. Armed with her band, Tracy discusses every aspect of her life as a musician, from the early days into the future.

XM Café - XM 45                      The Loft - XM 50  
 Hear Music - XM 75



**Rosanne Cash**

With 11 #1 Singles and a rich history that blends country and pop, Rosanne Cash sits with George Taylor Morris and a full house of fans in the XM Performance Theater to perform and talk about her life, career and her newest CD, "Black Cadillac". Rarely does a performer balance a heritage and a future so effectively in this remarkable edition of Artist Confidential.

The Village - XM 15                      The Loft - XM 50  
 America - XM 10



**Cyndi Lauper**

Cyndi Lauper brings her uninhibited personality to the XM performance theater soundstage. She tells all and performs a wide range of her hits with a full band. Never short on insights about every imaginable topic, Cyndi is funny, engaging and her voice rings as clear as ever in this wild installment of Artist Confidential.

The 80s - XM 8                      The Loft - XM 50  
 Blend - XM 25



**Mannheim Steamroller**

XM's Artist Confidential™ Christmas Edition features an hour with one of the true pioneers in contemporary music, Chip Davis and Mannheim Steamroller. Armed with swirling synths and a bevy of unique acoustic instruments, the band performs a tour de force of Christmas music and compelling conversation about music, life and the quest for sound.

XM Live - XM 200                      Fine Tuning - XM 76  
 Blend - XM 25                      Holly - XM 103



**Clint Black**

Clint Black and his full band rock the house with an exclusive mix of hilarious road stories, ballads and barnburners.

XM Live - XM 200                      America - XM 10  
 Highway 16 - XM 16                      Nashville - XM 11



**Herbie Hancock**

He's a true master, timeless and talented. Herbie Hancock demonstrates the art of composing and helps define the meaning of jazz on this episode of Artist Confidential™. Sitting at the Steinway, Herbie walks through his latest CD and a fresh, personal perspective on the history of music.

XM Live - XM 200                      Real Jazz - XM 70  
 Beyond Jazz - XM 72                      Watercolors - XM 71



**Tori Amos**

Heartfelt, mystical, powerful and personal. Tori Amos' uses soulful insights and her piano magic to reveal stories about her life and music.

XM Live - XM 200                      The Loft - XM 50  
 XM Café - XM 45                      Fine Tuning - XM 76



### Lenny Kravitz

An engaging and musically free Lenny Kravitz performs a wide range of his material and answers every imaginable question thrown to him from a passionate audience of fans from across the USA. An XM Xclusive!

XM Live - XM 200

The 90s - XM 9

Ethel - XM 47

Lucy - XM 54



### Phil Collins

Phil Collins brings a nine piece band to perform both solo and early Genesis pieces with remarkable sonic quality and magic. Plus, Phil talks candidly about everything from his relationships with other artists to backstage gossip. A rare peek at the music and genius of Phil Collins, exclusively on XM's "Artist Confidential."

XM Live - XM 200



### Coldplay

In a cerebral and often hilarious hour, Coldplay performs old and new songs acoustically as a rabid audience of fans interacts on every imaginable level while the band spins tales of music, magic and life. An uncensored and unbridled hour with Coldplay.

The Loft



### Bonnie Raitt

Bonnie Raitt brings stories and music from her legendary career to Artist Confidential. From the early days to her latest works, Bonnie walks through the good times and bad with an intimate performance that touches rock, the blues and beyond.

XM Live - XM 200



### Willie Nelson

An American Original. A Cultural Icon. Backed by his long time band as well as his two inspired sons, Willie Nelson graces The XM Performance Theater with a remarkable set of songs, along with passionate discussion on his past, present, and future, for an Artist Confidential that is as amazing as they come.

XM Live - XM 200                      America - XM 10  
 Hank's Place - XM 13



**Robert Plant**

Robert Plant's timeless magic is alive on this extraordinary edition of Artist Confidential. Armed with his new band, Robert performs selections from his new CD, *Mighty Re-arranger*, in front of rabid fans at the XM Performance Theater for a memorable hour of brilliance.

XM Live - XM 200                      Deep Tracks - XM 40  
 The 80s - XM 8                      Boneyard - XM 41



**Hall & Oates**

Hall & Oates we're the #1 singles band of the 80s and they are still delivering the goods! Hear Hall & Oates walk through their R&B fueled career from the streets of Philly to their stunning new album. The boys interact with their fans and perform their hits along with killer renditions of soul classics on this magical edition of Artist Confidential.

XM Live - XM 200                      The 70s - XM 7  
 The 80s - XM 8                      The Blend - XM 25



**Rush**

Geddy Lee and Alex Lifeson of Rush sit down with host George Taylor Morris for this engaging episode of "Artist Confidential." Hear about the band's career, family life, and what they're up to now.

XM Live - XM 200



**Al Jarreau**

Al Jarreau scats and sings through a charged hour of pure musical magic, working the crowd and talking about whatever's on his mind! Part of the XM Exclusive Music Series!

XM Live - XM 200                      Watercolors - XM 71  
 The Groove - XM 64                      Real Jazz - XM 70



**Wynton Marsalis**

Wynton Marsalis and his band walk through the history of jazz, demonstrating each era with the unearthly finesse and precision that defines the genre.

XM Live - XM 200                      Beyond Jazz - XM 72  
 Fine Tuning - XM 76                      Real Jazz - XM 70



**Lamont Dozier**

The internationally acclaimed, Grammy-award winning music master, Lamont Dozier, has indelibly impacted pop music for four decades... and now he shares his stories with the XM Nation!

- XM Live - XM 200
- Soul Street - XM 60
- The 60s - XM 6
- The Groove - XM 64



**Loggins & Messina**

After decades apart, Loggins and Messina reunite for a magical hour of their pop classics married with a frank discussion of their roots, their split, their reformation and their future. An audience of long time fans interact with the a passionate Q and A in one of the most compelling Artist Confidentials to date.

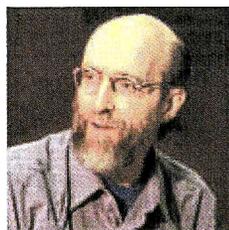
- XM Live - XM 200
- The 70s - XM 7
- Deep Tracks - XM 40
- The Loft - XM 50



**Judy Collins**

Judy Collins walks through her career with an amazing array of live performances and comments about her personal and musical life. From her early era with Leonard Cohen through the Crosby Stills and Nash Years to her current renaissance as a brilliant vocalist and performer, Judy covers it all in this XM Exclusive event!

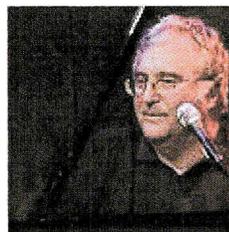
- XM Live - XM 200
- The Village - XM 15
- On Broadway - XM 28
- Fine Tuning - XM 76



**George Winston**

From a New Orleans fueled piano player, to a master of the harmonica and beyond, George Winston defies category. In this episode of Artist Confidential, George opens the book on his history and future, displaying his incredible versatility and mastery of instruments and styles.

- XM Live - XM 200
- Fine Tuning - XM 76
- Audiovisions - XM 77
- Village - XM 15



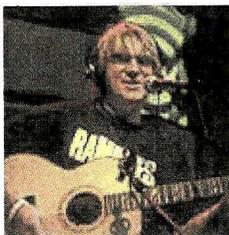
**Randy Newman**

Soundtrack genius, hit maker and all around great guy, Randy Newman has a blast interacting with host George Taylor Morris and a theater full of hard core fans. Get Randy's thoughts about the Music Business, songwriting, and life as he sees it, in this installment of XM's original show, Artist Confidential.

- XM Live - XM 200
- Cinemagic - XM 27

Deep Tracks - XM 40

The Loft - XM 50



### **Def Leppard**

Live and stronger than ever, Def Leppard grace The XM Performance Theater with a pow



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**THEN...AGAIN...LIVE!™**



**Then...Again...Live!™**  
 Music to your ears

Imagine taking one of the most classic albums of all time, and asking the original artist to reinterpret it LIVE — in sequence, before an audience of fans — from today's vantage point, and with the benefit of 21st century technology...

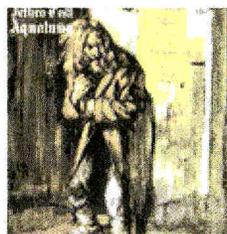
**XM Exclusive Music Series:**

- **Artist Confidential™**
- **Then...Again...Live!™**
- **Artist 2 Artist**
- **The Complete Series**
- **Classical Confidential**
- **Offstage**
- **Theme Time Radio Hour with Your Host Bob Dylan**
- **Tom Petty's Buried Treasure**
- **Welcome to da Chuuch with Big Snoop Dogg**
- **Disturbing Tha Peace Presents Ludacris' Open Mic**
- **Dunk Rider Radio with Trick Daddy**

**Network Live Series:**

- **Mainstage**
- **SRO**

Well, XM dreamed it — and did it! — with stunning recreations of albums that are musical touchstones to entire generations of fans including **Jethro Tull's *Aqualung***, **Lynyrd Skynyrd's *Pronounced Leh'-Nerd Skin'-Nerd***, and **REO Speedwagon's *Hi Infidelity***. Each XM presentation of an historic reliving of a legendary album is intercut with the artist's personal observations on their landmark work.



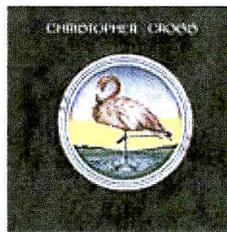
**Jethro Tull's *Aqualung***

**Monday, September 18 at Noon ET**

Jethro Tull's masterpiece, and one of rock's most cerebral and passionate concept albums ever, gets updated in this live album remake, recorded exclusively in the XM Performance Theater.

Mon, Sept. 18 at Noon ET	Fine Tuning - XM 76
Wed, Sept. 20 at 9AM ET	Deep Tracks - XM 40
Thurs, Sept. 21 at 8PM ET	Fine Tuning - XM 76
Fri, Sept. 22 at 2PM ET	Deep Tracks - XM 40
Sat, Sept. 23 at 3PM ET	Fine Tuning - XM 76

**Past Performances:**



**Christopher Cross - *Christopher Cross***

26 years ago, Christopher Cross created one of the most popular debut albums in history. Laced with superb craftsmanship and memorable melodies, the album spawned timeless classics like *Ride With The Wind* and *Sailing*. Now, hear it recreated in 2006 as Christopher and his band play through the entire album, live from the

**XM- LOGAN EX. 12**

XM Performance Theater.

The Heart - XM 23

The 80s - XM 8

The Blend - XM 25



**America - America History: Greatest Hits**

One of the original architects of the sound of the 70's was the band America. Their tight harmonies and stellar songwriting launched a style that to this day remains a clear part of the modern American songbook. Live from XM's Performance Theater, America lays down all of their most memorable songs in the latest installment of XM's Then...Again...Live series. Before a select audience of fans, America rolled through their entire *History* Album, track by track, live. XM's exclusive Then...Again...Live series continues as the place for timeless artists to re-invent their classic albums.

XM Live - XM 200

The 70s - XM 7

Top Tracks - XM 46

Blend- XM 25



**Cheap Trick - Live at Budokan**

Cheap Trick's multi-platinum, 1978 in concert tour de force, raised the roof at Tokyo's Budokan Arena, and set the bar for all live rock records to follow. A combustible joy ride of power pop genius and rock n' roll mastery, packed with their signature smashes. Hear it recreated live from the XM Performance Theater, in the Exclusive Then...Again...Live! Series!

XM Live - XM 200



**Lynyrd Skynyrd's Pronounced Leh-Nerd Skin-Nerd**

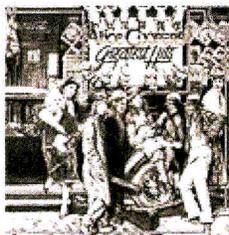
Experience Skynyrd's multi-platinum 1973 debut LP re-recorded over 30 years later exclusively for XM. 8 killer tracks featuring Ronnie VanZant's distinctive vocals- and yes, one of them is "Free Bird."

XM Live - XM 200

Deep Tracks - XM 40

Top Tracks - XM 46

The 70s - XM 7



**Alice Cooper's Greatest Hits June 2005**

The father of all shock rockers, Alice Cooper, delivers an incredible live version of his Greatest Hits album exclusively for XM. Relive the unforgettable anthems, raucous rockers and potent ballads in this seamless onslaught of hits, exclusively on XM!

XM Live - XM 200

Deep Tracks - XM 40

Top Tracks - XM 46

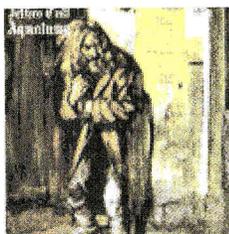
Boneyard - XM 41



**Allman Brothers' *Eat A Peach* July 2005**

Quintessential Southern rockers, The Allman Brothers, do an updated version of their immortal '73 double-LP, *Eat A Peach*, live from the XM Performance Theater! Tune in as one of the most important American bands of the '70s re-makes the album recorded as a heartfelt tribute to Duane Allman, who died during its recording.

XM Live - XM 200                      Deep Tracks - XM 40  
 Top Tracks - XM 46                      Fine Tuning - XM 76



**Jethro Tull's *Aqualung* August 2005**

Jethro Tull's masterpiece, and one of rock's most cerebral and passionate concept albums ever, gets updated in this live album remake, recorded exclusively in the XM Performance Theater.

XM Live - XM 200                      Deep Tracks - XM 40  
 Top Tracks - XM 46                      Fine Tuning - XM 76



**Dave Mason *Alone Together* September 2005**

Spencer Davis Group road manager and Traffic co-founder, Dave Mason remakes the musical magic of his 1970 solo debut live at the XM Performance Theater.

XM Live - XM 200                      Deep Tracks - XM 40  
 Top Tracks - XM 46                      The Loft - XM 50



**REO Speedwagon *Hi Infidelity* October 2005**

*Hi Infidelity* was the soundtrack of middle America throughout the 80's and REO SPEEDWAGON performs the entire CD live on XM's "THEN...AGAIN...LIVE!" series! Before a limited audience of Superfans, you'll hear the whole album in the exact order as it was released on vinyl, cut by cut, with fresh interpretations and creative freedom. The past is alive on XM's exclusive "THEN...AGAIN...LIVE" series!

XM Live - XM 200                      The Blend - XM 25  
 Top Tracks - XM 46                      80s - XM 8



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**ARTIST 2 ARTIST**



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- **Disturbing Tha Peace Presents Ludacris' Open Mic**
- **Dunk Rider Radio with Trick Daddy**

**Network Live Series:**

- **Mainstage**
- **SRO**



**Artist 2 Artist**

For all, the work of musical legends is inspiring. For some, it is life-altering. Emerging stars base their dreams, aspirations-sometimes even musical styles-on their heroes. On Artist 2 Artist, XM gives these up-and-coming talents the opportunity of a lifetime: to interview their personal heroes, one-on-one. Uncensored. Unrehearsed. An intimate conversation into what turns music into art, and artists into legends.

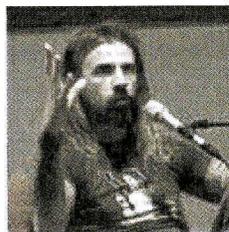
**Past Shows:**



**Anna Nalick & Rob Thomas**

Newcomer Anna Nalick interviews her mentor Rob Thomas. One on One. No DJ's. Nothing but two artists talking about life, music and the pursuit of dreams. Recorded at an intimate setting in Ottawa Canada, This installment of Artist2Artist unravels the mysteries as only two artists talking together can do.

The Blend - XM 25                      Flight 26 - XM 26  
Hear Music - XM 75



**Lacuna Coil & Rob Zombie**

In a cool twist, hear an artist interview another artist when members of Lacuna Coil tap into the mind of Rob Zombie. Rob's seen it all - Lacuna Coil's just getting their career in the state's going. Hear what kind of advice Rob can give Lacuna Coil to help them avoid career suicide.

Squizz - XM 48



**Motley Crue & Silvertide                      December 2005**

Young rock band Silvertide interview the legendary Motley Crue during their recent Carnival of Sins tour and the results are a rock 'n' roll education. From sex, drugs, and rock 'n' roll to career choices, the Crue shares with Silvertide how to avoid making all the same mistakes they did, in this exclusive Artist 2 Artist session.

Squizz - XM 48



**Dierks Bentley & George Jones**

**September 2005**

Recorded live in the living room of his house south of Nashville, Dierks Bentley talks candidly for more than an hour with the incomprable George Jones about his life, his music and his new release, *Hits I Missed and One I Didn't*.

America - XM 10

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**OFFSTAGE**



**Offstage**

Practically every artist thinks they can program a radio station that plays the music they believe in. XM is giving them the opportunity with the introduction of Offstage. Important artists do their own shows. There are no rules. They can say or play anything. Offstage is where XM turns over the music library to the artists, and lets them do a show their way, with a different artist each month. Hear the stories, the craziness, eclectic character and the personal playlists of artists that make a difference on XM's Offstage.

**XM Exclusive Music Series:**

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- Then...Again...Live!™
- Artist 2 Artist
- The Complete Series
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- Dunk Rider Radio with Trick Daddy

**Network Live Series:**

- Mainstage
- SRO



**DMC**

**Monday, October 9 at 11PM ET**

DMC is one of the architects of the Hip Hop Movement. A pioneer with extraordinary success in the Hip Hop World takes over XM. His musical selection is inspired and profoundly unexpected and he delivers an unbridled hour of radio the way He thinks it should be done.

Mon, Oct. 9 at 11PM ET      Deep Tracks - XM 40  
 Weds, Oct. 11 at 2PM ET      Deep Tracks - XM 40  
 Sat, Oct. 14 at 5AM ET      Deep Tracks - XM 40

**Past Shows:**



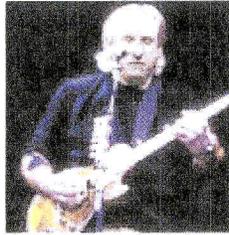
**Heart**

Ann and Nancy Wilson (with a little help from Cameron Crowe) take time off from the road to record "offstage" from Nancy's home studio in Los Angeles. Hear their personal playlist, stories and general craziness as the girls go offstage with their own radio show. Personal, free of restrictions and rule-free.

Deep Tracks - XM 40

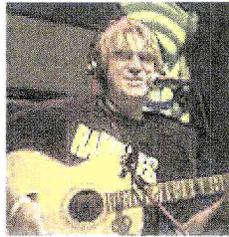
**Joe Walsh**

Offstage With Joe Walsh - How Ya Doin'?! What do The



Spinners, The NBC News Theme, Flock Of Seagulls and Kate Bush have in common? Joe Walsh. With his trusty sidekick Rick The Bass Player, Joe takes The XM Nation on a ride through his own rock 'n roll library. Which AC/DC will he play? What are his favorite James Gang and Eagles tracks? It's Offstage With Joe Walsh this week on Deep Tracks XM 40.

Deep Tracks - XM 40



### Joe Elliott & Phil Collen (Def Leppard)

XM turns over the keys to both Joe Elliott and Phil Collen to create their own radio shows. No rules. No restrictions. Both Joe and Phil pick the songs from their personal archives, tell stories, whip out instruments and do anything and everything they want, on their terms. Total creative freedom. Radio the way they think it should sound.

Boneyard - XM 41

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**NETWORK LIVE - MAINSTAGE**



**Network Live Series:**

- **Mainstage**
- **SRO**

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- **Disturbing Tha Peace Presents Ludacris' Open Mic**
- **Dunk Rider Radio with Trick Daddy**

Network LIVE's "Main Stage" brings music fans a front row seat to the hottest, multi platinum acts across all genres including Hip hop, Country, Rock and Pop -- live, up-close and personal. Hear the world's top performers from the front row of sold out concerts - from arenas to the most intimate venues. Examples of Main Stage artists include Madonna live from Koko's in London, Bon Jovi from the Nokia Theater in NYC, Green Day from The Wiltern in LA, and the Rolling Stones from Copacabana Beach in Rio.

**Past Shows:**



**Mainstage: Foo Fighters**

July 21, 2006 at Noon ET

Tune in to hear the Foo Fighter's play in front of 85,000 screaming fans all crammed into London's Hyde Park. Dave Grohl and company are joined by some of rocks most legendary players: Queen's Roger Taylor and Brian May join the band for a near-perfect rendition of "Tie Your Mother Down" featuring Foo drummer Taylor Hawkins pulling vocal duties. In a show that could be considered a live greatest hits, Foo Fighters crank through hits like "Best of You", "Learn to Fly", "Monkeywrench", "Times Like These" and "Everlong". Grohl reveals that the show has been the most unbelievable of their lives.

Ethel - XM 47

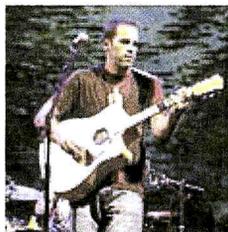


**Mainstage: Rock in Rio**

May 26, 27, June 2

Network LIVE and XM Satellite Radio invite you to the 2006 Rock in Rio concert in Lisbon, Portugal. Over 3.7 million people have attended Rock in Rio, where 240 performers have played over 470 hours of entertainment. Scheduled to appear are Jamiroquai, Shakira, The Darkness, Guns N' Roses, Roger Waters, Santana and more! For more show information head to [rockinrio.xmradio.com](http://rockinrio.xmradio.com).

XM Live - XM 200



**Mainstage: Jack Johnson**

May 22, 2006

Network LIVE and XM were at the Kokua Festival in Honolulu, Hawaii to capture an exclusive Jack Johnson performance at the Waikiki Shell. Hear your favorite songs like "Banana Pancakes," as well as special performances with Ben Harper and Willie Nelson.

Hear Music- XM 75



**Mainstage: John Legend DVD**

April 13, 2006

Brought to you by Network LIVE and XM's Suite 62, it's the ultimate date, "Dinner & A Show." Be prepared to be wined and dined in first class as we present GRAMMY Award winner John Legend in concert.

Suite 62- XM 62



**Mainstage: David Bowie DVD**

April 7, 2006

Brought to you by Network LIVE and XM's Deep Tracks, taped live during the 1983 Serious Moonlight Tour that shattered box office records in every city, David Bowie gave one of the most dramatic and charismatic live performances of his career. The Serious Moonlight Tour has been called the most important rock event in the history of the music genre and his Vancouver show was designed specifically to ensure that the live excitement was captured on tape. It includes such hits as: "Let's Dance", "China Girl", "Heroes", "Rebel", "Young Americans", "Space Oddity", and "Golden Years", among others.

Deep Tracks - XM 40



**Mainstage: Gretchen Wilson Live**

April 5, 2006

In a Network LIVE/ XM Highway 16 exclusive, the multi-platinum and award winning honky-tonk diva performed live on stage from the Gwinnett Center in Atlanta.

Gretchen performed tunes off her debut and recent albums, a cover of "Barracuda," and a duet with Blaine Larsen, the youngest country artist to have a hit on the Billboard charts. Her sophomore album, All Jacked Up entered both the Country and Billboard Top 200 Charts at #1.

Highway 16 - XM 16

**Mainstage: Peapod Benefit w/ Blacked Eyed Peas & Sergio Mendes, Justin**



**Timberlake John Legend and Other Special Guests**

March 31, 2006

In a Network LIVE/ XM exclusive captured live from the Henry Fonda Theater in Los Angeles during GRAMMY week, the annual PeaPod event features music legends of the past, present and future to raise awareness and funds for The Peapod Foundation's children's charities.

Hear Music- XM 75



**Mainstage: Rolling Stones Live from Copacabana Beach in Rio**

February 18, 2006

In an exclusive Network LIVE/ XM broadcast, listeners heard a free Rolling Stones concert attended by more than 3 million fans; LIVE from Rio, Brazil's famed Copacabana Beach.

The 60s - XM 6

Deep Tracks - XM 40



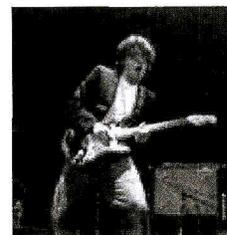
**Mainstage: Madonna Live**

November 2005

In an exclusive Network LIVE / XM event, Madonna performed songs from her new CD, Confessions on a Dance Floor, live in concert from London's Koko Club, the only UK club Madonna has ever played.

20 on 20 - XM 20

BPM- XM 81



**Mainstage: John Mayer Trio**

November 2005

In an exclusive Network LIVE / XM event, The John Mayer Trio brought their explosive sound to New York's Bowery Ballroom. The John Mayer Trio is John Mayer on guitar and vocal joined by Steve Jordan on drums and Pino Palladino on bass.

XM Café - XM 45



**Mainstage: Keith Urban Live**

November 2005

Exclusively from Network LIVE and XM Satellite Radio, Keith Urban brought Country to New York City in a LIVE performance from Irving Plaza.

Highway 16 - XM 16

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**NETWORK LIVE - SRO**



**Network Live Series:**

- **Mainstage**
- **SRO**

**XM Exclusive Music Series:**

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- **Then...Again...Live!™**
- **Artist 2 Artist**
- **The Complete Series**
- **Classical Confidential**
- **Offstage**
- **Theme Time Radio Hour with Your Host Bob Dylan**
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- **Dunk Rider Radio with Trick Daddy**

Live. Unedited. Real. Network LIVES "Standing Room Only" ("SRO") is the music series dedicated to connecting emerging artists and fans, the way they are meant to be heard - on stage and unscripted. Providing access and discovery to new, cutting-edge artists such as KT Tunstall, Hawthorne Heights, Gorillaz, and the Magic Numbers, Network LIVE's SRO on XM feeds the huge appetite for live music programming and introduces you to your next favorite band.

**Past Shows:**



**SRO: Natasha Bedingfield**

September 8, 2006

XM Radio and Network Live's SRO present another exclusive performance with Natasha Bedingfield recorded live from New York's Nokia Theatre. Tune in without leaving your home or car and hear Natasha belt out her Number One Hit "Unwritten" and her new song "Single."

XM Hitlist - XM 30



**SRO: The Fray**

August 4, 2006

XM Radio and Network Live's SRO present The Fray recorded live from the City Lights Pavilion in Colorado. This Denver based group perfumed from their home state and you'll hear their hits "Over My Head (Cable Car)," "How to Save a Life" and more!

Flight 26 - XM 26

HEAR Music - XM 75



**SRO: Anthony Hamilton**

June 9, 2006

HEAR Music- XM 75



**SRO: Franz Ferdinand**

May 19, 2006

In a Network LIVE/ XM exclusive, hear the music of Franz Ferdinand as they play tunes from their latest CD *You Could Have It So Much Better*. The show was recorded live from the Argon Ballroom in Chicago. Hear favorites like *Darts of Pleasure*, *Take Me Out*, and *Do You Want To*.

Ethel- XM 47



**SRO: Magic Numbers**

May 8, 2006

Join Network LIVE/ XM Café for an exclusive performance with the Magic Numbers recorded live from this year's SXSW music festival at La Zona Rosa in Austin, Texas.

XM Café- XM 45



**SRO: Rogue Wave**

May 5, 2006

Network LIVE and XM invite you to join Tobi, XMU's Dean Of Music as she hosts The XMU Student Mixer...featuring a performance from Rogue Wave...live at the Henry Fonda Theater in Los Angeles... Hear Zach Rogue and crew play songs from their latest album *Descended Like Vultures*.

XMU- XM 43

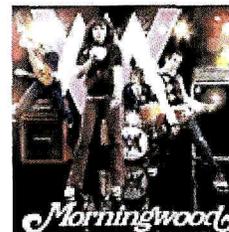


**SRO: Atreyu**

April 21, 2006

In a Network LIVE/ XM broadcast recently captured live, Orange County's Atreyu rocked the El Rey Theater in Los Angeles. Squizz will air their set -- raw and uncensored. Atreyu's dynamic guitar assault combines brilliant single-note leads and pummeling power chords, offset by the melodic and guttural vocals. With their new album, *A Death-Grip On Yesterday*, Atreyu have honed their personal style even more, exceeding all expectations and expanding the boundaries of metallic rock yet again.

Squizz - XM 48

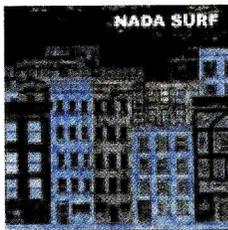


**SRO: Morningwood**

April 21, 2006

In an exclusive Network Live/ XM concert event, hear New York City's Morningwood recorded at the SXSW music festival in Austin, Texas. Listen for crowd-pleasing favorites "*Nu Rock*," "*Televisor*" & "*New York Girls*".

Ethel- XM 47



**SRO: Nada Surf**

April 14, 2006

Network LIVE and XM invite you to join Tobi, XMU's Dean Of Music as she hosts an XMU student mixer featuring a performance from Nada Surf live at the Henry Fonda Theater in Los Angeles. Hear the boys from NYC play songs from their latest album The Weight Is A Gift and much more.

XMU - XM 43

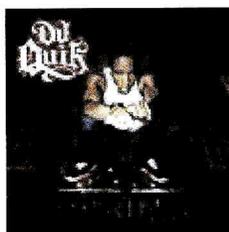


**SRO: Rosanne Cash, Wired In X Country Concert Series**

April 5, 2006

Network LIVE and XM's Wired In, the X Country Concert Series, broadcast Rosanne Cash and husband John Leventhal live from La Zona Rosa in Austin, TX . Rosanne played a set wrapped around her new album, Black Cadillac.

X Country - XM 12



**SRO: DJ Quik**

March 2006

In a Network LIVE/ XM exclusive, DJ Quik live in concert from LA's House of Blues.

RAW - XM 66



**SRO: Eels With Strings**

March 31, 2006

In a Network LIVE/ XM exclusive broadcast, listeners joined Tobi, XMU's Dean of Music, as she hosted an XMU student mixer featuring Eels With Strings live at New York City's Town Hall. One of music's most versatile acts invaded Town Hall with a string quartet and an eclectic array of instruments and sounds.

XMU - XM 43



**SRO: Hawthorne Heights**

March 17, 2006

In a Network LIVE / XM exclusive, emo giants Hawthorne Heights performed songs from their latest album, If Only You Were Lonely, live from LA's famed El Rey Theater. This was the only event Hawthorne Heights played live before the release of their new album!

Ethel- XM 47



**SRO: Disturbed**

March 10, 2006

In this exclusive Network LIVE/ XM concert, hot off the Jagermeister Music Tour, the new school heavy metal band Disturbed rocks live from the Norva in Norfolk, VA.

Squizz - XM 48

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**SRO: K.T. Tunstall**

February 27, 2006

XM Café - XM 45

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washingtonpost.com

## Sending Out Good Vibrations: XM Re-Creates Top 40 Stations of Old

By Marc Fisher  
Washington Post Staff Writer  
Sunday, October 15, 2006, N05

Somewhere along the infinite corridors of time -- well, actually, Friday afternoons on Eckington Place NE -- a bunch of middle-aged adolescents who believe that Top 40 radio jingles are the key to the swirling maze of the past are busy re-creating 1967.

In a windowless studio in the vast techno-complex known as XM Satellite Radio, Terry "Motormouth" Young each week transforms 60s on 6 -- XM's channel of hits from a pop music heyday -- into a real live Top 40 station from that era. Weaving together tape-recorded snippets found in listeners' attics, on eBay or in the possession of the nation's obsessive subculture of radio-jingle collectors, Young captures the sound and spirit of the AM stations that once dominated American popular culture as hardly any phenomenon has in the four decades since.

From radio powerhouses such as New York's WABC ( <http://musicradio77.com> ), Chicago's WLS ( <http://musicradiowls.cjb.net> ) and Los Angeles's KHJ ( <http://bossradioforever.com> ) to smaller-city signals like WROV in Roanoke ( <http://wrovhistory.com> ) or WLEE in Richmond, Top 40 stations routinely captured from 25 percent to an almost inconceivable 70 percent of the audience in their home towns. Kids listened because the deejays seemed to be speaking a frantic, hopped-up lingo aimed expressly at them; adults listened because they wanted to be part of the happening thing.

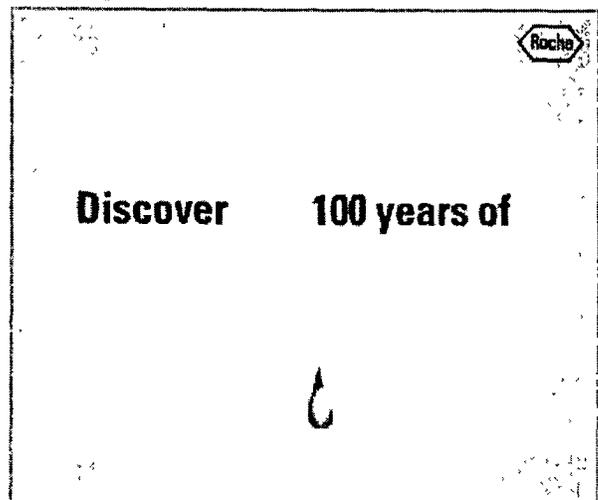
In that last moment in the '70s before pop culture splintered into dozens of demographically defined slices, the local Top 40 station was a celebration of whatever was bland and palatable enough to appeal to every age and interest group, blended with just enough rebellion and nonconformity to seem fresh and exciting. With deejays pulling wacky stunts at every turn and stations giving away cash in all manner of contests, you could hardly afford not to tune in.

Although those days are long gone, as radio struggles to avoid losing an entire generation of young people, Young's "Sonic Sound Salutes" each Friday reunites the deejays and sounds of those classic stations with nostalgic older listeners and young folks curious to know what the fuss was all about.

The weekly exercise in recapturing the past started in 2004, when Young, eager to give XM's all-'60s music channel an authentic feel, was searching for old Top 40 station jingles that he could remodel into peppy promotions for his own channel. After weeks of contacting radio stations and jingle producers in search of old tapes and permission to revamp the jingles under the XM name, Young says, "I just got frustrated and said, 'Why don't we just become that radio station for a day?' "

XM programming guru Lee Abrams loved the idea, and together the two began collecting sounds. For Young, the project was a journey back to his youth, when, growing up in Roanoke, he tape-recorded the Top 40 sounds of big-city stations that he picked up on his transistor set late at night.

Advertisement



XM-LOGAN EX. 17

Immediately after Young launched the XM series, listeners across the continent began to send him tapes of their favorite stations -- begging him to re-create the sound of the stations they grew up with. "It's like a dream come true to be a deejay on these classic stations," says Young, 53, who still recalls the first song he played on his first day on the radio -- the Osmonds' "One Bad Apple," on Richmond's WTVR in 1971. Young had wanted to play Led Zeppelin, but station management made it clear that it, and not the hired help, would choose the music.

One recent Friday, Young and NewsChannel 8 morning weatherman Ron Riley (<http://ronriley.com>) spent four hours re-creating the sound of Chicago's WLS, the classic Top 40 station where Riley was a deejay from 1963 to 1968. Riley hadn't been on the radio in more than 20 years (he had gone from Chicago to Baltimore, where he was heard on WCAO). But the art of walking up the intro of a song and completing the deejay's banter precisely as the lyrics kick in came right back to Riley, "like getting back on a bicycle," he said, "even though I don't know how to ride a bicycle."

With Young working the control board, punching up songs and mixing in newscasts, commercials and lots and lots of jingles from the original WLS (XM uses everything from the old days except the cigarette commercials), Riley sat in a Beatles T-shirt that he'd dug out of his collection and transported himself back to the mid-'60s.

No more turntables, of course, but rather a digital readout that told Riley how many seconds each song's instrumental introduction lasted. The deejay barely needed that number. As soon as he heard the first notes of a song, he knew exactly how much time he had to spin a telegraphic tale of adolescent longing, or to pull off a quick joke.

Using a list of Chicago area high schools and their team names that Young and Abrams had put together, Riley could summon up that instant sense of community, those days when he would preside over 70 high school record hops a year.

Over the long intro to his first song, "I'm a Man," a 1967 hit by the Spencer Davis Group, Riley started out saying: "I'm Ron Riley and how cool it is. This is an awesome experience; we're going to re-create the sounds of the greatest station in the nation." And off he went, talking about his cameo appearance on TV's "Batman" (Riley got 250,000 letters from WLS listeners, who snapped up the station's "Batman Fan Club" bumper stickers), joked about how the price of gasoline had soared to a stupefying 35 cents per gallon, and reminisced about the station's Secret Word Sweepstakes and Silver Dollar giveaways.

In 1966, Flip magazine, a teen pop publication, reported the story of a Marine on patrol in Vietnam who was marching down a muddy road when a Jeep passed by with a banner flying from its whip antenna. "WLS Ron Riley's Batman Fan Club," the banner proclaimed for all of Vietnam to see. Riley has sold much of his '60s paraphernalia collection on eBay, but he keeps that magazine.

As the four hours went by, the music, too, came right back to Riley -- not always the song titles, but the beat and a deejay's essentials: how long the intro lasts and whether the song fades out or ends cold. Riley and Young bounced along in their chairs, the volume turned way high.

And unlike the commercial radio stations they had fled after the consultants (and their demographically tuned playlist research) took over, on this Friday on satellite radio, the guys played what they wanted to hear. "I got two Beach Boys in a row next," Young told Riley at one point.

"I want some Beatles," Riley replied. "We haven't done any Beatles. Let's do 'Magical Mystery Tour.'"

A couple of clicks of the mouse and Young had it up and ready, and 20 seconds later the tune was on the air and Riley was pounding the desk and pumping out the sounds on a revived ghost of a station way back in the tunnel

of time.

*XM's Sonic Sounds Salutes continue Friday from 4 to 8 p.m. with a re-creation of CKLW in Windsor, Ontario, and Detroit, and Oct. 27 with WHB in Kansas City.*

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## XM Channels Featuring New Artists

- 20 on 20
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- Air Musique
- Audio Visions
- Beyond Jazz
- Bluesville
- BPM
- Caliente
- Chill
- Enlighten
- Ethel
- Fine Tuning
- Flight 26
- Fuego
- Fungus
- Hear Music
- Highway 16
- Liquid Metal
- Raw
- Spirit
- Squizz
- Suite 62
- Sur Le Route
- The Blend
- The City
- The Heat
- The Joint
- The Loft
- The Message
- The Move
- The System
- The Verge
- The Village
- U-Pop
- Viva
- Watercolors
- X Country
- XM Café
- XM Hitlist
- XM Kids
- XMU

## Missing Formats by Market

### New York

Country  
Oldies  
Alternative  
Latin Pop  
Active/New Rock

### Los Angeles

Country  
Active/New Rock

### Chicago

Latin Pop  
Oldies  
Active/New Rock

### San Francisco

Latin Pop  
Oldies  
Country  
Active/New Rock

### Dallas

Latin Pop  
Active/New Rock  
Smooth Jazz

### Philadelphia

Alternative  
Latin Pop  
Classical  
Active/New Rock  
Smooth Jazz

### Houston

Classical  
Active/New Rock

### Washington DC

Oldies  
Latin Pop  
Active/New Rock

### Detroit

Classical  
Latin Pop

### Atlanta

Oldies  
Latin Pop  
Classical  
Active/New Rock

### Boston

Active/New Rock  
Anything Latin-Oriented  
Anything Urban-Oriented

### Miami

Classical  
Alternative

### Seattle

Anything Latin-Oriented  
Anything Urban-Oriented

### Phoenix

Classical  
Latin Pop

Source: *Radio and Records*,  
Spring 2006 Edition



## Mass Market Audience – 14M XM Listeners

Audience/Circulation

 WHTZ NY	2.3M
 XM's <i>the70s</i>	2.3M
 KIIS LA	2M
XM's <i>the80s</i>	1.9M
XM's <i>20:20</i>	1.6M
 WAXQ NY	1.5M
	1.4M
 KCBS LA	1.3M
	1.1M

\*Source: Arbitron Custom Survey Nielsen Media Research Spring 2006

Confidential & Proprietary Information of XM Satellite Radio

**XM-Logan Exhibit  
Comments of Recording Artist  
Copyright 2001-2006 XM Satellite Radio**

- |                                 |                                  |
|---------------------------------|----------------------------------|
| <b>Track 1- Al Jarreau</b>      | <b>Track 8- Ian Anderson</b>     |
| <b>Track 2- Big Head Todd</b>   | <b>Track 9- Kenny Loggins</b>    |
| <b>Track 3- Chrissie Hynde</b>  | <b>Track 10- Kir Whalum</b>      |
| <b>Track 4- Dave Koz</b>        | <b>Track 11- Marty Stuart</b>    |
| <b>Track 5- Don Henley</b>      | <b>Track 12- Michael Franks</b>  |
| <b>Track 6- Huey Lewis</b>      | <b>Track 13- Roger McGuinn</b>   |
| <b>Track 7- Gerald Albright</b> | <b>Track 14- Wynton Marsalis</b> |

Transcript of CD Containing Comments of Recording Artists  
Copyright – 2001-2006 XM Satellite Radio

**Track 1: Al Jarreau** -- Hi everybody! Wow! I can't tell you how great this is to be doing a world-premiere of my music on a pair of cans...with a string between them. I don't get a chance to be involved in the world-premiere of my music. It's usually somebody else doing it and I'm not even in the room, and so this is a great opportunity on this new technology. XM is presenting the world...of really clear radio, uninterrupted reception, no commercials, coast-to-coast—it's great stuff, so I'm glad to have this chance to do it and to talk to you about my new CD, "All I Got," available in stores on September 17<sup>th</sup>.

**Track 2: Big Head Todd** -- And I just want to say, you know, what I fan I am of satellite radio. Having been someone who's really lost my attention to conventional radio. I got a satellite radio about a year ago and I haven't listened to anything since. I really hope that you guys can just kick it into the future and best of luck to you, to all of you

**Track 3: Chrissie Hynde** -- The only thing that really broke my heart was when I came back here and radio had taken such a nose dive, so that's really cheered me up now that, you know, you're doing this and the radio is back

**Track 4: Dave Koz** -- I think XM is amazing. I'm so excited about the prospect, you know, with radio consolidation and commercials on the air of terrestrial radio and, you know, the play lists getting smaller and smaller, to think about a service that you can get in your car that has, in a lot of ways, commercial-free music and you have the choices, the vast library of songs. You know, for music lovers, this is the place to be. XM is definitely the place to be. And as a musician, as a recording artist, this is like the new frontier, because you look at regular radio stations and you say, you know, it's getting smaller and smaller and smaller, and they're casting a much wider net over and over and over. Same songs are being played. Here is the new frontier for musicians and music lovers to be able to say "open it up a little bit, let the music breath, try taking a few chances." So, I think, you know, the fact that we're doing a world-premiere party for "Golden Slumbers" right here on Watercolors is perfect testament to the fact that a lot more is appropriate here, that you can do more, you can try more, you can take more chances on XM and I applaud you.

**Track 5: Don Henley** -- I just think it undermines diversity of opinion, it undermines diversity in the cultural aspect in that we get fewer and fewer choices in music, which is why what you're doing is so good here.

**Track 6: Huey Lewis** -- Q: A very important thing. You're a big fan of XM right? A: Big fan of XM. Q: You got XM satellite radio? A: I got XM satellite radio. Q: What's the channels you listen to? A: I listen to, you know, I go to that 80s channel a little bit...I don't know.... Q: What, Fred? A: I bounce around. Q: Fred? A: No, the 80s. Q: Oh, just the 80s, 80s. Oh, ok.

**Track 7: Gerald Albright** -- I'm really excited about the experience of having XM radio and Watercolors do a world-premiere of my new CD, "Kicking It Up." I always enjoy the format of XM radio as they play the whole album—the entire project, which is really exciting to the listener because you get more than the single, and just getting the single is the equivalent of reading one chapter of a book and not reading the rest of the chapters of the book. You can't get the whole story of the project. So, I'm really enjoying what XM is doing, and I'm privileged and so appreciative that they took the time to put together this fine world-premiere for me. XM, I thank you.

**Track 8: Ian Anderson** -- This is something that eventually is the future because choice is everything. The opportunity to be able to make decisions about what you want to hear. And the excitement that comes with finding things that you didn't know you wanted to hear. And having it available to you. So I'm a great supporter of the Amazon.coms' of this world or XM Radio where it has the opportunity to bring to people's lives something that they didn't know might possibly enrich their experience and from that point of view, it's a great opportunity.

**Track 9: Kenny Loggins** -- This is a great place. I mean, XM, the studio, everything about XM feels totally together and I think that satellite radio is something we need desperately right now. And I'm so glad to see it happening. And see it happening so well, by people who know what they are doing.

**Track 10: Kirk Whalum** -- As an XM listener, I have actually heard a few world-premieres of some of my famous artists—one of whom would be Paul Jackson, Jr. And it's exciting for me to now be able to tune in and hear my own world-premiere on XM Radio. I was one of those people who was just waiting with baited breath for XM to finally hit the airwave or whichever waves you guys use. It's just so exciting for me to be able to first of all listen to all different kinds of music...just a button. For instance, for me, I love Salsa, so the station called "Caliente," which is number 94—I happen to know my station numbers—I listen to that station all the time. It's great because I can listen and decide what records I want to go buy, and I'm always exposed to something cool and new. I love oldies, as apparent by this new CD called "Into My Soul." I mean, we basically kind of did our homework by listening to the Soul Street station and that's number 60. It's nice to be able to hear those songs and kind of go "oh wow," see that's the sort of vibe we were looking for in this tune. I love Gospel music. We have a Gospel CD out called "The Gospel According to Jazz" and it's doing really well. It's called "Chapter 2." And there is a song called "Falling In Love with Jesus" that they are playing on the Spirit station—on number 63. So, imagine how exciting that is for me to be able...it's really exciting to do our debut, world-premiere of "Into My Soul" on XM radio. It's only fitting.

**Track 11: Marty Stuart** -- Well, to another musician I would simply say, "XM is the hope." It's the hope that we truly have against all corporate consolidation, all homogenation of American culture. This is a place where you can still go and be yourself. Play what's in your heart without ever looking back or worrying about the outcome.

**Track 12: Michael Franks** -- I think it's great that you're.... Thank you so much for premiering it this way. I really felt I was so...I had missed the deadline for any kind of promotion for the project that I didn't expect any opportunity quite like this to arise. So thank you so much for putting this program together and premiering it this way. I think is great that XM is appealing to that, something that I think of as like an old concept of—a somewhat lost concept of the relationship between radio and the people who listen to radio. So I think it's admirable that you're all approaching it from that point of view, and it certainly is great for fans. I know, as someone who loves to listen to radio, there certainly have been some bleak times recently in particular, and not to end in a minor key, but let's just say that it is great that you guys are premiering my record and I know my fans will appreciate it a lot. I think that's a terrific thing to do and something that, having been in this business for 30 years, it's something that I haven't noticed in a while. It used to be kind of a common thing that progressive radio would do. And so I think it's terrific that you guys are doing it and thanks.

**Track 13: Roger McGuinn** -- Well I do a lot of cross-country driving. My wife and I have this wonderful vehicle and we go all over the country with it back and forth, and we wouldn't do it without XM. We listen to XM all the time, we listen to the news and we listen to the music. And it's just great to have, it's a friend, it's like a constant companion, it's everywhere. It even works in tunnels somehow. I don't know how that works but it's great. I've been under these waterways and tunnels and XM is just jamming in. It's the greatest thing.

**Track 14: Wynton Marsalis** -- I think that this is a perfect example of using technology and putting it to the service of the human soul and to the human spirit. And that to me is really what XM represents.

**RESTRICTED - Subject to Protective Order  
in Docket No. 2006-1 CRB DSTRA**

-----Original Message-----

From:

Sent: Friday, November 15, 2002 9:56 AM

To: programming@xmradio.com

Subject: Programming: Miscellaneous Comments/Questions

First Name:

Last Name:

XM Subscriber: true

Email Address:

Comment.

When I bought my XM, the salesman told me I would no longer need my CD's. With the variety of music, I would listen to the XM radio all the time. My purchases have actually increased because I hear songs I haven't heard in years. I also buy music I would never have heard on commercial radio.

I LOVE XM!!!!!!

---

-----Original Message-----

From: :

Sent: Tuesday, January 21, 2003 11:05 AM

To: programming@xmradio.com

Subject: Programming: Miscellaneous Comments/Questions

First Name:

Last Name:

XM Subscriber: true

Email Address:

Comment

I would just like to say I love the XM service. I've had since it first started in my area (NJ), and I just wanted to say thank you for what you've offered. The sheer fact that channels change, and things are constantly being updated is a great sign that shows that you care about your customers. This is the best service that I have ever bought, and I have never looked back on it. Furthermore, I never bought too many CD's in the past, but now with artists names and titles being shown, I am going out and buying CD's of bands that I have never heard before. Thanks again for the awesome service you provide

Posted May 01, 2003 21:48    " "

Member  
Member #

I just heard the "Let It Ripp" World Broadcast Premiere on XM Satellite Radio's "Watercolors" channel. It's different than any other Ripp's release, but it's excellent. I'm looking forward to picking up the CD once it's available.

From | IP Logged

3/24/2006

3/24/2006

-----Original Message-----

**From:**

**Sent:** Tuesday, May 27, 2003 5:57 PM

**To:** Brian Chamberlain

**Subject:** I like it!

Hello Brian,

I just wanted to send a quick note and say that I just LOVE the new single "Prove Yourself" by Joan Armatrading. I am going to buy the CD this week. I have only heard it on XM Cafe, and without my XM subscription I wouldn't have even known about it.

We aren't even playing it at all on Cities 97/Minneapolis?!?! I guess she's not really "top priority" to the "major market" stations anymore but her music is just great.

Anyway, thanks for the station and all your hard work. We listen to "Channel Four-Five" about 20 hours a week here at the MS/Conclave office!!!!

Best regards-

3/24/2006

---

Ted Kelly  
Program Director,  
UPOP XM29/Worldspace  
Director, Global Media Marketing and Promotion, Worldspace Corporation  
4th Floor, 2400 N St. N W. Washington D.C. 20037  
202.969.6478  
[www.tedkellyworld.com](http://www.tedkellyworld.com)  
[tkelly@worldspace.com](mailto:tkelly@worldspace.com)

From: \_\_\_\_\_  
Date: 6/10/03  
Hey Ted,

I heard The Ataris' "Boys Of Summer" on U-Pop yesterday. AWESOME!!! I just love U-Pop and I have heard a lot of cool music from the station.

I just ordered the new Simply Red album, and the Cardigans new CD from [www.secondsounds.com](http://www.secondsounds.com). It's an online UK music store, as those albums are not released here. I wouldn't even know about them if not for XM29!!! Keep playing Royksopp's "Eple" more!

---

-----Original Message-----

From:

Sent: Thursday, August 14, 2003 10:34 AM

To: tobi@xmradio.com

Subject: Ugly Duckling

Tobi,

Loving that Ugly Duckling. I order it this week after you gave me the web site. Thanks

You guys are killing me. I thought I would save money on CD's by having XM, instead I keep buying more.

NJ

-----Original Message-----

**From:** Chamberlain, Brian  
**Sent:** Wednesday, September 03, 2003 8:43 AM  
**To:**  
**Subject:** RE: Tori Amos Song Assistance

Hi

Good ears! You DID hear Tori Amos. The song was called "Carbon" off her 2002 "Scarlet's Walk" CD (on Epic Records )

Safe travels, and enjoy the disc!

Thanks for listening!

Brian

**Brian Chamberlain**  
*Director of Musical Interludes*  
XM Cafe/ XM 45  
XM Satellite Radio  
1500 Eckington Place, N.E.  
Washington, D.C. 20002  
[brian\\_chamberlain@xmradio.com](mailto:brian_chamberlain@xmradio.com)  
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[www.xmradio.com](http://www.xmradio.com)  
**Cafe Studio -1.866.542.CAFE**  
**Cafe Email- [xmcafe@xmradio.com](mailto:xmcafe@xmradio.com)**  
**Cafe Webpage- <http://xmcafe.xmradio.com>**

-----Original Message-----

**From:**

3/24/2006

**Sent:** Tuesday, September 02, 2003 9:39 PM  
**To:** xmcafe@xmradio.com  
**Subject:** Tori Amos Song Assistance

Good evening,

I am trying to find the title to a song I heard on the Cafe today ..it has to do with "eyes" and it was in a set with David Gray's "Real Love" and a track by R.E M. around 11-12 P M. Pacific Standard Time. I was driving back from L A. to Vegas I would like to buy that CD....Thanks!

---

-----Original Message-----

From:

Sent: Friday, September 19, 2003 2:03 PM

To: Watercolors

Subject: Re: Song Request

Thanks so much, Lily. I ordered the CD and can't wait to get it. You've just been great.

----- Original Message -----

From: "Watercolors" <watercolors@xmradio.com>

To:

Sent: Thursday, September 18, 2003 9:32 AM

Subject: RE: Song Request

> Hi

> Oh yah! I've got your mystery artist the song you heard was "Love  
> Calls" by Kem. His album is called Kemistry and was just released in  
March

> on Molown records <http://www.kemistryrecords.com/main.htm>

>

> Happy Hunting.

> lily  
> directeur de musique & on-air guide  
> watercolors, xm71  
> watercolors@xmradio.com

> -----Original Message-----  
> From:  
> Sent: Wednesday, September 17, 2003 4:53 PM  
> To: Watercolors  
> Subject: Re: Song Request

> Hi Lily,  
> I think I may have heard my song yesterday (Tues, Sept. 16) at 4:42 pm  
> (CST). I know it has the phrase, "There's nowhere to hide when love  
> calls your name " Got any idea who it is?

> ----- Original Message -----  
> From: "Watercolors" <watercolors@xmradio.com>  
> To:  
> Sent: Wednesday, September 10, 2003 9:18 AM  
> Subject: RE: Song Request

> > Hi  
> > I'm not giving up YET! Wow, what an effort! And it seems we still  
> > haven't found your mystery tune. I went back to the day 9.03 03 and  
> > made a list of all the male vocals played between 10am and 8pm  
> > eastern/9am and  
> > 7pm  
> > central. Here is what I came up with.  
> >  
> > Eastern/Central/Artist/Song Title  
> >  
> > 10:39am e/9:39am c El Debarge/Dindi  
> >  
> > 11:28am e/10:28am c Will Downing-Don't Talk To Me Like That  
> >  
> > 11:51am e/10:51am c Walter Beasley-Do You Wanna Dance  
> >  
> > 1:03am e/12:03pm c George Duke-No Rhyme, No Reason  
> >  
> > 1:28pm e/ 12:28pm c Pieces of a Dream f/Maxi Priest-Pieces  
> >  
> > 2:14pm e/ 1:14pm c Ephraim Lewis-Drowning In Your Eyes  
> >  
> > 2:37pm e/ 1:37pm c Walter Beasley - Don't Know Why  
> >  
> > 5:55pm e/ 4:55pm c Bobby Caldwell - Stuck On You  
> >

>> 6:21pm e/ 5.21pm c Al Jarreau - It's How You Say It  
>>  
>> 7:12pm e/ 6:12pm c Joe Sample f/ Take Six - U Turn  
>>  
>> 7:55pm e/ 6 55pm c Michael Franks -The Lady Wants To Know  
>>  
>> If none of these songs fit the description, keep listening, you'll  
> probably  
>> hear that song again on Watercolors someday down the line. Once  
>> again, I hope this information helps! Sure, there's a million other  
>> things at work  
> |  
>> SHOULD be doing, but I want you to find your song too! Take care,  
>>  
>> Lily  
>>  
>> lily  
>> directeur de musique & on-air guide  
>> watercolors, xm71  
>> watercolors@xmradio.com  
>>  
>>  
>>  
>> -----Original Message-----  
>> From:  
>> Sent: Tuesday, September 09, 2003 2 12 PM  
>> To: Watercolors  
>> Subject: Re: Song Request  
>>  
>>  
>> Hi Lily,  
>> I have about decided it had to be Bobby Caldwell. "Stuck on You"  
>> isn't  
> the  
>> song, but I really don't think anyone else sounds quite like him and  
> that's  
>> the first person who popped into my mind while the song was playing.  
>> You know he has that smooth, velvety sound. Anyway, I am giving up  
>> and I am  
> so  
>> grateful for all the time you have put in trying to help me You're  
>> a  
> real  
>> trooper! I just love listening to you and am there every day. If a  
>> song plays on Watercolors what are the chances that I will hear it  
>> again? Do  
> you  
>> guys repeat often? If I hear it again, I will be sure to notice the  
>> exact time. Thanks again for your efforts. It's been great  
>> corresponding with  
> a  
>> celebrity!!!!

>>  
>> ----- Original Message -----  
>> From: "Watercolors" <watercolors@xmradio.com>  
>> To: '\_\_\_\_'  
>> Sent: Tuesday, September 09, 2003 10:03 AM  
>> Subject: RE. Song Request

>>  
>>  
>>> Hi again ...  
>>> We may just find this song someday! I checked during the 4:30-5pm  
>>> central time on 9 3 03 and found a Bobby Caldwell song that played  
>>> at  
>>> 4.54pm  
>>> central. The song was "Stuck On You" by Bobby Caldwell, from his  
>>> 1996 release called Blue Conditon. This album is still  
>>> inprint.. and perhaps THIS is the song you heard! Cross you  
>>> fingers  
>>> :)  
>>>  
>>> Have a great day,  
>>> lily  
>>> directeur de musique & on-air guide  
>>> watercolors, xm71  
>>> watercolors@xmradio com  
>>>  
>>>  
>>>

>>> -----Original Message-----  
>>> From.  
>>> Sent: Monday, September 08, 2003 1.02 PM  
>>> To: Watercolors  
>>> Subject: Re. Song Request

>>>  
>>>  
>>> Hello again,  
>>> I listened on the internet to Maxi Priest...still not him. Maybe  
>>> it was between 4:30 and 5:00. Noon hour and 4:30 - 5:00 are  
>>> really the only  
>>> times  
>>> I am in my car to listen. If it wasn't in the afternoon I guess  
>>> we are  
>>> not  
>>> going to find it. It just was so hauntingly beautiful. You know  
>>> how  
>>> Bobby  
>>> Caldwell has that certain smooth sound...well this guy had that  
>>> same quality. Sorry I have been such a pain You know, you  
>>> certainly are a  
>>> nice  
>>> person to put up with this.

>>> ----- Original Message -----  
>>> From: "Watercolors" <watercolors@xmradio.com>

>>> To:  
>>> Sent: Monday, September 08, 2003 10:37 AM  
>>> Subject: RE: Song Request

>>>  
>>>

>>>> Hi  
>>>> Ok, I checked during the noon hour and came up with this: The  
>>>> group Pieces of a Dream played at 12:26pm central. The song was  
>>>> the title track "Pieces" featuring the vocals of Maxi Priest.  
>>>> You'll find it on the  
>>> Pieces  
>>>> of a Dream album called Pieces from 1997 which is still in print.  
>>>> Let me know if we've found your mystery tune!!

>>>>

>>>> lily

>>>>

>>>> -----Original Message-----

>>>> From:

>>>> Sent: Monday, September 08, 2003 10:36 AM

>>>> To: Watercolors

>>>> Subject: Re: Song Request

>>>>

>>>>

>>>> Hi Lily,

>>>> If you're not sick of me by now, you should be! Sorry, that's  
>>>> not it either. Could you try one more thing? How about between  
>>>> 12:30pm

>>>> (CST)

>>>> and

>>>> 1:00pm and maybe between 4:30pm (CST) and 5:00pm. All on  
>>>> 9/3/03. If this doesn't work, I give up. I won't bother you  
>>>> again. Thank you so much

>>>> for

>>>> trying. You are a dear.

>>>>

>>>> ----- Original Message -----

>>>> From: "Watercolors" <watercolors@xmradio.com>

>>>> To:

>>>> Sent: Friday, September 05, 2003 1:36 PM

>>>> Subject: RE: Song Request

>>>>

>>>>

>>>>> Hi

>>>>> Well, let's try again. . On 9.03.03 Ephraim Lewis "Drowning in  
>>>>> Your Eyes" played at 1:17p central, then, another male vocal  
>>>>> played at 1:39p central. It was Walter Beasley's version of  
>>>>> the Norah Jones tune "Don't Know Why" from his most recent  
>>>>> album called Go With The Flow. Could that

>>>>> be

>>>>> it? I hope this information helps. Let me know if we've

>>>>> discovered the right song!

>>>>>

>>>> lily  
>>>> directeur de musique & on-air guide  
>>>> watercolors, xm71  
>>>> watercolors@xmradio.com  
>>>>  
>>>>  
>>>>  
>>>> -----Original Message-----  
>>>> From:  
>>>> Sent: Friday, September 05, 2003 2:01 PM  
>>>> To: Watercolors  
>>>> Subject: Re: Song Request  
>>>>  
>>>>  
>>>> Hi again Lily,  
>>>> I'm still trying to find out who the vocalist was around  
>>>> 1:00pm  
>>>> (CST) on 9/03/03. Did you play any Bobby Caldwell music around  
>>>> that time? Could  
>>>> have  
>>>> been a little before or after that time. I'm trying so hard  
>>>> to find out  
>>>> who  
>>>> it was. Thanks!  
>>>>  
>>>> ----- Original Message -----  
>>>> From: "Watercolors" <watercolors@xmradio.com>  
>>>> To:  
>>>> Sent: Friday, September 05, 2003 9:06 AM  
>>>> Subject: RE: Song Request  
>>>>  
>>>>  
>>>>> Hi  
>>>>> Welcome to the XM family. Thanks for spending time with  
>>>>> Watercolors! I've got the answer to your mystery tune. At  
>>>>> 2:17pm eastern/1:17pm central on 9/3/03 we played "Drowning  
>>>>> In Your Eyes" by Ephraim Lewis from the album Skin. The  
>>>>> album is still in print and was released in 1992. I hope  
>>>>> this info helps on your quest for new music. Happy  
>>>>> Listening!  
>>>>>  
>>>>> Let us know if you have any more musical questions, lily  
>>>>> directeur de musique & on-air guide watercolors, xm71  
>>>>> watercolors@xmradio.com  
>>>>>  
>>>>>  
>>>>> -----Original Message-----  
>>>>> From  
>>>>> Sent: Thursday, September 04, 2003 12:07 PM  
>>>>> To: watercolors@xmradio.com  
>>>>> Subject: Song Request

>>>>>  
>>>>>  
>>>>> .....  
>>>>> XMRADIO.COM Song Request  
>>>>> .....  
>>>>>  
>>>>>  
>>>>> would like to  
>>>>> hear  
>>>>>  
>>>>> Artist Not sure  
>>>>> Title Not sure  
>>>>>  
>>>>> Listener's Comments  
>>>>> This is for Watercolors (71) Please help. A song played  
>>>>> somewhere close  
>>>>> to  
>>>>> 1.00 pm (CST) on 09/03/03 and I need to know the artist and  
>>>>> title It  
>>>>> was  
>>>>> a male vocalist and he had such a wonderful sound Sounded  
>>>>> like Sting, but  
>>>>> I  
>>>>> don't think it was him Can you please check your schedule  
>>>>> and try to  
>>>>> find  
>>>>> out who he was. Please It could have been anywhere  
>>>>> between 12:55 and 1:15 I will appreciate this so much!  
>>>>> Thanks

---

-----Original Message-----

From: Tobi

Sent: Tuesday, September 23, 2003 10:21 AM

To:

Subject: RE: Caesers

that totally rules timothy p...you'll totally dig that caesars album...and i'm sure you'll look snazzy in your new xmu t-shirt :)

as for the american analog set...their latest album is called "promise of love" and the album before that is called "know by heart"...the latter is one of my all time favorite albums ever...it's so beautiful...it soothes my soul. if you pick up either album i'm sure you'll be pleased...if you can only pick one of the two...i'd recommend "know by heart." let me know what you think if you pick up either or both. in the meantime...thanks so much for all of your support of the U.

have a super fab day .tobi )

-----Original Message-----

From:

Sent: Tuesday, September 23, 2003 9:49 AM

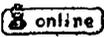
To: xmu@xmradio.com

Subject: Caesers

Hi Tobi,

I like the Caesars "Jerk It Out" and so I just went to amazon.com and ordered the album! I think this American Analog cut you're playing in pretty good, too. Last night I got a brand new XMU T shirt from XMFanStore.com, I'm wearing it today. Hope all is going along smoothly down in the Hub. Have a great day.

---

<p>XM Fanatic ☆☆☆☆☆</p> <p>Joined: 09 May 2003 Posts 397 Location: Washington DC</p> <p> online</p>	<p>Posted: Thu Sep 18, 2003 11:31 am Post subject: </p> <p>OK, here's my beef with XMU</p> <p>It's too good!!!! ARGHHHH!!! STOP IT!! I keep loading up my Amazon cart with new stuff, but when the hell do I have time to listen to these CDs since there's always something cool on XM????</p>
--	--

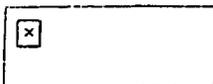
---

-----Original Message-----

**From:**  
**Sent:** Wednesday, October 08, 2003 2:32 PM  
**To:** finetuning@xmradio.com  
**Subject:** Song...

I was listening to Fine Tuning yesterday and heard the last few seconds of a great song. It was based on Sibelius's Finlandia and had a female vocal set against the tune of that beautiful classical piece. Do you happen to know the name of that song and the artist? I want it

Thanks so much and PS - FINE TUNING IS THE BEST CHANNEL ON XM BY FAR!!!!!!!!!!!!



---

-----Original Message-----

From:

Sent: Wednesday, October 22, 2003 2:39 PM

To: watercolors@xmradio.com

Subject: RE: Song Request

Thank you very much. I will go out today and purchase that cd.

>From: Watercolors <watercolors@xmradio.com>

>To:

>Subject: RE: Song Request

>Date: Wed, 22 Oct 2003 10:09:27 -0400

>

>Hi!

> Thanks for spending time with Watercolors, and welcome to the XM  
>family! I've got the answer to your mystery tune. The song is "Light  
>Above The Trees" by Keiko Matsui from her release A Drop of Water. The  
>album was originally released in 1987, and lucky you...the CD was  
>reissued (with a bonus track) in June of this year. I've attached a  
>pic of the cover art of the 2003 version. Let us know if you've got  
>any more musical questions.

>

>Happy hunting,

>lily

>directeur de musique & on-air guide  
>watercolors, xm71  
>watercolors@xmradio.com  
>  
>  
>  
>-----Original Message-----  
>From:  
>Sent Tuesday, October 21, 2003 11:29 PM  
>To: watercolors@xmradio.com  
>Subject: Song Request  
>  
>  
>\*\*\*\*\*  
>XMRADIO COM Song Request  
>\*\*\*\*\*  
>  
>I would like  
>to  
>hear:  
>  
>Artist: Keiko Matsui  
>Title: Light from the ?  
>  
>Listener's Comments:  
>I want to know the whole title to that song because I am interested in  
>purchasing that cd from that artist. I am not sure what the rest of  
>the title is because on my Sony XM Radio only showed what you see in  
>song title.  
>  
>  
>  
>XM Satellite Radio Inc  
><http://www.xmradio.com>  
>  
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>electronic mail ([postmaster@xmradio.com](mailto:postmaster@xmradio.com)).  
>  
><< f93028sehi4[1].jpg >>

---

See when your friends are online with MSN Messenger 6.0. Download it now  
FREE! <http://msnmessenger-download.com>

-----Original Message-----

**From:**

**Sent:** Wednesday, October 29, 2003 3:40 PM

**To:** Wax, Bill

**Subject:** Song Question

Artist: Preston ..

Title: Midnight .

Can you fill in the rest? What album is this from?  
Played 7.07PM Eastern 10/29/2003

It would be great for all of us early XM-ers that have units that don't display the full artist/title information if the page for each channel displayed the recent play list so we wouldn't have to email all the time asking what it was that was on based on a partial title.

I've gone as far as having a custom booklet designed to keep in the car that I can write down date, time, artist, title & channel so I can find out the full info later. Since I've been a subscriber, I have purchased over 300 CD's, many from music heard on Bluesville

Thanks

---

-----Original Message-----

From:

Sent: Wednesday, November 26, 2003 8:36 AM

To: Watercolors

Subject: RE: Song Request

Thank you so much for the information. It is nice to know that I can find out what the songs are so I can buy the cd's. I really enjoy the station. It is my favorite station. Happy Thanksgiving!

---

> Hi

> Thanks for spending time with Watercolors, and welcome to the XM  
> family! I have the answer to your mystery tunes. On Sat. November  
> 22, 2003 at 6:55pm eastern/5:55pm central, Al Jarreau sang "Just To Be  
> Loved" - that song is on his album called Tomorrow Today. The  
> following song was by a group called 3rd Force. "I Believe In You" is  
> on the 3rd Force album Gentle Force.

>

> Happy hunting,

> Lily

> directeur de musique & on-air guide

> watercolors, xm71

> watercolors@xmradio.com

>

>

>

> -----Original Message-----

> From:

> Sent: Sunday, November 23, 2003 5:06 PM

> To: watercolors@xmradio.com

> Subject: Song Request

>

>

> \*\*\*\*\*

> XMRADIO COM Song Request

> \*\*\*\*\*

>

> I would like to

> hear:

>

> Artist: Don't know

> Title: don't know

>

> Listener's Comments:

> I heard a song last night on November 22nd at 5:55 p.m. - Central Time

> -

> vocals - would love to know who the group is so I can get it. That

> was the second time I heard it and its wonderful. The song afterwards

> as well I would like to know about. Thanks. Caroline

>

>

> XM Satellite Radio Inc

> <http://www.xmradio.com>

>

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> electronic mail ([postmaster@xmradio.com](mailto:postmaster@xmradio.com)).

>

Cc ;|| You got it. I'm glad I could help out )

Have a good one,  
Lily

-----Original Message-----

**From:**  
**Sent:** Tuesday, December 09, 2003 7:03 PM  
**To:** watercolors@xmradio.com  
**Subject:** THANKS!!!

Whoever reads this E-mail please thank Lily for the reply to my question about a Christmas song/album  
Thanks to the information in the reply I was able to give our local Hastings what they needed to look up the  
album on their inventory and I am on my way to pick up a CD this evening.

Thanks very much and happy holidays!

-----Original Message-----

**From:** Watercolors

3/24/2006

**Sent:** Tuesday, December 09, 2003 11:04 AM  
**To:**  
**Subject:** RE: CHRISTMAS QUESTION

Hi

Happy Holidays! You'll find the Sixpence None The Richer version of "O Holy Night" on an album with various artists called City On A Hill It's Christmas Time (2002 on the Essential record label) The song you're looking for is #12 on the CD by Leigh Nash (lead singer of Sixpence ) But it looks like Sixpence has a version of Silent Night on this album too Happy hunting, here's what I found at amazon.com

If you have any more musical questions, let us know,

lily  
directeur de musique & on-air guide  
watercolors, xm71  
watercolors@xmradio.com

from amazon.com

**City on a Hill: It's Christmas Time**  
Various Artists

List Price: ~~\$17.98~~

Price: \$14.99 & eligible for FREE Super Saver Shipping on orders over \$25. See details.

You Save: \$2.99 (17%)

**Availability:** Usually ships within 2 to 3 days

- |   |                          |                          |
|---|--------------------------|--------------------------|
| 1 I Heard the Bells on Christmas Day      | <a href="#">Listen</a> 🎵 | <a href="#">Listen</a> 🎵 |
| 2 It's Christmas Time - Derrri Daugherty  | <a href="#">Listen</a> 🎵 | <a href="#">Listen</a> 🎵 |
| 3 Silent Night - Sixpence None the Richer | <a href="#">Listen</a> 🎵 | <a href="#">Listen</a> 🎵 |
| 4 Holy Emmanuel - Terry Scott Taylor      | <a href="#">Listen</a> 🎵 | <a href="#">Listen</a> 🎵 |
| 5 Babe in the Straw - Caedmon's Call      | <a href="#">Listen</a> 🎵 | <a href="#">Listen</a> 🎵 |
| 6 Child of Love - Sara Groves             |                          |                          |
| 7 Bethlehem Town - Jars of Clay           |                          |                          |
| 8 Manger Throne - Derrri Daugherty        |                          |                          |
| 9 Away in a Manger - Derrri Daugherty     |                          |                          |
| 10 Do You Hear What I Hear? - Out of Eden |                          |                          |
| 11 In the Bleak Midwinter                 |                          |                          |
| 12 O Holy Night - Leigh Nash              |                          |                          |

-----Original Message-----

**From:**  
**Sent:** Monday, December 08, 2003 10:37 PM  
**To:** watercolors@xmradio.com  
**Subject:** CHRISTMAS QUESTION

I just got your E-mail address while driving tonight I know you are not one of the Christmas channels but maybe you can help me

The most beautiful version of "O Holy Night" I have ever heard was played on the HOLLY channel of XM Radio on Thursday December 4th It was done by SIX PENCE NONE THE RICHER Can you tell me if this group has a Christmas album with this song on it or how I can get their recording of this Christmas song

3/24/2006

Thanks and God Bless all of you at XM Radio

3/24/2006

-----Original Message-----

**From:** /  
**Sent:** Wednesday, March 31, 2004 7:57 PM  
**To:** 'Watercolors'  
**Subject:** RE: A Song You Played

Hi Lily - I bought it today! Thanks for the reply

-----Original Message-----

**From:** Watercolors [mailto:watercolors@xmradio.com]  
**Sent:** Wednesday, March 31, 2004 11:17 AM  
**To:**  
**Subject:** RE: A Song You Played

Hi:

Thanks for checking in! I've got the answer to your mystery tune. On Tuesday March 30th at 11 56a central time we played "Smoke Gets In Your Eyes" by David Sanborn. Find this song on his 1995 album called Pearls, which is still in print.



David Sanborn/Pearls

3/24/2006

I hope this information helps your search for new music!

Happy Hunting,

lily  
directeur de musique & on-air guide  
watercolors, xm71  
watercolors@xmradio.com

-----Original Message-----

**From:**  
**Sent:** Tuesday, March 30, 2004 9:20 PM  
**To:** watercolors@xmradio.com  
**Subject:** A Song You Played

Hi Watercolors,

Can you tell me the name of the artist and CD of the sax song you played at 12 noon CST today (Tuesday, March 30) "Smoke Gets In Your Eyes" ?

Thanks,

The Live Music Capitol of the World

XM Satellite Radio Inc.  
<http://www.xmradio.com>

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3/24/2006

-----Original Message-----

**From:**  
**Sent:** Monday, July 19, 2004 11:48 PM  
**To:** xmcafe@xmradio.com  
**Subject:** Info. Please?

Hello

I want you to know I really enjoy this channel. It alone is worth the cost of my XM subscription.

I don't know if you do this or not, but thought I would try. This evening, I heard a Dire Straits song called "Fade too Black" I wanted to see about buying it, but I can't find what album it is from. If you can, I would appreciate it if you could tell me.

Keep up the good work!

-----Original Message-----

**From:**  
**Sent:** Friday, July 09, 2004 6:47 PM  
**To:** xmcafe@xmradio.com  
**Subject:** Favorite station

Hello,

I got XM radio in October as an anniversary gift from my wife. I just want to say it is the best and most useful and enjoyable gift I ever received.

Also XM Café is my favorite station. Great music and artists.

Only one thing, I never heard my 2 favorite artist on XM Café yet. They are Tom Waits and Nick Cave.

Do you play any of these guys? Or am I just listening at the wrong times.

Do any of the other stations play them?

I noticed you use Tom Waits "What's he Building in There" for advertising "Build your own show".

Anyway XM café is great.

I am also learning about new artists (new to me that is) and buying CD's of theirs.

IE: Ben Harper, Shawn Colvin and Michelle Shocked to name a few.

Thanks and keep up the good work!

3/24/2006

-----Original Message-----

**From:**

**Sent:** Monday, October 25, 2004 7:16 PM

**To:** xmcafe@xmradio.com

**Subject:** Low Millions

I heard the new band Low Millions are you're nude music review a few weeks back and loved them. I had to order their album because I couldn't find it in the major stores in my area and it was well worth the effort. Thank you for playing them in the first place and make sure to play them as much as possible. People need to hear their new album. Great choices are "Eleanor", "Here She Comes" (my fav) and "Statue" among many others.

PLAY MORE LOW MILLIONS!!!!

Thanks,

-----  
A big XM Cafe fan

-----Original Message-----

**From:**

**Sent:** Saturday, October 23, 2004 8:48 AM

**To:** thegroove@xmradio.com

**Subject:** Tower of Power

Hello from

The Tower of Power broadcast Friday night was pretty good. Funk isn't my normal listening fare, but these guys can really cook. I'll be out later today looking to pick up a CD or two of theirs.

My only disappointment with the broadcast was that it seemed to start in mid set. Is there any chance you will broadcast the entire show in the future?

-----Original Message-----

From:  
Sent: Tuesday, October 19, 2004 8.06 AM  
To: Brian.Chamberlain@xmradio.com  
Subject: RE: Song Request

Thanks for the info, I ordered it off of Amazon. By the way, how do you become a "Director of Musical Interludes? Sounds like a tough job!!! Just Kidding. Thanks again,

>From "Chamberlain, Brian" <Brian.Chamberlain@xmradio.com>  
>To:  
>Subject: RE: Song Request  
>Date: Tue, 19 Oct 2004 07:35:19 -0400  
>  
>Hi  
>  
>Find it on his 2001 CD "To Be Frank."  
>  
>Hope this helps, and thanks for listening!  
>  
>Brian  
>  
>  
>Brian Chamberlain  
>Director of Musical Interludes  
>XM Cafe/ XM 45  
>XM Satellite Radio  
>1500 Eckington Place, N.E.  
>Washington, D C. 20002  
>brian.chamberlain@xmradio.com  
>P-202.380 4454

Thanks! Will buy on Amazon right now Have a great day!

MPT

-----Original Message-----

**From:** Chamberlain, Brian

**Sent:** Saturday, July 31, 2004 1:09 PM

**To:** '

**Subject:** RE: song & artist

Hi

No need to even list that many...we know exactly who/what you're referring to. That was a band who go by the name Jing Chi with a song called "It's Nobody's Fault But Mine," (actually a reworking of an old Willie Johnson original ) The song features Robert Cray on guest vocals..

Find it on the album "Jing Chi 3D."

Hope this helps .. and thanks for listening!

Brian

**Brian Chamberlain**

*Director of Musical Interludes*

**XM Cafe/ XM 45**

**XM Satellite Radio**

1500 Eckington Place, N.E.

Washington, D.C. 20002

[brian\\_chamberlain@xmradio.com](mailto:brian_chamberlain@xmradio.com)

P-202.380.4454

F-202.380.4444

[www.xmradio.com](http://www.xmradio.com)

**Cafe Studio -1.866.542.CAFE**

**Cafe Email- [xmcafe@xmradio.com](mailto:xmcafe@xmradio.com)**

**Cafe Webpage- <http://xmcafe.xmradio.com>**

3/24/2006

-----Original Message-----

**From:**  
**Sent:** Friday, July 30, 2004 2 59 PM  
**To:** xmcafe@xmradio.com  
**Subject:** song & artist

Dear XM Cafe:

Yesterday afternoon (July 29) around 4.30 PM Eastern time you ran a song that sounded like Robert Cray along with other artists. The title box on the radio did not list Robert Cray but another group or artist. I did not have a pen in the car and can not remember the artist or the title of the song.

Can you provide a short list of the songs (with artist) that you played between say 4 15 and 4 45 yesterday?

Thanks!

-----Original Message-----

**From:** \_\_\_\_\_  
**Sent:** Saturday, August 07, 2004 4:52 PM  
**To:** Chamberlain, Brian  
**Subject:** Re: song name

Thank you Brian! Just ordered it on Amazon . woo hoo!  
I appreciate you getting back to me. and quickly at that!  
Take care,

----- Original Message -----

**From:** Chamberlain, Brian  
**To:** \_\_\_\_\_  
**Sent:** Saturday, August 07, 2004 3:33 PM  
**Subject:** RE: song name

Hi \_\_\_\_\_

Glad to know you enjoyed our wedding episode of "Sensitivity Training" last week. That tune by The Naked  
Barbies is titled "Marry Me" from their 1996 CD "Tarnished" on NBD Records

Hope this helps, and thanks for listening!

Brian

**Brian Chamberlain**  
*Director of Musical Interludes*  
XM Cafe/ XM 45  
XM Satellite Radio  
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**Cafe Email- [xmcafe@xmradio.com](mailto:xmcafe@xmradio.com)**  
**Cafe Webpage- <http://xmcafe.xmradio.com>**

-----Original Message-----

**From:**  
**Sent:** Saturday, August 07, 2004 3:41 PM  
**To:** xmcafe@xmradio.com  
**Subject:** song name

Hi.. I heard a song on the sensivity training episodes this past week by the Naked Barbies and I can't find the album anywhere! Could you tell me what the name of the song is? Im thinking it's something like 'marry me tonight' but just not sure!  
Thanks.

-----Original Message-----

**From:** \_  
**Sent:** Thursday, October 07, 2004 9:58 AM  
**To:** Chamberlain, Brian  
**Subject:** Re: Song Request

Thanks!! Later today I will get these on CD Connection.com. Thanks for taking the time!  
Regards,

----- Original Message -----

**From:** Chamberlain, Brian  
**To:** '  
**Sent:** Thursday, October 07, 2004 4:31 AM  
**Subject:** RE: Song Request

Oh my god .what to pick? There's plenty we've been digging in the XM Cafe but among my favorites

Badly Drawn Boy "One Plus One Is One"

Ari Hest "Someone To Tell"

Carbon Leaf "Indian Summer"

Betty Dylan "Abdicate The Throne"

John Buller Trio "What You Want"

Kasey Chambers "Wayward Angel"

3/24/2006

-----Original Message-----

**From:**  
**Sent:** Wednesday, October 06, 2004 7:14 PM  
**To:** Chamberlain, Brian  
**Subject:** Re: Song Request

Brian-  
Give me a couple suggestions on cds to get. Maybe your most recent favs from your play list?  
Keep up the great work!

Regards,

----- Original Message -----

**From:** Chamberlain, Brian  
**To:**  
**Sent:** Saturday, July 31, 2004 9:42 AM  
**Subject:** RE: Song Request

Hi

That would be your fellow namesake Marc Broussard and "Home," a song off his new "Carencro" CD.

Hope this helps, and thanks for listening!

Brian

Brian Chamberlain  
Director of Musical Interludes  
XM Cafe/ XM 45  
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Washington, D C. 20002  
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www.xmradio.com  
Cafe Studio -1.866.542.CAFE  
Cafe Email- xmcafe@xmradio.com  
Cafe Webpage- <http://xmcafe.xmradio.com>

-----Original Message-----

**From:**  
**Sent:** Saturday, July 31, 2004 3:37 AM  
**To:** xmcafe@xmradio.com  
**Subject:** Song Request



Hi - I LOVE this station. LOVE IT. It reminds me of being a teenager, waiting patiently for my friend's dad to come home from the UK with whatever albums were in the top ten at the time, discovering new music and feeling oh-so-ahead-of-my-time. Thank you for a great station and some incredible new music. Because of U-POP I have been purchasing the artists I hear you play (some are very hard to find in U.S. even from iTunes) My music collection is now back to the levels when I was in high school 10 years ago  
Also your weekly iTunes countdown of the world's most downloaded songs always turns me onto  
future additions to my music collection!

And speaking of that music, I have a question - this afternoon (Monday, December 13, 2004), perhaps around 2-ish EST, I heard a great song that I believe was called "Irish Son " But I can't find it anywhere. Does that sound at all familiar? Can you hook a girl up with the particulars? I hope so!

Have a wonderful holiday season and thank you thank you thank you for UPOP,

---

XM Satellite Radio Inc.  
<http://www.xmradio.com>

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---

-----Original Message-----

**From:** [REDACTED]  
**Sent:** Monday, October 17, 2005 2:37 PM  
**To:** XM Cafe  
**Subject:** Playlist Lists

Been listening since August '04 and have discovered a whole slew of new music that I didn't know about and probably would have never found. Thanks for that.

I absolutely love XM Cafe.

Now that I've become aware of many new artists, it was only natural to start purchasing their music, in this case in iTunes Music Store. Sometimes I can rack my brain enough to remember something I've heard, other times not. Wondering if you've considered offering a playlist in iTunes. It would be a natural fit in the Radio Charts. I'd definitely use the heck out of it.

---

I would like to hear:

Artist: Randall Bramblett

Title: *Comin Round Soon*

Listener's Comments:

3/24/2006

I've never requested anything on satellite radio. Will you notify me of the ballpark date/time this will play. BTW, I heard this once a week or two ago on your channel and purchased the "album" -- Thin Line -- from Amazon. Thanks for opening these new horizons!

3/24/2006

---

From:  
Sent: Thursday, October 27, 2005 11:57 PM  
To: The Torch  
Subject: where to go?

Thomas

First of all, let me tell you what an AWESOME station The Torch is!!! I was a die-hard ethel fan, but the only station I listen to now (with the exception of ESPN and MLB) is XM 31. What a great time in Christian music that there are so many great artists out there that appeal to the crowd outside of the pop-christian music scene. My question is, where in the world can I go to get this great music? Is there a website or good music store out there? I am working away from home, so I do not know if there are any national chains that you can recommend to me or is it best to try to find it on the bands' websites? Thanks and God Bless!!

---

Yahoo! FareChase - Search multiple travel sites in one click. <[http://us.lrd.yahoo.com/\\_ylc=X3oDMTFqODRtdXQ4BF9TAzMyOTc1MDIEX3MDOTY2ODgxNjkEcG9zAzEEc2VjA21haWwtZm9vdGVyBHNsawNmYw--/SIG=110oav78o/\\*\\*http%3a/farechase.yahoo.com/](http://us.lrd.yahoo.com/_ylc=X3oDMTFqODRtdXQ4BF9TAzMyOTc1MDIEX3MDOTY2ODgxNjkEcG9zAzEEc2VjA21haWwtZm9vdGVyBHNsawNmYw--/SIG=110oav78o/**http%3a/farechase.yahoo.com/)>

-----Original Message-----

**From:** .

**Sent:** Saturday, November 26, 2005 2:55 PM

**To:** XMU

**Subject:** thanks

Thank god I opted for XM so I could discover what you are putting together. I am one of the pickiest people when it comes to music. I have not listened to radio music for about ten years, online or local. I could never find something to hit my exact taste. Not only do you play the indie rock titles that I am addicted to but you also play many up and coming r and b, rap groups. I thought if I had satellite radio, I would not have to buy so many cd's. Now that I have XMU, I have doubled my catalog. Thanks for all of the hard work.

-----Original Message-----

**From:**

**Sent:** Wednesday, February 15, 2006 12:01 PM

**To:** Fine Tuning

**Subject:** Strauss/Waldteuf - Ice Skaters

Could you tell me the name of the CD that you play when you broadcast Strauss/Waldteuf (appears on the radio) Ice Skaters. I want to buy this particular version, it is the best. Thank you

3/29/2006

---

**From:** Marrone, Mike  
**Sent:** Friday, February 17, 2006 4:01 PM  
**To:**  
**Subject:** RE: Where can I find this artist?

Hi

That is a new track that Michael has released exclusively through iTunes to help the victims of Hurricane Katrina. There are 6 different versions available, but only as digital downloads.

However, the song itself was actually written and originally recorded by Joseph Arthur, and to tell you the truth I like his version a little better. You can find Joseph's original version on this album.

[http://www.amazon.com/gp/product/B00004RDTU/qid=1140210181/sr=2-2/ref=pd\\_bbs\\_b\\_2\\_2/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B00004RDTU/qid=1140210181/sr=2-2/ref=pd_bbs_b_2_2/102-5183103-3457710?s=music&v=glance&n=5174)

Mike

*Mike Marrone  
Program Director  
The Loft - XM50  
XM Satellite Radio  
1500 Eckington Pl. NE  
Washington, DC 20002  
(202) 380-4436 (direct)  
The Loft on the web: <http://loft.xmradio.com>*

---

**From:**  
**Posted At:** Fri 2/17/2006 3:08 PM  
**To:** The Loft  
**Posted To:** XM50  
**Subject:** Where can I find this artist?

3/29/2006

Hi Guys, I am trying to find the CD you played that has the song named "In The Sun" by Michael Stipe on it.  
I've checked Amazon without luck. Can you help?

I think I need to stop listening to "The Loft", it's costing me too much in CD's.  
Just kidding, keep up the good stuff.  
Thanks.

3/29/2006

---

-----Original Message-----

From:

Sent: Saturday, February 18, 2006 1:44 AM

To: XMU

Subject: heya

So I was listening while driving and heard a band, Built To Spill, but it was after another band whose song I was desperately trying to remember, Broken Social Scene, so I don't remember the name of BTS's song. This is driving me bat guano, it was a really good song but BTS has a lot on iTunes and I can't find what I heard (and yes, I started buying their stuff like crazy). I think maybe it was One Thing, but I'm not sure, can you shed some light possibly?

P S while I am a big fan of the subsoniq show (I'm a fan of old school hip hop and "discovered" prog hip hop on XMU), I'm not stealing this moniker, I've actually been using it for 7+ years now online.

P P.S you guys need a deal with apple to make an XMU section on iTunes, I and my credit card company would love you for it

---

**From:**  
**Sent:** Sat 2/18/2006 1:56 PM  
**To:** Fitzpatrick, Marty  
**Subject:** Lester Butler

Dear Mr. Fitzpatrick,

Thank you for your prompt reply - now if I can find the Red Devil cd, this quest will be complete. Some people have a 'photographic' memory for faces, the written word, etc., I have a 'photographic' ear for musicians so to speak. And was very impressed by Mr. Butler the couple of times I heard him. Two people are indeed in jail for Lester's death - ELVISPELVIS.COM/LESTERBUTLER.HTM - has the details if you are interested.

November 5, 2005 was a sad day indeed for the WRAY family and friends - thank you for even knowing Fred Lincoln [Link] Wray had passed away.

And in closing, may I say that your XMRADIO - Cross Country is the greatest thing to come along the airwaves in years. I have been introduced to more new music, and new artists than I would have thought possible. My personal cd collection has increased by 47 cd's since Directv started broadcasting your station in the middle of November - all inspired by what I heard on Cross Country.

The music hasn't been this good since I grew up in Tulsa in the 50's listening to Leon Russell, David Gates, Johnny Cale (J J Cale), Clyde Stacy, Wesley Reynolds, Jerry Adams, Chuck Blackwell, Carl Radle, Hoyt Axton, Tommy Crook, and a host of others of the original "Tulsa Tops".

Again, thank you for your prompt reply, and keep up the good work.

Sincerely,

3/29/2006

---

Mike Marrone  
Program Director  
The Loft - XM 50  
XM Satellite Radio  
1500 Eckington Pl. NE  
Washington, DC 20002  
(202) 380-4436 (direct)  
The Loft on The Web: <http://loft.xmradio.com>

-----Original Message-----

From:  
Sent: Monday, February 20, 2006 1 37 PM  
To: The Loft  
Subject: Eva Cassidy

Hi Mike and Kate,

Thanks for playing "Wade in the Water" and turning me on to the awesome musical talent of Eva Cassidy. I've heard this track a couple times on the Loft, and I decided I had to get some more of her work. This past weekend, I picked up the anthology albums "Songbird" and "Wonderful World".

Eva's tragic illness reminds me of the similar tragedy 10 years earlier when California folksinger Kate

Wolf died just as her work was starting to become nationally known. Both are singers I'd like to have seen in a live show. Thanks to devoted groups of followers, Eva's and Kate's work have not only lived on, but have reached a larger audience after their deaths.

Thanks again.

---

-----Original Message-----

From:

Posted At: Monday, February 20, 2006 5:00 PM Posted To: XM40

Conversation: Riviera Paradise

Subject: Riviera Paradise

I received my XM radio free, with a 3 month subscription. I hooked it up in my office at work, but told co-workers that I'd cancel after my free period was over when they asked about it. I got hooked minutes after I found channel 40.

Every so often, I find my self pushing myself away from my desk, to roll over and find out what is playing, as just happened with Riviera Paradise. Off to amazon.com I go, again

---

-----Original Message-----

From  
Sent Tuesday, February 21, 2006 11:20 AM  
To: Scott, Jessie  
Subject: Stone Coyotes

Hi, Jessie - More guestbook goodies.  
THANKS! Barbara

February 21, 2006

You guys rock. Just bought two more of your cd's. This is a truly unique sound. X Country XM got me hooked!

February 20, 2006

I thought I was done with Rock.  
you changed my mind!  
Now, when are you coming to Santa Cruz, Ca?

February 16, 2006

-----Original Message-----

From: Watercolors

Sent: Wednesday, February 22, 2006 6:34 PM

To:

Subject: RE: Song Request

Sweet! I'm glad you found it!!

~Lily

-----Original Message-----

From:

Sent: Wednesday, February 22, 2006 2:33 PM

To: Watercolors

Subject: RE: Song Request

Hey Lily, I did eventually find the cd but the cost was around 80 dollars on ebay. I didnt want to spend that much . Today was my lucky day as i heard you play it again this morning and i thought i need to check on it. Turns out you were right they re-released it on the 7th. I am listening to it now!  
THanks again!

--- Watercolors <watercolors@xmradio.com> wrote:

> Hi!  
> Thanks for being a part of the XM nation! The  
> version of "Last  
> Train Home" that we're playing is from the Pat  
> Metheny Group's album  
> called Still Life (Talking) (1987). This album has  
> been out of print  
> since 1990, but you're lucky because Geffen Records  
> is re-releasing some  
> of Pat Metheny's projects including this one. I  
> believe Geffen pressed  
> re-issues at the end of 2004. You may have to do  
> some searching. I've  
> attached a pic of the CD cover art!

> Happy hunting!!  
> Let me know if you find it, many write in looking  
> for it .)  
> Lily  
> Music Director, Watercolors  
> watercolors@xmradio.com

> -----Original Message-----  
> From: ...  
> Sent: Thursday, September 15, 2005 1:37 PM  
> To: Watercolors  
> Subject: Song Request

> \*\*\*\*\*  
> XMRADIO.COM Song Request  
> \*\*\*\*\*

> I would like  
> to hear:

> Artist: pat matheny  
> Title: last train home  
>  
> Listener's Comments:  
> you just played  
> Last train home. I cannot find that song. What album  
> is it on.Thanks for  
> the great music!  
>

---

Do You Yahoo!?  
Tired of spam? Yahoo! Mail has the best spam protection around  
[http://mail yahoo com](http://mail.yahoo.com)

---

-----Original message-----

From:

Sent: Wednesday, February 22, 2006 12:53 PM

To: XMU

Subject: dearest tobi

i love this radio station more and more each day  
i have bought more cds from hearing them on your station, than i ever  
have.  
i would do anything to have my band heard on this station even if it  
is the only station we are ever heard on again  
my label is not doing all they can to make that happen, so i am. i sent the cd a few months ago.

did you get it? should i send another? can i wash your car or something? you can check more info on  
us at the following .

thanks for your time tobi and keep delivering the goods. rocknroll4ever

---

Thomas Kenny - Music Director  
XM 31 - The Torch  
1500 Eckington Place NE  
Washington, DC 20002  
O. 202.380 4353  
E: thomas.kenny@xmradio.com  
A: Overflowing X  
W: www.myspace.com/thomasaugustus

"Non-linear baby! Non-linear baby!" - Galaxalag

-----Original Message-----

From:  
Sent: Saturday, February 11, 2006 1:40 AM  
To: The Torch  
Subject: monarch

hey. . first of all, i would like to say i love the station. . you guys play great music .. and i was wondering if you could give me a link to the site of the band MONARCH. . i heard them on your station and i can't find their cd anywhere or their site .. thank you so much for your help....

---

Thomas Kenny - Music Director  
XM 31 - The Torch  
1500 Eckington Place NE  
Washington, DC 20002  
O: 202.380.4353  
E: [thomas\\_kenny@xmradio.com](mailto:thomas_kenny@xmradio.com)  
A: Overflowing X  
W: [www.myspace.com/thomasaugustus](http://www.myspace.com/thomasaugustus)

*"Non-linear baby! Non-linear baby!" - Galaxalag*

---

**From:** --  
**Sent:** Saturday, February 11, 2006 7:44 PM  
**To:** The Torch  
**Subject:** Torch Tunes

Hey this is emily  
You guys know what itunes is right? anyways, i think you guys should start Torch Tunes where you can download songs that you guys play on the radio onto an iPod.  
i love all of the music you play on there and so does my dad but we can't find any of the cd's or the artists that you guys play anywhere. i love the TORCH!!!

3/29/2006

---

-----Original Message-----

From:

Sent: Wednesday, February 22, 2006 12:17 AM

To: The 60's

Subject: A SONG YOU PLAYED--ATTN: PHLASH OR TERRY YOUNG

PHLASH OR MOTOR MOUTH--ONE OF YOU PLAYED A SONG ON  
2-21-06 AND ALL I CAUGHT WAS "LAKESIDE DRIVE" ---WHO  
IS THAT BY?????????????????????????  
HOW CAN I GET THAT SONG--I HAVE NEVER HEARD IT AND I  
LOVE IT.

FAN CLAN # 577

---

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around  
[http //mail yahoo com](http://mail.yahoo.com)

---

-----Original Message-----

From: Marrone, Mike

To: .

Sent: Sat Feb 25 11 21 39 2006

Subject: RE: Song Request

That was a fine new artist by the name of Steve Reynolds. Here's a link to the album on Amazon:  
[http://www.amazon.com/gp/product/B000AO73Y2/qid=1140884444/sr=2-1/ref=pd\\_bbs\\_b\\_2\\_1/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B000AO73Y2/qid=1140884444/sr=2-1/ref=pd_bbs_b_2_1/102-5183103-3457710?s=music&v=glance&n=5174)

And here's Steve's website:  
<http://www.stevereynoldsmusic.com/>

Best,

Mike

Mike Marrone  
Program Director  
The Loft - XM50  
XM Satellite Radio  
1500 Eckington Pl. NE  
Washington, DC 20002  
(202) 380-4436 (direct)  
The Loft on the web: <http://loft.xmradio.com> <<http://loft.xmradio.com>>

From: [redacted]  
To: The Loft  
Posted To: XM50  
Subject: Song Request

\*\*\*\*\*  
XMRADIO.COM Song Request  
\*\*\*\*\*

I would like to hear:

Artist: Unknown  
Title: Miner's Lamp

Listener's Comments:

I heard this song yesterday about 4:30. Could you please tell me who the artist is? I would really like to purchase the song/album Thanks!

-----Original Message-----

From: Marrone, Mike

To:

Sent: Tue Feb 28 21:57:12 2006

Subject: RE: Song Request

Hi

That was Michael Stipe with his version of Joseph Arthur's "In The Sun." Here's the story about why he has recorded and released this exclusively through iTunes:

[http://www.billboard.com/bbcom/news/article\\_display.jsp?vnu\\_content\\_id=1001956349](http://www.billboard.com/bbcom/news/article_display.jsp?vnu_content_id=1001956349)

Best,

Mike

Mike Marrone

Program Director

The Loft - XM50

XM Satellite Radio

1500 Eckington Pl NE

Washington, DC 20002

(202) 380-4436 (direct)

The Loft on the web: <http://loft.xmradio.com> <<http://loft.xmradio.com>>

---

From:

PM

To: The Loft

Posted To: XM50  
Subject: Song Request

\*\*\*\*\*  
XMRADIO.COM Song Request  
\*\*\*\*\*

Artist: Michael Stipes (REM)  
Title: IN the Sun

Listener's Comments:

I heard this song played yesterday on my drive home about 6:00 EST, and loved it. I went to look for it and nobody has ever heard of Michael Stipes going out on his own away from REM. Is this just too new? Can you tell me the name of the album so I can find it? Thanks, Please e-mail me back

---

-----Original Message-----

From: Marrone, Mike

To:

Sent: Sat Feb 25 12:56:25 2006

Subject: RE: The Push Stars

Hi \_

You have the correct information, I found their studio version for you on Amazon. We do not sell any of The Loft Sessions.

Here you go:

[http://www.amazon.com/gp/product/B0001GF2N8/qid=1140890165/sr=2-1/ref=pd\\_bbs\\_b\\_2\\_1/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B0001GF2N8/qid=1140890165/sr=2-1/ref=pd_bbs_b_2_1/102-5183103-3457710?s=music&v=glance&n=5174)

Mike

Mike Marrone

Program Director

The Loft - XM50

XM Satellite Radio

1500 Eckington Pl NE

Washington, DC 20002

(202) 380-4436 (direct)

The Loft on the web: <http://loft.xmradio.com> <<http://loft.xmradio.com>>

---

From: "Mike Marrone" <[mike@xmradio.com](mailto:mike@xmradio.com)> Posted At: Sat 2/25/2006 12:49 PM

To: The Loft

Posted To: XM50  
Conversation: The Push Stars  
Subject: The Push Stars

Kate,

I have been trying to locate a song named Claire that I heard The Push Stars perform during their Loft Session. Any ideas or did I write down the wrong name?

---

-----Original Message-----

From: ?

Sent: Saturday, February 25, 2006 10:52 PM

To: The Bob Edwards Show

Subject: Website Feedback

Name: ?

Email Address: ?

Comments: Bob -- I loved your interview with Carl Reiner. I laughed out loud throughout the interview, and I loved the 2000 year old man tidbits. I ended up buying a CD of the 2000 Year Old Man as well as NNNNN, Reiner's new book. What a great interviewer you are, and what a wonderful interviewee Carl Reiner was. His stories were wonderful, and his obvious ease in the interview was clearly due to your skill as an interviewer. I love having XM Radio so I can continue to hear you. You were the primary reason we now have three XM radios. Thanks so much, and please please please never retire.

---

From:  
Sent: Wednesday, March 01, 2006 2:36 PM  
To: The Torch  
Subject: Sufjan Stevens

Folks; I'm a new subscriber to XM Radio and love The Torch. Actually it's the only station I've been listening to! I really like "The Man Of Metropolis Steals Our Hearts" by Sufjan Stevens and went out and bought his "Illinois" cd that it's on. Very strange cd and while I can see some of the Christian allegory in that song I'm wondering what your take is on him and any other background info you have on him. I went to his web site and it's as bizarre as his cd. Is he a Christian? Just curious

---

-----Original Message-----

From: Marrone, Mike

To:

Sent: Mon Mar 06 23:34:27 2006

Subject: RE: Who was the artist?

Hi,

That was Jeffrey Foucault and the tune can be found on this album:

[http://www.amazon.com/gp/product/B00021QG00/qid=1141706049/sr=2-1/ref=pd\\_bbs\\_b\\_2\\_1/002-0600555-4956063?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B00021QG00/qid=1141706049/sr=2-1/ref=pd_bbs_b_2_1/002-0600555-4956063?s=music&v=glance&n=5174)

We get no money or anything by sending you to this Amazon link, I just do it so you can hear a song sample and make sure it's what you want.

Thanks for listening and getting in touch.

Mike

Mike Marrone

Program Director

The Loft - XM50

XM Satellite Radio

1500 Eckington Pl. NE

Washington, DC 20002

(202) 380-4436 (direct)

The Loft on the web: <http://loft.xmradio.com> <<http://loft.xmradio.com>>

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-----Original Message-----

From: Marrone, Mike

To: ---

Sent: Sun Mar 19 20:56:29 2006

Subject: RE: Song Request

Hi ---

I think the artist you heard and are trying to find is Glenn Tilbrook. Here's a link to all of his solo stuff on Amazon. If you click the individual albums they will pull up a track listing and sound samples so you can be sure. "Transatlantic Ping Pong" is the newest one, and I believe this is what you heard on The Loft.

<http://www.amazon.com/exec/obidos/search-handle-url/102-5183103-3457710?url=index%3Dmusic&search-type=quick-search&field-keywords=glenn+tilbrook&Go.x=15&Go.y=10>

Glenn was a founding member and the lead singer of a great band called Squeeze before he went solo. Search for them on Amazon after you check Glenn out.

Best,

Mike

Mike Marrone  
Program Director  
The Loft - XM50  
XM Satellite Radio  
1500 Eckington Pl NE  
Washington, DC 20002  
(202) 380-4436 (direct)

-----Original Message-----

From: \_\_\_\_\_  
9:09 AM Posted To: XM45  
Conversation: Song Request  
Subject: Song Request

Posted At: Saturday, March 18, 2006

\*\*\*\*\*  
XMRADIO.COM Song Request  
\*\*\*\*\*

\_\_\_\_\_ from egg hbr. twp., n.j. would like to hear:

Artist: bruce hornsby ??????  
Title: Sunflower Cat

Listener's Comments:

I keep hearing this song called "Sunflower Cat" and I keep missing the artist..... I love it and would like to purchase the cd. ... is it Bruce Hornsby?

---

-----Original Message-----

From: Marrone, Mike

To:

Sent: Thu Mar 16 08:07:53 2006

Subject: RE: Song Request

Hi

That was Warren Haynes recorded live at Bonnaroo, it is available on this album:

[http://www.amazon.com/gp/product/B00024I3B2/qid=1142514449/sr=2-1/ref=pd\\_bbs\\_b\\_2\\_1/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B00024I3B2/qid=1142514449/sr=2-1/ref=pd_bbs_b_2_1/102-5183103-3457710?s=music&v=glance&n=5174)

Thanks for listening.

Mike

Mike Marrone

Program Director

The Loft - XM50

XM Satellite Radio

1500 Eckington Pl. NE

Washington, DC 20002

(202) 380-4436 (direct)

The Loft on the web. <http://loft.xmradio.com> <<http://loft.xmradio.com>>

---

From:  
To: The Loft

Posted At: Wed 3/15/2006 10:22 PM

---

**From:** Anthony, Jon  
**Sent:** Wednesday, March 15, 2006 1:26 PM  
**To:**  
**Subject:** RE: Music City Connection

Hi, THANKS so much for the kind words about the show! It's just the beginning of what will be a GREAT series on XM!

Although it's not available for purchase, you can catch it again on-air tomorrow (Thursday) night at 6pm eastern time, and then again Saturday morning at 9am eastern time! Keep listening -- there are more great "Music City Connection" shows airing in the coming months here on XM!

THANKS so much for listening to Highway 16! Have a great day!

- Jon Anthony  
Highway 16  
XM Satellite Radio

-----Original Message-----

**From:**  
**Posted At:** Tuesday, March 14, 2006 8:39 PM  
**Posted To:** XM16  
**Conversation:**  
**Subject:**

I just caught the end of the Music City Connection.Heroes Behind the Hits, and it was one of the coolest things I've heard I loved every minute of it. I was just wondering if there was any kind of album put together on the event, or if it could be watched, heard, or downloaded somewhere.

3/24/2006

---

-----Original Message-----

From:

Sent: Wednesday, March 01, 2006 10:41 AM

To: The Bob Edwards Show

Subject: Website Feedback

Name:

Email Address: -----

Comments: Mr. Edwards - I bought XM radio when you first signed up. I realized recently that I haven't heard Morning Edition in months; your current show takes precedence.

I wanted to say thanks for all the new things to which you introduce me. Currently I'm reading Crack at the Edge of the World and Best Worst Times; I just bought Bird York and Steve Reynolds, and I have documentaries on the Smothers Brothers and the Dust Bowl on order, as well as 'A Time for Burning' I learn a lot, and my life is more interesting, because of your show Thank you

From: [redacted] Posted At: Mon 3/6/2006 10:06 PM  
To: The Loft  
Posted To: XM50  
Subject: Who was the artist?

A few weeks ago you played a cover of Creedence Clearwaters Lodi. Can you tell me who the artist was and if I can get this music on CD? Thanks!

---

-----Original Message-----

From:  
Sent: Sunday, March 12, 2006 2:23 PM  
To: Chrome; The 80's; The Groove  
Subject: Thanks

I have been an XM radio subscriber and listener of your programming since July of 2004 and this thank you has been too long in coming. About the time I got XM I started roller skating trying to get some exercise on what the local rink calls "Classic Wednesday". It's really a bunch of 80's dance and electronica music. I kept skating until my skin condition got the best of my feet (check out in case you guys ever need a great charity to support). Given that I couldn't skate regularly any more and still loved to hear the music I was listening to on your channels, I approached the owner who I had worked with at another rink during college about DJ'ing on Wednesdays. He gave me a shot and I have been there every Wednesday night since last May and I have to give a lot of the credit to your programming. I am supposed to move from dedicated volunteer status to paid part-timer this week.

I started with a Sky-Fi and now have a new Sky-Fi2 and Roady2. The Sky-fi2 goes pretty much everywhere I go, the car, my desk, my night stand garage... you name it. Each time I listen, I come up with another song to try and find in the old LP collection or to find on Napster or other commercial source. I have to go Glynco Georgia for training the last two weeks of this month and the regular skaters are already lamenting about it. Without you guys re-educating me on the music I love, I am sure that would not be the normal response.

Thanks again and keep playing the great music.

---

From: ..  
Sent: Mon 3/13/2006 8:11 PM  
To: Fitzpatrick, Marty  
Subject: Re: song/artist

Thank you for responding...we realize you are nationwide. Jessie actually beat your response time by 30 minutes, but it's nice to hear from the Music Director. We have several hundred CDs (many country rock) and plan on adding that to our collection. Thanks again,

On Mar 12, 2006, at 10:46 PM, Fitzpatrick, Marty wrote:

You may have heard from Jessie already, but if not, here's your info...  
There are two versions of "Gallo Del Cielo" One is by Joe Ely, the other by Tom Russell. It is a great story song.  
We're glad you're there!  
. Marty  
Marty Fitzpatrick

Music Director, X Country Channel 12  
Marty.Fitzpatrick@xmradio.com

From.  
Posted At: Sun 3/12/2006 8.29 AM  
To: XCountry  
Posted To: XM12  
Subject: song/artist

We heard a song on your station about a Mexican fighting rooster called Cay Del Sierro (I'm not sure if that is spelled correctly???) Any chance you could email the artist and title. We love your station!!!

-----Original Message-----

From:

Posted To: XM45

Conversation: Artist Identification

Subject: Artist Identification

Posted At: Monday, March 13, 2006 5:31 PM

Hello! I am hearing an artist listed on XM Cafe as "Euphoria", playing a song titled "Back Against the Wall" I need the label & date of release if I'm to track down the CD?

---

-----Original Message-----

From:

March 13, 2006 7:55 PM Posted To: XM45

Conversation: What's that song...

Subject: What's that song...

Hi,

I heard this song twice on your station and haven't been able to catch the artist or song title... You just played it today (Monday 3/13) at 5:30 EST

I need this disc!

Thanks!

-----Original Message-----

From

Sent: Tuesday, March 14, 2006 1:23 PM

To: XM Cafe

Subject: RE: Trey Anastasio this morning

Perfect, I'll order the CD right now! I'm in Minnesota so that is the correct time

---

From: XM Cafe [mailto:XMMDAC@xmradio.com]

Sent: Tuesday, March 14, 2006 12:18 PM

To:

Subject: RE: Trey Anastasio this morning

You must be referring to "Sleep Again" from Trey's new "Shine" CD, which we played @ 6:32 am eastern.

Hope this helps, and thanks for listening.

Brian

Brian Chamberlain

Director of Musical Interludes

XM Cafe/ XM 45

XM Satellite Radio

1500 Eckington Place, N E.

Washington, D.C. 20002

brian chamberlain@xmradio.com

P-202.380 4454

F-202.380.4444

www xmradio.com <<http://www.xmradio.com/>>

Cafe Studio -1.866.542 CAFE

Cafe Email- [xmcafe@xmradio.com](mailto:xmcafe@xmradio.com) <<mailto:xmcafe@xmradio.com>>

Cafe Webpage- <http://xmcafe.xmradio.com> <<http://xmcafe.xmradio.com/>>

-----Original Message-----

From:

Sent: Tuesday, March 14, 2006 11:54 AM

To: XM Cafe

Subject: Trey Anastasio this morning

I was listening to XMcafe this morning at about 5:30 am and you were playing a song by Trey

Anastasio. I can't figure out what song it was so I can buy the CD. It was a fantastic song!

Thanks for your help

---

**From:** '  
**Sent:** Monday, March 20, 2006 7:09 PM  
**To:** Bruno Yasoni; The Torch  
**Subject:** Re: Where to find downloads

Hey guys,

I haven't heard back from anyone yet, so I thought I'd better email again.  
I found Monday Morning's "Sunshine", but here are some others I'm looking for:

Bride - Revolution  
Bride - Blow it Away  
Mute Math - Chaos  
The Listening - Isaiah  
12 Stones - So Far Away  
Aaron Sprinkle - Antennaes Wife..

Hey - it's your own fault for playing so much good music :-)

I'm trying to find a good Download Site that carries the music played on XM-31 since i-tunes and Napster don't carry a lot of the music you play. Can you recommend anywhere on the Web that offers these tunes and others you play for download? Pay, of course ....

Thanks,

— wrote:

Hi Xm folks,

There are sooooo many "gotta-have" songs on The Torch - I'm not sure I can keep up!!!!

3/24/2006

I have i-tunes (reeeeceal limited selections), so I was glad to see Napster join in. I picked up a lot of songs on Napster that i-tunes didn't have, but there are a couple of songs I still couldn't find:

Monday Morning - Sunshine  
Bride - Revolution

Y'all (yes, I'm from the south - Houston) know who has these and other GREAT selections played on The Torch? It would be so much easier if The Torch had their own Music Library to download from (paid, of course), but I imagine that would be a HUGE undertaking.

---

Bill Wax  
Proprietor of Low-Fi's Bar and Pool Hall  
Bluesville - XM Satellite Radio  
-----Original Message-----  
**From:**  
**Sent:** Tuesday, March 21, 2006 11:19 AM  
**To:** Wax, Bill  
**Subject:** RE: Bluesville Request

Bill,

Not sure how this request came out on the other end.

I was requestung "You were never mine" by Janiva Magness. I first heard it on Bluesville but I'm not sure if it was your show

By the way I really appreciate your show and the commentary you provide

If it only had channel 74 that would be enough for me to keep paying my subscription to xm radio. Since I got the new car (and xm radio) I have heard so many new (and old artists). For the first time in a long time I'm buying music and attending live shows.

For example, I heard Sonny Landieth's "Congo Square" for the first time on XM (not much Louisiana Music here in Boston). I bought the album and as good luck would have it learned he would be performing nearby. My son, an aspiring guitarist (at 16 he has no interest in the blues) went to the show and had a ball.

3/24/2006

message  
So there .keep on making us blue folk happy!

Regards,

-----Original Message-----

**From:** Wax, Bill [mailto:Bill.Wax@xmradio.com]

**Sent:** Monday, March 20, 2006 5:10 PM

**To:**

**Subject:** Bluesville Request

Dear - Thanks for your request top us here in Bluesville, but we do not have this song in our library.  
Do you know who sang the tune?

Thanks for listening to Bluesville and for helping keep the blues alive

Bill Wax  
Proprietor of Low-Fi's Bar and Pool Hall  
Bluesville - XM Satellite Radio

3/24/2006

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-----Original Message-----

**From:**

**Sent:** Monday, March 27, 2006 11:48 PM

**To:** Deep Tracks

**Subject:** thanx for Dave Gilmour's new one!

Heard Dave Gilmour's new album on your channel a couple of weeks ago & had to run out & get the CD. It's outstanding! Would have never known about it had you not played a cut from it; you certainly won't hear it on the regular radio! Thanx so much!

3/28/2006

-----Original Message-----

**From:**  
**Sent:** Tuesday, April 04, 2006 1:42 PM  
**To:** Bradley, Kate  
**Subject:** RE: song/group search

Thanks Kate I subscribed to XM a couple of years ago in an attempt to curb my CD buying habit Who was I kidding??? You have made it possible for me to become a wiser shopper Thank you The aforementioned friend and I listen to other channels, but we always seem to come back home to the Loft.  
Keep up the great work,  
John

---

**From:** Bradley, Kate [mailto:Kate.Bradley@xmradio.com]  
**Sent:** Tuesday, April 04, 2006 12:26 PM  
**To:** :  
**Subject:** RE: song/group search

Hi John!

That was The Submarines who are BRILLIANT from the CD Declare A New State, the song Brighter Discontent Get it here:

[www.thesubmarines.com](http://www.thesubmarines.com)

Thanks for listening!

Kate

Kate Bradley  
Music Director, *The Loft @ XM 50*  
XM Satellite Radio  
1500 Eckington Place NE  
Washington, DC 20002

4/4/2006

Message

202.380.4483 kate.bradley@xmradio.com

Music Calls: Wednesdays, 11am - 12pm Eastern

-----Original Message-----

**From:**  
**Posted At:** Tuesday, April 04, 2006 11:58 AM  
**Posted To:** XM50  
**Conversation:** song/group search  
**Subject:** song/group search

A couple of days ago a friend of mine heard a song on the Loft, but his receiver has no memory feature and a clipped display. He thinks he saw "Submarin" (group) and "Brighter" (title). Any help for the semi-clueless?  
Thanks,

4/4/2006

---

-----Original Message-----

From: \_\_\_\_\_  
Posted At: Tue 2/14/2006 1:51 AM  
To: Ethel  
Posted To: XM47  
Subject: great stuff

hey thanks you guys are my new favorite xm channel . basically i like every song on your playlist which is why i would like to ask you to post your last 10 songs played online like some other channels then i will remember the names of the bands so i can go get their cds!

---

**From:**  
**Sent:** Monday, April 10, 2006 3:04 PM  
**To:** XMU  
**Subject:** RE: Snow Patrol

Thanks so much for your response and for the heads up about about the Lightbody interview!

As always, I truly appreciate what you all do at XMU, so keep up the good work and good tunes... you enable me to keep up my several CD a week habit by constantly exposing me to new music that I can then go out and buy can't get enough of new music! Thanks!

-----Original Message-----

**From:** XMU [mailto:XMNWRK@xmradio.com]  
**Sent:** Monday, April 10, 2006 11:26 AM  
**To:**  
**Subject:** RE: Snow Patrol

hi joe

the song you heard from snow patrol is a new one...it's called "hands open" and it will be featured on their new full length album called "eyes open" that will be in your local record store on may 9<sup>th</sup>. sweet.

if you're a fan of snow patrol...then you should check out my "XMU Afterschool Special" tomorrow (wednesday) because at 7 pm east / 4 pm west...i'll be airing a little chat that i had with gary lightbody. along with two acoustic songs recorded when he was in the xm studios in canada a few weeks ago it's going to be pretty sweet.

thanks so much for listening to xmu!

tobi.

5/9/2006

dean of music . *program director*  
xmu.channel 43 . *college indie new music*

---

**From:**  
**Sent:** Friday, March 31, 2006 2:50 PM  
**To:** XMU  
**Subject:** Snow Patrol

What is the name of the Snow Patrol that you just played (and played yesterday)? It has the lyric, "We'll put Sufjan Stevens on. And listen to your favorite song. Chicago lights up. ..."

Is from there earlier 1999 album?

---

**From:** Watercolors  
**Sent:** Tuesday, April 11, 2006 9:04 AM  
**To:** .  
**Cc:** Zellner, Jon  
**Subject:** RE: Song Played

Sweet! I'm glad you found it, and added it to your music collection :)

Happy XM Listening,  
Lily  
Music Director/Watercolors  
[watercolors@xmradio.com](mailto:watercolors@xmradio.com)

-----Original Message-----  
**From:** .  
**Sent:** Monday, April 10, 2006 12:05 AM

5/9/2006

**To:** Watercolors  
**Subject:** RE: Song Played

Dear Lily,

Thank you again.

The song I was looking for was Surrender by Dave Koz.

Without your kind help this would be lost forever.

I ordered the CD The Dance.

I owe you.

You're the best.

So My Best To You

Thanks

-----Original Message-----

**From:** Watercolors  
**Date:** 03/30/06 11:41:39  
**To:**  
**Subject:** RE: Song Played

Hi

Here's a list of tunes played on 3/23 between 5-5.30pm EST. I hope you find the tune you looking for in the list!

5:00pm Rose Rouge/St Germain  
5:06pm Positive Vibe/Pamela Williams  
5:10pm Lilac Lane/Acoustic Alchemy  
5:15pm Surrender/Dave Koz  
5:20pm Eternity/Lizz Wright  
5:24pm I Feel You/Walter Beasley  
5:28pm Always Thinking Of You/Nick Colonne  
5:32pm Tamera/Warren Hill

Best,  
Lily

-----Original Message-----

**From:**

5/9/2006

**Sent:** Wednesday, March 29, 2006 1:14 PM  
**To:** Watercolors  
**Subject:** RE: Song Played

Dear Sirs

I appreciate so much your quick response to my question.

Unfortunately it was the tune before "I Feel You" that I needed.

I believe this is now lost forever

But thank you for your response again.

The tune I was looking for, I have heard a couple of times long ago in the past and would like to support the artist.

It's a real bluesy number with a great saxophone artist.

Just in case it is still available to you, I'm here.

If not I hope I hear it on your station again.

Yours

< Body: Font: html >

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-----Original Message-----

From:

Sent: Friday, April 14, 2006 12:57 AM

To: Wax, Bill

Subject: RE: Mark Cook disc

Bill,

here - thank you so much for the info on Mark Cook - I actually wrote him through his site and he's an extremely nice guy - I later found he won "Blues Album of the Year" - 2 years in a row! I'm a guitarist myself but just as a hobby nothing of his caliber - but thank you again for the connection - Mark is sending me a signed poster and I'm purchasing two of his CDs that I do not own yet. Until then - I'll keep listening to channel 74 of my satellite receiver and I hope you keep playing the "Blue Voodoo" song - which is one of my Mark Cook favorites - also enjoy your Friday all request show - it seems to be a little more aggressive than your usual weekly program David (fan of the blues)

>From: "Wax, Bill" <Bill.Wax@xmradio.com>

>To:

>Subject: Mark Cook disc

>Date: Wed, 12 Apr 2006 13:27:40 -0400

>

>Dear David - You should be able to get the disc from Mark himself on his web site which is [www.markcookmusic.com](http://www.markcookmusic.com).

- >
- >
- >Thanks for listening to Bleusville and for helping keep the blues  
>alive
- >
- >Bill Wax
- >Proprietor of Low-Fi's Bar and Pool Hall
- >Bluesville - XM Satellite Radio
- >

---

FREE pop-up blocking with the new MSN Toolbar – get it now!  
<http://toolbar.msn.click-url.com/go/onm00200415ave/direct/01/>

---

**From:** [REDACTED]  
**Sent:** Monday, April 17, 2006 11:39 AM  
**To:** The Torch  
**Subject:** The Torch

Gentlemen,  
I wanted to express my disappointment about removing The Torch from my XM radio. I travel in my car extensively, that is why I purchased XM Radio, and I listen to the Torch 90% of the time. In fact 12 of the last 13 CD's I purchased came from songs I heard on The Torch. I don't listen to music on line. I do have DirecTV and can enjoy The Torch there. But without it in my car I'm not sure I need XM Radio anymore. Please reconsider your decision.

Sincerely,

5/9/2006

---

-----Original Message-----

**From:**  
**Sent:** Thursday, March 30, 2006 1:16 PM  
**To:** Lee, Aaron  
**Subject:** Whoa. Tea for one .

Hcy Aaron,

Man, that rocked. I seldom buy CDs anymore I'm going to have to get the new JB disc.

--

It's 106 miles to Chicago, we got a full tank of gas, half a pack of cigarettes, it's dark and we're wearing sunglasses. Hit it.

5/9/2006

-----Original Message-----

From:

Sent: Sunday, April 16, 2006 5:07 PM

To: The Bob Edwards Show

Subject: Website Feedback

Name: \*

Email Address:

Comments: I love this program!! Just heard the segment on the Flecktones and bought two of their albums as a result. Keep up the great work!

---

-----Original Message-----

From: I

Sent: Monday, April 17, 2006 9:58 PM

To: Kenny, Thomas

Subject: RE: Going to web-based program

Thomas,

Thanks for your message back. I can appreciate the decision to appeal to the broadest audience possible - you've got a network to run, after all, with limited bandwidth. The other delivery means don't help me a whole lot, since I don't have direct TV and my employer blocks access to "media" programming over my work connection. Getting XM to my PC in the office would be AWESOME!

I've listened to XM32 a little so far today, but it's not the same. I'm going to miss Underoath, Kids in the Way, MXPX, etc. Those groups and their peers can credit quite a few CD sales to your station, from me anyway.

In any case, signing up for XM was a no-brainer when the free trial period ended when I got my Honda Accord a couple of years back, and that was before I listened to The Torch probably 80% of the time. I'm signed up until the lease runs out. .at which point I'll sign up again with another car.

Thanks for the personal response and best wishes on your new channels (audio and distribution).  
Regards,

Thomas.Kenny@xmradio.com

04/17/2006 04:56 PM

To

cc

Subject

RE: Going to web-based program

Hi, This is Thomas from The Torch. Thanks for your email. The response from listeners has been overwhelming. Any follow-up is appreciated.

Here is a full explanation of the changes taking place on 4/17/06.

As you know, XM just introduced several new channels into the lineup and removed a few as well. The decision to remove a channel is never easy. It is understood that the Torch had a very loyal audience. However, the research and listener feedback indicated that this very loyal audience was also very limited. Listener feedback is very important to XM as some channels have been brought back based on "popular demand."

The good news is that the Torch will be available through Direct TV (CH. 829) for the first time in addition to online at [www.xmradio.com](http://www.xmradio.com) and through AOL music

And, you'll be able to hear some of the music that the Torch played on The Message, XM 32, which plays a great mix of Christian pop and rock hits. And, we recently introduced XM 34 - Enlighten to our satellite audience, playing the best in Southern Gospel. Urban Gospel, XM 33 - Spirit, will also remain on satellite.

I thank you again for writing and for being an XM subscriber. If you have any further comments about any of the XM music channels, please feel free to directly contact VP of Music Programming, Jon Zellner.

[jon.zellner@xmradio.com](mailto:jon.zellner@xmradio.com)

Regards,

Thomas

Thomas Kenny - Music Director  
XM 31 - The Torch  
1500 Eckington Place NE  
Washington, DC 20002  
O: 202.380 4353  
E: thomas.kenny@xmradio.com  
A: Overflowing X  
W: www.myspace.com/thomasaugustus

"Non-linear baby! Non-linear baby!" - Galaxalag

-----Original Message-----

From  
Sent: Saturday, April 15, 2006 9:32 AM  
To: The Torch  
Subject: Going to web-based program

Subject: Going to web-based program

Attachment(s): <font size=-1></font>

Listening to XM in my car is going to be a lot less enjoyable now that I won't get The Torch any more.

(Embedded image moved to file. pic29734.jpg)

---

**From:**

**Posted At:** Monday, December 19, 2005 1:01 AM

**Posted To:** XM05

**Conversation:** Thanks For Bringing The Rockabilly Roadtrip Back!!!!!!!

**Subject:** Thanks For Bringing The Rockabilly Roadtrip Back!!!!!!!

Bruce,

It is so nice to hear New shows of the Rockabilly Roadtrip!! I know it must be hard to keep coming up with new shows every week, but you are doing a terrific job. Each week, you expand my mind and ears and turn me onto a new artist. This week it was Jules Blattner! I had never heard of him before, but now I will be ordering his Hydra CD.

Keep up the great work!!!!

-----Original Message-----

From:  
Sent: Monday, July 24, 2006 2:25 PM  
To: Fine Tuning  
Subject: error in music listing

It's about 2:25 p.m. Eastern and you are currently playing Emerson, Lake & Palmer's "Lucky Man," which is OK, except that your channel listing says you're playing ELP's "Karn Evil 9 3rd Impression." Thought you'd want to know...

avid Fine Tuning listener

P.S. A while ago you had the California Guitar Quartet on your show and I bought all their CDs as a result of hearing them. Thank you!

-----Original Message-----

From: Marrone, Mike

To:

Sent: Sun Mar 12 22:08:03 2006

Subject: RE: Paul Brady

Hi,

This is a good Best Of:

[http://www.amazon.com/gp/product/B00005U8H8/gid=1142219253/sr=2-2/ref=pd\\_bbs\\_b\\_2\\_2/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B00005U8H8/gid=1142219253/sr=2-2/ref=pd_bbs_b_2_2/102-5183103-3457710?s=music&v=glance&n=5174)

This is one of his best.

[http://www.amazon.com/gp/product/B000001DVG/ref=m\\_art\\_li\\_10/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B000001DVG/ref=m_art_li_10/102-5183103-3457710?s=music&v=glance&n=5174)

And I really like the latest one

[http://www.amazon.com/gp/product/B000765I2W/ref=pd\\_art\\_ftr\\_2/102-5183103-3457710?s=music&v=glance&n=5174](http://www.amazon.com/gp/product/B000765I2W/ref=pd_art_ftr_2/102-5183103-3457710?s=music&v=glance&n=5174)

Mike

Mike Marrone  
Program Director  
The Loft - XM50  
XM Satellite Radio  
1500 Eckington Pl. NE  
Washington, DC 20002

(202) 380-4436 (direct)

The Loft on the web: <http://loft.xmradio.com> <<http://loft.xmradio.com>>

---

From:

Sent: Sun 3/12/2006 9:37 PM

To: Marrone, Mike

Subject: Paul Brady

I was wondering if you could give me a little direction with Paul Brady.  
Any favorite albums that you think are the best? Thanks.

Best regards

---

---

-----Original Message-----

**From:**  
**Sent:** Friday, July 21, 2006 6:50 AM  
**To:** Watercolors  
**Subject:** Fwd: Need The Title and Artist for 2 Songs Heard On Your Station

Lily:

Thank you so much, I have purchased the CDs containing the 2 songs that I heard on your station.

Thanks again.

-----Original Message-----

**From:** XMLTJA@xmradio.com  
**To:**  
**Sent:** Fri, 23 Jun 2006 9:23 PM  
**Subject:** RE: Need The Title and Artist for 2 Songs Heard On Your Station

Hi

Thanks for being a part of the XM nation! we played "Le Restaurant" by Brenda Russell around 4:40pm ET Find this song on her 1988 album called *Get Here*. I've attached a pic of the CD cover

10/19/2006

art, and this album is still in print. As for "you oughta know by now" - those lyrics sound familiar, but I can't quite put my finger on it. Was this also a female vocal? Need some more help for this one, but I know we can find it. Let us know!



Happy XM Listening,  
Lily  
Music Director, Watercolors  
watercolors@xmradio.com

-----Original Message-----

**From:**

**Sent:** Wednesday, June 21, 2006 3:31 PM

**To:** Watercolors

**Subject:** Need The Title and Artist for 2 Songs Heard On Your Station

To Whom It May Concern:

On Tuesday, between 3:00 and 5:00 pm eastern time, I heard two songs, that I would like to purchase, but I don't know the exact titles (or the artists), I believe they are titled:

"You Ought a Know By Now"

"At The Restaurant."

Any assistance would be greatly appreciated.

<HR

---

---

**From:**  
**Posted At:** Tuesday, August 29, 2006 12:54 PM  
**Posted To:** XM74  
**Conversation:** Information request  
**Subject:** Information request

I just listened to your broadcast of "Bluesville" on a United Airlines flight from Chicago to Hong Kong I absolutely loved it!!!! THANK YOU!

I was wondering if there was a list of songs and artists I wanted to buy some of their CDs?

Thank you,

10/19/2006

---

-----Original Message-----

From:  
Sent: Monday, July 24, 2006 2:25 PM  
To: Fine Tuning  
Subject: error in music listing

It's about 2:25 p.m. Eastern and you are currently playing Emerson, Lake & Palmer's "Lucky Man," which is OK, except that your channel listing says you're playing ELP's "Karn Evil 9 3rd Impression." Thought you'd want to know.

-  
, avid Fine Tuning listener

P.S. A while ago you had the California Guitar Quartet on your show and I bought all their CDs as a result of hearing them. Thank you!

-----Original Message-----

From:  
Sent: Wednesday, October 18, 2006 5:57 PM  
To: XM Cafe  
Subject: Re: Song Request

Brian - great job ! i bought the cd last week and have been enjoying...thanx to you.

----- Original Message -----

From: "XM Cafe" <xmmdac@xmradio.com>  
To:  
Cc: "Evans, Bill" <Bill.Evans@xmradio.com>; "Carter, Cathy"  
<Cathy.Carter@xmradio.com>  
Sent: Monday, October 16, 2006 10:25 AM  
Subject: RE: Song Request

Hi

Good ears. The song you heard is called "Sign In The Door" by Kasey Chambers. Find it on her new CD "Carnival."

Hope this helps, and thanks for listening.

Brian

Brian Chamberlain  
Director of Musical Interludes  
XM Cafe/ XM 45  
XM Satellite Radio  
1500 Eckington Place, N.E.  
Washington, D.C. 20002  
brian.chamberlain@xmradio.com  
P-202.380.4454  
F-202.380.4444  
www.xmradio.com  
Cafe Studio -1.866.542.CAFE  
Cafe Email- xmcafe@xmradio.com  
Cafe Webpage- <http://xmcafe.xmradio.com>

-----Original Message-----

From:  
Sent: Saturday, October 14, 2006 8:40 AM

Page 1

CD BOUGHT DUE TO XM.txt

To: XM Cafe  
Subject: Song Request

\*\*\*\*\*  
XMRADIO.COM Song Request  
\*\*\*\*\*

would like to hear:

Artist: casey chambers ?  
Title: the lonley don't live here anymore

Listener's Comments:

On friday the 13 I was listening and heard a song - time 4:44 pm - the title may have been "the lonely don't live hear any more" - it was a female artist. at end of the set the dj mentioned some names - casey chambers, or amy mann. i loved the song and the artist. can you tell me who that was and what the song title is. thanx,

---

From:  
Sent: Wednesday, May 03, 2006 11:46 AM  
To: XMU

Page 1

FW xmu.txt

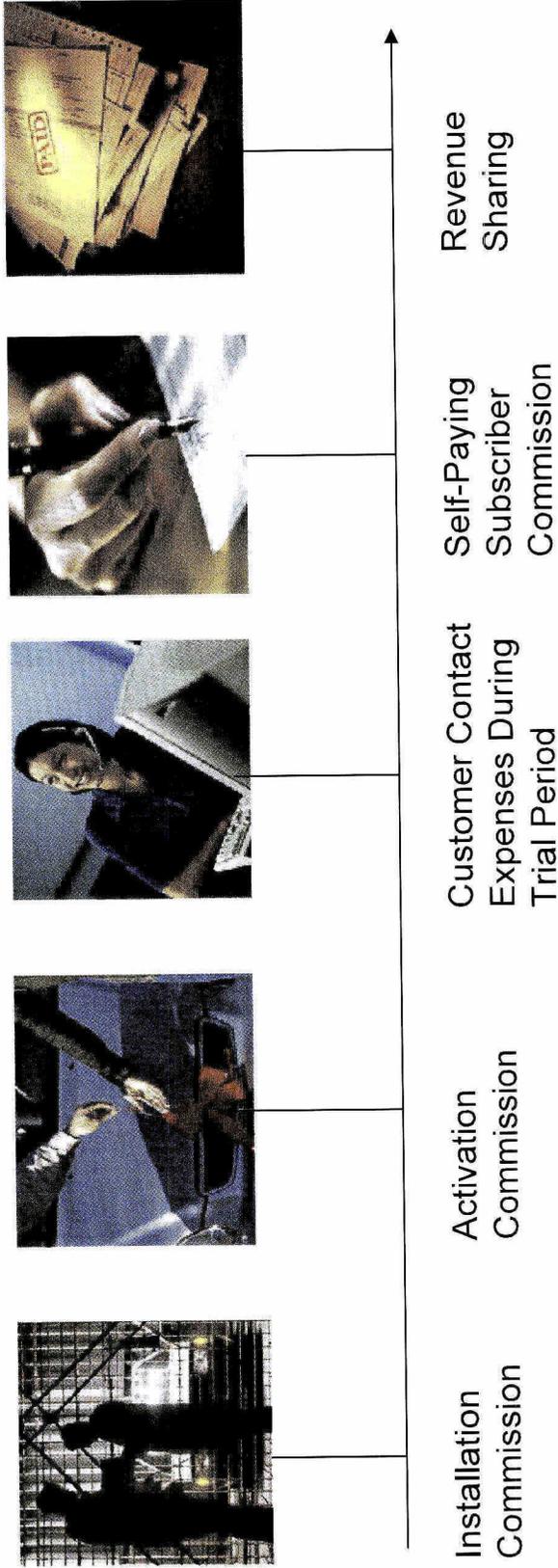
Subject: Re: xmu

So the great Tobi is also the brains behind the operation! Well, I must say you've done so much to enhance my life with your selection savvy! I'm a child of the '70s who'd seen my enthusiasm for music trickle to a dribble until I found XM, and most specifically XMU.

Now I have about three pieces of 8 1/2 x 11 paper, front and back, listed with bands I want to purchase material of! A good 85% of these emanated from XMU. I've already thrilled to purchase The Delgados, Arcade Fire, The Dears, Elefant and Aqueduct on CD thanks to your vision. I will continue to regenerate my collection in the coming years with your guidance!

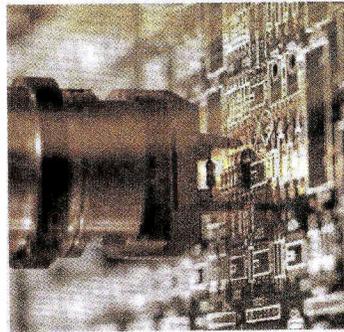
Great to meet you.

# Flow of Marketing Costs of the Automotive Distribution Channel





# Flow of Marketing/Sales Costs of Retail Distribution Channel



Hardware subsidy at time of radio manufacture



Market development funds paid to Retailer (shelf position, Sunday flyers, etc.)



Activation commission at time of sale



Ongoing subscriber revenue sharing

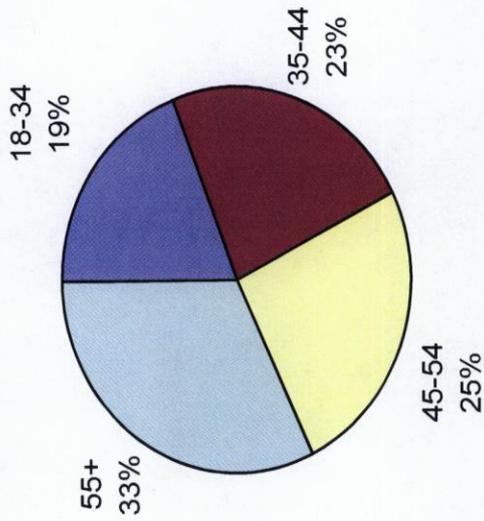
**RESTRICTED - Subject to Protective Order  
in Docket No. 2006-1 CRB DSTRA**

**RESTRICTED - Subject to Protective Order  
in Docket No. 2006-1 CRB DSTRA**

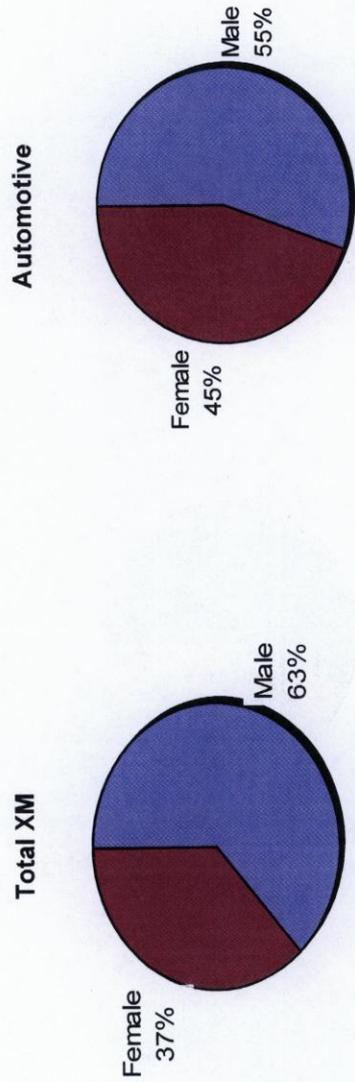
# The Breadth of XM Radio's Appeal Creates Challenges for a Limited Marketing Budget



### Age Break-out of XM Subscribers



### Gender Break-out of XM Subscribers





# OVER 170 DIGITAL CHANNELS COAST TO COAST

## 100% COMMERCIAL-FREE MUSIC CHANNELS

### Decades

- 4 **the 40s** '40s Pop Hits/Big Band
- 5 **the 50s** '50s Pop Hits
- 6 **the 60s** '60s Pop Hits
- 7 **the 70s** '70s Pop Hits
- 8 **the 80s** '80s Pop Hits
- 9 **the 90s** '90s Pop Hits

### Country

- 10 **AMERICA** Classic Country
- 12 **X COUNTRY** Americana
- 13 **WILLIE'S** Willie Nelson's Traditional Country
- 14 **Bluegrass** Bluegrass
- 15 **the Village** Folk
- 16 **highway 16** New Country Hits
- 17 **US COUNTRY** '80s & '90s Country SuperStars

### Pop & Hits

- 20 **20/20** Top 20 Hits
- 23 **heart** Love Songs/Lite Pop
- 25 **blend** Adult Contemporary
- 26 **Flight 23** Modern Adult Hits
- 27 **CINEMAGIC** Movie Soundtracks
- 28 **ON HOLIDAY** Show Tunes
- 29 **OFF** International Hits
- 30 **SUNLIST** Contemporary Hits

### Christian

- 32 **message** Christian Pop & Rock
- 33 **SPiRiT** Gospel
- 34 **enLight** Southern Gospel

### Rock

- 40 **Deep Tracks** Deep Classic Rock
- 41 **BONE ON BONE** '80s Hard Rock XL
- 42 **XMTM** Heavy Metal XL
- 43 **XMTU** Indie/College/Unsigned
- 44 **Fred** Classic Alternative
- 45 **XMCafe** Adult Album Rock
- 46 **TOP TRACKS** Early Classic Rock
- 47 **ethel** New Alternative
- 48 **Squizz** New Hard Rock XL
- 49 **BigRed** Later Classic Rock
- 50 **Loft** Acoustic Rock
- 52 **THE VERGE** Emerging Artists
- 53 **Jungus** Punk/Hardcore/Ska XL
- 54 **LUCY** '90s Alternative

### Hip-Hop & Urban

- 60 **Soul** Classic Soul
- 62 **SOUL** Adult R&B Hits
- 64 **groove** Old Skool R&B
- 65 **groove** Snoop Dogg's Classic Hip-Hop/Rap XL
- 66 **IRAW** New Uncut Hip-Hop XL
- 67 **City** Urban/R&B/Mix Shows
- 68 **the heat** Hip-Hop/Crossover Hits

### Jazz & Blues

- 70 **REAL JAZZ** Traditional Jazz
- 71 **WATER COLORES** Smooth/Contemporary Jazz
- 72 **BEYOND JAZZ** Modern Jazz
- 73 **AMERICAN STANDARDS** American Standards
- 74 **bluesville** Blues

### Lifestyle

- 75 **HEARMUSIC** The Sound of Starbucks
- 76 **AneTuning** Eclectic/Free Form XMHD
- 77 **audio VISIONS** New Age
- 78 **escape** Beautiful Music

### Dance

- 80 **more** House/Progressive
- 81 **bpm** Dance Hits
- 82 **THE SYSTEM** Electronica/Trance
- 83 **Chrome** Disco/Classic Dance
- 84 **ehill** Smooth Electronic

### Latin

- 90 **FUEGO** Reggaeton SP
- 91 **VIVA** Latin Pop Hits SP
- 92 **ALBERTA** Regional Mexican SP
- 94 **Yelister** Tropical SP

### World

- 100 **Musique** New & Emerging Music FR
- 101 **Joint** Reggae
- 102 **POP STROBE** Pop Hits FR

### Classical

- 110 **Classics** Traditional Classical
- 112 **VOX** Opera/Classical Vocals
- 113 **XMTops** Classical Favorites XMHD

## THE BIGGEST NAMES IN NEWS

- 121 **FOX NEWS** FOX News Channel
- 122 **CNN** CNN
- 123 **HeadlineNews** CNN Headline News
- 124 **NEWSATV** ABC News & Talk
- 125 **The Weather Channel** The Weather Channel
- 126 **CNN EN ESPAÑOL** CNN en Español SP
- 127 **CNBC** CNBC
- 129 **Bloomberg** Bloomberg Radio
- 131 **BBC** BBC World Service
- 132 **CSPAN** C-SPAN Radio
- 133 **XM PUBLIC RADIO** The Bob Edwards Show, PRI, APM & WBUR
- 244 **Canada 360** News & Information
- 245 **Quoi de Neuf?** News & Information FR

## REGIONAL TALK, NEWS & MUSIC

- 11 **WASHVILLE** Today's Country cfm
- 21 **KISS** Top 40 cfm
- 22 **MAX** Variety/Adult Hits cfm
- 24 **Sunny** Soft Pop Oldies cfm
- 161 **WSIX** Nashville Country cfm
- 173 **WLW** Talk & Information

## THE BEST SPORTS PACKAGE

- 140 **ESPN** Sports Talk/Play-by-Play
- 141 **ESPN NEWS** Sports News
- 142 **ESPN** Sports Talk
- 143 **XMSN** XM Sports Nation - Talk SuperStars Powered by SPORTING NEWS RADIO
- 144 **NASCAR** 24/7 NASCAR® Racing/Talk
- 145 **IndyCar** Series Racing
- 146 **The PGA TOUR** Network/Live Coverage & Golf Talk
- 147 **XM DEPORTIVO** Sports en Español/Mexican League Soccer SP
- 172 **SPORT PLUS** Men's Lifestyle & Sports Talk FR
- 175 **MLB Home Plate™** 24/7 MLB™ News & Talk
- 176-189 **MLB** 14 Major League Baseball® Play-by-Play Channels
- 190 **MLB** Play-by-Play en Español SP
- 191-193 **ACC** ACC Football/Basketball
- 194-196 **Pac-10** Pac-10 Football/Basketball
- 197-199 **Big Ten** Big Ten Football/Basketball
- 200 **Big East** Big East Football/Basketball
- 204 **HOME ICE** 24/7 Hockey Talk & Play-by-Play
- 205-209 **NHL** NHL Hockey Play-by-Play

Visit sports.xmradio.com for sports broadcast schedules. Games subject to availability. All sports schedules subject to change.

## AWARD-WINNING KIDS & FAMILY CHANNELS

- 115 **RADIO DISNEY** Radio Disney
- 116 **xmkids** Children

## ESPECIALLY FOR WOMEN

- 155 **FIVE** Women's Talk & Lifestyle
- 156 **OPRAH FRIENDS** Oprah & Friends

## ALL-STAR TALK & ENTERTAINMENT

- 152 **EXTREME TALK** Extreme Talk
- 162 **E!** Entertainment
- 163 **SONIC THEATER** Books & Drama
- 164 **RADIO CLASSICS** Old Time Radio
- 165 **TALK RADIO** Experts & Advice
- 166 **America** Conservative Talk
- 167 **PROGRESSIVE TALK** Progressive Talk
- 168 **FOX NEWS TALK** FOX News Talk
- 169 **the power** African-American Talk
- 170 **Family Talk** Christian Talk
- 171 **Open Road** Truckers' Channel
- 200 **XMLive** Concerts/Festivals/Special Features & Events
- 202 **HIGH VOLTAGE** The Opie & Anthony Show/The Ron & Fez Show XL

## SUPERSTAR COMEDY

- 150 **XMCOMEDY** Uncensored Comedy XL
- 151 **Late USA** Comedy
- 153 **LAUREN** Uncensored Comedy XL
- 154 **NATIONAL LAMPOON RADIO** National Lampoon Radio

## INSTANT TRAFFIC, WEATHER & ALERTS

- 210 Boston, MA
- 211 New York, NY
- 212 Philadelphia, PA
- 213 Baltimore, MD
- 214 Washington, DC
- 215 Pittsburgh, PA
- 216 Detroit, MI
- 217 Chicago, IL
- 218 St. Louis, MO
- 219 Minneapolis/St. Paul, MN
- 220 Seattle, WA
- 221 San Francisco, CA
- 222 Los Angeles, CA
- 223 San Diego, CA
- 224 Phoenix, AZ
- 225 Dallas/Fort Worth, TX
- 226 Houston, TX
- 227 Atlanta, GA
- 228 Tampa/St. Petersburg, FL
- 229 Orlando, FL
- 230 Miami/Ft. Lauderdale, FL
- 247 XM Emergency Alert

XM Previews on Channel 1.  
 XL May include frequent explicit language.  
 Please call XM Listener Care at 1-800-XM-RADIO for Parental Control/Blocking Option.  
 XMHD Available in XMHD Surround Sound on select XM Ready home receivers.  
 Visit xmradio.com for Ch. 200 special event dates and times.  
 Ch. 129 airs SAM ET-6PM ET Mon-Fri.  
 FR Broadcast in French.  
 SP Broadcast in Spanish.  
 cfm These music channels include commercials.



xmradio.com

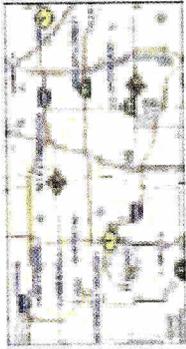
Channel lineup effective October 9, 2006 - All programming/channel lineup/XM service subject to change. Visit xmradio.com for updates. ©2006 XM Satellite Radio Inc.

# XM Advanced Capabilities – Beyond Audio



## XM NavTraffic with ParkingLink

Real-time traffic with parking space availability

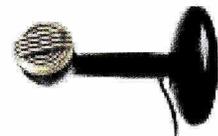
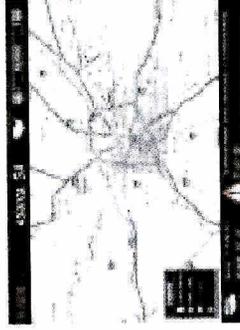


## XM Video

Streaming or  
Cached Video

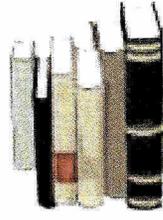
## XM WeatherLink

Hazardous driving  
condition alerts



## XM VoiceCommand

Access Sport Scores, Stock Info,  
Traffic via Voice Interface



## XM Downloads

Cached audio books from  
Audible.com

# XM NavTraffic



- The nation's leading traffic data information service, enhancing the vehicle's navigation system with continuously updated traffic data

- The best available traffic information, aggregated from multiple government and commercial sources

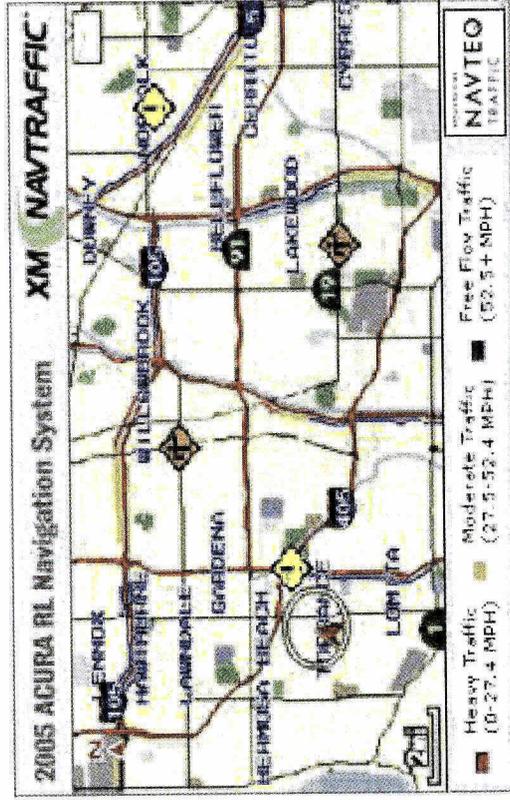
- Color coded traffic flow data on major interstates:

- Blue: Traffic flowing 40mph+

- Yellow: Traffic flowing 20-40mph

- Red: Traffic flowing 0-20mph

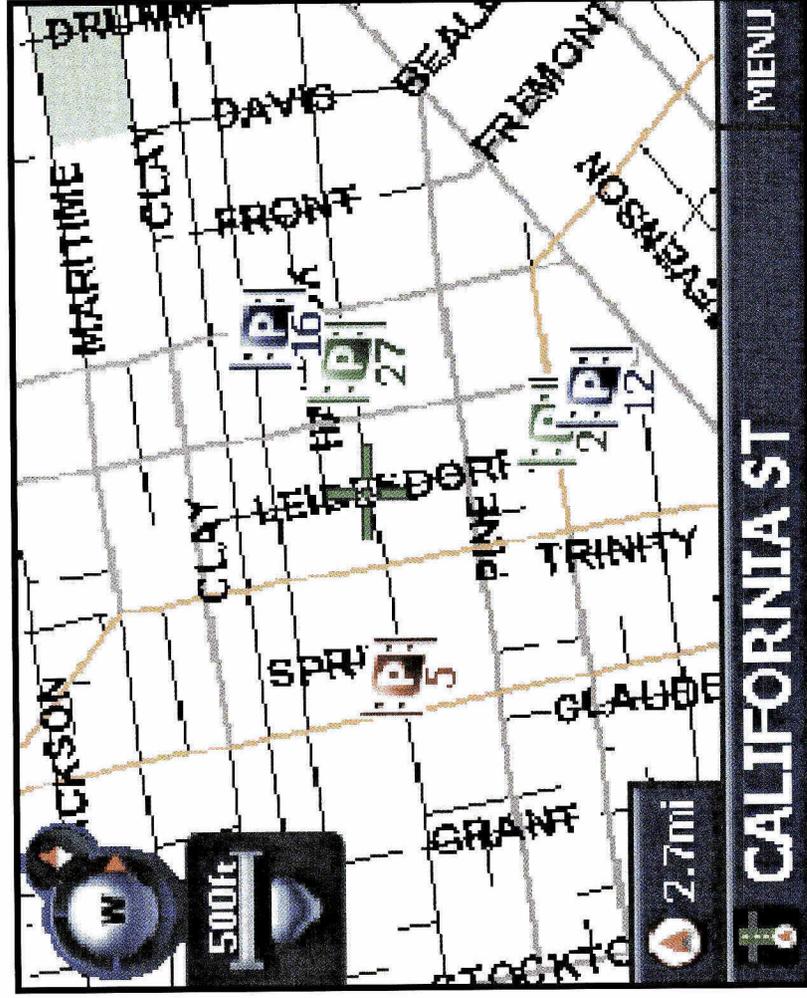
- Widely adopted by leading automotive manufacturers and aftermarket navigation systems providers



## XM ParkingLink Concept (In Development)



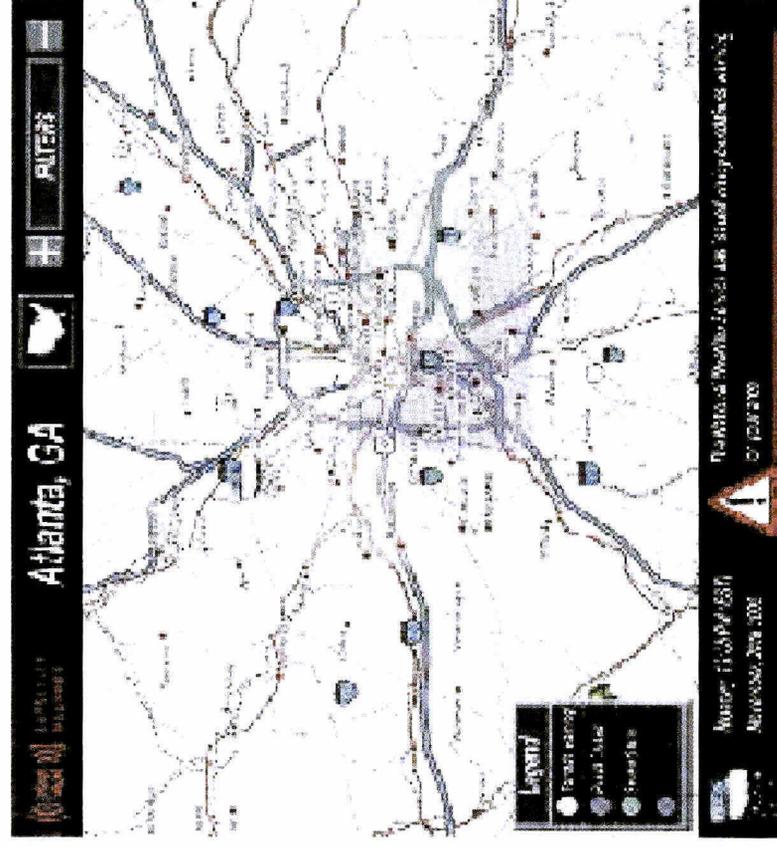
- Real-time parking space availability integrated with a navigation system
- Allows user to easily identify a parking facility with available space, and route directly to it
- Working with leading parking industry operators to develop source data



# XM WeatherLink (In Development)



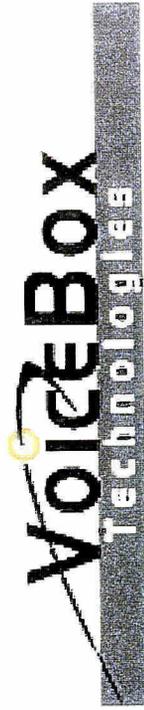
- New approach to weather for the automobile, optimized for vehicle navigation systems
- Consolidated weather information derived from multiple data types and advanced analysis
- Focused on driver needs:
  - Adverse road conditions
  - Adverse atmospheric conditions
  - Warnings & Advisories
  - Current conditions/forecasts



# XM Voice User Interface (In Development)



- Control XM radio and access XM information services with voice command
- Radio Control and Query
  - “Tune to CNN”
  - “Give me traffic and weather for Chicago”
- Data access
  - “What is the price of IBM stock?”
  - “Who is winning the Braves game?”
  - “What is the weather forecast in Atlanta?”
  - “How is traffic moving on I-66?”
- Mitigate driver distraction issues



212 Bridle Path Lane  
Fox River Grove, IL 60021

**MARK J. VENDETTI**  
E-mail: markjvendetti@comcast.net

Home: 847-382-5090  
Cell: 847-420-7944

---

**Results oriented Senior Finance Executive who has driven business improvements.**

Business unit CFO in Financial Services and Consumer Products. Extensive finance and accounting experience in business unit, corporate, manufacturing and global settings. Managed P&L, balance sheet and capital investments. Successfully partnered with business leadership teams to drive revenue and profit growth. Evaluated and promoted marketing programs and new brand launches improving ROI. Skilled in valuation, divestiture and business transition. Directed forecasting, planning and analysis activities. Successfully led multi-functional teams and corporate system implementations. Demonstrated analysis and problem solving capabilities. Built diverse high performing teams.

---

**PROFESSIONAL EXPERIENCE:**

**CITIGROUP (formerly SEARS CREDIT DIVISION), HOFFMAN ESTATES, IL**

2001 to 2004

**VICE PRESIDENT OF FINANCE, CREDIT CARD PRODUCTS (2003 to 2004)**

Promoted in April 2003 to the Senior Finance Executive for Sears Credit Card division with profit and balance sheet responsibility for a business with \$29 billion in receivables, \$5 billion in revenue and \$1.4 billion in pre-tax profit. Directed the division's finance activities including forecasting, analysis, reporting and accounting. Supervised 17 managers. After the unit was sold in November 2003, moved to the acquiring company (Citigroup) to assist new management team effectively integrate the acquisition. Took a leadership role in shaping strategy by focusing the business on most profitable activities. Unit exceeded profit target by 5% in 2003 and 40% in 2004.

- Key member of the core Sears finance team (one of four) in the sale of the Sears Credit portfolio to Citigroup. Involved in all aspects of the transaction including due diligence, offering memorandum preparation and deal structure. Sale agreement was completed within 4 months from first public announcement. Transaction was the largest credit card portfolio sale with receivables sold at a 10% premium and incentive payments to Sears of over \$400 million annually.
- Finance leader for all Sears integration activities after the Credit sale to Citigroup was announced in July 2003. Successful integration and business sale occurred in November 2003.
- Assessed the impact of the new Sears / Citi program agreement on existing account acquisition and retail strategies. Exploited this knowledge while working with Marketing to implement a new acquisition strategy and several new retail programs which increased new accounts by 16% vs. 2003 and grew credit share penetration over the last 6 months of 2004, reversing a multi-year declining trend.
- Designed a decision support data warehouse consisting of key profitability and portfolio measures at the account level (over 50 million accounts). The design is considered a best practice within the Citigroup credit card organization.
- Completed a comprehensive MasterCard segmentation analysis in 2004. Used the analysis to identify \$50 million of pricing revenue and convince the new Citigroup senior management team to continue existing product migration strategies developed under my leadership while at Sears.

**FINANCE DIRECTOR, BUSINESS ANALYSIS, CREDIT CARD PRODUCTS (2001 to 2003)**

Recruited by the Vice President of Finance, Credit Card Products to develop and lead the Business Analysis group. Responsible for decision analysis on business initiatives, financial planning on the Sear Gold MasterCard Portfolio (\$13 billion in receivables) and management of Marketing, Risk, and pricing budgets (\$200 million) across the entire portfolio. Oversaw 7 professionals.

- Only Finance Director invited to participate in the Sears High Potential development program in February 2003 in recognition of strong achievement and potential to report to the CEO.
- Led pricing of high risk accounts in 2003 generating over a \$100 million annual pre-tax profit increase.
- Implemented behavior and risk based pricing beginning in the fall of 2001 on Sears Gold MasterCard migration program improving NPV on 10 million accounts by \$50 per account vs. earlier programs.
- Developed new bad debt allowance model in response to external auditors' concerns over portfolio quality.
- Led Sears Credit due diligence on Lands' End acquisition and potential AARP portfolio bid.
- Employed Activity Based Costing (ABC) to more accurately allocate operating expenses in portfolio segmentation.
- Responsibilities significantly expanded in October 2001 to include budget and financial analysis for direct mail acquisition and retail credit programs. Budget responsibility was increased by \$60 million.

**PROCTER & GAMBLE, CINCINNATI, OH**

1989 to 2001

**ASSOCIATE FINANCE DIRECTOR, HOME CARE (1999 to 2001)**

Only business unit CFO at the Associate Director level to have regional (North America) and global brand (Cascade and Febreze) profit and capital responsibility. North American unit consisted of 10 brands with combined sales of \$1.5 billion and 2 manufacturing locations. North American unit achieved record sales (+23% vs. YA) and operating profit (+9% vs. YA) in FY 2000. Supervised 10 professionals.

- Led North America Home Care through a portfolio evaluation process. Outcome was a decision to divest several brands and focus on new brands. Liaison with Corporate M&A group during the divestiture.
- Designed and implemented initiative tracking process to provide general manager with key diagnostics on major initiatives allowing for early reaction and plan changes to maximize results. Adopted as a best practice and implemented globally by the Home Care division.

**ASSOCIATE FINANCE DIRECTOR, GENERAL ADVERTISING FINANCE (1996 to 1999)**

Administered U.S. advertising and corporate marketing budgets (over \$1.0 billion). Owned global marketing accounting policy, insured compliance with GAAP, and worked with the company's external auditors. Directed several projects that were part of P&G's reorganization from regional to global product management. Oversaw 10 managers.

- Led breakthrough development of P&G North America's first integrated advertising and marketing measurement tool that brands could use to improve the ROI of their marketing spending.

**GROUP MANAGER, FINANCIAL ANALYSIS, US LAUNDRY (1995 to 1996)**

Managed the forecast and led strategic planning processes for P&G's largest operating unit with sales of over \$2.5 billion. Operating unit finished the fiscal year within .2% of company profit commitment. Analyzed category market growth causing the business to evaluate existing operating plans and adopt several new plans.



**PROJECT MANAGER, WORLDWIDE FINANCE AND ACCOUNTING SYSTEMS (1993 to 1995)**  
Led finance team that created the company's first global reporting and executive information system. Coordinated activities of 5 finance and 8 IT managers. Project completed on time and to specifications.

- Team received one of eleven Global Finance and Accounting Leadership Awards in 1995.

**PLANT ACCOUNTING MANAGER, KANSAS CITY, KS (1991 to 1993)**  
Owned accounting and financial analysis activities for \$100 million manufacturing operation and \$8 million shutdown reserve for one of the plant's modules. Directed accounting staff of 4.

- Used total quality and ABC analysis to reduce costs by \$4 million annually.
- Analyzed production and costs leading to the consolidation of two manufacturing operations into Kansas City.

**FINANCIAL ANALYST / PROFIT FORECASTER, US LAUNDRY AND CLEANING, (1989 to 1991)**  
Managed the profit forecast, coordinated activities across several different forecast groups, reconciled actual results vs. the forecast, recommended forecast changes and communicated changes to senior managers. Implemented new processes that improved accuracy of forecasts with FY year miss of .2% of profit commitment.

**EDUCATION:**

**M.B.A.**, Harvard Graduate School of Business Administration, Boston, MA, 1989

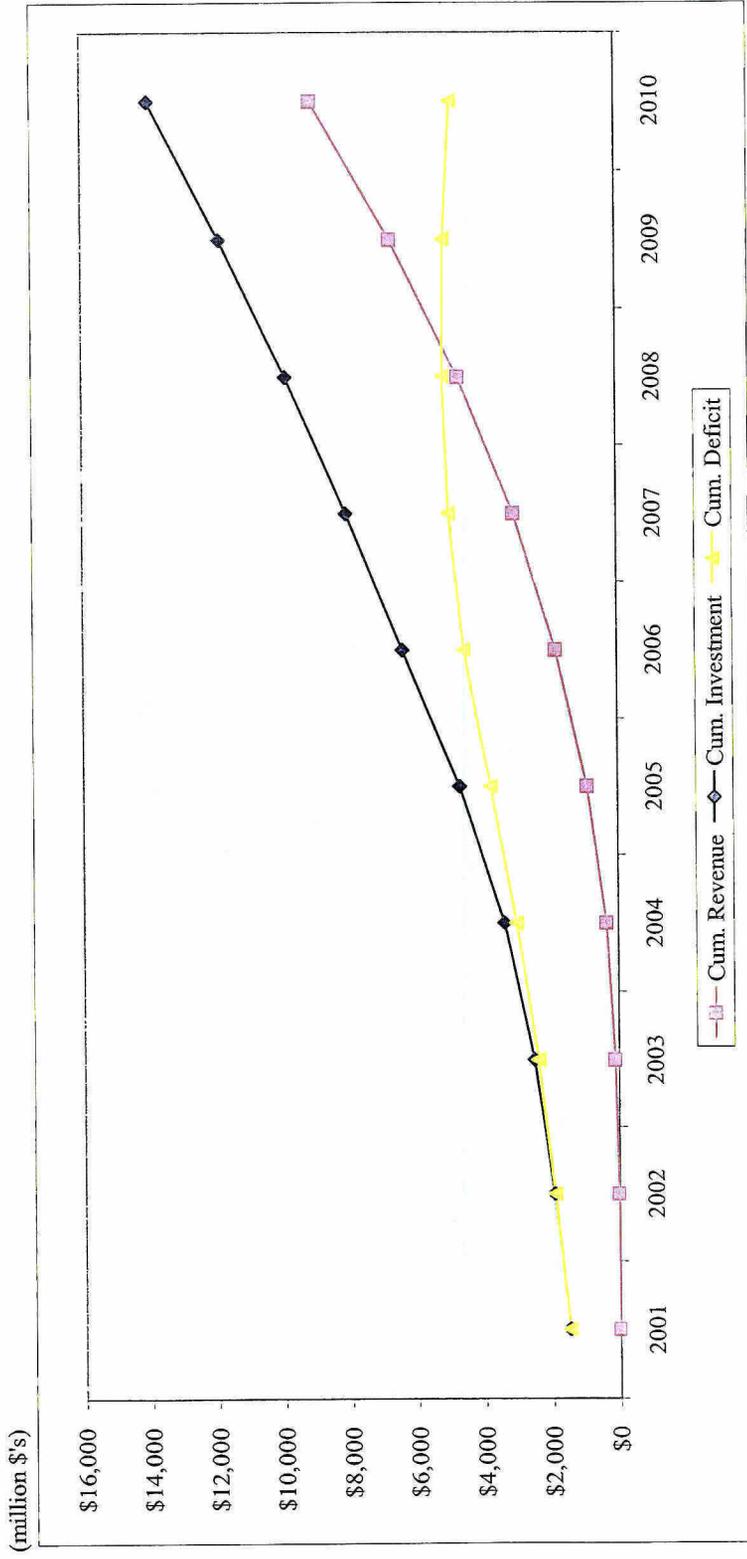
**B.A.**, Mathematics, Amherst College, Amherst, MA, 1983

**Continuing Education Programs:**

- **SEC Institute Seminars**  
Implementing SOX 404 Internal Control Reporting (April 2005)
- **Total Quality Training (2002)**  
Several multi-day workshops in total quality and Six-Sigma while at Sears
- **General Electric Financial Management Program (1983 to 1986)**  
Completed one of the premier company run finance and accounting training programs consisting of rotational assignments and college level classroom studies in accounting and auditing.

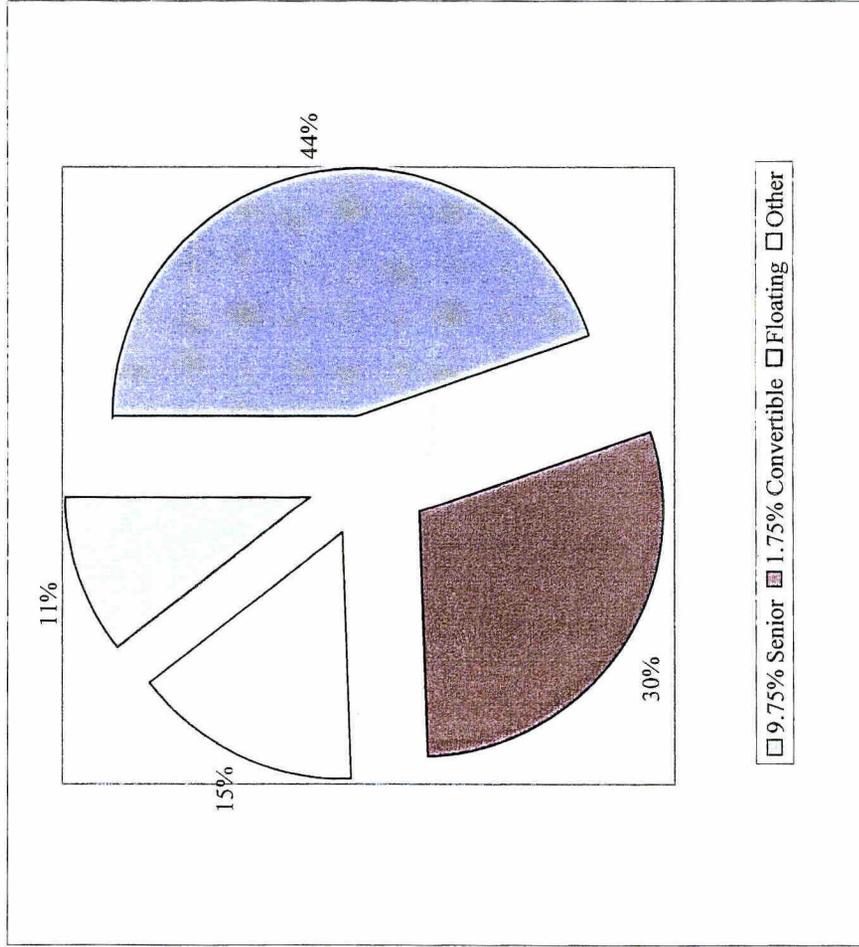


### XM's Cumulative Revenue and Investment



Data through 2005 is based on published XM results. Data for 2006 and forward is based on an average of 19 analysts that cover XM.

**XM's Debt (As of 6/30/06)**

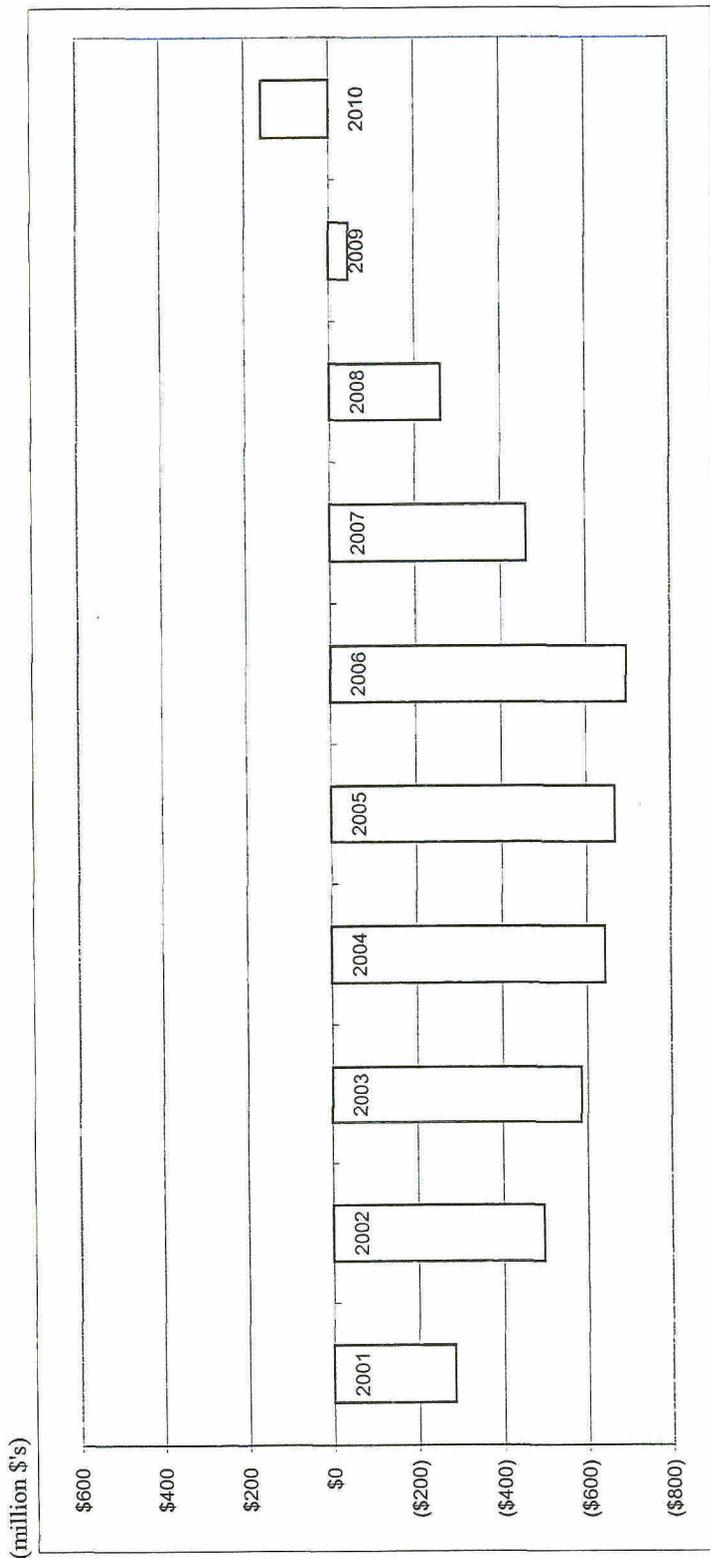


Component	Maturity	%	\$M
9.75% Senior	May 2014	45%	\$600
1.75% Convertible	Dec 2009	30%	\$400
Floating	May 2013	15%	\$200
Other	Various	11%	\$141
<b>Total</b>		<b>100%</b>	<b>\$1,341</b>

Data through 2005 is based on published XM results. Data for 2006 and forward is based on an average of 19 analysts that cover XM.



## XM's Annual Profit and Loss



Data through 2005 is based on published XM results. Data for 2006 and forward is based on an average of 19 analysts that cover XM.



# **FORM 10-K**

## **XM SATELLITE RADIO HOLDINGS INC - XMSR**

**Filed: March 16, 2000 (period: December 31, 1999)**

Annual report which provides a comprehensive overview of the company for the past year

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SECURITIES AND EXCHANGE COMMISSION  
Washington D.C. 20549  
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FORM 10-K

Annual Report Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934

For the fiscal year ended: December 31, 1999

Commission File Number: 0-27441  
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XM Satellite Radio Holdings Inc.

(Exact name of registrant as specified in its charter)

Delaware

54-1878819

(State or other jurisdiction of  
incorporation or organization)

(I.R.S. Employer Identification No.)

1250 23rd Street, N.W.  
Washington, DC

20037-1100

(Address of principal executive  
offices)

(Zip Code)

(202) 969-7100

(Registrant's telephone number, including area code)  
-----

Securities registered pursuant to Section 12(b) of the Act:

Not Applicable

Securities registered pursuant to Section 12(g) of the Act:

Title of Class

Class A Common Stock, par value \$.01 per share  
8.25% Series B Convertible Redeemable Preferred Stock, par value \$.01 per share  
-----

Indicate by check mark whether the registrant (1) has filed all reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of  
1934 during the preceding 12 months and (2) has been subject to such filing  
requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item  
405 of Regulation S-K is not contained herein, and will not be contained, to  
the best of registrant's knowledge, in definitive proxy or information  
statements incorporated by reference in Part III of this Form 10-K or any  
amendment to this Form 10-K.

The aggregate market value of common stock held by non-affiliates of the  
registrant, based upon the closing price of the registrant's Class A common  
stock as of March 10, 2000 is \$42.50.

As of March 10, 2000, there were 32,156,738 shares of the registrant's Class  
A common stock and 16,557,262 shares of the registrant's Class B common stock  
outstanding.  
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Except for any historical information, the matters we discuss in this Form 10-K concerning our company contain forward-looking statements. Any statements in this Form 10-K that are not statements of historical fact, are intended to be, and are, "forward-looking statements" under the safe harbor provided by Section 27(a) of the Securities Act of 1933. Without limitation, the words "anticipates," "believes," "estimates," "expects," "intends," "plans" and similar expressions are intended to identify forward-looking statements. The important factors we discuss below and under the caption "Management's Discussion and Analysis of Financial Condition and Results of Operations," as well as other factors identified in our filings with the SEC and those presented elsewhere by its management from time to time, could cause actual results to differ materially from those indicated by the forward-looking statements made in this Form 10-K.

## PART I

### ITEM 1. BUSINESS

Unless the context otherwise requires, the terms "we," "our" and "us" refer to XM Satellite Radio Holdings, Inc. and its subsidiaries, including XM Satellite Radio Inc. XM Satellite Radio Inc. was incorporated in Delaware in 1992. XM Satellite Radio Holdings Inc. was incorporated in Delaware and became a holding company for XM Satellite Radio Inc. in early 1997.

#### Overview

We seek to become a premier nationwide provider of audio entertainment and information programming. We will transmit our XM Radio service by satellites to vehicle, home and portable radios. We own one of two FCC licenses to provide a satellite digital radio service in the United States. We will offer a wide variety of music, news, talk, sports and other specialty programming on up to 100 distinct channels. We believe that customers will be attracted to our service because of its wide variety of formats, digital quality sound and coast-to-coast coverage.

We are constructing our satellite system and have contracts with third party programmers, vendors and other partners. Key milestones achieved include the following:

- . \$865.0 million of equity proceeds raised to date, net of expenses, interest reserve and repayment of debt, including an initial public offering; an offering of subordinated convertible notes to several strategic and financial investors, including General Motors, Clear Channel Communications, DIRECTV, Telcom Ventures, Columbia Capital and Madison Dearborn Partners, which converted into equity at the time of our initial public offering; concurrent follow-on offerings of Class A common stock and Series B convertible redeemable preferred stock; and the private placement of units consisting of senior secured notes and warrants to purchase shares of Class A common stock;
- . Contract with Hughes for construction and in-orbit delivery of two high-powered satellites and long lead items for a ground spare;
- . Contracts with LCC International for design of our international repeater network and Hughes for the design and manufacture of the terrestrial repeaters;
- . Long-term agreement with the OnStar division of General Motors covering the installation and exclusive marketing and distribution of XM Radio service in General Motors vehicles;
- . Contracts with Delphi-Delco Electronics, Sony, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox, Clarion and SHARP to manufacture and distribute XM radios;
- . Agreement with STMicroelectronics, a leading digital audio chipset manufacturer, for the design and production of chipsets for XM radios;
- . Agreement with Lucent Digital Radio to provide coding technology for our audio signals;
- . Agreements with leading specialty programmers, for many of which we will be the exclusive satellite radio platform, covering at least 24 channels, including AsiaOne, Black Entertainment Television (BET), BBC World Service, Bloomberg News Radio, Clear Channel, CNN en Espanol, CNNfn, CNN

Sports Illustrated, C-SPAN, DIRECTV, Hispanic Broadcasting Corporation (formerly Heftel), NASCAR, One-on-One Sports, Radio One, Salem Communications, Sporting News, Weather Channel and USA Today;

- . Engaged Premiere Radio Networks to be our advertising sales representative;
- . Entered into marketing arrangements with SFX Entertainment and NASCAR;
- . Letter of intent with Freightliner Corporation to install XM radios in Freightliner trucks; and
- . Agreement with Sirius Radio to develop a unified standard for satellite radios, which will facilitate the ability of consumers to purchase an interoperable radio capable of receiving both our and Sirius Radio's service.

#### Market Opportunity

We believe that there is a significant market for our satellite radio service. Market studies show strong demand for radio service, as evidenced by radio listening trends, data relating to sales and distribution of radios and the general growth in radio advertising. In addition, we note that in many markets audio programming choices are limited to mass appeal formats. We believe our national subscription service will complement traditional local radio. Moreover, the success of subscription entertainment services in other media such as cable television and market research further indicate potential for significant consumer demand for satellite radio services.

#### Radio Listening

On average, adults listen to the radio 3.2 hours a day, with the amount of radio listening fairly evenly distributed across gender and age groups. The percentage of people listening to radio is also high. Market data show that over 75% of the entire United States population age 12 and older listen to the radio daily, and over 95% listen on a weekly basis (Radio Marketing Guide and Factbook for Advertisers, Radio Advertising Bureau, Fall 1999 to Spring 2000).

In addition, more people listen to radio than to other comparable audio entertainment formats. The popularity of radio versus these other formats appears particularly strong in the car, where we will be targeting our service initially. An estimated 69% of consumers chose radio as their most listened to format in the car as compared to 15% for cassettes and 9% for CDs (Radio Listening Habits, CEMA 1999).

#### Radio Sales and Distribution

A large number of radios are sold in the United States on an annual basis. In 1999, radio manufacturers sold over 29 million car radios, including 17 million original equipment automobile radios and 11 million aftermarket automobile radios, as well as 1.2 million aftermarket automobile CD changers. Original equipment radios are installed in new cars; aftermarket radios are installed in the automobile after purchase. Based on these statistics, each additional one million subscribers would represent less than 3.5% of the new original equipment manufacturer and aftermarket car radios brought to market annually and would generate incremental subscription revenues, at \$9.95 per month, of approximately \$120 million.

#### Radio Advertising

The continued popularity of radio is also reflected in the growth of radio advertising. The Radio Advertising Bureau estimates that radio advertising revenue in 1999 climbed to \$17.7 billion, an increase of 15% over 1998. Veronis, Suhler & Associates projects a compound annual increase of 9.7% through 2003. This growth rate exceeds the projected increase in advertising spending for television, newspapers, magazines, yellow pages and outdoor advertising (Communications Industry Forecast, 1999).

#### Current Limitations on Programming Choice

Many consumers have access to a limited number of stations and programming formats offered by traditional AM/FM radio. Our service is expected to be attractive to underserved radio listeners who want expanded radio choices.

Limited Number of Radio Stations. The number of radio stations available to many consumers in their local market is limited in comparison to the up to 100 channels we expect to offer on a nationwide basis. In 1998, there were only 47 AM/FM radio stations as listed by Arbitron broadcasting in New York City, the largest radio market in the United States. In fact, many metropolitan areas outside the largest 50 markets, such as Jacksonville, FL, Louisville, KY, and Oklahoma City, OK, have 30 or fewer AM/FM radio stations as listed by Arbitron (American Radio, Spring 1999 Ratings Report, Duncan's American Radio, 1999).

We estimate that our coast-to-coast service will reach over 98 million listeners age 12 and over who are beyond the range of the largest 50 markets as measured by Arbitron. Of these listeners, 36 million live beyond the largest 276 markets (Census data and Fall 1999 Market Rankings, The Arbitron Company). In addition, there are 22 million people age 12 and above who receive five or fewer stations (The Satellite Report 1999, C. E. Unterberg, Towbin).

Limited Programming Formats. We believe that there is significant demand for a satellite radio service that expands the current programming choices available to these potential listeners. Over 52% of all commercial radio stations use one of only three general programming formats--country, adult contemporary and news/talk/sports (Veronis, Schuler & Associates Communications Industry Forecast 1999). Over 71% of all commercial radio stations use one of only five general formats--the same three, plus oldies and religion. The small number of available programming choices means that artists representing niche music formats likely receive little or no airtime in many markets. Radio stations prefer featuring artists they believe appeal to the broadest market. However, according to the Recording Industry Association of America, recorded music sales of niche music formats such as classical, jazz, movie and Broadway soundtracks, new age, children's programming and others comprised up to 21% of total recorded music sales in 1998 (1998 Consumer Profile).

#### Demand for Subscription Services and Products

Penetration data relating to cable, satellite television, and premium movie channels suggest that consumers are willing to pay for services that dramatically expand programming choice or enhance quality. As of 1999, over 67% of TV households subscribe to basic cable television at an average monthly cost of \$29, and over 11% of TV households subscribe to satellite television at an average monthly cost of \$51 (National Cable Television Association website and DBSDish.com website). Also in 1999, according to Paul Kagan Associates, subscribers to cable and satellite services purchased more than 75 million premium channel units, such as HBO, Showtime, and Cinemax, for which they paid an extra monthly charge on top of the basic monthly fee.

#### Demand for Satellite Radio Services

Several studies have been conducted demonstrating the demand for satellite radio service.

In June 1999, we commissioned Strategic Marketing And Research Techniques, (SMART), a leading market research company and Dr. Frank M. Bass, a leading authority on the diffusion of new products and inventor of the Bass curve, to estimate the demand for satellite radio based on survey data and historical information. SMART surveyed 1,800 people ages 16 and over. The study concluded that as many as 49 million people may subscribe to satellite radio by 2012, assuming \$9.95 as a monthly subscription fee and a radio price point of \$150-\$399, depending upon the type of car or home unit chosen. The study also anticipated that satellite radio will grow even faster than DBS.

In December 1998, we commissioned SMART to conduct a study based on one-on-one interviews with over 1,000 licensed drivers ages 16 to 64 in ten geographically dispersed markets. The study concluded that approximately 50% of aftermarket radio purchases would be for AM/FM/satellite radio units with a single-disc CD player. This assumed a radio price point of \$399, a \$75 installation fee and a \$10 monthly subscription fee for the service. The same study also found that consumers are more likely to buy satellite radio units that offer at least 80 channels.

In November 1998, we commissioned Yankelovich Partners to gauge consumer interest in satellite radio. This involved surveying 1,000 people via telephone and correlating the results with the Yankelovich MONITOR

study, which is the longest standing tracking study of consumer values and attitudes in the United States. The study indicated that 18% of people age 16 and older were "definitely" or "probably" willing to pay \$9.99 per month to receive satellite radio and an additional \$150 for a satellite radio when buying a new car.

The XM Radio Service

We are designing the XM Radio service to address the tastes of each of our targeted market segments through a combination of niche and broad appeal programming. We believe that our distinctive approach to programming, combined with digital quality sound and virtually seamless signal coverage throughout the continental United States, will position us to become the leading provider of the next generation in radio.

We Will Differentiate XM Radio from Traditional AM/FM Radio

Local radio stations, even those which are part of national networks, focus on maximizing listener share within local markets. This limits the types of programming they can profitably provide to mass appeal formats. In contrast, our nationwide reach and ability to provide up to 100 channels in each radio market will allow us to aggregate listeners from markets across the country, expanding the types of programming we can provide. The following chart indicates differences between XM Radio and traditional AM/FM radio.

	XM Radio	Traditional AM/FM Radio
Convenience: go anywhere capability	Virtually seamless signal coverage in the United States	Local area coverage
Choice: wide variety/number of stations	Up to 100 channels with a wide variety of programming	Limited formats in many markets
Improved audio quality Fewer commercials	Digital quality sound Average 6-7 minutes per hour; some channels commercial free	Analog AM/FM quality sound Average 13-17 minutes per hour
More information about music	Text display with title/name of song/artist	No visual display

We plan to further differentiate XM Radio from traditional AM/FM radio in the following ways.

Provide music formats unavailable in many markets. XM Radio will offer many music formats that are popular but currently unavailable in many markets. More than 52% of all commercial radio stations in markets measured by Arbitron use one of only three programming formats: country; adult contemporary; or news/talk/sports. There are many types of music with significant popularity, as measured by recorded music sales and concert revenues, that are unavailable in many traditional AM/FM radio markets. Such music could include classical recordings or popular blues and rap music that have retail appeal but are not commonly played on traditional AM/FM radio. This music also includes special recordings such as the Irish dance soundtrack "Riverdance" and the "Three Tenors" concerts which generate millions of CD sales, yet are not typically played on today's AM/FM stations. Additionally, heavy metal and dance are two of the more popular musical styles not currently broadcast in many small and medium sized markets. Even major markets do not always offer a full complement of formats.

Superserve popular music formats. We will be able to offer more specific programming choices than traditional AM/FM radio generally offers for even the most popular listening formats. For example, on traditional AM/FM radio oldies music is often generalized on a single format. We will be able to segment this category by offering several dedicated, era-specific formats. We also plan to offer up to six dedicated channels with urban formats and four distinct country music formats.

Use more extensive playlists. Traditional AM/FM radio stations frequently use limited playlists that focus on artists and specific music that target the largest audience. With our large channel capacity and focus on

specific formats, we have the ability to provide more variety to attract listeners dissatisfied with repetitive and/or limited playlist selection offered by traditional radio.

Deliver a wide range of ethnic and informational programming. We will provide a variety of formats that target specific ethnic and special interest groups who are rarely served by traditional AM/FM radio. We believe by using our national platform to aggregate geographically disparate groups through affinity programming, we will provide advertisers a valuable way to market products and services to these groups by advertising on our affinity channels.

Develop promotional opportunities with record companies, recording artists and radio personalities. Because of our nationwide coverage and resulting economies of scale, we will be able to deliver a variety of national promotions and events that would not be cost effective or efficient on a market-by-market basis through traditional AM/FM radio distribution. Also, we will seek to hire and develop high profile talk and disc jockey talent capable of becoming the next generation of national radio stars with an influence on radio similar to the impact that the new breed of cable TV talk hosts have had on the television industry.

Respond quickly when major music and cultural events occur. XM Radio programmers will respond quickly to changing musical tastes, seasonal music and emerging popular cultural events, such as Bruce Springsteen and Ricky Martin tours, by providing listeners with extensive coverage utilizing our large channel capacity.

Take advantage of digital's higher quality signal. There are several music formats that have strong demand but have been relegated to AM stations with weaker signals due to lack of available FM frequencies. Such AM formats include traditional country music, big band/nostalgia and gospel formats that we will be able to deliver with superior sound quality.

Focus on special demands of mobile listeners. A significant percentage of radio listeners, such as truckers, routinely travel through two or more radio markets on a frequent basis. According to the U.S. Department of Transportation, there were over three million truckers in the United States in 1997. We believe these listeners will be attracted to a radio service with national coast-to-coast coverage. We are seeking to specifically identify and target the listening demands of this audience.

Availability of commercial-free and limited-advertising channels. We believe that a significant portion of the listening market would pay to subscribe to a radio service that provided commercial-free channels and channels with reduced advertising, as demonstrated by the appeal of limited periods of non-stop music used by some traditional AM/FM stations. Therefore, we plan to target this audience with a number of commercial-free music channels covering popular music formats. In addition, we expect that our limited-advertising channels will carry less than half the advertising spots of typical AM/FM stations.

Use cross-promotion capability to market XM Radio. We will dedicate a percentage of our advertising inventory across our channels to promote specific programming and brand loyalty. AM/FM radio stations traditionally promote on a single channel basis to build awareness.

Representative XM Radio Channel List

The following table is a list of representative channels we may offer. Channels in *italics* represent contractual commitments with content providers.

Representative Channels of XM Radio

ROCK MUSIC	INFORMATION	HISPANIC
Classic Rock	All News (USA Today)	Tejano (Hispanic Broadcasting Corp.)
Classic Hard Rock	All News (Bloomberg)	Caribbean (Hispanic Broadcasting Corp.)
New Hard Rock	Public Affairs (C-SPAN)	Regional Mexican (Hispanic Broadcasting Corp.)
New Alternative	Financial News (CNNfn)	Rock en Espanol (Hispanic Broadcasting Corp.)
Classic Alternative	News/Information (BBC World Service)	Hispanic Ballads (Hispanic Broadcasting Corp.)
Soft Rock	Home & Garden	Hispanic News (CNN en Espanol)
ECLECTIC MUSIC	Love/Relationship Line	OLDIES MUSIC
Contemporary Christian (Salem)	Farm/Rural	40's Oldies
Traditional Christian (Salem)	Health/Fitness	50's Oldies
Blues	Comedy	60's Oldies
Traditional Jazz	Audio Books	70's Oldies
Reggae/Island	Consumer Classified	80's Oldies
World Music	Soap Operas	90's Oldies
American Folk	For Truckers Only	Love Songs
Pop Classical	Movie Soundtrack Channel	TALK
Traditional Classical	Relationship Classified (-18)	African American Talk (BET/Radio One)
Modern Jazz	Relationship Classified (19-30)	Asian/Indian Talk (AsiaOne)
Progressive/Fusion	Relationship Classified (31-50)	Christian/Family Talk (Salem)
POP MUSIC	Relationship Classified (51+)	Mandarin Talk (AsiaOne)
Top 20 Contemporary Hits	Lifestyles	Conservative Talk
Disco/Dance	Celebrity Gossip	Liberal Talk
Broadway Show Tunes	Entertainment News	Senior Citizen Talk
Modern Adult	Game Show/Contest	Rock Talk
Contemporary	URBAN MUSIC	Hispanic Talk
Classic Vocalists	Hip Hop/Rap (BET/Radio One)	Teen Talk
All Request Contemporary Hits	Urban Dance Mix (Radio One)	CHILDREN'S MUSIC
SPORTS	Classic Soul (BET/Radio One)	Pre-School
Sports Headlines (CNN/Sports)	Gospel (BET/Radio One)	Grade School/pre-teen
Sports Talk (One-On-One)	Adult Urban (BET/Radio One)	SPECIAL/EVENTS
Sports, Sporting News)	Top 20 Urban	Reserved Channels
Sportsman Channel	ENVIRONMENTAL MUSIC	
Automotive (NASCAR)	Soft Jazz	
COUNTRY MUSIC	New Age	
Mainstream Country	Electronic	
Classic Country	Environmental (Earth Sounds)	
Bluegrass/Traditional	Beautiful Instrumentals	
Country		
All Request Country		

Key Elements of Our Business

We have developed a business strategy to become a premier nationwide provider of audio entertainment and information programming in the vehicle, home and portable markets. Our strategy includes the following elements.

## Programming

We believe that the quality and diversity of our programming will be a key driver of consumer interest in our service. To that end, we have developed a unique programming strategy that offers consumers

- . Original music and information channels created by XM Originals, our in-house programming unit;
- . Channels created by well-known providers of brand name programming; and
- . The availability of commercial-free and advertiser-supported channels.

XM Originals. Through a programming unit in XM Radio called "XM Originals", we will create a significant number of original channel formats with content focusing on popular music such as oldies, rock and country, and on new and innovative formats, including jazz, blues, reggae and pop classical. These formats will include artists with strong music sales and concert revenue who do not get significant airplay on traditional AM/FM radio stations. We also intend to brand individual channels creating a specific station personality and image using compelling on-air talent and other techniques to attract listeners in our target market segments. We have hired a team of programming professionals with a proven track record of introducing new radio formats and building local and national listenership.

Brand Name Programming Partners. We intend to complement our original programming with a variety of unique and diverse content provided to us by brand name programming providers. We have signed contracts representing at least 24 channels with numerous well-known specialty and niche programmers that will provide brand name content for XM Radio. These companies include:

Media	Radio
-----	-----
-- Bloomberg News Radio	-- Hispanic Broadcasting Corporation (formerly Heftel)
-- USA Today	-- Clear Channel Communications
-- CNNfn	-- Radio One
-- CNN en Espanol	-- Salem Communications
-- CNN Sports Illustrated	-- AsiaOne
-- C-SPAN Radio	-- One-On-One Sports
-- Black Entertainment Television	-- BBC World Service
-- DIRECTV	-- NASCAR
-- Weather Channel	
-- Sporting News	

Availability of Commercial-Free and Limited-Advertising Channels. We will provide a number of commercial-free music channels covering popular music formats. In addition, our limited-advertising channels will carry less than half the advertising of a typical AM/FM radio station. We expect the diversity of our programming line-up will appeal to a large audience, including urban and rural listeners of all ages, ethnicities, economic groups and specialty interests. We expect to tailor our programming and marketing to appeal to specific groups within those audiences that research has shown are most likely to subscribe to our satellite radio service. Initially, we plan to concentrate our programming efforts on listeners who are most receptive to innovative entertainment services, so-called early adopters, and new car buyers. According to our research, 16-34 years old adults will compose a high percentage of our early adopters; we will therefore focus a significant portion of our programming and marketing efforts to appeal to them. In addition, we will develop programming and marketing specifically to appeal to other market segments such as baby boomers who are 35-53 years old, seniors who are 54 years old and older, African-Americans, Asian-Americans and Hispanics.

Future Content Arrangements. Under our agreement with Sirius Radio, all new arrangements with providers of programming or content, including celebrity talent, must be non-exclusive and may not reward any provider for not providing content to the other party.

## Marketing and Distribution

Our marketing strategy will be designed to build awareness and demand among potential subscribers in our target markets and the advertising community. In addition, we expect to work closely with radio and automotive manufacturers and retail distributors to promote rapid market penetration.

### Establish Broad Distribution Channels for XM Radios

We plan to market our satellite radio service through several distribution channels including national electronics retailers, car audio dealers, mass retailers and automotive manufacturers. In addition, we will support our distribution channels by building awareness of XM Radio with a substantial introductory launch campaign, including national and local advertising.

**Exclusive Distribution Agreement with General Motors.** We have an agreement with the OnStar division of General Motors whereby, for a 12-year period, General Motors will exclusively distribute and market the XM Radio service and install XM radios in General Motors vehicles beginning in 2001. General Motors sold over 4.9 million automobiles in 1999, which represented more than 29% of the United States automobile market. Under the agreement, we have substantial payment obligations to General Motors, including among others, certain guaranteed, annual, fixed payment obligations. While we have discussed with General Motors certain installation projections, General Motors is not required to meet any minimum targets for installing XM radios in General Motors vehicles. In addition, certain of the payments to be made by us under this agreement will not be directly related to the number of XM radios installed in General Motors vehicles. Our contract with General Motors is described in more detail under the caption "Certain Relationships and Related Transactions--Distribution Agreement with General Motors and OnStar." We are currently in discussions with other car manufacturers regarding additional distribution agreements.

**Distribution through Radio Manufacturers.** We have signed contracts with Delphi-Delco, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox and Clarion for the development, manufacture and distribution of XM radios for use in cars and a contract with Sony Electronics to design, manufacture and market XM radios for the portable, home, aftermarket and original equipment manufacture car stereo markets. One of these manufacturers, Delco Electronics Corporation, a subsidiary of Delphi Automotive Systems, is the leading original equipment manufacturer of radios for the automobile industry, producing more than 33% of car radios manufactured for installation in new automobiles in the United States in 1997. Delphi-Delco is also the leading manufacturer of car radios sold in General Motors vehicles and has signed a contract to build our radios for General Motors. Sony is the leader in sales of portable CD players by a large margin and one of the top three sellers of shelf systems. Sony has agreed to assist with marketing XM Radios and has agreed to incentive arrangements that condition its compensation on use of XM Radios manufactured by Sony or containing Sony hardware. Motorola is a leading supplier of integrated electronics systems to automobile manufacturers. Mitsubishi Electronic Automotive America, together with its parent corporation Mitsubishi Electronic Corp., is the largest Japanese manufacturer of factory-installed car radios in the United States. Clarion is a leader in the car audio and mobile electronics industry. Two of our other manufacturers, Pioneer Electronics Corporation and Alpine Electronics, together sold over 31% of aftermarket car radios sold in the United States in 1999. We have also signed a contract with SHARP to manufacture and distribute XM radios for home and portable use. We are pursuing additional agreements for the manufacture and distribution of XM radios, subject to contract limitations on the number of manufacturer distributors during the early years of service. We also plan to meet with automobile dealers to educate them about XM Radio and develop sales and promotional campaigns to promote XM radios to new car buyers.

These leading radio manufacturers have strong retail and dealer distribution networks in the United States. We expect to have access to the distribution channels and direct sales relationships of these distributors, including national electronics retailers, car audio dealers and mass retailers.

We do not intend to manufacture or hold inventory of XM radios. Radio distribution likely would be handled by fulfillment centers, which hold inventory for the radio manufacturers and ship products directly to listeners at the manufacturers' request.

Rural Market Distribution/Alternative Distribution. We intend to market our satellite radio service in rural counties, using distribution channels similar to satellite television, to penetrate rural households not served by traditional electronic retailers. In addition, we plan to pursue alternative distribution opportunities such as catalog/direct marketing, the Internet and marketing through affinity groups.

Future Distribution Arrangements. We have signed an agreement with Sirius Radio to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both our and Sirius Radio's services. Both companies expect to work with their automobile and radio manufacturing partners to integrate the new standard. Future agreements with automakers and radio manufacturers will specify the unified satellite radio standard. Furthermore, future agreements with retail and automotive distribution partners and content providers will be on a non-exclusive basis and may not reward any distribution partner for not distributing the satellite radio system of the other party.

In addition, we have signed a letter of intent with Freightliner Corporation to install XM radios in Freightliner trucks.

#### Maximize Revenue Through Dual Sources

As with other subscription-based entertainment media such as cable television, we expect to generate revenue by charging a monthly subscription fee and selling limited advertising time. We will earn all of the revenue from advertising on our own programming and a portion of the revenues from advertising on third party programming. XM Radio offers a new national radio platform for advertisers that solves many of the problems associated with buying radio advertising nationally on a spot or syndicated basis. We believe the attractiveness of one-stop national radio advertising buys will provide a significant source of income as our subscriber base grows.

#### Subscriber Development and Expansion

We expect to promote XM Radio as a national brand name with an exciting image. Several months prior to service commencement, we will launch an advertising campaign in several United States markets to test and generate early feedback on the product offerings and stimulate early demand. Promotional activities currently under consideration include distributing sample programming at retail outlets, concert venues and on the Internet to generate initial interest. For instance, we have entered into an agreement with SFX Entertainment to be the exclusive satellite radio advertiser at live concerts and sporting events presented by, and live entertainment venues managed by, SFX.

Although XM Radio will be available nationwide upon commencement of operations, we will initially concentrate promotional activities in several key markets and rapidly expand to other large markets. This phased roll-out strategy, similar to that employed by consumer electronics manufacturers and special services such as DIRECTV and Web TV, will enable us to refine our launch implementation throughout the roll-out period. The advertising will consist of both branding and promotion efforts for XM Radio, as well as separate campaigns to promote and brand individual channels. Initially, we will focus marketing efforts on the various channels targeting young adults, who we believe are more likely to drive early penetration. We also expect to benefit from free local media coverage as XM Radio is first offered in each new market.

XM Radio will promote subscriber acquisition activities with both original equipment and aftermarket radio manufacturers. This might include

- . promotional campaigns directed towards automobile manufacturers and dealers;
- . promotional campaigns for free months of service with purchase of an XM radio or free installations for aftermarket car radios;
- . incentive programs for retailer sales forces;
- . in-store promotional campaigns, including displays located in electronics, music and other retail stores, rental car agencies and automobile dealerships, and
- . jointly funded local advertising campaigns with retailers.

## Advertiser Development and Acquisition

Our ability to aggregate various local niche market segments into national audiences will be attractive to national advertisers and agencies. We have held extensive meetings with media directors, planners and buyers at advertising and media buying agencies to develop advertiser awareness of the benefits of satellite radio. We expect to have advertising sales offices in seven major media markets to sell directly to advertising agencies and media buying groups and have engaged Premiere Radio Networks to be our advertising sales representative. We will also work with ratings agencies in our advertising-supported business. Statistical Research, Inc., which produces Radar reports, has agreed to work with us to develop other ratings methodologies for satellite radio.

During our early years of service, we do not expect to have a listener base sufficient to attract substantial national advertising dollars on individual channels at competitive rates. Thus, we plan initially to attract national advertisers and agencies with the following kinds of incentives.

**Charter Advertising Agreements.** We have contracts with several advertisers, advertising agencies and media buying companies offering charter advertising packages at reduced rates for a limited time. Each charter advertiser will purchase a minimum amount of advertising from us during the period that the reduced rates are in effect. We intend to sign additional contracts on similar terms.

**Foreign Language Advertising.** We and our programmers plan to offer foreign language advertising on specific foreign language-based channels. Several major national advertisers have expressed strong interest in the ability to advertise to these hard-to-reach customer segments.

## The XM Radio System

We are designing our system to provide satellite radio to the continental United States and coastal waters using radio frequencies allocated by the FCC for satellite radio. These radio frequencies are within a range of frequencies called the S-Band. The XM Radio system will be capable of providing high quality satellite services to XM radios in automobiles, trucks, recreation vehicles and pleasure craft, as well as to fixed or portable XM radios in the home, office or other fixed locations. The XM Radio system design uses a network consisting of an uplink facility, two high-power satellites and, where necessary, ground-based repeaters to provide digital audio service to XM radios.

## Space Segment

**Satellite Construction.** Under our satellite contract with Hughes, Hughes is building and will launch two HS 702 high-power satellites for the XM Radio system. Hughes has also agreed to provide, at our option, one ground spare satellite, to be available in the event of a failed launch of any satellite or to accommodate our satellite system growth.

We believe that the HS 702 model will provide higher quality performance than other satellite options. The first HS 702 satellite was successfully launched in the fourth quarter of 1999 and a total of three HS 702 satellites are currently scheduled for launch before the launch of our satellites.

Hughes has also contracted to provide us with launch and operations support services, equipment and software. Under our contract, Hughes must deliver the first satellite no later than December 31, 2000 and the second satellite no later than April 11, 2001.

Hughes has engaged Alcatel to provide the communications payload electronics for our satellites. The communications payload electronics are designed to make best use of technologies that have already been developed or used in previous satellite programs. The design includes significant redundancy and protective measures to prevent loss of service.

**Satellite Transmission.** We anticipate that our two satellites will be deployed at 85 West Longitude and 115 West Longitude. After reaching their designated orbital location, the satellites will receive audio signals from our programming center and retransmit the signals across the continental United States. The satellites will be 30 (degrees) apart in longitude in order to enhance the probability of clear line-of-sight communication between the satellites and XM mobile radios.

The transmission coverage areas, or footprints, of our satellites encompass the 48 contiguous states and nearby coastal waters. We have tailored these footprints to provide nearly uniform availability over the United States and to minimize transmission spillage across the United States borders into Canada and Mexico. However, because coverage does extend to the Gulf of Mexico, the California coast and the Atlantic coast, we also expect to be able to provide XM Radio to the cruise ships, cargo vessels and leisure boats which frequent these waters.

Our satellites will transmit audio programming within a 12.5 MHz range of S-Band radio frequencies that have been allocated by the FCC for our exclusive use. Megahertz is a unit of measurement of frequency. This 12.5 MHz bandwidth will be subdivided to carry the transmission of six signals, two signals to be transmitted from each of our two satellites and two signals to be transmitted by the terrestrial repeater network. The audio programming for XM Radio will be carried on two satellite signals, and the remaining two satellite signals and the terrestrial repeater signals will repeat the audio programming to enhance overall signal reception. The transmission of higher quality sound requires the use of more kilobits per second than the transmission of lesser quality sound. In order to provide high-quality digital sound, we expect that music channels will require approximately 56 to 64 kilobits per second depending on the type of compression technology used, whereas talk channels will require significantly less band width. We expect to use our allocated bandwidth in such a way as to provide up to 100 channels of programming, with our music channels having a high bandwidth allocation so as to provide high-quality digital sound.

Launch Services. Hughes has signed an agreement with Sea Launch Limited Partnership, a joint venture in which Boeing Commercial Space Company has a controlling 40% interest, to provide the launch services for our satellites. The launch vehicle uses a new rocket called the Zenit-3SL, which is based on a flight-proven two-stage rocket called the Zenit-2, plus a stage which is the flight-proven upper stage of a Russian-developed rocket called the Proton rocket. The Zenit-2 vehicle has been successfully launched 30 times in 35 attempts, for an 86% success rate. The upper stage has successfully flown in 186 flights on various rockets with five failures, for a 97% success rate.

Sea Launch has developed a new launch system to launch rockets from an ocean-based platform. Sea Launch will perform all rocket and satellite processing at the Sea Launch home port in Long Beach, California. Sea Launch will move the platform to its launch position in the South Pacific Ocean near the equator, where the satellites can be launched more efficiently by avoiding the requirement to conduct an orbital plane change. In March 1999, Sea Launch successfully launched a rocket carrying an inert payload into geo-stationary orbit. Sea Launch also successfully launched its first commercial satellite, DIRECTV 1-R, in October 1999. As of December 31, 1999, Sea Launch had contracts for an additional 18 launches. In March 2000 a satellite launch by Sea Launch experienced an anomaly that resulted in the loss of the communications satellite payload. An investigation is currently underway by Boeing and its Sea Launch partners to determine the cause of the failure. We understand that Sea Launch will resume launches after the anomaly has been investigated and rectified. While there can be no assurances, given the anticipated Sea Launch turn around window between launches, as well as our placement on the launch manifest, with two others ahead of us, we do not expect any significant delay with our launch schedule.

Insurance. We bear the risk of loss for each of the satellites from the time of launch, subject to exceptions set forth in our agreement with Hughes, and we intend to obtain insurance to cover that risk. We intend to purchase launch and in-orbit insurance policies from global space insurance underwriters. The insurance premiums for both satellites are expected to cost us approximately \$50 million. We cannot predict the status of the insurance market near the time of launch, which is the customary time for purchasing satellite insurance. We expect that the policies we obtain will indemnify us for a total, constructive total or partial loss of either of the satellites that occurs from the time of launch through each satellite's expected lifetime. We intend to obtain coverage which will exceed all hardware, insurance and launch service costs related to the in-orbit replacement of a lost satellite. However, any insurance we may obtain will not protect us from the adverse effect on our business operations due to the loss of a satellite. We expect that these policies will contain standard commercial satellite insurance provisions, including standard coverage exclusions.

#### Ground Segment

**Satellite Control.** Each of our satellites will be monitored by a telemetry, tracking and control station, and both satellites will be controlled by a satellite control station. Each of the stations will have a backup station. We have a contract with an experienced satellite operator to perform the telemetry, tracking and control functions.

**Programming and Business Center.** Programming from both our studios and external sources will be sent to our programming center, which will package and retransmit signals to our satellites through the uplink station. Financial services and certain administrative support will be carried on at our business center. Communications traffic between the various XM Radio facilities will be controlled by the network monitoring center. The network monitoring center will monitor satellite signals and the terrestrial repeater network to ensure that the XM Radio system is operating properly. We plan to design and install fault detection systems to detect various system failures before they cause significant damage.

**Terrestrial Repeaters.** We intend to install a terrestrial repeater system to supplement the coverage of our satellites. Terrestrial repeaters are ground-based electronics equipment which receive and re-transmit the satellite signals. We have signed a contract with LCC International, a wireless service site planner, for the design and deployment of our terrestrial repeater network. LCC International has completed initial site planning for 70 markets. The contract with LCC International is described in more detail under the caption "Certain Relationships and Related Transactions--Engineering Contract with LCC International." We have entered into a contract with Hughes Electronics Corporation for the design, development and manufacture of the terrestrial repeaters. The contract is described in greater detail under the caption "Certain Relationships and Related Party Transactions-Contracts with Hughes."

In some areas, satellite signals may be subject to blockages from tall buildings and other obstructions. Due to the satellites' longitudinal separation, in most circumstances where reception is obscured from one satellite, XM Radio will still be available from the other satellite. In some urban areas with a high concentration of tall buildings, however, line-of-sight obstructions to both satellites may be more frequent. In such areas, we will install terrestrial repeaters to facilitate signal reception. We will install terrestrial repeaters on rooftops and existing tower structures where they will receive the satellite signals, amplify them and retransmit them at a significantly higher signal strength than is possible directly from the satellites. Before we may install many of our planned terrestrial repeaters, we must obtain roof rights in suitable locations and on acceptable terms. We do not expect this to present a serious problem to our construction of a terrestrial repeater network.

The high power levels and proprietary signal design of the terrestrial signals may allow XM radios to receive signals when a terrestrial repeater is not in view, including within buildings and other structures which can be penetrated by the terrestrial repeater signal. In some indoor locations which cannot receive the repeater signal, users will need to use small externally mounted antennas that will receive the signal from one of the two satellites.

We have contracted to purchase 1,550 terrestrial repeaters and may install as many as 1,700 terrestrial repeaters to cover urban areas in approximately 70 markets. We expect that this system will be operational by the second quarter of 2001. We estimate that the largest urban markets may require in excess of 100 repeaters, while smaller cities with fewer tall buildings may require as few as one to three repeaters. We also intend to use additional small repeaters in areas such as tunnels, where reception would otherwise be severely restricted. Our placement of terrestrial repeaters will be guided by a newly developed radio frequency analysis technique which, employing technology similar to that used in certain cellular telephone systems, analyzes the satellite footprint to discover areas likely to have impaired reception of XM Radio.

We expect to benefit from the expertise gained by American Mobile with its ARDIS terrestrial two-way data network consisting of approximately 1,700 base stations sites serving cities throughout the United States. We may use a portion of these sites in our system.

**XM Radios.** We will transmit XM Radio throughout the continental United States to vehicle, portable, home and plug and play radios. Our radios will be capable of receiving both XM Radio and traditional AM/FM stations. We believe prototypes will be available and limited production will begin by December 2000, and radios will be commercially available by commencement of commercial operation.

We have signed a contract with STMicroelectronics to design and produce chips which will decode the XM Radio signal. Additionally, some of the design elements in the chipsets currently being made for the WorldSpace International system, which operates in a different frequency band, will be integrated into our chipsets. Lucent Digital Radio has agreed to provide coding technology for our audio signals.

Delphi-Delco, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox and Clarion have signed contracts with us to develop, manufacture and distribute XM radios which can be used in the car and we have signed a contract with Sony Electronics to design, manufacture and market XM radios for the portable, home, aftermarket and original equipment manufacture car stereo markets. We have also signed a contract with SHARP to manufacture XM radios for home and portable use.

Unified Standard for Satellite Radio. On February 16, 2000, we signed an agreement with Sirius Radio to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both our and Sirius Radio's services. The technology relating to this unified standard will be jointly developed, funded and owned by the two companies. In addition, we will work together with Sirius Radio to proliferate the new standard by creating a service mark for satellite radio. This unified standard is intended to meet FCC rules that require interoperability with both licensed satellite radio systems.

As part of the agreement, each company has licensed to the other its intellectual property relating to its system; the value of this license will be considered part of each company's contribution toward the joint development. In addition, each company has agreed to license its non-core technology, including non-essential features of its system, to the other at commercially reasonable rates. In connection with this agreement, the pending patent litigation against XM Radio has been resolved.

We anticipate that it will take several years to develop radios capable of receiving both services. At the commercial launch of our service, we anticipate that our consumers will be able to purchase radios only capable of receiving our service.

Both companies expect to work with their automobile and radio manufacturing partners to integrate the new standard. Future agreements with automakers and radio manufacturers will specify the unified satellite radio standard. Furthermore, future agreements with retail and automotive distribution partners and content providers will be on a non-exclusive basis.

We and Sirius Radio have also agreed to negotiate in good faith to provide service to each other's subscribers in the event of a catastrophic failure of the XM Radio system or the Sirius Radio system.

#### Competition

We expect to face competition for both listeners and advertising dollars.

#### Sirius Satellite Radio

Our direct competitor in satellite radio service is likely to be Sirius Satellite Radio, the only other FCC licensee for satellite radio service in the United States. Since October 1997, Sirius Satellite Radio's common stock has traded on the Nasdaq National Market. Sirius Satellite Radio plans to deploy three satellites in a North American elliptical orbit and a network of terrestrial repeaters. Sirius Satellite Radio has announced in recent SEC filings that it has arrangements for the construction, implementation and distribution of its service and that it expects to begin receiving revenue from operations in early 2001, which is slightly ahead of our planned commencement of commercial operations in the second quarter of 2001.

#### Traditional AM/FM Radio

Our competition will also include traditional AM/FM radio. Unlike XM Radio, traditional AM/FM radio already has a well established market for its services and generally offers free broadcast reception paid for by commercial advertising rather than by a subscription fee. Also, many radio stations offer information programming of a local nature, such as traffic and weather reports, which XM Radio initially will be unable to offer as effectively as local radio, or at all. The AM/FM radio broadcasting industry is highly competitive.

Radio stations compete for listeners and advertising revenues directly with other radio stations within their markets on the basis of a variety of factors, including

- . program content;
- . air talent;
- . transmitter power;
- . source frequency;
- . audience characteristics;
- . local program acceptance; and
- . the number and characteristics of other radio stations in the market.

Currently, traditional AM/FM radio stations broadcast by means of analog signals, not digital transmission. We believe, however, that in the future traditional AM/FM radio broadcasters may be able to transmit digitally into the bandwidth occupied by current AM/FM stations.

#### Internet Radio

There are a growing number of Internet radio broadcasts which provide listeners with radio programming from around the country and the world. Internet radio can be heard through a personal computer equipped with a modem, sound card and speakers. One of the largest Internet radio providers, Broadcast.com Inc., currently provides a large number of stations on the Internet and has recently completed an initial public offering of stock, indicating growth in the industry. Announcements have been made about plans by one or more companies to deliver Internet radio to cars or portable radios using satellites. Although we believe that the current sound quality of Internet radio is below standard and may vary depending on factors such as network traffic, which can distort or interrupt the broadcast, we expect that improvements from higher bandwidths, faster modems and wider programming selection may make Internet radio a more significant competitor in the future.

There are a number of Internet-based audio formats in existence or in development which could compete directly with XM Radio. For example, Internet users with the appropriate hardware and software can download sound files for free or for a nominal charge and play them from their personal computers or from specialized portable players. In addition, prominent members of the music and computer industry have supported an initiative known as the Secure Digital Music Initiative to become a standard for fee-based electronic distribution of copyrighted sound recordings. Although presently available formats have drawbacks such as hardware requirements and download bandwidth constraints, which we believe would make XM Radio a more attractive option to consumers, Internet-based audio formats may become increasingly competitive as quality improves and costs are reduced.

#### Direct Broadcast Satellite and Cable Audio

A number of companies provide specialized audio service through either direct broadcast satellite and cable audio systems. These services are targeted to fixed locations, mostly in-home. The radio service offered by direct broadcast satellite and cable audio is generally an add-on service to the higher priced video service.

#### Regulatory Matters

XM Radio and Sirius Radio received licenses from the FCC in October 1997 to construct and operate satellite radio service. The FCC has allocated 25 MHz for the new service in a range of radio frequencies known as the S-Band.

As an owner of one of two FCC licenses to operate a commercial satellite radio service in the United States, we will continue to be subject to regulatory oversight by the FCC. Our development, implementation and eventual operation of our system will be subject to significant regulation by the FCC under authority granted under the Communications Act and related to federal law. Non-compliance by us with FCC rules and regulations could result in fines, additional license conditions, license revocation or other detrimental FCC actions. Any of these FCC actions may harm our business. There is no guarantee that the rules and regulations of the FCC will continue to support our business plan.

One of the two losing bidders in the satellite radio license auction filed an application for review of the order granting our FCC license, but the challenge was denied. The losing bidder is seeking review by the FCC. The losing bidder has argued that WorldSpace had effectively taken control of us without FCC approval and that WorldSpace has circumvented the FCC's application cut-off procedures. WorldSpace is no longer a stockholder in our company. We have opposed this appeal and have denied the allegations contained in the challenge. The FCC's order granting our license remains in effect during the pendency of the application for review. Although we believe that the award of the license to us will continue to be upheld, we cannot predict the ultimate outcome of this challenge. If this challenge is successful, the FCC could take a range of actions, any of which could harm our ability to proceed with our planned satellite radio service.

Our license, which is held by a subsidiary wholly owned by us, has a term of eight years from commencement of our operations and may be renewed. The FCC requires the satellite radio licensees, including us, to adhere to certain milestones in the development of their systems, including a requirement that the licensees begin full operation by October 2003.

Our FCC license requires us to meet the following milestones:

Deadline -----	Milestone -----	Status -----
October 1998	Complete contracting for first satellite	Completed March 1998
October 1999	Complete contracting for second satellite	Completed March 1998
October 2001	Begin in-orbit operation of at least one satellite	Expected Fourth Quarter 2000
October 2003	Begin full operation of the XM Radio system	Expected Second Quarter 2001

While we have already fulfilled the first two milestones, we may not meet the remaining two milestones, in part because we depend on third parties to build and launch our satellites. If we fail to meet these milestones, the FCC could take a range of actions, any of which may harm our business.

For business and technical reasons, we have decided to modify certain aspects of the satellite radio system described in our May 1997 amended application to the FCC. Specifically, we intend to

- . increase the satellites' transmission power;
- . eliminate coverage of Alaska and Hawaii; and
- . change the total number of signals carried by the satellites and terrestrial repeaters.

We will subdivide our 12.5 MHz of allocated bandwidth to carry six signals instead of five as previously stated in our FCC application. Two signals will be transmitted by each of the two satellites, and two signals will be transmitted by our terrestrial repeaters. We have filed an application requesting that the FCC allow us to modify the XM Radio system to incorporate these changes. In response to our application, one commenter expressed concern that a grant of XM Radio's request to operate its satellites at higher power could have an adverse effect on international frequency coordination with the government of Mexico. We discuss the coordination of the XM Radio system with systems operating in the same frequency bands in adjacent countries below in this section. While the FCC regularly approves modifications to commercial licenses, it may not approve our request.

The FCC has indicated that it may in the future impose public service obligations, such as channel set-asides for educational programming, on satellite radio licensees.

The FCC's rules require interoperability with all licensed satellite radio systems that are operational or under construction. The FCC conditioned our license on certification by us that our final receiver design is interoperable with the final receiver design of the other licensee, Sirius Radio, which plans to use a different transmission technology than we plan to use. Because of uncertainty regarding the design of Sirius Radio's systems, we may face difficulties initially in meeting this interoperability requirement. We have signed an agreement with Sirius Radio to develop a unified standard for satellite radios, but we anticipate that it will take

several years to develop the technologies necessary for radios that will be capable of receiving both our service and Sirius Radio's service. Accordingly, we may not be able to meet the FCC's interoperability requirements by the time we launch our commercial operations and may need to obtain an extension of time or modification of this requirement from the FCC. Furthermore, complying with the interoperability requirement could make the radios more difficult and costly to manufacture.

The FCC is currently conducting a rulemaking proceeding to establish rules for terrestrial repeater transmitters, which we plan to deploy to fill in gaps in satellite coverage. The FCC has proposed to permit us to deploy these facilities. Specifically, the FCC has proposed a form of blanket licensing for terrestrial repeaters and service rules which would prohibit satellite radio licensees from using terrestrial repeating transmitters to originate local programming or transmit signals other than those received from the satellite radio satellites. Various parties, including the National Association of Broadcasters, have asked the FCC to

- . delay consideration of terrestrial repeater rules until our company and Sirius Radio provide additional information regarding planned terrestrial repeaters;
- . require individual licensing of each terrestrial repeater;
- . limit the number of repeaters that may be deployed; and
- . impose a waiting period on the use of repeaters in order to determine if signal reception problems can be resolved through other means.

Our plans to deploy terrestrial repeaters in our system may be impacted, possibly materially, by whatever rules the FCC issues in this regard.

The FCC also may adopt limits on emissions of terrestrial repeaters to protect other services using nearby frequencies. While we believe that we will meet any reasonable non-interference standard for terrestrial repeaters, the FCC has no specific standard at this time, and the application of such limits might increase our cost of using repeaters. Although we are optimistic that we will be able to construct and use terrestrial repeaters as needed, the development and implementation of the FCC's ultimate rules might delay this process or restrict our ability to do so.

We will need to coordinate the XM Radio system with systems operating in the same frequency bands in adjacent countries. Canada and Mexico are the countries whose radio systems are most likely to be affected by satellite radio. The United States government, which conducts the coordination process, has resolved the issue with Canada and has begun discussions with the Mexican government. However, the negotiations with Mexico could be complicated by that country's interest in developing a similar digital satellite radio service that might operate on the same frequencies as XM Radio will use in the United States. Although we are optimistic that the FCC will coordinate satellite radio frequency use with Mexico without compromising our ability to operate as planned, it may not be able to do so, which could materially affect XM Radio.

We will operate the communication uplinks between our own earth station and our satellites in a band of radio frequencies that are used for several other services. These services are known under FCC rules as fixed services, broadcast auxiliary services, electronic news gathering services, and mobile satellite services for uplink station networks. Although we are optimistic that we will succeed in coordinating domestic uplink station networks, we may not be able to coordinate use of this spectrum in a timely manner, or at all.

We also need to protect our system from out-of-band emissions from licensees operating in adjacent frequency bands. Wireless Communication Service licensees operating in frequency bands adjacent to the satellite radio's S-Band allocation must comply with certain out-of-band emission limits imposed by the FCC to protect satellite radio systems. These limits, however, are less stringent than those we proposed. In addition, in April 1998, the FCC proposed to amend its rules to allow for new radio frequency lighting devices that would operate in an adjacent radio frequency band. We opposed the proposal on the grounds that the proliferation of this new kind of lighting and its proposed emission limits, particularly if used for street lighting, may interfere with XM Radio. However, the FCC may not rule in our favor, a decision which could adversely affect our signal quality.

The FCC order granting our license determined that because we are a private satellite system providing a subscription service on a non-common carrier basis, we would not be subject to the FCC's foreign ownership restrictions. However, such restrictions would apply to us if we were to offer non subscription services, which may appear more lucrative to potential advertisers than subscription services. The FCC also stated in its order that it may reconsider its decision not to subject satellite radio licensees to its foreign ownership restrictions.

Sea Launch, Alcatel and other vendors are subject to United States export regulations. Our vendors will need approval from the State Department under technology export statutes and regulations for the launch of our satellites. Although these are not new requirements, the export of technology has received considerable attention in response to concerns about the export of technology to China by the United States defense contractors. The negative publicity may lead the United States Congress to alter the relevant laws or regulations, or may change the State Department's policy in enforcing the regulations. Any change in applicable law or policy may result in delay of our satellite launch.

#### Intellectual Property

##### System Technology

We have contracted with several technology companies to implement portions of the XM Radio system. These technology companies include Hughes and Alcatel (satellites); Delphi-Delco, Sony, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox, Clarion and SHARP (car and home radios); STMicroelectronics (chipsets); Lucent Digital Radio (audio coding technology); Fraunhofer Institute (various technologies) and LCC International (design of repeater network). We will not acquire any intellectual property rights in the satellites. We will have joint ownership of or a license to use the technology developed by the radio and chipset manufacturers. We will own the design of our system, including aspects of the technology used in communicating from the satellites and the design of the repeater network.

Our system design, our repeater system design and the specifications we supplied to our radio and chipset manufacturers incorporates or may in the future incorporate some intellectual property licensed to us on a non-exclusive basis by WorldSpace Management. WorldSpace Management has used this technology in its own non-United States satellite radio system. We also have the right to sublicense the licensed technology to any third party, including chipset manufacturers, terrestrial repeater manufacturers and receiver manufacturers in connection with the XM Radio system. Under our agreement with WorldSpace Management we must pay one time, annual or percentage royalty fees or reimburse WorldSpace Management for various costs for various elements of the licensed technology that we decide to use in the XM Radio system. We have incurred costs of \$6.7 million to WorldSpace Management under this agreement through December 31, 1999. We will not be required to pay royalties to WorldSpace Management for licensed technology that we do not use in our system. We anticipate that the Fraunhofer Institute will continue to provide various development services for us in connection with the design of our system.

American Mobile has granted us a royalty-free license with respect to certain ground segment communications technology and antenna technology.

American Mobile and WorldSpace Management have also granted us royalty-free, non-exclusive and irrevocable licenses to use and sublicense all improvements to their technology. The technology licenses from American Mobile and WorldSpace Management renew automatically on an annual basis unless terminated for a breach which has not been or cannot be remedied.

We believe that the intellectual property rights we have licensed under our technology license were independently developed or duly licensed by American Mobile or WorldSpace International, as the case may be. We cannot assure you, however, that third parties will not bring suit against us for patent or other infringement of intellectual property rights.

We have signed an agreement with Sirius Radio to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both our and Sirius Radio's services. The technology relating to this unified standard will be jointly developed, funded and owned by the two companies. As part of the agreement, each company has licensed to the other its intellectual property relating to the unified standard and to its system; the value of this license will be considered part of its contribution toward the joint project. In addition, each company has agreed to license its non-core technology, including non-essential features of its system, to the other at commercially reasonable rates. Each party will be entitled to license fees or a credit towards its obligation to fund one half of the development cost of the technologies used to develop a unified standard for satellite radios. The amount of the fees or credit will be based upon the validity, value, use, importance and available alternatives of the technology each contributes and will be determined over time by agreement of the parties or by arbitration. We cannot predict at this time the amount of license fees, if any, payable by or to XM or Sirius Radio of the size or the credits to XM and Sirius Radio from the use of their technology. This may require additional capital, which could be significant.

#### Prior Litigation with Sirius Radio; Technology License

On January 12, 1999, Sirius Radio, the other holder of an FCC satellite radio license, commenced an action against us in the United States District Court for the Southern District of New York, alleging that we were infringing or would infringe three patents assigned to Sirius Radio. In its complaint, Sirius Radio sought money damages to the extent we manufactured, used or sold any product or method claimed in their patents and injunctive relief. This suit was resolved in February 2000 in accordance with the terms of a joint development agreement between us and Sirius Radio in which both companies agreed to develop a unified standard for satellite radios and license our respective intellectual property, including the patents that were the subject of the suit, for use in this joint development. If this agreement is terminated before the value of the licenses has been determined due to our failure to perform a material covenant or obligation, then this suit could be refiled.

If this litigation were recommenced, we believe based on the planned design of our system, our knowledge of the differences between our system and the claims of the Sirius Radio patents and on advice we have previously received from our patent counsel, that a court would find that we have not and will not infringe any Sirius Radio patents. However, the litigation could harm us, even if we were successful. It would divert our management's attention and might make it more difficult for us to raise financing or enter into other agreements with third parties. In addition, even if we prevailed, the Sirius Radio litigation might prevent us from moving forward with the development of the XM Radio system in a timely manner. The Sirius Radio patents involved in the litigation relate to certain aspects of signal and reception methodologies that may be employed by a satellite radio system. If this suit were refiled and we lost all or part of this litigation, we could become liable to Sirius Radio for money damages and subject to an injunction preventing us from using certain technology in the XM Radio system. Any such injunction could force us to engineer technology which would not be subject to the injunction, license or develop alternative technology, or seek a license from, and pay royalties to, Sirius Radio. If any of these strategies becomes necessary, it could be costly and time-consuming and would likely delay any implementation of our system. If we could not accomplish any strategy, or could not do so in a timely manner at an acceptable cost, our business would be harmed.

#### Copyrights to Programming

We must negotiate and enter into music programming royalty arrangements with performing rights societies such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc. These organizations collect royalties and distribute them to songwriters and music publishers and negotiate fees with copyright users based on a percentage of revenues. Radio broadcasters currently pay a combined total of approximately 3-4% of their revenues to these performing rights societies. We expect to negotiate or establish by arbitration royalty arrangements with these organizations, but such royalty arrangements may be more costly than anticipated or unavailable. Under the Digital Performance Right in Sound Recordings Act of 1995 and the Digital Millennium Copyright Act of 1998, we also have to negotiate royalty arrangements with the owners of the sound

recordings. The Recording Industry Association of America will negotiate licenses and collect royalties on behalf of copyright owners for this performance right in sound recordings. Cable audio services currently pay a royalty rate of 6.5% of gross subscriber revenue. This rate was set by the Librarian of Congress, which has statutory authority to decide rates through arbitration, and was affirmed on May 21, 1999 by the United States Court of Appeals for the District of Columbia. Although we believe we can distinguish XM Radio sufficiently from the cable audio services in order to negotiate a lower statutory rate, we may not be able to do so.

#### The XMTM Trademark

We believe that XM Radio will be seen as the complement to AM and FM radio. We have an application pending in the United States Patent and Trademark Office for the registration of the trademark "XM" in connection with the transmission services offered by our company and expect that our brand name and logo will be prominently displayed on the surface of XM radios together with the radio manufacturer's brand name. This will identify the equipment as being XM Radio-compatible and build awareness of XM Radio. We intend to maintain our trademark and the anticipated registration. We are not aware of any material claims of infringement or other challenges to our right to use the "XM" trademark in the United States.

#### Personnel

As of January 31, 2000, we had 67 employees. In addition, we rely upon a number of consultants and other advisors. The extent and timing of any increase in staffing will depend on the availability of qualified personnel and other developments in our business. None of our employees is represented by a labor union, and we believe that our relationship with our employees is good.

#### ITEM 2. PROPERTIES

Our executive offices are located at 1250 23rd Street, N.W., Suite 57, Washington, D.C. 20037-1100, and are leased pursuant to a lease agreement that will expire on October 31, 2000. We have entered into a ten year lease of approximately 120,000 square feet of additional space in Washington, D.C. to be used as our headquarters office, as well as for our studio and production facilities.

#### ITEM 3. LEGAL PROCEEDINGS

Except for the FCC proceeding described under the caption "Business--Regulatory Matters," we are not a party to any material litigation or other proceedings.

#### ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of 1999.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS  
PRICE RANGE OF COMMON STOCK

Our Class A common stock has been quoted on the Nasdaq National Market under the symbol "XMSR" since our initial public offering on October 5, 1999. The following table presents, for the period indicated, the high and low sales prices per share of our Class A common stock as reported on the Nasdaq National Market.

	High	Low
	-----	-----
1999:		
Fourth Quarter (beginning October 5, 1999).....	\$44.75	\$11.625

On March 10, 2000, the last reported bid price for our Class A common stock on the Nasdaq National Market was \$42.50. As of March 10, 2000, there were 76 holders of record of our Class A common stock.

DIVIDEND POLICY

We have not declared or paid any dividends since our date of inception. We do not intend to pay cash dividends on our common stock in the foreseeable future. We anticipate we will retain any earnings for use in our operations and the expansion of our business. We are obligated to pay dividends on our Series B convertible redeemable preferred stock, which we may pay in cash or in shares of our Class A common stock, at our option.

RECENT SALES OF UNREGISTERED SECURITIES

None.

ITEM 6. SELECTED CONSOLIDATED FINANCIAL DATA

In considering the following selected consolidated financial data, you should also read our consolidated financial statements and notes and the section captioned "Management's Discussion and Analysis of Financial Condition and Results of Operations." The consolidated statements of operations data for the three-year period ended December 31, 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1999, and the consolidated balance sheets data as of December 31, 1997, 1998 and 1999 are derived from our consolidated financial statements. These statements have been audited by KPMG LLP, independent certified public accountants. KPMG's report contains a paragraph stating that we have not begun operations and are dependent upon additional debt or equity financing, and that these factors raise substantial doubt about our ability to continue as a going concern. The selected consolidated financial data do not include any adjustments that might result from the outcome of that uncertainty.

	Years Ended December 31,			December 15, 1992 (Date of Inception)
	1997	1998	1999	to December 31, 1999 (1)
(In thousands, except share data)				
Consolidated Statements of Operations Data:				
Revenue.....	\$ --	\$ --	\$ --	\$ --
Operating expenses:				
Research and development....	--	6,941	4,274	11,215
Professional fees....	1,090	5,242	9,969	16,301
General and administrative..	20	4,010	16,448	20,478
Total operating expenses..	1,110	16,193	30,691	47,994
Operating loss.....	(1,110)	(16,193)	(30,691)	(47,994)
Other expense--interest income (expense), net.....	(549)	26	(6,205)	(6,728)
Net loss.....	\$ (1,659)	\$ (16,167)	\$ (36,896)	\$ (54,722)
Net loss per share--basic and diluted.....	\$ (0.26)	\$ (2.42)	\$ (2.40)	
Weighted average shares used in computing net loss per share--basic and diluted...	6,368,166	6,689,250	15,344,102	

	December 31,		
	1997	1998	1999
(In thousands)			
Consolidated Balance Sheets Data:			
Cash, cash equivalents and short-term investments.....	\$ 1	\$ 310	\$120,170
System under construction.....	91,932	169,029	362,358
Total assets.....	91,933	170,485	515,189
Total debt.....	82,504	140,332	212
Total liabilities..	82,949	177,668	30,172
Stockholders' equity (deficit)....	8,984	(7,183)	485,017

(1) Business activity for the period from December 15, 1992, which was our date of inception, through December 31, 1996 was insignificant.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis provides information which we believe is relevant to an assessment and understanding of our financial condition and consolidated results of operations. This discussion should be read together with our consolidated financial statements and related notes beginning on page F-1 of this report.

Introduction

XM Satellite Radio Inc. was incorporated in Delaware in 1992 as a wholly-owned subsidiary of American Mobile. XM Satellite Radio Holdings Inc. became a holding company for XM Satellite Radio Inc. in connection with a strategic investment by a former shareholder in early 1997. In July 1999, following our repayment of \$75.0 million in debt owed to the former shareholder, it conveyed all of its interest in us to a trust. American Mobile then acquired all of that interest from the trust, making American Mobile our only stockholder at that time. Also, in July, we issued \$250.0 million of Series A subordinated convertible notes. In October 1999, we completed an initial public offering and exercised an overallotment option for a cumulative total of 10,241,000 shares of Class A common stock, yielding net proceeds of \$114.1 million. Concurrent with the closing of our initial public offering, the \$250.0 million of Series A subordinated convertible notes, together with associated accrued interest of \$6.8 million, converted into 10,786,504 shares of Series A convertible preferred stock and 16,179,755 shares of Class A common stock. Additionally, the \$21.4 million and \$81.7 million of convertible notes issued to American Mobile, together with associated accrued interest of \$3.8 million, converted into 11,182,926 shares of Class B common stock. In the first quarter of 2000, we completed a follow-on offering of 4,370,000 shares of Class A common stock, yielding net proceeds of \$132.2 million, a concurrent offering of 2,000,000 shares of our Series B convertible redeemable preferred stock, which yielded net proceeds of \$96.3 million, and a private placement of 325,000 units, each consisting of \$1,000 principal amount of 14% senior secured notes due 2010 and one warrant to purchase 8.024815 shares of Class A common stock at \$49.50 per share that provided net proceeds of \$191.0 million excluding \$123.0 million for an interest reserve.

We are in the development stage. Since our inception in December 1992, we have devoted our efforts to establishing and commercializing the XM Radio system. Our activities were fairly limited until 1997, when we pursued and obtained regulatory approval from the FCC to provide satellite radio service. Our principal activities to date have included

- . designing and developing the XM Radio system;
- . negotiating contracts with satellite and launch vehicle operators, specialty programmers, radio manufacturers and car manufacturers;
- . developing technical standards and specifications;
- . conducting market research; and
- . securing financing for working capital and capital expenditures.

We have incurred substantial losses to date and expect to continue to incur significant losses for the foreseeable future as we continue to design, develop and deploy the XM Radio system and for some period following our commencement of commercial operations.

We intend to capitalize all costs related to our satellite contract and our FCC license, including all applicable interest. These capitalized costs will be depreciated over the estimated useful lives of the satellites and ground control stations. Depreciation of our satellites will commence upon in-orbit delivery. Depreciation of our satellite control facilities and terrestrial repeaters and the amortization of our FCC license will commence upon commercial operations.

After we begin commercial operations, which we are targeting for the second quarter of 2001, we anticipate that our revenues will consist primarily of customers' subscription fees and advertising revenues.

## Results of Operations

### Year Ended December 31, 1999 Compared to Year Ended December 31, 1998

**Research and Development.** Research and development expenses decreased to \$4.3 million in 1999, compared with \$6.9 million in 1998. The decrease in research and development expenses resulted from the completion of the development of some of our system technology during 1998.

**Professional Fees.** Professional fees increased to approximately \$10.0 million in 1999, compared with \$5.2 million in 1998. The increase primarily reflects additional legal, regulatory and marketing expenses.

**General and Administrative.** General and administrative expenses increased to \$16.4 million in 1999, compared with \$4.0 million in 1998. The increase primarily reflects increased headcount and facility expenses to begin program management and operations. We also commenced the amortization of our goodwill and intangibles resulting from American Mobile's acquisition of a former investor's interest in us during 1999. We have granted certain key executives stock options and incurred a non-cash compensation charge of approximately \$4.1 million in the fourth quarter of 1999 primarily for performance-based stock options. We will continue to incur quarterly non-cash compensation charges over the vesting period depending on the market value of our Class A common stock.

**Interest Income.** Interest income increased to \$2.9 million in 1999, compared with 1998, which was insignificant. The increase was the result of higher average balances of cash and short-term investments during 1999 due to the proceeds from the issuance of Series A convertible notes in the third quarter of 1999 exceeding the amounts of expenditures for satellite and launch vehicle construction, other capital expenditures and operating expenses.

**Interest Expense.** As of December 31, 1999 and 1998, we owed \$0 and \$140.2 million, respectively, including accrued interest, under various debt agreements which we entered into for the purpose of financing the XM Radio system. Our capitalized interest costs were \$15.3 million and \$11.8 million associated with our FCC license and the XM Radio system during 1999 and 1998, respectively. We expensed interest costs of \$9.1 million and \$0 during 1999 and 1998, respectively. We incurred a one-time \$5.5 million charge to interest due to the beneficial conversion feature of the new American Mobile note. We also exceeded our interest capitalization threshold by \$3.6 million.

**Net Loss.** The net loss for 1999 and 1998 was \$36.9 million and \$16.2 million, respectively. The increase in net losses for 1999, compared with 1998, primarily reflects an increase in net interest expense as discussed above and additional general and administration expenses, primarily due to increased headcount and facility expenses, in preparation for commercial operations and the commencement of amortization of goodwill and intangibles.

### Year Ended December 31, 1998 Compared with Year Ended December 31, 1997

**Research and Development.** Research and development expenses amounted to approximately \$6.9 million for the year ended December 31, 1998. Research and development expenses for the year ended December 31, 1997 were insignificant. The increase in research and development expenses resulted from the development of some of our system technology during 1998.

**Professional Fees.** Professional fees increased to approximately \$5.2 million for the year ended December 31, 1998, compared with \$1.1 million for the year ended December 31, 1997. The increase primarily reflects legal, regulatory and marketing expenses.

**General and Administrative.** General and administrative expenses increased to \$4.0 million for the year ended December 31, 1998, compared with \$20,000 for the year ended December 31, 1997. The increase primarily reflects increased headcount and facility expenses to begin program management and operations.

**Interest Expense.** As of December 31, 1998 and 1997, we owed \$140.2 million and \$82.5 million, respectively, including accrued interest, under various debt agreements which we entered into for the purpose of

financing the XM Radio system. We capitalized interest costs of \$11.8 million and \$1.9 million associated with our FCC license and the XM Radio system during the year ended December 31, 1998 and 1997, respectively. We expensed interest costs of \$0.5 million during the year ended December 31, 1997

Net Loss. The net loss for the years ended December 31, 1998 and 1997 was \$16.2 million and \$1.7 million, respectively, primarily reflecting research and development activities, professional fees and general and administrative expenses.

#### Liquidity and Capital Resources

At December 31, 1999, we had a total of cash, cash equivalents and short-term investments of \$120.2 million and working capital of \$94.7 million, compared with cash and cash equivalents of \$0.3 million and working capital of \$(130.3) million at December 31, 1998. The increases in the respective balances are due primarily to the proceeds from the issuance of Series A subordinated convertible notes in July 1999 (see "Management's Discussion and Analysis of Financial Condition and Results of Operations--Funds Required for XM Radio Through Commencement of Commercial Operations--Sources of Funds") exceeding capital expenditures and operating expenses for 1999, which was off-set by a \$75 million payment to retire loans payable, and the conversion of current loans payable to a former shareholder into the non-current American Mobile new convertible note. In October 1999, we successfully completed an initial public offering, which raised \$114.1 million in net proceeds, and converted the Series A subordinated convertible notes into Series A convertible preferred stock and Class A common stock.

#### Funds Required for XM Radio Through Commencement of Commercial Operations

We estimate that we will require approximately \$1.1 billion to develop and implement the XM Radio system from our inception through the commencement of commercial operations, which we are targeting for the second quarter of 2001. We will have raised an aggregate of \$865.0 million since our inception net of expenses, interest reserve and repayment of debt. We will require substantial additional funding, approximately \$235.0 million, to finish building the XM Radio system, to provide working capital and fund operating losses until we commence commercial operations. The funds raised to date are expected to be sufficient in the absence of additional financing to cover our funding needs into the third quarter of 2000.

We currently expect to satisfy our funding requirements by selling debt or equity securities and by obtaining loans or other credit lines from banks or other financial institutions. In addition, we plan to raise funds through vendor financing arrangements associated with our terrestrial repeater project. If we are successful in raising additional financing, we anticipate that a significant portion of future financing will consist of debt. We are actively considering possible financings, and because of our substantial capital needs we may consummate one or more financings at any time. Often, high yield debt securities are issued as part of units with warrants to purchase common stock. If warrants were issued in any debt placement by us, the amount of common stock that may be purchased and the price at which stock would be purchased under the warrants would depend upon market conditions at that time.

American Mobile is our controlling stockholder. American Mobile has certain rights regarding the election of persons to serve on our board of directors and as of the date of this report, holds 61.0% of the voting power of Holdings, or 50.5% giving effect to the conversion of all of Holdings' outstanding common stock equivalents. American Mobile cannot relinquish its position as our controlling shareholder without obtaining the prior approval of the FCC. Accordingly, prior to our obtaining FCC approval of the transfer of control from American Mobile, we will only be able to issue a limited amount of voting securities or securities convertible into voting securities unless certain of our stockholders holding nonvoting convertible securities agree not to convert them into voting securities or we take other steps to permit voting securities on a basis consistent with FCC rules. Certain holders of our nonvoting securities have agreed not to convert their securities if it would cause American Mobile not to hold a majority of our voting stock or a lesser percentage approved by the FCC, until we obtain approval by the FCC of a change in control. In return, Holdings has agreed not to issue new voting securities, other than the units issued on March 15, 2000 and other than up to 2,000,000 shares of Class A common stock (except upon conversion or exercise of existing securities or under our employee stock plans), if it would make these holders unable to convert any of their non-voting securities. We intend to seek appropriate FCC approvals in the near future. We may not be able to obtain FCC

approval or it may take a long period of time to obtain such approval and there may be conditions imposed in connection with such approval which may be unfavorable to us. The inability to raise capital opportunistically, or at all, could adversely affect our business plan.

We may not be able to raise any funds or obtain loans on favorable terms or at all. Our ability to obtain the required financing depends on several factors, including future market conditions; our success or lack of success in developing, implementing and marketing our satellite radio service; our future creditworthiness; and restrictions contained in agreements with our investors or lenders. If we fail to obtain any necessary financing on a timely basis, a number of adverse effects could occur. Our satellite construction and launch and other events necessary to our business could be materially delayed or their costs could materially increase. We could default on our commitments to our satellite construction or launch contractors, creditors or others, leading to termination of construction or inability to launch our satellites. Finally, we may not be able to launch our satellite radio service as planned and may have to discontinue operations or seek a purchaser for our business or assets.

Our expected sources and uses of funds through commencement of commercial operations are as follows:

Inception Through Commercial Launch  
(in millions)

Sources of Funds

Total funds raised to date.....	\$ 865.0
Future capital requirements.....	235.0
	-----
Total sources.....	\$1,100.0
	=====

Uses of Funds

Satellites and launch.....	\$ 472.6
Launch insurance.....	50.0
Terrestrial repeater system.....	263.3
Ground segment.....	65.9
	-----
Total system.....	851.8
FCC license.....	90.0
Operating expenses and working capital requirements.....	158.2
	-----
Total uses.....	\$1,100.0
	=====

The sources and uses chart for inception through commercial launch assumes that we will commence full commercial operations in the second quarter of 2001 and does not include net interest income or expense of any future offerings or other financings. We anticipate that we will need substantial further funding after commencement of operations to cover our cash requirements before we generate positive cash flow from operations. Many factors, including our ability to generate significant revenues, could affect this estimate. See "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

Total funds raised to date in the chart above include proceeds of

- \$9.2 million in equity contributions and an additional \$157.8 million in equity from converted debt instruments funded by American Mobile and by a former investor who sold its investment to American Mobile.
- \$238.7 million in net proceeds from convertible notes which were converted to Class A common stock and Series A convertible preferred stock on October 8, 1999 as a result of our initial public offering. \$75 million of these proceeds were used to repay outstanding debt.
- \$114.1 million in net proceeds from our initial public offering.
- \$132.2 million in net proceeds from a Class A common stock offering in the first quarter of 2000.

- \$96.3 million in net proceeds from a Series B convertible preferred stock offering in the first quarter of 2000.
- \$191.0 million in net proceeds from a private placement on March 15, 2000, of 325,000 units, each unit consisting of \$1,000 principal amount of 14% senior secured notes due 2010 and one warrant to purchase 8.024815 shares of Class A common stock at \$49.50 per share, excluding \$123.0 million for an interest reserve.
- \$0.4 million in proceeds from the sale of stock under the employee stock purchase plan and the exercise of stock options.

The use of funds for satellites and launch in the chart above includes \$472.6 million for satellites, launch and long-lead items, including certain financing costs associated with the satellites, and for an option to complete the ground spare satellite under our satellite contract with Hughes. As of December 31, 1999, \$183.9 million has been paid under the satellite contract.

The anticipated \$65.9 million in costs for ground segment are intended to cover the satellite control facilities, programming production studios and various other equipment and facilities. As of December 31, 1999, we had incurred 7.6 million in costs in deploying the ground segment.

Other operating expenses and working capital requirements in the chart above include cumulative historical operating losses through December 31, 1999 of \$54.7 million.

Sources of Funds. To date, we have raised approximately \$865.0 million of equity proceeds, net of expenses, interest reserve and repayment of debt. These funds have been used to acquire our FCC license, make required payments under our satellite contract with Hughes, and for working capital and operating expenses. Of the \$865.0 million raised to date, approximately \$167.0 million, excluding the Class A common stock acquired as part of our initial public offering, has been raised through the issuance of equity to, and receipt of loans from, our current stockholder, American Mobile, and a former stockholder. Of this amount, approximately \$90.7 million and \$46.0 million was raised in 1997 and 1998, respectively, and \$30.3 million was raised in January 1999.

In July 1999, we issued \$250.0 million of Series A subordinated convertible notes to six strategic and financial investors--General Motors, \$50.0 million; Clear Channel Communications, \$75.0 million; DIRECTV, \$50.0 million; and Columbia Capital, Telcom Ventures, L.L.C. and Madison Dearborn Partners, \$75.0 million in the aggregate. Using part of the proceeds from the issuance of the Series A subordinated convertible notes, we paid a former stockholder \$75.0 million in July 1999 to redeem an outstanding loan. We incurred fees and expenses totalling \$11.3 million in connection with these transactions.

In October 1999, we raised \$114.1 million from the issuance of 10.2 million shares of Class A common stock at a price of \$12 per share less \$8.8 million in underwriting discounts and commissions and estimated expenses. The Series A convertible notes, together with related accrued interest, automatically converted into 16,179,755 shares of our Class A common stock and 10,786,504 shares of our Series A preferred stock. Also, the American Mobile notes, together with related accrued interest, automatically converted into 11,182,926 shares of our Class B common stock. As a result of these transactions, substantially all of our indebtedness converted into equity.

In the first quarter of 2000, we completed a follow-on offering of 4,370,000 shares of Class A common stock, yielding net proceeds of \$132.2 million. At the same time, we completed an offering of 2,000,000 shares of our Series B convertible redeemable preferred stock, which yielded net proceeds of \$96.3 million. We also completed a private placement on March 15, 2000 of 325,000 units, each unit consisting of \$1,000 principal amount of 14% senior secured notes due 2010 and one warrant to purchase 8.024815 shares of Class A common stock at \$49.50 per share that provided net proceeds of \$191.0 million, excluding \$123.0 million for an interest reserve.

Uses of Funds. Of the approximately \$1.1 billion of funds to be used through commencement of commercial operations, an estimated \$569.4 million are expected to be incurred under contracts presently in place and for our FCC license, which has already been paid for in full. Total capital expenditures from our inception to December 31, 1999, totaled \$295.5 million.

Satellite Contract. Under our satellite contract, Hughes will deliver two satellites in orbit and if we exercise our option, complete construction of a ground spare satellite. Hughes will also provide ground equipment and software to be used in the XM Radio system and certain launch and operations support services. We expect that by commencement of commercial operations in the second quarter of 2001, we will have had to pay an aggregate amount of approximately \$472.6 million for these items and for Hughes to complete the optional ground spare satellite. This amount does not include incentive payments, which will depend in part on projected satellite performance at the acceptance date. Such payments could total up to an additional \$68.7 million over the useful lives of the satellites. As of December 31, 1999, we had paid approximately \$183.9 million under our satellite contract and recognized an additional \$15.5 million in accrued milestone payments which were paid subsequently.

Launch Insurance. Based on current industry estimates, we expect that launch insurance for both satellites will cost an aggregate of approximately \$50.0 million. As of December 31, 1999, we had not incurred any costs with respect to launch insurance.

Terrestrial Repeater System. Based on the current design of the XM Radio system and preliminary bids, we estimate that through our expected commencement of operations in the second quarter of 2001 we will incur aggregate costs of approximately \$263.3 million for a terrestrial repeater system. We expect these costs to cover the capital cost of the design, development and installation of a system of terrestrial repeaters to cover approximately 70 cities and metropolitan areas. As of December 31, 1999, we had incurred costs with respect to the terrestrial repeater buildout of \$10.1 million which we paid. In August 1999, we signed a contract calling for payments of approximately \$115.0 million for engineering and site preparation. We entered into a contract effective October 22, 1999, with Hughes Electronics Corporation for the design, development and manufacture of the terrestrial repeaters. Payments under this contract are expected to be approximately \$128.0 million. As of December 31, 1999, we have paid \$3.5 million under this contract.

Ground Segment. Based on the design of the XM Radio system, available research, preliminary bids and actual contract costs, we expect to incur aggregate ground segment costs through the expected commencement of operations in the second quarter of 2001 of approximately \$65.9 million. We expect these costs will cover the satellite control facilities, programming production studios and various other equipment and facilities. As of December 31, 1999, we had incurred \$5.6 million in costs with respect to the ground segment.

FCC License. In October 1997, we received one of two satellite radio licenses issued by the FCC. We have paid approximately \$90.0 million for this license, including the initial bid right. No additional payments have been made relating to the license.

Operating Expenses and Working Capital Requirements. In addition to the above capital needs, we will require funds for working capital, operating expenses and royalty payments currently estimated to be approximately \$158.2 million through our targeted commercial launch in the second quarter of 2001. From our inception through December 31, 1999, we have incurred total expenses of \$36.9 million. Total cash used in operating activities was \$18.8 million. The difference between the loss incurred to date and cash used in operations is principally due to a \$5.5 million beneficial conversion charge, \$12.5 million in amounts due to related parties and \$3.6 million in accrued interest.

Joint Development Agreement Funding Requirements. In addition to the above capital needs, we may require funds to pay license fees or make contributions towards the development of the technologies used to develop a unified standard for satellite radios under our joint development agreement with Sirius Radio. Each party is obligated to fund one half of the development cost for such technologies. Each party will be entitled to license fees or a credit towards its one half of the cost based upon the validity, value, use, importance and available alternatives of the technology it contributes. The amounts of these fees or credits will be determined over time by agreement of the parties or by arbitration. We cannot predict at this time the amount of license fees or contribution payable by XM or Sirius Radio or the size of the credits to XM and Sirius Radio from the use of their technology. This may require significant additional capital.

#### Funds Required for XM Radio Following Commencement of Commercial Operations

Even after commencement of commercial operations, we expect to need significant additional funds to cover our cash requirements before we generate sufficient cash flow from operations to cover our expenses. We cannot accurately estimate the amount of additional funds needed, since it will depend on business decisions to be made in the future and revenues received from operations, but we expect the amount to be substantial. Funds will be needed to cover operating expenses, marketing and promotional expenses including an extensive marketing campaign in connection with the launch of our service, distribution expenses, programming costs and any further development of the XM Radio system that we may undertake after operations commence. Marketing and distribution expenses are expected to include joint advertising and joint development with and manufacturing subsidies of certain costs of some of our manufacturers and distribution partners. We cannot estimate accurately the total amount of these operational, promotional, subscriber acquisition, joint development and manufacturing costs and expenses, but they are expected to be substantial.

We will have significant payment obligations after commencement of operations under our distribution agreement with General Motors. We will pay an aggregate of approximately \$35 million in the first four years following commencement of commercial service. After that, through 2009, we will have additional fixed annual payments ranging from less than \$35 million to approximately \$130 million, aggregating approximately \$400 million. In order to encourage the broad installation of XM radios, we have agreed to subsidize a portion of the cost of XM radios and to make incentive payments to General Motors when the owners of General Motors vehicles with installed XM radios become subscribers for the XM Radio service. We must also share with General Motors a percentage of the subscription revenue attributable to General Motors vehicles with installed XM radios. This percentage increases until there are more than eight million General Motors vehicles with installed XM radios. This agreement is subject to renegotiation if General Motors does not achieve and maintain specified installation levels, starting with 1.24 million units after four years and thereafter increasing by the lesser of 600,000 units per year and amounts proportionate to our share of the satellite digital radio market.

We currently expect to satisfy our funding requirements for the period following commencement of commercial operations in substantially the same manner as our requirements prior to commencement of commercial operations.

#### Year 2000 Readiness

Many currently installed computer systems and software products are coded to accept only two-digit entries in the date code field. Many such systems will need to accept four-digit entries in order to distinguish 20th century dates from 21st century dates. As a result, by the end of 1999, computer systems and software used by many companies have been upgraded to comply with these Year 2000 requirements. Otherwise these systems may cause miscalculations that will interfere with business activities or simply fail to work. When we use the terms "Year 2000 Ready" or "Year 2000 Readiness," we mean that customers will not experience any material difference in performance and functionality of our networks as a result of the date being prior to, during or after the Year 2000.

We began to assess our Year 2000 Readiness in mid-1998. We have completed the identification, necessary modification and testing of all our current systems, which we believe are Year 2000 compliant. This required no significant expense. Because we are a development stage company and do not expect to commence commercial operations until the second quarter of 2001, as of the date of this report, we have not experienced and do not expect any significant operational or financial problems for our company as a result of Year 2000 issues. Our existing technology development contracts require Year 2000 Readiness, and we require Year 2000 Readiness in all new contracts that we enter.

In addition to our internal review process, we have had communications with certain significant third parties with which we do business to

- evaluate their Year 2000 Readiness and state of compliance; and

. determine the extent to which our systems may be affected if they fail to remediate their own Year 2000 issues.

To date, we have not identified any system which demonstrates symptoms of not being Year 2000 Ready or for which a suitable alternative cannot be implemented.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As of December 31, 1999, we do not have any derivative financial instruments and do not intend to use derivatives. We invest our cash in short-term commercial paper and investment-grade corporate and government obligations and money market funds. All of our indebtedness was automatically converted into equity upon completion of our initial public offering. As a result, we believe that our exposure to interest rate risk is not material to our results of operations.

ITEM 8. CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The consolidated financial statements of XM Satellite Radio Holdings Inc., including our consolidated balance sheets as of December 31, 1998 and 1999, and consolidated statements of operations, consolidated statements of cash flows, and consolidated statements of stockholders' equity (deficit) for the three-year period ended December 31, 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1999 and notes to the consolidated financial statements, together with a report thereon of KPMG LLP, dated February 16, 2000, except for Note 14 which is as of March 15, 2000, are attached hereto as pages F-1 through F-25.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

The information is incorporated herein by reference to our definitive 2000 Proxy Statement.

ITEM 11. EXECUTIVE COMPENSATION

The information is incorporated herein by reference to our definitive 2000 Proxy Statement.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The information is incorporated herein by reference to our definitive 2000 Proxy Statement.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information is incorporated herein by reference to our definitive 2000 Proxy Statement.

PART IV

ITEM 14. EXHIBITS, CONSOLIDATED FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K

(a) (1) The following Consolidated Financial Statements of and report of independent public accountants are included in Item 8 of this Form 10-K:

Report of Independent Auditors.

Consolidated Balance Sheets as of December 31, 1998 and 1999.

Consolidated Statements of Operations for the years ended December 31, 1997, 1998 and 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1999.

Consolidated Statements of Stockholders' Equity (Deficit) for the years ended December 31, 1997, 1998 and 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1999.

Consolidated Statements of Cash Flows for the years ended December 31, 1997, 1998 and 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1999.

Notes to Consolidated Financial Statements.

(a) (2) The following consolidated financial statement schedule is filed as part of this report and is attached hereto as page S-1:

Schedule I--Valuation and Qualifying Accounts.

All other schedules for which provision is made in the applicable accounting regulations of the Commission either have been included in the Consolidated Financial Statements of XM Satellite Radio Holdings Inc. or the notes thereto, are not required under the related instructions or are inapplicable, and therefore have been omitted.

(a) (3) The following exhibits are either provided with this Form 10-K or are incorporated herein by reference:

Exhibit Index

Exhibit No. -----	Description -----
3.1+	Restated Certificate of Incorporation of XM Satellite Radio Holdings Inc.
3.2+	Restated Bylaws of XM Satellite Radio Holdings Inc.
4.1+	Form of Certificate for our Class A common stock (incorporated by reference to Exhibit 3 to the XM Satellite Radio Holdings Inc. Registration Statement on Form 8-A, filed with the SEC on September 23, 1999).
4.2++	Form of Certificate for our 8.25% Series B Convertible Redeemable Preferred Stock.
4.3	Certificate of Designation Establishing the Voting Powers, Designations, Preferences, Limitations, Restrictions and Relative Rights of 8.25% Series B Convertible Redeemable Preferred Stock due 2012.
10.1+	Shareholders' Agreement, dated as of July 7, 1999, by and among XM Satellite Radio Holdings Inc., American Mobile Satellite Corporation, Baron Asset Fund, Clear Channel Investments, Inc., Columbia XM Radio Partners, LLC, DIRECTV Enterprises, Inc., General Motors Corporation, Madison Dearborn Capital Partners III, L.P., Special Advisors Fund I, LLC, Madison Dearborn Special Equity III, L.P., and Telcom-XM Investors, L.L.C.
10.2+	Registration Rights Agreement, dated July 7, 1999, by and among XM Satellite Radio Holdings Inc., American Mobile Satellite Corporation, the Baron Asset Fund series of Baron Asset Fund, and the holders of Series A subordinated convertible notes of XM Satellite Radio Holdings Inc.

Exhibit No. -----	Description -----
10.3+	Note Purchase Agreement, dated June 7, 1999, by and between XM Satellite Radio Holdings Inc., XM Satellite Radio Inc., Clear Channel Communications, Inc., DIRECTV Enterprises, Inc., General Motors Corporation, Telcom-XM Investors, L.L.C., Columbia XM Radio Partners, LLC, Madison Dearborn Capital Partners III, L.P., Madison Dearborn Special Equity III, L.P., and Special Advisors Fund I, LLC (including form of Series A subordinated convertible note of XM Satellite Radio Holdings Inc. attached as Exhibit A thereto).
10.4+*	Technology Licensing Agreement by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., WorldSpace Management Corporation and American Mobile Satellite Corporation, dated as of January 1, 1998, amended by Amendment No. 1 to Technology Licensing Agreement, dated June 7, 1999.
10.5+*	Technical Services Agreement between XM Satellite Radio Holdings Inc. and American Mobile Satellite Corporation, dated as of January 1, 1998, as amended by Amendment No. 1 to Technical Services Agreement, dated June 7, 1998.
10.6+*	Satellite Purchase Contract for In-Orbit Delivery, by and between XM Satellite Radio Inc. and Hughes Space and Communications International Inc., dated July 21, 1999.
10.7+*	Amended and Restated Agreement by and between XM Satellite Radio, Inc and STMicroelectronics Srl, dated September 27, 1999.
10.8+*	Distribution Agreement, dated June 7, 1999, between OnStar, a division of General Motors Corporation, and XM Satellite Radio Inc.
10.9+*	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and DIRECTV, INC.
10.10+*	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and Clear Channel Communication, Inc.
10.11+*	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and TCM, LLC.
10.12+	Agreement, dated as of July 16, 1999 between XM Satellite Radio Holdings Inc. and Gary Parsons.
10.13+	Employment Agreement, dated as of June 1, 1998, between XM Satellite Radio Holdings Inc. and Hugh Panero.
10.14+	Letter Agreement with Lee Abrams dated May 22, 1998.
10.15+	Letter Agreement with Stelios Patsiokas dated September 14, 1998
10.16+	Letter Agreement with Heinz Stubblefield dated May 22, 1998.
10.17+	Form of Indemnification Agreement between XM Satellite Radio Holdings Inc. and each of its directors and executive officers.
10.18+	1998 Shares Award Plan (incorporated by reference to the Registrant's Registration Statement on Form S-8, File No. 333-92049).
10.19+	Form of Employee Non-Qualified Stock Option Agreement.
10.20+	Firm Fixed Price Contract #001 between XM Satellite Radio Inc. and the Fraunhofer Gesellschaft zur Forderung Der angewandten Forschung e.V., dated July 16, 1999.
10.21+*	Contract for Engineering and Construction of Terrestrial Repeater Network System by and between XM Satellite Radio Inc. and LCC International, Inc., dated August 18, 1999.
10.22	Employee Stock Purchase Plan (Incorporated by reference to the Registrant's Registration Statement on Form S-8, File No. 333-92049).
10.23+	Non-Qualified Stock Option Agreement between Gary Parsons and XM Satellite Radio Holdings Inc., dated July 16, 1999.

Exhibit No. -----	Description -----
10.24+	Non-Qualified Stock Option Agreement between Hugh Panero and XM Satellite Radio Holdings Inc., dated July 1, 1998, as amended.
10.25+	Form of Director Non-Qualified Stock Option Agreement.
10.26+	Lease between Consortium One Eckington, L.L.C. and XM Satellite Radio Inc., dated September 29, 1999
10.27++	Letter Agreement with Stephen Cook dated January 12, 1999
10.28**	Contract for the Design, Development and Purchase of Terrestrial Repeater Equipment by and between XM Satellite Radio Inc. and Hughes Electronics Corporation, dated February 14, 2000.
21.1++	Subsidiaries of XM Satellite Radio Holdings Inc.
23.1	Consent of KPMG LLP.
27.1	Financial Data Schedule.

- 
- + Incorporated by reference to the Registrant's Registration Statement on Form S-1, File No. 333-83619.
  - ++ Incorporated by reference to the Registrant's Registration Statement on Form S-1, File No. 333-93529.
  - \* Pursuant to the Commission's Order Granting Confidential Treatment under Rule 406 of the Securities Act of 1933, certain confidential portions of this Exhibit were omitted by means of redacting a portion of the text.
  - \*\* Certain portions of this Exhibit were omitted by means of redacting a portion of the text. This Exhibit has been filed separately with the Secretary of the Commission with such text pursuant to our Application Requesting Confidential Treatment under Rule 246-2 under the Securities Exchange Act of 1934.

(b) Reports on Form 8-K.

On February 25, 2000, the Company filed a Current Report on Form 8-K that contained audited, consolidated financial statements substantially the same as those contained herein. The Company also filed certain other information with respect to its business and financial condition that the Company deemed of importance to its stockholders.

(c) Exhibits.

XM Satellite Radio Holdings Inc. hereby files as part of this Form 10-K the Exhibits listed in the Index to Exhibits.

(d) Consolidated Financial Statement Schedule.

The following consolidated financial statement schedule is filed herewith:

Schedule I--Valuation and Qualifying Accounts.

Schedules not listed above have been omitted because they are inapplicable or the information required to be set forth therein is provided in the Consolidated Financial Statements of XM Satellite Radio Holdings Inc. or notes thereto.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized in the District of Columbia, on the 16th day of March, 2000.

XM Satellite Radio Holdings Inc.

By: /s/ Hugh Panero

-----  
 Name: Hugh Panero  
 Title: President and Chief  
 Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature -----	Title -----	Date ----
/s/ Hugh Panero ----- Hugh Panero	President Chief Executive Officer, and Director (Principal Executive Officer)	March 16, 2000
/s/ Heinz Stubblefield ----- Heinz Stubblefield	Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	March 16, 2000
/s/ Gary M. Parsons ----- Gary M. Parsons	Chairman of the Board of Directors	March 16, 2000
/s/ Nathaniel A. Davis ----- Nathaniel A. Davis	Director	March 16, 2000
/s/ Thomas J. Donohue ----- Thomas J. Donohue	Director	March 16, 2000
/s/ Randall T. Mays ----- Randall T. Mays	Director	March 16, 2000
/s/ Randy S. Segal ----- Randy S. Segal	Director	March 16, 2000
/s/ Ronald L. Zarrella ----- Ronald L. Zarrella	Director	March 16, 2000

Independent Auditors' Report on Consolidated Financial Statement Schedule

The Board of Directors  
XM Satellite Radio Holdings Inc. and Subsidiaries:

Under date of February 16, 2000, except for Note 14 which is as of March 15, 2000, we reported on the consolidated balance sheets of XM Satellite Radio Holdings Inc. and Subsidiaries (a development stage company) as of December 31, 1998 and 1999, and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 1999 and for the period from December 15, 1992 (date of inception) to December 31, 1999, which are included in this Annual Report on Form 10-K. In connection with our audits of the aforementioned consolidated financial statements, we also audited the related consolidated financial statement schedule. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this consolidated financial statement schedule based on our audits.

In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

The audit report on the consolidated financial statements of XM Satellite Radio Holdings Inc. and Subsidiaries referred to above contains an explanatory paragraph that states that the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statement schedule included in the registration statement does not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

McLean, VA  
February 16, 2000, except  
for Note 14, which is  
as of March 15, 2000

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
VALUATION AND QUALIFYING ACCOUNTS  
(in thousands)

Description	Additions (Deductions)				Balance December 31
	Balance January 1	Charged to Costs and Expenses	Charged to Other Accounts Describe	Write-Offs/ Payments/ Other	
Year Ended December 31, 1997					
Deferred Tax Assets-- Valuation allowance...	\$ --	746	--	--	746
Year Ended December 31, 1998					
Deferred Tax Assets-- Valuation allowance...	\$ 746	7,232	--	--	7,978
Year Ended December 31, 1999					
Deferred Tax Assets-- Valuation allowance...	\$7,978	(3,159)	--	--	4,819

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XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)  
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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INDEPENDENT AUDITORS' REPORT

To the Board of Directors and Stockholders  
XM Satellite Radio Holdings Inc. and Subsidiaries:

We have audited the accompanying consolidated balance sheets of XM Satellite Radio Holdings Inc. and subsidiaries (a development stage company) as of December 31, 1998 and 1999, and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1999. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of XM Satellite Radio Holdings Inc. and subsidiaries (a development stage company) as of December 31, 1998 and 1999, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 1999 and for the period from December 15, 1992 (date of inception) to December 31, 1999, in conformity with generally accepted accounting principles.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in note 11 to the consolidated financial statements, the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. Management's plan in regard to these matters is also described in note 11. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

McLean, VA  
February 16, 2000, except  
for Note 14, which is  
as of March 15, 2000

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED BALANCE SHEETS  
December 31, 1998 and 1999

	1998	1999
(in thousands, except share data)		
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents.....	\$ 310	\$ 50,698
Short-term investments.....	--	69,472
Prepaid and other current assets.....	172	1,077
Total current assets.....	482	121,247
Other assets:		
System under construction.....	169,029	362,358
Property and equipment, net of accumulated depreciation and amortization of \$57 and \$347.....	449	2,551
Goodwill and intangibles, net of accumulated amortization of \$0 and \$1,220.....	--	25,380
Other assets.....	525	3,653
Total assets.....	\$ 170,485	\$ 515,189
<b>LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)</b>		
Current liabilities:		
Accounts payable.....	\$ 23,125	\$ 23,338
Accrued expenses.....	444	1,514
Due to related parties.....	13,767	62
Accrued interest on loans payable.....	1,907	--
Loans payable due to related parties.....	91,546	--
Royalty payable.....	--	1,646
Term loan.....	34	--
Total current liabilities.....	130,823	26,560
Term loan, net of current portion.....	53	--
Subordinated convertible notes payable due to related party.....	45,583	--
Accrued interest on subordinated convertible notes payable due to related party.....	1,209	--
Royalty payable, net of current portion.....	--	3,400
Capital lease, net of current portion.....	--	212
Total liabilities.....	177,668	30,172
Stockholders' equity (deficit):		
Preferred stock, par value \$0.01; 60,000,000 shares authorized, 15,000,000 shares designated Series A, no shares and 10,786,504 issued and outstanding at December 31, 1998 and 1999.....	--	108
Class A common stock, par value \$0.01; 180,000,000 shares authorized, no and 26,465,333 shares issued and outstanding at December 31, 1998 and 1999.....	--	265
Class B common stock, par value \$0.01; 30,000,000 shares authorized, 125 (6,689,250 post split) and 17,872,176 shares issued and outstanding at December 31, 1998 and 1999	--	179
Class C common stock, par value \$0.01, 30,000,000 shares authorized, no shares issued and outstanding at December 31, 1998 and 1999.....	--	--
Additional paid-in capital.....	10,643	539,187
Deficit accumulated during development stage.....	(17,826)	(54,722)
Total stockholders' equity (deficit)....	(7,183)	485,017
Commitments and contingencies (notes 11 and 12)		
Total liabilities and stockholders' equity (deficit)...	\$170,485	\$515,189
	=====	=====

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF OPERATIONS  
Years ended December 31, 1997, 1998 and 1999, and for the period from  
December 15, 1992 (date of inception) to December 31, 1999

	1997	1998	1999	December 15, 1992 (date of inception) to December 31, 1999
(in thousands, except share data)				
Revenue....	\$ --	\$ --	\$ --	\$ --
Operating expenses:				
Research and development.....	--	6,941	4,274	11,215
Professional fees.....	1,090	5,242	9,969	16,301
General and administrative.....	20	4,010	16,448	20,478
Total operating expenses.....	1,110	16,193	30,691	47,994
Operating loss.....	(1,110)	(16,193)	(30,691)	(47,994)
Other income (expense):				
Interest income.....	--	26	2,916	2,942
Interest expense.....	(549)	--	(9,121)	(9,670)
Net loss.....	\$ (1,659)	\$ (16,167)	\$ (36,896)	\$ (54,722)
Net loss per share:				
Basic and diluted.....	\$ (0.26)	\$ (2.42)	\$ (2.40)	
Weighted average shares used in computing net loss per share-basic and diluted.....	6,368,166	6,689,250	15,344,102	

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)  
Years ended December 31, 1997, 1998 and 1999, and for the period from  
December 15, 1992 (date of inception) to December 31, 1999

	Series A Preferred Stock		Class A Common Stock		Class B Common Stock		Class C Common Stock		Additional Paid-in Capital	Deficit Accumulated During Development Stage	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount			
(in thousands, except share data)											
Issuance of common stock (December 15, 1992) . . . . .	--	\$ --	--	\$ --	100	\$ --	--	\$ --	\$ --	\$ --	\$ --
Balance at December 31, 1992 . . . . .	--	--	--	--	100	--	--	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1993 . . . . .	--	--	--	--	100	--	--	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1994 . . . . .	--	--	--	--	100	--	--	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1995 . . . . .	--	--	--	--	100	--	--	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1996 . . . . .	--	--	--	--	100	--	--	--	--	--	--
Contributions to paid-in capital . . . . .	--	--	--	--	--	--	--	--	143	--	143
Issuance of common stock and capital contributions . . . . .	--	--	--	--	25	--	--	--	9,000	--	9,000
Issuance of options . . . . .	--	--	--	--	--	--	--	--	1,500	--	1,500
Net loss . . . . .	--	--	--	--	--	--	--	--	--	(1,659)	(1,659)
Balance at December 31, 1997 . . . . .	--	--	--	--	125	--	--	--	10,643	(1,659)	8,984
Net loss . . . . .	--	--	--	--	--	--	--	--	--	(16,167)	(16,167)
Balance at December 31, 1998 . . . . .	--	--	--	--	125	--	--	--	10,643	(17,826)	(7,183)
53,514-for-one stock split . . . . .	--	--	--	--	6,689,125	67	--	--	(67)	--	--
Initial public offering . . . . .	--	--	10,241,000	102	--	--	--	--	114,032	--	114,134
Conversion of Series A convertible debt . . . . .	10,786,504	108	16,179,755	162	--	--	--	--	246,079	--	246,349
Conversion of subordinated convertible notes payable to related party . . . . .	--	--	--	--	11,182,926	112	--	--	106,843	--	106,955
Issuance of shares to key executive . . . . .	--	--	14,716	--	--	--	--	--	140	--	140
Issuance of shares through exercise of stock options . . . . .	--	--	1,071	--	--	--	--	--	10	--	10
Issuance of shares through the employee stock purchase plan . . . . .	--	--	28,791	1	--	--	--	--	293	--	294
Increase in FCC licenses, goodwill and intangibles from WorldSpace Transaction . . . . .	--	--	--	--	--	--	--	--	51,624	--	51,624
Charge for beneficial conversion feature of note issued to Parent . . . . .	--	--	--	--	--	--	--	--	5,520	--	5,520
Non-cash stock compensation . . . . .	--	--	--	--	--	--	--	--	4,070	--	4,070
Net loss . . . . .	--	--	--	--	--	--	--	--	--	(36,896)	(36,896)

Source: XM SATELLITE RADIO H, 10-K, March 16, 2000

Balance at												
December 31,												
1999 . . . . .	10,786,504	\$108	26,465,333	\$265	17,872,176	\$179	--	\$--	\$539,187	\$(54,722)	\$485,017	
	-----	-----	-----	-----	-----	-----	---	---	-----	-----	-----	-----

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF CASH FLOWS  
Years ended December 31, 1997, 1998 and 1999, and for the period from  
December 15, 1992 (date of inception) to December 31, 1999

	1997	1998	1999	December 15, 1992 (date of inception) to December 31, 1999
	(in thousands)			
<b>Cash flows from operating activities:</b>				
Net loss.....	\$ (1,659)	\$(16,167)	\$ (36,896)	\$ (54,722)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization.....	33	57	1,987	2,077
Non-cash stock compensation.....	--	--	4,210	4,210
Non-cash charge for beneficial conversion feature of note issued to Parent.....	--	--	5,520	5,520
Changes in operating assets and liabilities:				
Increase in prepaid and other current assets.....	--	(212)	(905)	(1,117)
Decrease in other assets...	--	--	43	43
Increase in accounts payable and accrued expenses.....	--	1,701	7,519	9,220
Increase (decrease) in amounts due to related parties.....	445	13,322	(1,316)	12,451
Increase (decrease) in accrued interest.....	517	(2)	3,053	3,568
Net cash used in operating activities.....	(664)	(1,301)	(16,785)	(18,750)
<b>Cash flows from investing activities:</b>				
Purchase of property and equipment.....	--	(506)	(2,008)	(2,514)
Additions to system under construction.....	(90,031)	(43,406)	(159,510)	(292,947)
Purchase of short-term investments.....	--	--	(69,472)	(69,472)
Other investing activities...	--	--	(3,422)	(3,422)
Net cash used in investing activities.....	(90,031)	(43,912)	(234,412)	(368,355)
<b>Cash flows from financing activities:</b>				
Proceeds from sale of common stock and capital contribution.....	9,143	--	114,428	123,571
Proceeds from issuance of loan payable to related party.....	80,053	337	--	80,390
Proceeds from issuance of options.....	1,500	--	--	1,500
Proceeds from issuance of subordinated convertible notes to related parties....	--	45,583	22,966	68,549
Proceeds from issuance of convertible notes.....	--	--	250,000	250,000
Repayment of loan payable....	--	--	(75,000)	(75,000)
Payments for deferred financing costs.....	--	(393)	(10,725)	(11,118)
Other investing activities...	--	(5)	(84)	(89)
Net cash provided by financing activities.....	90,696	45,522	301,585	437,803
Net increase in cash and cash equivalents.....	1	309	50,388	50,698
Cash and cash equivalents at beginning of period.....	--	1	310	--

Source: XM SATELLITE RADIO H, 10-K, March 16, 2000

Cash and cash equivalents at	-----	-----	-----	-----
end of period.....	\$ 1	\$ 310	\$ 50,698	\$ 50,698
	=====	=====	=====	=====

(Continued)

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF CASH FLOWS--(Continued)  
Years ended December 31, 1997, 1998 and 1999, and for the period from  
December 15, 1992 (date of inception) to December 31, 1999

	1997	1998	1999	December 15, 1992 (date of inception) to December 31, 1999
-----				
(in thousands)				
Supplemental cash flow disclosure:				
Increase in FCC license, goodwill and intangibles from WorldSpace Transaction.....	\$ --	\$ --	\$ 51,624	\$ 51,624
Liabilities exchanged for new convertible note to Parent.....	--	--	81,676	81,676
Non-cash interest capitalized.....	1,901	11,824	15,162	28,887
Interest converted into principal note balance.....	501	9,157	4,601	14,259
Accrued expenses transferred to loan balance.....	--	--	7,405	7,405
Accrued system milestone payments...	--	21,867	15,500	15,500
Property acquired through capital leases.....	--	--	470	470
Conversion of debt to equity.....	--	--	353,315	353,315

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the period from December 15, 1992 (date of inception) to December 31, 1999

(1) Summary of Significant Accounting Policies and Practices

(a) Nature of Business

XM Satellite Radio Inc. ("XMSR"), formerly American Mobile Radio Corporation, was incorporated on December 15, 1992 in the State of Delaware as a wholly owned subsidiary of American Mobile Satellite Corporation ("AMSC" or "Parent") for the purpose of procuring a digital audio radio service ("DARS") license. Business activity for the period from December 15, 1992 through December 31, 1996 was insignificant. Pursuant to various financing agreements entered into in 1997 between AMSC, XMSR and WorldSpace, Inc. ("WSI"), WSI acquired a 20 percent interest in XMSR.

On May 16, 1997, AMSC and WSI formed XM Satellite Radio Holdings Inc. (the "Company"), formerly AMRC Holdings Inc., as a holding company for XMSR in connection with the construction, launch and operation of a domestic communications satellite system for the provision of DARS. AMSC and WSI exchanged their respective interests in XMSR for equivalent interests in the Company, which had no assets, liabilities or operations prior to the transaction.

On July 7, 1999, AMSC acquired WSI's 20 percent interest in the Company, which is discussed in note 4.

(b) Principles of Consolidation and Basis of Presentation

The consolidated financial statements include the accounts of XM Satellite Radio Holdings Inc. and its subsidiaries, XM Satellite Radio Inc. and XM Radio Inc. All significant intercompany transactions and accounts have been eliminated. The Company's management has devoted substantially all of its time to the planning and organization of the Company, obtaining its DARS license, and to the process of addressing regulatory matters, initiating research and development programs, conducting market research, initiating construction of the satellite system, securing content providers, and securing adequate debt and equity capital for anticipated operations and growth. The Company has not generated any revenues and planned principal operations have not commenced. Accordingly, the Company's financial statements are presented as those of a development stage enterprise, as prescribed by Statement of Financial Accounting Standards ("SFAS") No. 7, Accounting and Reporting by Development Stage Enterprises.

As discussed in Note 6, on September 9, 1999, the Company effected a 53,514-for-1 stock split. The effect of the stock split has been reflected as of December 31, 1999 in the consolidated balance sheet and consolidated statement of stockholders' equity (deficit), however, the activity in prior periods was not restated in those statements. All references to the number of common shares and per share amounts in the consolidated financial statements and notes thereto have been restated to reflect the effect of the split for all periods presented.

(c) Cash and Cash Equivalents

The Company considers short-term, highly liquid investments with an original maturity of three months or less to be cash equivalents. The Company had the following cash and cash equivalents balances (in thousands):

	December 31,	
	1998	1999
	----	-----
Cash on deposit.....	\$ 28	\$ 66
Money market funds.....	282	10,620
Commercial paper.....	--	40,012
	\$310	\$50,698
	====	=====

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(d) Short-term Investments

The Company holds commercial paper with maturity dates of less than one year that is stated at amortized cost, which approximates fair value.

(e) Property and Equipment

Property and equipment are carried at cost less accumulated depreciation and amortization. Depreciation and amortization is calculated using the straight-line method over the following estimated useful lives:

Furniture, fixtures and computer equipment.....	3 years
Machinery and equipment.....	7 years
Leasehold improvements.....	Remaining lease

(f) System Under Construction

The Company is currently developing its satellite system. Costs related to the project are being capitalized to the extent that they have future benefits. As of December 31, 1999, all amounts recorded as system under construction relate to costs incurred in obtaining a Federal Communications Commission ("FCC") license and approval as well as the system development. The FCC license will be amortized using the straight line method over an estimated useful life of fifteen years. Amortization of the license will begin on commercial launch. Depreciation of the Company's satellites will commence upon in-orbit delivery. Depreciation of the Company's ground stations will commence upon commercial launch. The satellites and the ground stations will be depreciated over their estimated useful lives.

On October 16, 1997, the FCC granted XMSR a license to launch and operate two geostationary satellites for the purpose of providing DARS in the United States in the 2332.5-2345 Mhz (space-to-earth) frequency band, subject to achieving certain technical milestones and international regulatory requirements. The license is valid for eight years upon successful launch and orbital insertion of the satellites. The Company's license requires that it comply with a construction and launch schedule specified by the FCC for each of the two authorized satellites. The FCC has the authority to revoke the authorizations and in connection with such revocation could exercise its authority to rescind the Company's license. The Company believes that the exercise of such authority to rescind the license is unlikely.

System under construction consists of the following (in thousands):

	December 31,	
	1998	1999
License.....	\$ 90,031	\$115,055
Satellite system.....	63,273	204,083
Terrestrial system.....	--	6,578
Spacecraft control facilities.....	2,000	2,000
Broadcast facilities and other.....	--	5,574
Capitalized interest.....	13,725	29,068
	\$169,029	\$362,358
	=====	=====

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

The Company's policy is to review its long-lived assets and certain identifiable intangibles for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

(g) Goodwill and Intangible Assets

Goodwill and intangible assets, which represents the excess of purchase price over fair value of net assets acquired, is amortized on a straight-line basis over the expected periods to be benefited, generally 15 years. The Company assesses the recoverability of its intangible assets by determining whether the amortization of the goodwill and intangible assets balance over its remaining life can be recovered through undiscounted future operating cash flows. The amount of goodwill and intangible assets impairment, if any, is measured based on projected discounted future operating cash flows using a discount rate reflecting the Company's average cost of funds. The assessment of the recoverability of goodwill will be impacted if estimated future operating cash flows are not achieved.

(h) Stock-Based Compensation

The Company accounts for stock-based compensation arrangements in accordance with the provisions of Accounting Principle Board ("APB") Opinion No. 25, Accounting for Stock Issued to Employees (APB 25), and related interpretations, and complies with the disclosure provisions of SFAS No. 123, Accounting for Stock-Based Compensation. Under APB 25, compensation expense is based upon the difference, if any, on the date of grant, between the fair value of the Company's stock and the exercise price. All stock-based awards to non-employees are accounted for at their fair value in accordance with SFAS No. 123.

(i) Research and Development

Research and development costs are expensed as incurred.

(j) Net Income (Loss) Per Share

The Company computes net income (loss) per share in accordance with SFAS No. 128, Earnings Per Share and SEC Staff Accounting Bulletin No. 98 ("SAB 98"). Under the provisions of SFAS No. 128 and SAB 98, basic net income (loss) per share is computed by dividing the net income (loss) available to common stockholders (after deducting preferred dividend requirements) for the period by the weighted average number of common shares outstanding during the period. Diluted net income (loss) available per share is computed by dividing the net income (loss) available to common stockholders for the period by the weighted average number of common and dilutive common equivalent shares outstanding during the period. The Company has presented historical basic and diluted net income (loss) per share in accordance with SFAS No. 128. As the Company had a net loss in each of the periods presented, basic and diluted net income (loss) per share is the same.

(k) Income Taxes

The Company accounts for income taxes in accordance with SFAS No. 109, Accounting for Income Taxes. Deferred income taxes are recognized for the tax consequences in future years of differences between the tax bases of assets and liabilities and the financial reporting amounts at each year-end, based on enacted tax laws

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the sum of tax payable for the period and the change during the period in deferred tax assets and liabilities.

(l) Comprehensive Income

In December 1998, the Company adopted SFAS No. 130, Reporting Comprehensive Income (SFAS 130). This statement establishes standards for reporting and displaying comprehensive income and its components in the financial statements. This statement is effective for all interim and annual periods with the year ended December 31, 1998. The Company has evaluated the provisions of SFAS 130 and has determined that there were no transactions that have taken place during the years ended December 31, 1997, 1998 and 1999 that would be classified as other comprehensive income.

(m) Accounting Estimates

The preparation of the Company's financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. The estimates involve judgments with respect to, among other things, various future factors which are difficult to predict and are beyond the control of the Company. Significant estimates include valuation of the Company's investment in the DARS license, goodwill and intangible assets, and the valuation allowances against deferred tax assets. Accordingly, actual amounts could differ from these estimates.

(n) Reclassifications

Certain fiscal year 1997 and 1998 amounts have been reclassified to conform to the fiscal 1999 consolidated financial statement presentation.

(o) Recent Accounting Pronouncements

In June 1998, the Financial Accounting Standards Board issued SFAS No. 133, Accounting for Derivative Instruments and Hedging Activities. The new standard establishes accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts and for hedging activities. This statement, as amended, is effective for all fiscal quarters beginning after June 15, 2000. The Company does not expect SFAS No. 133 to have a material effect on its financial position or results of operations.

(2) Related Party Transactions

The Company had related party transactions with the following shareholders:

(a) AMSC

In 1997, AMSC contributed \$143,000 for the Company to establish the original application for the FCC license. On March 28, 1997, the Company received \$1,500,000 as a capital contribution from AMSC. During 1998 and 1999, AMSC incurred general and administrative costs and professional fees for the Company and established an intercompany balance of \$458,000 and \$62,000, respectively, (see note 3). Effective January 15, 1999, the Company issued a convertible note maturing on September 30, 2006 to AMSC for \$21,419,000. (See note 4(d)).

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(b) WSI

On March 28, 1997, the Company received \$1,500,000 as a capital contribution from WSI. The Company issued WSI 25 (6,689,250 post split) shares of common stock for this consideration.

On April 16, 1997, the Company received \$15,000,000 from WSI, which represented \$6,000,000 as an additional capital contribution and \$9,000,000 as a six-month bridge loan (see note 4).

On May 16, 1997, the Company obtained a \$1,000,000 working capital loan facility from WSI. During 1997, the Company drew down \$663,000 against the facility with the remaining \$337,000 drawn in 1998 (see note 4).

On October 16, 1997, the Company received \$71,911,000 from WSI, which represented an additional \$13,522,000 under the bridge loan and \$58,389,000 under the additional amounts loan (see note 4).

On April 1, 1998, the Company entered into an agreement with WSI to issue \$54,536,000 in subordinated convertible notes. During 1998 and 1999, the Company drew down \$45,583,000 and \$8,953,000, respectively, under the agreement (see note 4).

As discussed in note 4(c) all amounts due to WSI under the debt agreements were acquired by AMSC or repaid on July 9, 1999.

In July 1998, the Company acquired furniture and equipment from WSI for \$104,000 and established a due to WSI for the balance (see note 3).

In addition to financing, the Company has relied upon certain related parties for legal and technical services. Total expenses incurred in transactions with related parties are as follows (in thousands):

	Year Ended December 31, 1997		
	WSI	AMSC	Total
Professional fees.....	\$ 960	\$ 130	\$ 1,090
General and administrative.....	--	20	20
Total.....	\$ 960	\$ 150	\$ 1,110
	-----		
	Year Ended December 31, 1998		
	WSI	AMSC	Total
Research and development.....	\$ 6,624	\$ --	\$ 6,624
Professional fees.....	2,529	353	2,882
General and administrative.....	903	60	963
Total.....	\$ 10,056	\$ 413	\$ 10,469
	-----		
	Year Ended December 31, 1999		
	WSI	AMSC	Total
Research and development.....	\$ 50	\$ --	\$ 50
Professional fees.....	--	219	219
General and administrative.....	--	5	5
Total.....	\$ 50	\$ 224	\$ 274
	-----		

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

Additionally, during 1998 and 1999 the Company incurred \$925,000 and \$0, respectively, of WSI project management costs that were capitalized to the satellite system. With the WorldSpace Transaction, which is discussed in note 4, on July 7, 1999, WSI ceased to be a related party; therefore, the expenses reflected for WSI are representative of the period from January 1, 1999 through July 7, 1999.

(3) Due to Related Parties

Due to related parties included the following amounts (in thousands):

	December 31,	
	1998	1999
Advances from WSI.....	\$ 7,405	\$--
Due to WSI.....	5,904	--
Due to AMSC.....	458	62
	\$13,767	\$ 62
	=====	=====

Advances represented funding provided by WSI for 30 days. If amounts were not repaid within this time period, additional subordinated convertible notes were issued.

(4) Debt

(a) Loans Payable Due to Related Party

In March 1997, XMSR entered into a series of agreements (the "Participation Agreement") with AMSC and WSI in which both companies provided various equity and debt funding commitments to XMSR for the purpose of financing the activities of XMSR in connection with the establishment of a DARS satellite system in the United States. On May 16, 1997, certain portions of the Participation Agreement were subsequently ratified with substantially the same terms and conditions under the Bridge Loan, Additional Amounts Loan and Working Capital Credit Facility (the "Loan Agreement").

The Company had loans payable of \$91,546,000 at December 31, 1998 outstanding with WSI as follows (in thousands):

	1998
	-----
Bridge loan.....	\$25,556
Additional amounts loan.....	64,875
Working capital loan.....	1,115
	\$91,546
	=====

As discussed in note 4(c) all amounts due to WSI under the debt agreements were acquired by AMSC or repaid on July 7, 1999.

Bridge Loan

The Company executed the bridge loan with WSI in two tranches. On April 16, 1997, the Company received proceeds of \$8,479,000 for a loan with a face amount of \$9,000,000. On October 16, 1997, the

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999 Company received proceeds of \$12,771,000 for a loan with a face amount of \$13,522,000. The first tranche was a six-month loan at LIBOR plus five percent per annum, equaling 11.03 percent. The first tranche was rolled over with the establishment of the second tranche, which is a six-month loan at LIBOR plus five percent per annum, equaling 9.94 percent at December 31, 1998. Interest of \$3,034,000 had been converted into additional loan balance through December 31, 1998.

**Additional Amounts Loan**

On October 16, 1997, the Company executed the additional amounts loan with WSI and received proceeds of \$58,219,000 for a loan with a face amount of \$58,389,000. This loan is a six-month loan at LIBOR plus five percent per annum, equaling 9.94 percent at December 31, 1998. Interest of \$6,486,000 had been converted into additional loan balance through December 31, 1998.

**Working Capital Loan**

On May 16, 1997, the Company executed the working capital loan with WSI whereby the Company would receive proceeds of \$920,000 for a loan with a face amount of \$1,000,000. The Company drew down \$663,000 and \$337,000 against the line of credit through December 31, 1997 and 1998, respectively. This loan is a six-month loan at LIBOR plus five percent per annum, with an interest rate of 10.19 percent at December 31, 1998. Interest of \$115,000 had been converted into additional loan balance through December 31, 1998.

**(b) Subordinated Convertible Notes Payable Due to Related Party**

Effective April 1, 1998, the Company entered into a convertible note agreement maturing on September 30, 2006 with WSI that provided for a maximum of \$54,536,000 through the issuance of subordinated convertible notes. The notes carried an interest rate of LIBOR plus five percent per annum, which was 10.15 percent as of December 31, 1998. Under the terms of the note agreement, WSI shall have the right to convert all or a portion of the aggregate principal amount of the notes into shares of common stock at a conversion price of \$16.35 per share. As of December 31, 1998 and July 7, 1999, \$45,583,000 and \$54,536,000, respectively, had been drawn through the issuance of subordinated convertible notes. As discussed in note 4(c), all amounts due to WSI under the debt agreements were acquired by AMSC or repaid on July 7, 1999.

**(c) Exchange of WSI's Interest in the Company (WorldSpace Transaction)**

On July 7, 1999, AMSC acquired WSI's remaining debt and equity interests in the Company in exchange for approximately 8.6 million shares of AMSC's common stock. Additionally, the Company issued an aggregate \$250.0 million of Series A subordinated convertible notes (see note 4(e)) to several new investors and used \$75.0 million of the proceeds it received from the issuance of these notes to redeem certain outstanding loan obligations owed to WSI. As a result of these transactions, as of July 7, 1999, AMSC owned all of the issued and outstanding stock of the Company. Concurrent with AMSC's acquisition of the remaining interest in the Company, the Company recognized goodwill and intangibles of \$51,624,000, which has been allocated as follows (in thousands):

FCC license.....	\$25,024
Goodwill.....	13,738
Programming agreements.....	8,000
Receiver agreements.....	4,600
Other intangibles.....	262
	-----
	\$51,624
	=====

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(d) Notes to Related Party

On January 15, 1999, the Company issued a convertible note maturing on September 30, 2006 to AMSC for \$21,419,000. This note carried an interest rate of LIBOR plus five percent per annum and was convertible at a price of \$16.35 per share. On July 7, 1999 the Company amended the convertible note agreement with AMSC to change the maturity date to December 31, 2004, modified the conversion provisions to Class B common stock at a price of \$16.35 per share and the conversion of the accrued interest in Class B common stock at a price of \$9.52 per share.

Following the WorldSpace Transaction, the Company issued a convertible note maturing December 31, 2004 to AMSC for \$81,676,000 in exchange for the \$54,536,000 subordinated convertible notes payable, \$6,889,000 in demand notes, \$20,251,000 in accrued interest and all of WSI's outstanding options to acquire the Company's common stock. This note bore interest at LIBOR plus five percent per annum. The note was convertible at AMSC's option at \$8.65 per Class B common share. The Company took a one-time \$5,520,000 charge to interest due to the beneficial conversion feature of the new AMSC note.

These notes, along with \$3,870,000 of accrued interest were converted into 11,182,926 shares of Class B common stock upon the initial public offering.

(e) Issuance of Series A Subordinated Convertible Notes of the Company to New Investors

At the closing of the WorldSpace Transaction, the Company issued an aggregate \$250.0 million of Series A subordinated convertible notes to six new investors--General Motors Corporation, \$50.0 million; Clear Channel Investments, Inc., \$75.0 million; DIRECTV Enterprises, Inc., \$50.0 million; and Columbia Capital, Telcom Ventures, L.L.C. and Madison Dearborn Partners, \$75.0 million. The Series A subordinated convertible notes issued by the Company are convertible into shares of the Company's Series A convertible preferred stock (in the case of notes held by General Motors Corporation and DIRECTV) or Class A common stock (in the case of notes held by the other investors) at the election of the holders or upon the occurrence of certain events, including an initial public offering of a prescribed size. The conversion price is \$9.52 aggregate principal amount of notes for each share of the Company's stock. These notes, along with \$6,849,000 of accrued interest, were converted into 16,179,755 shares of Class A common stock and 10,786,504 shares of Series A preferred stock upon the initial public offering.

(5) Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents, short-term investments, receivables, accounts payable, accrued expenses, royalty payable and the term loan approximate their fair market value because of the relatively short duration of these instruments as of December 31, 1998 and 1999, in accordance with SFAS No. 107, Disclosures about Fair Value of Financial Instruments.

The fair value of the loans and subordinated convertible notes due to related party at December 31, 1998 could not be estimated as such amounts are due to the Company's stockholders.

(6) Equity

(a) Recapitalization

Concurrent with the WorldSpace Transaction discussed in note 4, the Company's capital structure was reorganized. The Company's common stock was converted into the newly authorized Class B common stock,

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999 which has three votes per share. The Company also has authorized Class A common stock, which is entitled to one vote per share and non-voting Class C common stock. The Class B common stock is convertible into Class A common stock on a one for one basis, as follows: (1) at any time at the discretion of AMSC, (2) following the Company's initial public offering, at the direction of the holders of a majority of the then outstanding shares of Class A common stock (which majority must include at least 20 percent of the public holders of Class A common stock), and (3) on or after January 1, 2002, at the direction of the holders of a majority of the then outstanding shares of the Company's Class A common stock. Such conversion will be effected only upon receipt of FCC approval of AMSC's transfer of control of the Company to a diffuse group of shareholders.

The Company also authorized 60,000,000 shares of preferred stock, of which 15,000,000 shares are designated Series A convertible preferred stock, par value \$0.01 per share. The Series A convertible preferred stock is convertible into Class A common stock at the option of the holder. The Series A preferred stock is non-voting and receives dividends, if declared, ratably with the common stock.

On September 9, 1999, the board of directors of the Company effected a stock split providing 53,514 shares of stock for each share owned.

(b)Initial Public Offering

On October 8, 1999, the Company completed an initial public offering of 10,000,000 shares of Class A common stock at \$12.00 per share. The offering yielded net proceeds of \$111,437,000.

On October 17, 1999, the underwriters of the Company's initial public offering exercised the over-allotment option for an additional 241,000 shares of Class A common stock at \$12.00 per share. This exercise yielded net proceeds of \$2,697,000.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(c) Stock-Based Compensation

The Company operates two separate stock option plans, the details of which are described below.

1998 Shares Award Plan

On June 1, 1998, the Company adopted the 1998 Shares Award Plan (the "Plan") under which employees, consultants, and non-employee directors may be granted options to purchase shares of Class A common stock of the Company. The Company initially authorized 1,337,850 shares of common stock under the Plan, which was increased to 2,675,700 in July 1999. The options are exercisable in installments determined by the compensation committee of the Company's board of directors. The options expire as determined by the committee, but no later than ten years from the date of grant. On July 8, 1999, the Company's board of directors voted to reduce the exercise price of the options outstanding in the shares award plan from \$16.35 to \$9.52 per share, which represented the fair value of the stock on the date of repricing. Transactions and other information relating to the Plan for the year ended December 31, 1998 and 1999 are summarized below:

	Outstanding Options	
	Number of Shares	Weighted-Average Exercise Price
Balance, January 1, 1998.....	--	--
Options granted.....	787,297	\$16.35
Options canceled or expired.....	--	--
Options exercised.....	--	--
	787,297	\$16.35
Balance, December 31, 1998.....	787,297	\$16.35
Options granted.....	2,188,988	10.50
Option repricing.....	818,339	16.35
Options canceled or expired.....	57,786	13.91
Options exercised.....	1,071	9.52
	2,099,089	\$10.32
Balance, December 31, 1999.....	2,099,089	\$10.32

The following table summarizes information about stock options outstanding at December 31, 1998 and 1999:

	Options Outstanding			Options Exercisable		
	Exercise Price	Number Outstanding	Weighted-Average Remaining Contractual Life	Weighted Average Exercise Price	Number Exercisable	Weighted-Average Exercise Price
1998.....	\$16.35	787,297	9.5 years	\$16.35	--	\$16.35
1999.....	\$9.52-\$12.00	2,099,089	9.24 years	\$10.32	416,294	\$ 9.52

There were no and 416,294 stock options exercisable at December 31, 1998 and 1999, respectively. There were 575,540 shares available under the plan for future grants at December 31, 1999. At December 31, 1999, all options have been issued to employees, officers and directors.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

The per share weighted-average fair value of employee options granted during the year ended December 31, 1998 and 1999 was \$10.54 and \$6.21, respectively, on the date of grant using the Black-Scholes Option Pricing Model with the following weighted-average assumptions:

	December 31,	
	1998	1999
Expected dividend yield.....	0%	0%
Volatility.....	56.23%	63.92%
Risk-free interest rate range.....	4.53% to 5.57%	5.47% to 5.97%
Expected life.....	7.5 years	5 years

Employee Stock Purchase Plan

In 1999, the Company established an employee stock purchase plan that provides for the issuance of 300,000 shares of Class A common stock. All employees whose customary employment is more than 20 hours per week and for more than five months in any calendar year are eligible to participate in the stock purchase plan, provided that any employee who would own five percent or more of the Company's total combined voting power immediately after an offering date under the plan is not eligible to participate. Eligible employees must authorize the Company to deduct an amount from their pay during offering periods established by the compensation committee. The purchase price for shares under the plan will be determined by the compensation committee but may not be less than 85 percent of the lesser of the market price of the common stock on the first or last business day of each offering period. As of December 31, 1999, 28,791 shares had been issued by the Company under this plan.

The per share weighted-average fair value of purchase rights granted during the year was \$3.30 for the year ended December 31, 1999. The estimates were calculated at the grant date using the Black-Scholes Option Pricing Model with the following assumptions at December 31, 1999:

Expected dividend yield.....	0%
Volatility.....	63.92%
Risk-free interest rate range.....	4.73%
Expected life.....	0.23 years

The Company applies APB 25 in accounting for stock-based compensation for both plans and, accordingly, no compensation cost has been recognized for its stock options in the financial statements other than for performance based stock options and for options granted with exercise prices below fair value on the date of grant. During 1999, the Company incurred \$4,070,000 in compensation cost for these options. Had the Company determined compensation cost based on the fair value at the grant date for its stock options under SFAS 123, the Company's net loss and net loss per share would have been increased to the pro forma amounts indicated below (in thousands):

	Year ended December 31,	
	1998	1999
Net loss;		
As reported..... \$	16,167	\$ 36,896
Pro forma.....	17,508	37,706
As reported--net loss per share--basic and diluted.....	(2.42)	(2.40)
Pro forma--net loss per share--basic and diluted.....	(2.62)	(2.46)

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(7) WSI Options

In 1997, the Company issued WSI three options. Under the first option, WSI could have purchased 5,202,748 shares of common stock at \$4.52 per share to acquire common stock. The option could have been exercised in whole or in incremental amounts between April 16, 1998 and October 16, 2002. Under certain circumstances, AMSC could have required WSI to exercise the option in whole. The Company allocated \$1,250,000 to the option. Under the second option, WSI could have purchased 6,897,291 shares at \$8.91 per share. The option could have been exercised between October 16, 1997 and October 16, 2003. The Company allocated \$170,000 to the option. Under the third option, WSI could have purchased 187,893 shares of common stock at \$5.32 per share. The option could have been exercised between October 16, 1997 and October 17, 2002. The Company allocated \$80,000 to the option.

The options were acquired by AMSC and exchanged for the \$81,676,000 note to AMSC as part of the WorldSpace Transaction (see note 4(d)).

(8) Profit Sharing and Employee Savings Plan

On July 1, 1998, the Company adopted a profit sharing and employee savings plan under Section 401(k) of the Internal Revenue Code. This plan allows eligible employees to defer up to 15 percent of their compensation on a pre-tax basis through contributions to the savings plan. The Company contributed \$0.50 in 1998 and 1999 for every dollar the employees contributed up to 6 percent of compensation, which amounted to \$14,000 and \$164,000, respectively.

(9) Interest Cost

The Company capitalizes a portion of interest cost as a component of the cost of the FCC license and satellite system under construction. The following is a summary of interest cost incurred during December 31, 1997, 1998 and 1999, and for the period from December 15, 1992 (date of inception) to December 31, 1998 (in thousands):

	1997	1998	1999	December 15, 1992 (date of inception) to December 31, 1999
Interest cost capitalization....	\$1,901	\$11,824	\$15,343	\$29,068
Interest cost charged to expense.. .. .	549	--	9,120	9,669
<b>Total interest cost incurred..</b>	<b>\$2,450</b>	<b>\$11,824</b>	<b>\$24,463</b>	<b>\$38,737</b>
	=====	=====	=====	=====

Interest costs incurred prior to the award of the license were expensed in 1997. During 1999, the Company exceeded its capitalization threshold by \$3,600,000 and incurred a charge to interest of \$5,520,000 for the beneficial conversion feature of the new AMSC note.

(10) Income Taxes

For the period from December 15, 1992 (date of inception) to October 8, 1999, the Company filed consolidated federal and state tax returns with its majority stockholder AMSC. The Company generated net operating losses and other deferred tax benefits that were not utilized by AMSC. As no formal tax sharing agreement has been finalized, the Company was not compensated for the net operating losses. Had the Company filed on a stand-alone basis for the three-year period ending December 31, 1999, the Company's tax provision would be as follows:

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

Taxes on income included in the statements of operations consists of the following (in thousands):

	December 31,		
	1997	1998	1999
<b>Current taxes:</b>			
Federal.....	\$ --	\$ --	\$ --
State.....	--	--	--
<b>Total current taxes.....</b>	<b>--</b>	<b>--</b>	<b>--</b>
<b>Deferred taxes:</b>			
Federal.....	--	--	--
State.....	--	--	--
<b>Total deferred taxes.....</b>	<b>--</b>	<b>--</b>	<b>--</b>
<b>Total tax expense (benefit).....</b>	<b>\$ --</b>	<b>\$ --</b>	<b>\$ --</b>

A reconciliation of the statutory tax expense, assuming all income is taxed at the statutory rate applicable to the income and the actual tax expense is as follows (in thousands):

	December 31,		
	1997	1998	1999
Income before taxes on income, as reported in the statements of income.....	\$(1,659)	\$(16,167)	\$(36,896)
Theoretical tax on the above amount at 35%.....	(581)	(5,658)	(12,914)
State tax, net of federal benefit.....	(165)	(1,605)	701
Increase in taxes resulting from permanent differences, net.....	--	31	2,120
Adjustments arising from differences in the basis of measurement for tax purposes and financial reporting purposes and other.....	--	--	13,252
Change in valuation allowance.....	746	7,232	(3,159)
<b>Taxes on income for the reported year.....</b>	<b>\$ --</b>	<b>\$ --</b>	<b>\$ --</b>

At December 31, 1997, 1998 and 1999, deferred income tax consists of future tax assets/(liabilities) attributable to the following (in thousands):

	December 31,		
	1997	1998	1999
<b>Deferred tax assets:</b>			
Net operating loss/other tax attribute carryovers.....	\$ 36	\$ 477	\$ 2,650
Start-up costs.....	710	7,501	17,605
<b>Gross total deferred tax assets.....</b>	<b>746</b>	<b>7,978</b>	<b>20,255</b>
Valuation allowance for deferred tax assets.....	(746)	(7,978)	(4,819)
<b>Net deferred assets.....</b>	<b>--</b>	<b>--</b>	<b>15,436</b>
<b>Deferred tax liabilities:</b>			
Fixed assets.....	--	--	(51)
FCC license.....	--	--	(10,160)
Other intangible assets.....	--	--	(5,225)
<b>Net deferred tax liabilities.....</b>	<b>--</b>	<b>--</b>	<b>(15,436)</b>
<b>Deferred income tax, net.....</b>	<b>\$ --</b>	<b>\$ --</b>	<b>\$ --</b>

Source: XM SATELLITE RADIO H, 10-K, March 16, 2000

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XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(11) Accumulated Deficit

The Company is devoting its efforts to develop, construct and expand a digital audio radio network. This effort involves substantial risk and future operating results will be subject to significant business, economic, regulatory, technical, and competitive uncertainties and contingencies. These factors individually or in the aggregate could have an adverse effect on the Company's financial condition and future operating results and create an uncertainty as to the Company's ability to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the Company be unable to continue as a going concern.

In order to commence satellite-based radio broadcasting services, the Company will require substantial funds to develop and construct the DARS system, develop and launch radio communications satellites, retire debt incurred in connection with the acquisition of the DARS license and to sustain operations until it generates positive cash flow.

At the Company's current stage of development, economic uncertainties exist regarding successful acquisition of additional debt and equity financing and ultimate profitability of the Company's proposed service. The Company is currently constructing its satellites and will require substantial additional financing before construction is completed. Failure to obtain the required long-term financing will prevent the Company from realizing its objective of providing satellite-delivered radio programming. Management's plan to fund operations and capital expansion includes the additional sale of debt and equity securities through public and private sources. There are no assurances, however, that such financing will be obtained.

(12) Commitments and Contingencies

(a) FCC License

The FCC has established certain system development milestones that must be met for the Company to maintain its license to operate the system. The Company believes that it is proceeding into the system development as planned and in accordance with the FCC milestones.

(b) Application for Review of FCC License

One of the losing bidders for the DARS licenses filed an Application for Review by the full FCC of the Licensing Order which granted the Company its FCC license. The Application for Review alleges that WSI had effectively taken control of the Company without FCC approval. The FCC or the U.S. Court of Appeals has the authority to overturn the award of the FCC license should they rule in favor of the losing bidder. Although the Company believes that its right to the FCC license will withstand the challenge as WSI is no longer a stockholder in the Company, no prediction of the outcome of this challenge can be made with any certainty.

(c) Technical Services

Effective January 1, 1998, the Company entered into agreements with AMSC and WorldSpace Management Corporation ("WorldSpace MC"), an affiliate of WSI, in which AMSC and WorldSpace MC would provide technical support in areas related to the development of a DARS system. Payments for services provided under these agreements are made based on negotiated hourly rates. These agreements may be terminated by the parties on or after the date of the commencement of commercial operation following the launch of the Company's first

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

satellite. There are no minimum services purchase requirements. The Company incurred costs of \$413,000 and \$224,000 under its agreement with AMSC during 1998 and 1999, respectively. The Company incurred costs of \$4,357,000 and \$0 under its agreement with WorldSpace MC during 1998 and 1999, respectively.

(d) Technology Licenses

Effective January 1, 1998, XMSR entered into a technology licensing agreement with AMSC and WorldSpace MC by which as compensation for certain licensed technology currently under development to be used in the XM Radio system, XMSR will pay up to \$14,300,000 to WorldSpace MC over a ten-year period. XMSR incurred costs of \$6,624,000 and \$50,000, payable to WorldSpace MC, under the agreement during 1998 and 1999, respectively. Any additional amounts to be incurred under this agreement are dependent upon further development of the technology, which is at XMSR's option. No liability exists to AMSC or WorldSpace MC should such developments prove unsuccessful. The Company maintains an accrual of \$5,046,000, payable to WorldSpace MC, for quarterly royalty payments to be made. In addition, XMSR agreed to pay 1.2 percent of quarterly net revenues to WorldSpace MC and a royalty of \$0.30 per chipset, payable to WorldSpace MC, for equipment manufactured using certain source encoding and decoding signals technology.

(e) Satellite Contract

During the first half of 1999, the Company and Hughes Space and Communications, Inc. ("Hughes") amended the satellite contract to construct and launch the Company's satellites to implement a revised work timetable, payment schedule to reflect the timing of the receipt of additional funding, and technical modifications. The Company expects to incur total payment obligations under this contract of approximately \$541,300,000, which includes amounts the Company expects to pay pursuant to the exercise of the option to build the ground spare satellite and certain financing costs and in-orbit incentive payments. As of December 31, 1998 and 1999, the Company had paid \$40,481,250 and \$183,918,000, respectively, under this contract.

(f) LCC International Services Contract

In August 1999, the Company signed a contract with LCC International, Inc., a related party, for the engineering for its terrestrial repeater network. Payments by the Company under this contract are expected to aggregate approximately \$115,000,000 through April 15, 2001. As of December 31, 1999, the Company has paid \$6,578,000 under this contract.

(g) General Motors Distribution Agreement

The Company has signed a long-term distribution agreement with the OnStar division of General Motors providing for the installation of XM radios in General Motors vehicles. During the term of the agreement, which expires 12 years from the commencement date of the Company's commercial operations, General Motors has agreed to distribute the service to the exclusion of other S-band satellite digital radio services. The Company will also have a non-exclusive right to arrange for the installation of XM radios included in OnStar systems in non-General Motors vehicles that are sold for use in the United States. The Company has significant annual, fixed payment obligations to General Motors for four years following commencement of commercial service. These payments approximate \$35,000,000 in the aggregate during this period. Additional annual fixed payment obligations beyond the initial four years of the contract term range from less than \$35,000,000 to approximately \$130,000,000 through 2009, aggregating approximately \$400,000,000. In order to encourage the broad installation of XM radios in General Motors vehicles, the Company has agreed to subsidize a portion of the cost of XM radios, and to make incentive payments to General Motors when the owners of General Motors

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

vehicles with installed XM radios become subscribers for the Company's service. The Company must also share with General Motors a percentage of the subscription revenue attributable to General Motors vehicles with installed XM radios, which percentage increases until there are more than 8 million General Motors vehicles with installed XM radios. The Company will also make available to General Motors bandwidth on the Company's systems. The agreement is subject to renegotiations at any time based upon the installation of radios that are compatible with a unified standard or capable of receiving Sirius Satellite Radio's (formerly known as CD Radio) service. The agreement is subject to renegotiations if, four years after the commencement of XM Radio's commercial operations and at two-year intervals thereafter GM does not achieve and maintain specified installation levels of General Motors vehicles capable of receiving the Company's service, starting with 1,240,000 units after four years, and thereafter increasing by the lesser of 600,000 units per year and amounts proportionate to target market shares in the satellite digital radio service market. There can be no assurances as to the outcome of any such renegotiations. General Motors' exclusivity obligations will discontinue if, four years after the Company commences commercial operations and at two-year intervals thereafter, the Company fails to achieve and maintain specified minimum market share levels in the satellite digital radio service market.

(h) Terrestrial Repeater Contract

In February 2000, the Company entered into a contract with Hughes Electronics Corporation, a related party, for the design, development and purchase of terrestrial repeater equipment. The total contract value is \$128,000,000 and the Company incurred and paid \$3,500,000 under a letter agreement in anticipation of this contract through December 31, 1999.

(i) Joint Development Agreement

On February 16, 2000, the Company signed an agreement with Sirius Satellite Radio ("Sirius Radio"), a competitor of the Company, to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both the Company's and Sirius Radio's services. The technology relating to the unified standard will be jointly developed, funded and owned by the two companies. As part of the agreement, each company has licensed to the other its intellectual property relating to its system; the value of this license will be considered part of its contribution toward the joint development. In addition, each company has agreed to license its non-core technology, including non-essential features of its system, to the other at commercially reasonable rates.

(j) Sony Warrant

In February 2000, the Company issued a warrant to Sony exercisable for shares of the Company's Class A common stock. The warrant will vest at the time that we attain our millionth customer, and the number of shares underlying the warrant will be determined by the percentage of XM Radios that have a Sony brand name as of the vesting date. If Sony achieves its maximum performance target, it will receive 2% of the total number of shares of the Company's Class A common stock on a fully-diluted basis upon exercise of the warrant. The exercise price of the Sony warrant will equal 105% of fair market value of the Class A common stock on the vesting date, determined based upon the 20-day trailing average.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

(k) Leases

The Company has three noncancelable operating leases for office space and two noncancelable capital leases for equipment that expire over the next ten years. The future minimum lease payments under noncancelable leases as of December 31, 1999 are (in thousands):

	Operating leases	Capital leases
	-----	-----
Year ending December 31:		
2000.....	\$ 755	\$172
2001.....	2,113	172
2002.....	2,180	86
2003.....	2,248	--
2004.....	2,281	--
Thereafter..	14,354	--
	-----	-----
Total.....	\$23,931	\$430
	=====	
Less amount representing interest.....		(52)
		-----
Present value of net minimum lease payments.....		378
Less current maturities.....		(139)
		-----
Long-term obligations.....		\$239
		=====

Rent expense for 1997, 1998 and 1999 was \$0, \$231,000 and \$649,000, respectively.

In January 2000, the Company established a \$3,400,000 letter of credit as a security deposit for one of its leases for office space.

(l) Prior Litigation

On January 12, 1999, Sirius Radio, the other holder of an FCC satellite radio license, commenced an action against the Company in the United States District Court for the Southern District of New York, alleging that the Company was infringing or would infringe three patents assigned to Sirius Radio. In its complaint, Sirius Radio sought money damages to the extent the Company manufactured, used or sold any product or method claimed in their patents and injunctive relief. On February 16, 2000, this suit was resolved in accordance with the terms of a joint development agreement between the Company and Sirius Radio and both companies agreed to cross-license their respective property (see note 12(i)). However, if this agreement is terminated before the value of the license has been determined due to the Company's failure to perform a material covenant or obligation, then this suit could be refiled.

(13) Secondary Offering and Sale of Series B Convertible Redeemable Preferred Stock

On January 31, 2000, the Company closed on a secondary offering of its Class A common stock and newly designated Series B convertible redeemable preferred stock. The Company sold 4,000,000 shares of its Class A common stock for \$32.00 per share, which yielded net proceeds of approximately \$121,000,000. The Company concurrently sold 2,000,000 shares of its Series B convertible redeemable preferred stock for \$50.00 per share, which yielded net proceeds of approximately \$96,300,000. The Series B convertible redeemable preferred stock

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

For the period from December 15, 1992 (date of inception) to December 31, 1999

provides for 8.25% cumulative dividends that may be paid in Class A common stock or cash. The Series B convertible redeemable preferred stock is convertible into Class A common stock at a conversion price of \$40 per share and is redeemable in Class A common stock on February 3, 2003.

On February 9, 2000, the underwriters exercised a portion of the over-allotment option for 370,000 shares of Class A common stock, which yielded net proceeds of approximately \$11,233,000.

(14) Private Units Offering

On March 15, 2000 the Company closed a private placement of 325,000 units, each unit consisting of \$1,000 principal amount of 14% senior secured notes due 2010 of its subsidiary XM Satellite Radio Inc. and one warrant to purchase 8,024,115 shares of the Company's Class A common stock at a price of \$49.50 per share. The Company realized net proceeds of \$191.0 million, excluding \$123.0 million used to acquire securities which will be used to pay interest payments due under the notes for the first three years.

(15) Quarterly Data (Unaudited)

	1997			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
	(in thousands, except for per share data)			
Revenues.....	\$ --	\$ --	\$ --	\$ --
Operating loss.....	--	51	185	874
Loss before income taxes.....	--	270	459	930
Net loss.....	--	270	459	930
Net loss per share--basis and diluted.....	\$ --	\$(0.04)	\$(0.07)	\$(0.14)
	=====	=====	=====	=====
	1998			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Revenues....	\$ --	\$ --	\$ --	\$ --
Operating loss.....	3,100	5,032	3,865	4,196
Loss before income taxes.....	3,100	5,032	3,857	4,178
Net loss.....	3,100	5,032	3,857	4,178
Net loss per share--basis and diluted.....	\$(0.46)	\$(0.75)	\$(0.58)	\$(0.62)
	=====	=====	=====	=====
	1999			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Revenues.....	\$ --	\$ --	\$ --	\$ --
Operating loss.....	4,421	4,020	9,374	12,876
Loss before income taxes.....	4,367	3,999	17,402	11,128
Net loss.....	4,367	3,999	17,402	11,128
Net loss per share--basis and diluted.....	\$(0.65)	\$(0.60)	\$(2.60)	\$(0.27)
	=====	=====	=====	=====

The sum of quarterly per share net losses do not necessarily agree to the net loss per share for the year due to the timing of stock issuances.

XM SATELLITE RADIO HOLDINGS INC.  
CERTIFICATE OF DESIGNATION

establishing the

Voting Powers, Designations, Preferences, Limitations,  
Restrictions, and Relative Rights of

8.25% Series B Convertible Redeemable Preferred Stock due 2012

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Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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XM SATELLITE RADIO HOLDINGS INC., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Issuer"), does hereby certify that (i) pursuant to authority conferred upon the Board of Directors of the Issuer by its Restated Certificate of Incorporation, as amended to date, and pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, the Board of Directors authorized the creation and issuance of the Issuer's 8.25% Series B Convertible Redeemable Preferred Stock (the "Preferred Stock"), and (ii) the following resolution fixing the designations, preferences and rights of such Preferred Stock, which was duly adopted by the Board of Directors, on January 25, 2000, remains in full force and effect. Certain capitalized terms used herein are defined in Article 10.

RESOLVED, that pursuant to the authority expressly granted to and vested in the Board of Directors of the Issuer by the provisions of the Restated Certificate of Incorporation, as amended from time to time (the "Certificate of Incorporation"), and pursuant to Section 151(g) of the General Corporation Laws of the State of Delaware, there be from the 60,000,000 shares of preferred stock, \$0.01 par value, of the Issuer, authorized to be issued pursuant to the Certificate of Incorporation, a series of preferred stock, consisting of 3,000,000 shares of 8.25% Series B Convertible Redeemable Preferred Stock (referred to herein as the "Preferred Stock"), having the number of shares and, to the extent that the designations, powers, preferences and relative and other special rights and the qualifications, limitations and restrictions of such Preferred Stock are not stated and expressed in the Certificate of Incorporation, the powers, preferences and relative and other special rights and the qualifications, limitations and restrictions thereof, as follows:

1. Designation and Number of Shares

1.1 The series will be known as the 8.25% Series B Convertible Redeemable Preferred Stock.

1.2 The Preferred Stock will be a series consisting of 3,000,000 shares with a liquidation preference of \$50 per share of the authorized but unissued preferred stock of the Issuer.

2. Dividends

2.1 Payment of Dividends

(a) Holders of Preferred Stock will be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available therefor, cumulative dividends from the issue date of the Preferred Stock (the "Issuance Date") accruing at the rate per annum equal to 8.25% of the liquidation preference per share, payable quarterly in arrears on February 1, May 1, November 1 and August 1 of each year (each such date being referred to herein as a "Dividend Payment Date"), commencing May 1, 2000. All dividends will be cumulative, whether or not earned or declared

(b) Each distribution in the form of a dividend shall be payable in arrears to Holders of record as they appear on the stock books of the Issuer on each record date as

established by the Board of Directors of the Issuer (the "Dividend Payment Record Date") not more than 60 nor less than ten days preceding a Dividend Payment Date.

(i) Dividends payable on the Preferred Stock for each full dividend period will be computed by dividing the annual dividend rate by four. Dividends payable on the Preferred Stock for any period less than a full dividend period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

(ii) The Preferred Stock will not be entitled to any dividends, whether payable in cash, property or securities, in excess of the full cumulative dividends.

(iii) No interest, or sum of money in lieu of interest, will be payable in respect of any accumulated and unpaid dividends which may be in arrears.

(c) Dividends, to the extent declared by the Issuer's Board of Directors may, at the option of the Issuer, be paid in cash, by delivery of fully paid and nonassessable shares of the Issuer's Class A common stock (the "Common Stock"), or a combination thereof. If the Issuer elects to pay dividends in shares of Common Stock, such shares of Common Stock shall be valued for such purpose:

(i) If on the date of such payment, such shares of Common Stock are freely tradable, such shares of Common Stock shall be valued at 95% of Average Market Value.

(ii) If on the date of such payment, such shares of Common Stock are not freely tradable, such shares of Common Stock shall be valued at 90% of Average Market Value.

## 2.2 Declaration of Dividends

(a) No dividends or other distributions (other than a dividend or distribution in Junior Securities) may be declared, made or paid or funds set apart for payment on the Junior Securities or Parity Securities, and no Junior Securities or any Parity Securities, including the Preferred Stock, may be repurchased, redeemed or otherwise acquired for any consideration (or any money paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Issuer (except by conversion into or exchange for Junior Securities or in the case that monies for such dividends, distributions, redemptions, purchases, or other acquisitions are derived from the proceeds of a substantially concurrent offering of such securities), unless full cumulative dividends shall have been or contemporaneously are paid or declared and a sum sufficient for the payment thereof is set apart for such payment on all outstanding shares of Preferred Stock for all Dividend Payment Dates on or prior to such declaration, payment, redemption, purchase or acquisition.

(b) No dividends may be declared, made or paid or funds set apart for the payment of dividends upon any outstanding share of Preferred Stock with respect to any dividend period unless all dividends for all preceding periods have been paid or declared and a sum sufficient for the payment thereof is set apart for the payment of such dividend upon all outstanding shares of Senior Securities.

(c) The holder of record of a share of Preferred Stock at the close of business on a record date with respect to the payment of dividends on the Preferred Stock will be entitled to receive such dividends with respect to such share of Preferred Stock (except that Holders of shares called for redemption or conversion on a Redemption Date or Conversion Date between the record date and a date which is two days after the Dividend Payment Date will be entitled to receive such dividend on such Redemption Date as indicated in Section 5.1 hereof or such Conversion Date as indicated in Section 4 hereof, as applicable) on the corresponding Dividend Payment Date, notwithstanding the conversion of such share after such record date and prior to such Dividend Payment Date. A share of Preferred Stock surrendered for conversion during the period from the close of business on any record date for the payment of dividends to the opening of business of the corresponding Dividend Payment Date must be accompanied by a payment in cash, Common Stock or a combination thereof, depending on the method of payment that the Issuer may choose to pay the dividend, in an amount equal to the dividend payable on such dividend payment date, unless such share of Preferred Stock has been called for redemption on a redemption date occurring during the period from the close of business on any record date for the payment of dividends to the close of business on the business day immediately following the corresponding Dividend Payment Date. The dividend payment with respect to a share of Preferred Stock called for redemption on a date during the period from the close of business on any record date for the payment of dividends to the close of business on the business day immediately following the corresponding dividend payment date will be payable on such Dividend Payment Date to the record holder of such share on such record date, notwithstanding the conversion of such share after such record date and prior to such dividend payment date or the Issuer's default in payment of the dividend due on that Dividend Payment Date. No payment or adjustment will be made upon conversion of shares of Preferred Stock for accumulated and unpaid dividends or for dividends with respect to the Common Stock issued upon such conversion.

(d) Except as provided in Section 2.2(b) and in Section 4.2, the Issuer shall make no payment or allowance for unpaid dividends, whether or not in arrears, on converted shares or for dividends on the shares of Common Stock issued upon conversion.

(e) The Issuer will take all actions required or permitted under Delaware corporate law to permit the payment of dividends on the Preferred Stock, including, without limitation, through the revaluation of its assets in accordance with Delaware General Corporation Laws.

### 3. Ranking

3.1 The Preferred Stock will, with respect to dividend distributions and distributions upon the liquidation, winding up or dissolution of the Issuer, rank:

(a) senior to all classes of Common Stock, Series A Convertible Preferred Stock and each other class of Capital Stock or series of preferred stock issued by the Issuer, which is established after the date of this Certificate of Designation, the terms of which do not expressly provide that such class or series will rank senior to or on a parity with the Preferred Stock as to dividend distributions and distributions upon the liquidation, winding up or

dissolution of the Issuer (collectively, with the Common Stock, referred to as the "Junior Securities");

(b) on a parity with any class of Capital Stock or series of preferred stock issued by the Issuer, which is established after the date of this Certificate of Designation by the Board of Directors, the terms of which expressly provide that such class or series will rank on a parity with the Preferred Stock as to dividend distributions and distributions upon the liquidation, winding up or dissolution of the Issuer (collectively referred to as "Parity Securities"); and

(c) junior to each class of Capital Stock or series of preferred stock issued by the Issuer, which is established after the date of this Certificate of Designation by the Board of Directors, the terms of which expressly provide that such class or series will rank senior to the Preferred Stock as to dividend distributions and distributions upon liquidation, winding-up or dissolution of the Issuer (collectively referred to as "Senior Securities").

3.2 Except as otherwise provided herein, the Issuer is entitled to amend its Certificate of Incorporation to authorize one or more additional series of preferred stock, file certificates of designation, and issue without restriction from time to time, any series of Junior Securities, Parity Securities, or Senior Securities.

#### 4. Conversion

##### 4.1 Conversion Rights

(a) Each Holder of Preferred Stock shall have the right, at its option, at any time and from time to time to convert, subject to the terms and provisions of this Article 4, any or all of such Holder's shares of Preferred Stock. In such case, the shares of Preferred Stock shall be converted into such whole number of fully paid and nonassessable shares of Common Stock as is equal, subject to Section 4.3, to:

the product of the number of shares of Preferred Stock being so converted multiplied by the quotient of (i) the Liquidation Preference divided by (ii) the Conversion Price then in effect,

except that with respect to any share which shall be called for redemption such right shall terminate at the close of business on the Business Day prior to the Redemption Date unless the Issuer shall default in making the payment due upon redemption thereof.

(b) The conversion right of a Holder of Preferred Stock shall be exercised by the Holder by the surrender of the certificate representing shares to be converted to the Issuer or to the Transfer Agent accompanied by the Conversion Notice.

(i) Immediately prior to the close of business on the Conversion Date, each converting Holder of Preferred Stock shall be deemed to be the Holder of record of Common Stock issuable upon conversion of such Holder's Preferred Stock notwithstanding that the share register of the Issuer shall then be closed or that certificates representing such Common Stock shall not then be actually delivered to such person.

(ii) Upon notice from the Issuer, each Holder of Preferred Stock so converted shall promptly surrender to the Issuer or the Transfer Agent certificates representing the shares so converted (if not previously delivered), duly endorsed in blank or accompanied by proper instruments of transfer.

(iii) On any Conversion Date, all rights with respect to the shares of Preferred Stock so converted, including the rights, if any, to receive notices, will terminate, except the rights of Holders thereof to: (1) receive certificates for the number of shares of Common Stock into which such shares of Preferred Stock have been converted; (2) receive the payment in cash or shares of Common Stock of any accumulated and unpaid dividends accrued thereon pursuant to Section 4.2 hereof; and (3) exercise the rights to which they are entitled as Holders of Common Stock.

(c) If the Conversion Date shall not be a Business Day, then such conversion right shall be deemed exercised on the next Business Day.

(d) When shares of Preferred Stock are converted pursuant to this Section 4.1, all accumulated and unpaid dividends, including dividends payable on the Conversion Date pursuant to Section 2.2, or liquidated damages (whether or not in arrears or currently payable) on the Preferred Stock so converted to (and not including) the Conversion Date shall immediately be due and payable, at the Issuer's option:

- (i) in cash;
- (ii) by delivery of the Issuer's Common Stock; or
- (iii) a combination thereof.

4.2 The Conversion Price shall be subject to adjustment from time to time as follows:

(a) *Stock Splits and Combinations.* In case the Issuer shall at any

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time or from time to time after the Issuance Date (i) subdivide or split the outstanding shares of Common Stock, (ii) combine or reclassify the outstanding shares of Common Stock into a smaller number of shares or (iii) issue by reclassification of the shares of Common Stock any shares of capital stock of the Issuer, then, and in each such case, the Conversion Price in effect immediately prior to such event or the record date therefor, whichever is earlier, shall be adjusted so that the holder of any shares of Preferred Stock thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock or other securities of the Issuer which such holder would have owned or have been entitled to receive after the occurrence of any of the events described above, had such shares of Preferred Stock been surrendered for conversion immediately prior to the occurrence of such event or the record date therefor, whichever is earlier. An adjustment made pursuant to this subparagraph (a) shall become effective at the close of business on the day upon which such corporate action becomes effective. Such adjustment shall be made successively whenever any event listed above shall occur.

(b) *Stock Dividends in Common Stock.* In case the Issuer shall at any time or from time to time after the Issuance Date pay a dividend or make a distribution in shares of Common Stock on any class of capital stock of the Issuer other than dividends or distributions of

shares of Common Stock or other securities with respect to which adjustments are provided in paragraph (a) above, the Conversion Price shall be adjusted so that the holder of each share of Preferred Stock shall be entitled to receive upon conversion thereof the number of shares of Common Stock determined by multiplying (1) the applicable Conversion Price by (2) a fraction, the numerator of which shall be the number of shares of Common Stock theretofore outstanding and the denominator of which shall be the sum of such number of shares and the total number of shares issued in such dividend or distribution.

(c) Issuance of Rights or Warrants. In case the Issuer shall issue

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to all holders of Common Stock rights or warrants entitling such holders to subscribe for or purchase Common Stock at a price per share less than the Current Market Price, the Conversion Price in effect immediately prior to the close of business on the record date fixed for determination of shareholders entitled to receive such rights or warrants shall be reduced by multiplying such Conversion Price by a fraction, the numerator of which is the sum of the number of shares of Common Stock outstanding at the close of business on such record date and the number of shares of Common Stock that the aggregate offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such Current Market Price, and the denominator of which is the sum of the number of shares of Common Stock outstanding at the close of business on such record date and the number of additional shares of Common Stock so offered for subscription or purchase. For purposes of this subparagraph (c), the issuance of rights or warrants to subscribe for or purchase securities convertible into Common Stock shall be deemed to be the issuance of rights or warrants to purchase the Common Stock into which such securities are convertible at an aggregate offering price equal to the sum of the aggregate offering price of such securities and the minimum aggregate amount (if any) payable upon conversion of such securities into Common Stock. Such adjustment shall be made successively whenever any such event shall occur.

(d) Distribution of Indebtedness, Securities or Assets. In case the

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Issuer shall distribute to all holders of Common Stock (whether by dividend or in a merger, amalgamation or consolidation or otherwise) evidences of indebtedness, shares of capital stock of any class or series, other securities, cash or assets (other than Common Stock, rights or warrants referred to in subparagraph (c) above or a dividend payable exclusively in cash and other than as a result of a Fundamental Change), the Conversion Price in effect immediately prior to the close of business on the record date fixed for determination of shareholders entitled to receive such distribution shall be reduced by multiplying such Conversion Price by a fraction, the numerator of which is the Current Market Price on such record date less the fair market value (as determined by the Board of Directors of the Issuer, whose determination in good faith shall be conclusive) of the portion of such evidences of indebtedness, shares of capital stock, other securities, cash and assets so distributed applicable to one share of Common Stock and the denominator of which is the Current Market Price. Such adjustment shall be made successively whenever any such event shall occur.

(e) Fundamental Changes. In case of any Fundamental Change, the

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holder of each share of Preferred Stock outstanding immediately prior to the occurrence of such Fundamental Change shall have the right upon any subsequent conversion to receive (but only out of legally available funds of the Issuer, to the extent required by applicable law) the kind and

amount of stock, other securities, cash and assets that such holder would have received if such share had been converted immediately prior thereto.

(f) Anything in the above sections (a)-(e) to the contrary notwithstanding, the Issuer shall not be required to give effect to any adjustment in the Conversion Price unless and until the net effect of one or more adjustments (each of which shall be carried forward until counted toward adjustment), determined as above provided, shall have resulted in a change of the Conversion Price by at least 1%, and when the cumulative net effect of more than one adjustment so determined shall be to change the Conversion Price by at least 1%, such change in the Conversion Price shall thereupon be given effect. In the event that, at any time as a result of the provisions of this Section, the holder of shares of Preferred Stock upon subsequent conversion shall become entitled to receive any shares of capital stock of the Issuer other than Common Stock, the number of such other shares so receivable upon conversion of shares of Preferred Stock shall thereafter be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions contained herein.

(g) There shall be no adjustment of the Conversion Price in case of the issuance of any stock of the Issuer in a merger, reorganization, acquisition, reclassification, recapitalization or other similar transaction except as set forth in the above paragraphs (a)-(e).

(h) In any case in which the above paragraphs (a)-(e) require that an adjustment as a result of any event become effective from and after a record date, the Issuer may elect to defer until after the occurrence of such event (i) issuing to the holder of any shares of Preferred Stock converted after such record date and before the occurrence of such event the additional shares of Common Stock issuable upon such conversion over and above the shares issuable on the basis of the Conversion Price in effect immediately prior to adjustment and (ii) paying to such holder any amount in cash in lieu of a fractional share of Common Stock.

(i) If the Issuer shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter and before the distribution to shareholders thereof legally abandon its plan to pay or deliver such dividend or distribution, then thereafter no adjustment in the number of shares of Common Stock issuable upon exercise of the right of conversion granted by the above paragraphs (a)-(e) or in the Conversion Price then in effect shall be required by reason of the taking of such record.

4.3 Upon a Change of Control, each Holder of Preferred Stock will have the option, during the period commencing on the date that the applicable notice of such Change of Control is mailed to Holders of Preferred Stock and ending on the close of business on the 45<sup>th</sup>/ day thereafter (the "Special Conversion Date") to convert all, but not less than all, of such Holder's shares of Preferred Stock into Common Stock at a conversion rate equal to the Liquidation Preference divided by the Special Conversion Price.

(a) Within fifteen days after a Change of Control, notice of such Change of Control shall be given by the Issuer by first-class mail to each record Holder of shares of Preferred Stock, at such Holder's address as the same appears on the books of the Issuer. Each such notice shall state: (i) that a Change of Control has occurred; (ii) the last day on which the Change of Control option may be exercised (the "Expiration Date"); (iii) the name and address of

the paying agent; and (iv) the procedures that Holders must follow to exercise the Change of Control option.

(b) On or before the Expiration Date, each Holder of shares of Preferred Stock wishing to exercise the Change of Control option shall surrender the certificate or certificates representing the shares of Preferred Stock to be converted, in the manner and at the place designated in the notice described in Section 4.3 and on such date the cash or shares of Common Stock due to such Holder shall be delivered to the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be returned to authorized but unissued shares. Upon surrender (in accordance with the notice described in Section 4.3(a)) of the certificate or certificates representing any shares to be so converted (properly endorsed or assigned for transfer, if the Issuer shall so require and the notice shall so state), such shares shall be converted by the Issuer at the Conversion Price as adjusted.

(c) Exercise by a holder of such holder's special conversion right following a change of control is irrevocable, except that a holder may withdraw its election to exercise such holder's special conversion right at any time prior to the close of business on the Special Conversion Date by delivering a written or facsimile transmission notice to the transfer agent at the address or facsimile number specified in the change of control notice. Such notice, to be effective, must be received by the transfer agent prior to the close of business on the Special Conversion Date. All shares of Preferred stock tendered for conversion pursuant to holders' special conversion rights as described herein and not withdrawn will be converted at the close of business on the Special Conversion Date.

4.4 If, as a result of any Conversion Price Adjustment Event, a Holder of the Preferred Stock becomes entitled to receive upon conversion shares of two or more classes of Capital Stock, the Issuer shall determine the reasonable allocation of the adjusted Conversion Price between the classes of Capital Stock. After such allocation, the Conversion Price of each class of Capital Stock shall thereafter be subject to adjustment on terms applicable to the Preferred Stock in this Article 4.

4.5 The Issuer shall at all times reserve and keep available for issuance upon the conversion of the Preferred Stock such number of its authorized but unissued shares of Common Stock as will from time to time be sufficient to permit the conversion of all outstanding shares of Preferred Stock, and shall take all action required to increase the authorized number of shares of Common Stock if at any time there shall be insufficient authorized unissued shares of Common Stock to permit such reservation or to permit the conversion of all outstanding shares of Preferred Stock.

4.6 The issuance or delivery of certificates for Common Stock upon the conversion of shares of Preferred Stock shall be made without charge to the converting Holder of shares of Preferred Stock for such certificates or for any tax in respect of the issuance or delivery of such certificates or the securities represented thereby, and such certificates shall be issued or delivered in the respective names of, or in such names as may be directed by, the Holders of the shares of Preferred Stock converted; provided, however, that the Issuer shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the Holder of the shares of Preferred Stock

converted, and the Issuer shall not be required to issue or deliver such certificate unless or until the Person or Persons requesting the issuance or delivery thereof shall have paid to the Issuer the amount of such tax or shall have established to the reasonable satisfaction of the Issuer that such tax has been paid.

5. Redemption of Preferred Stock

5.1 Optional Redemption of the Preferred Stock

(a) Shares of the Preferred Stock may not be required to be redeemed prior to February 3, 2003.

(b) On or after February 3, 2003, the Preferred Stock may be redeemed for cash, in whole or in part, at the option of the Issuer, at the following Redemption Prices per share (expressed as percentages of the Liquidation Preference), in each case, together with accumulated and unpaid dividends (including an amount equal to a prorated dividend for any partial dividend period), if any, to the Redemption Date, upon not less than 30 nor more than 60 days' prior written notice (the "Redemption Notice"), if redeemed during each period set forth below, commencing on each of the dates set forth below:

Date	Redemption Price Per Share
February 3, 2003.....	105.775%
February 2, 2004.....	104.950%
February 2, 2005.....	104.125%
February 2, 2006.....	103.300%
February 2, 2007.....	102.475%
February 2, 2008.....	101.650%
February 2, 2009.....	100.825%
February 2, 2010 and thereafter....	100.000%

(c) In the event that fewer than all the outstanding shares of the Preferred Stock are to be redeemed, the shares to be redeemed will be determined pro rata or by lot, as determined by the Issuer.

(d) From and after the applicable Redemption Date (unless the Issuer shall be in default of payment of the Redemption Price), dividends on the shares of the Preferred Stock to be redeemed on such Redemption Date shall cease to accumulate, such shares shall no longer be deemed to be outstanding, and all rights of the Holders thereof as stockholders of the Issuer (except the right to receive the Redemption Price and accumulated dividend amounts and liquidation penalties, if any through the Redemption Date) will cease.

(e) No such optional redemption may be authorized or made unless, prior to giving the applicable Redemption Notice, all accumulated and unpaid dividends for periods ended prior to the date of such Redemption Notice shall have been paid in cash or Common Stock.

5.2 (a) In the event the Issuer shall elect to redeem shares of the Preferred Stock pursuant to Section 5.1 hereof:

(i) The Issuer must make a public announcement of the redemption and provide the Holders with the Redemption Notice referred to in Section 5.1(b) not fewer than 30 days nor more than 60 days' prior to the Redemption Date.

(ii) On or before any Redemption Date, each Holder of shares of Preferred Stock to be redeemed shall surrender the certificate or certificates representing such shares of Preferred Stock (properly endorsed or assigned, or transferred, if the Issuer shall so require and the Redemption Notice shall so state) to the Issuer or the Redemption Agent (if appointed) in the manner and at the place designated in the Redemption Notice.

(iii) On the Redemption Date, the Issuer or the Redemption Agent, as applicable, shall pay or deliver to the Holder whose name appears on such certificate or certificates as the owner thereof, the full Redemption Price due such Holder in cash, in fully paid and nonassessable shares of Common Stock or in a combination thereof.

(iv) The shares represented by each certificate to be surrendered shall be automatically (and without any further action of the Issuer or the Holder) canceled as of the Redemption Date whether or not certificates for such shares are returned to the Issuer and returned to authorized but unissued shares of preferred stock of no series.

(v) If fewer than all the shares represented by any such certificate are to be redeemed, a new certificate shall be issued representing the unredeemed shares, without cost to the Holder, together with the amount of cash, if any, in lieu of fractional shares.

(b) If a Redemption Notice shall have been given as provided in Section 5.1, all rights of the Holders thereof as stockholders of the Issuer with respect to shares so called for redemption (except for the right to receive from the Issuer the Redemption Price) shall cease either (i) from and after the Redemption Date (unless the Issuer shall default in the payment of the Redemption Price, in which case such rights shall not terminate at the Redemption Date) or (ii) if the Issuer shall so elect and state in the Redemption Notice, from and after the time and date (which date shall be the Redemption Date or an earlier date not less than 20 days after the date of mailing of the Redemption Notice) on which the Issuer shall irrevocably deposit in trust for the Holders of the shares to be redeemed with a designated Redemption Agent as paying agent sufficient to pay at the office of such paying agent, on the Redemption Date, the Redemption Price. Any money or shares of Common Stock so deposited with such Redemption Agent which shall not be required for such redemption shall be returned to the Issuer forthwith. Subject to applicable escheat laws, any moneys or shares of Common Stock so set aside by the Issuer and unclaimed at the end of one year from the Redemption Date shall revert to the general funds of the Issuer, after which reversion the Holders of such shares so called for redemption shall look only to the general funds of the Issuer for the payment of the Redemption Price without interest. Any interest accrued on funds held by the Redemption Agent shall be paid to the Issuer from time to time.

(c) In the event that fewer than all the outstanding shares of the Preferred Stock are to be redeemed, the shares to be redeemed shall be determined pro rata or by lot, as determined by the Issuer, except that the Issuer may redeem such shares held by any Holder of fewer than 100 shares (or shares held by Holders who would hold fewer than 100 shares as a result of such redemption), as may be determined by the Issuer.

### 5.3 Mandatory Redemption of Preferred Stock

(a) The Issuer will redeem all shares of Preferred Stock on February 1, 2012, at a Mandatory Redemption Price equaling 100% of the Liquidation Preference, together with any accumulated and unpaid dividends to the date of Mandatory Redemption, unless the Preferred Stock has already been redeemed or converted. The Issuer shall send notice of such redemption to Holders upon not less than 30 nor more than 60 days' prior written notice.

(b) The Issuer must make mandatory redemption payments on the Preferred Stock by delivery of shares of Common Stock and makes such payments as follows:

(i) If on the date of such payment, such shares of Common Stock are freely tradable, such shares of Common Stock shall be valued at 95% of Average Market Value.

(ii) If on the date of such payment, such shares of Common Stock are not freely tradable, such shares of Common Stock shall be valued at 90% of Average Market Value.

(c) If, as a matter of law, the Issuer is unable to issue Common Stock in payment of the Mandatory Redemption Price, then the Issuer shall cause the Preferred Stock to be converted on the date of such mandatory redemption into the same number of shares of Common Stock as could otherwise have been issued in satisfaction of the Mandatory Redemption Price, provided that the Issuer shall have given the Holders of Preferred Stock notice of the exercise of this option at least 30 days prior to the date of such mandatory redemption.

(d) The Issuer shall pay a Cash Adjustment, determined based on the proceeds received by the Transfer Agent from the sale of that number of shares of Common Stock, which the Issuer will deliver to the Transfer Agent for such purpose, equal to the aggregate of all such fractions rounded up to the nearest whole share, to each Holder that would otherwise be entitled to a fraction of a share of Common Stock.

(i) The Transfer Agent shall sell such shares of Common Stock at the best available prices and distribute the proceeds to the Holders in proportion to their respective interests therein.

(ii) The Issuer will pay the expenses of the Transfer Agent with respect to such sale, including brokerage commissions. Any portion of any such payment that is declared and not paid through the delivery of shares of Common Stock will be paid in cash. The Issuer shall make a public announcement no later than the close of business on the tenth business day prior to the record date for each dividend as to whether the Issuer

will pay such dividend and, if so, the form of consideration the Issuer will use to make such payment.

6. Liquidation Preference

6.1 Upon any voluntary or involuntary liquidation, dissolution or winding up of the Issuer or reduction or decrease in its capital stock resulting in a distribution of assets to the holders of any class or series of the Issuer's capital stock, Holders of the Preferred Stock will be entitled to be paid, out of assets of the Issuer available for distribution, the Liquidation Preference per share plus an amount in cash equal to all accumulated and unpaid dividends thereon to the date fixed for liquidation, dissolution or winding up (including an amount equal to a prorated dividend for the period from the last dividend payment date to the date fixed for liquidation, dissolution or winding up), before any distribution is made on any Junior Securities, including, without limitation, the Common Stock.

6.2 If, upon any voluntary liquidation, dissolution or winding-up of the Issuer, the amounts payable with respect to the liquidation performance of the Preferred Stock and all other Parity Securities are not paid in full, the Holders of the Preferred Stock and the Parity Securities will share pro rata in proportion to the full distribution to which each is entitled.

6.3 After payment of the full amount of the Liquidation Preference to which they are entitled, the Holders of shares of the Preferred Stock will have no right or claim to any of the remaining assets of the Issuer.

6.4 Neither the voluntary sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or assets of the Issuer nor the consolidation or merger of the Issuer with or into one or more entities will be deemed to be a voluntary or involuntary liquidation, dissolution or winding-up of the Issuer or reduction or decrease in capital stock, unless such sale, conveyance, exchange or transfer shall be in connection with a liquidation, dissolution or winding-up of the business of the Issuer or reduction or decrease in capital stock.

7. Voting Rights

7.1 Holders of the Preferred Stock have no voting rights with respect to general corporate matters except as provided by law or as set forth herein.

7.2 Special Voting Rights

(a) If dividends payable on the Preferred Stock are in arrears and unpaid for six quarterly periods, whether or not consecutive, the Holders of a majority of the outstanding Preferred Stock voting separately as a class with the shares of any other subsequently issued Parity Securities then titled to similar voting rights (the "Voting Rights Class") will be entitled at the next regular or special meeting of stockholders of the Issuer to elect such number of members to the board of directors constituting at least 20% of the then existing board of directors before such election, rounded to the nearest whole number, provided, however, that such number shall be no less than one nor greater than two, and the number of members of the board of directors will be immediately and automatically increased by one or two, as the case may be.

(b) Such voting rights may be exercised at a special meeting of the holders of the shares of the Voting Rights Class, called as hereinafter provided, or at any annual meeting of stockholders held for the purpose of electing directors, and thereafter at each such annual meeting until such time as all dividends in arrears on the shares of Preferred Stock shall have been paid in full, at which time or times such voting rights and the term of the directors elected pursuant to Section 7.2(a) shall terminate and such directors shall be deemed to have resigned.

(c) At any time when such voting rights shall have vested in holders of shares of the Voting Rights Class described in Section 7.2(a), a proper officer of the Issuer may call, and, upon the written request of the record holders of shares representing twenty-five percent (25%) of the voting power of the shares then outstanding of the Voting Rights Class addressed to the Secretary of the Issuer, shall call a special meeting of the holders of shares of the Voting Rights Class. Such meeting shall be held at the earliest practicable date upon the notice required for annual meetings of stockholders at the place for holding annual meetings of stockholders of the Issuer, or, if none, at a place designated by the Board of Directors. Notwithstanding the provisions of this Section 7.2(c), no such special meeting shall be called during a period within the 60 days immediately preceding the date fixed for the next annual meeting of stockholders, in which such case the election of directors pursuant to Section 7.2(a) shall be held at such annual meeting of stockholders.

(d) At any meeting held for the purpose of electing directors at which the holders of the Voting Rights Class shall have the right to elect directors as provided herein, the presence in person or by proxy of the holders of shares representing more than fifty percent (50%) in voting power of the then outstanding shares of the Voting Rights Class shall be required and shall be sufficient to constitute a quorum of such class for the election of directors by such class.

(e) Any director elected pursuant to the voting rights created under this Section 7.2 shall hold office until the next annual meeting of stockholders (unless such term has previously terminated pursuant to Section 7.2(b)) and any vacancy in respect of any such director shall be filled only by vote of the remaining director so elected by holders of the Voting Rights Class, or if there be no such remaining director, by the holders of shares of the Voting Rights Class at a special meeting called in accordance with the procedures set forth in this Section 7.2, or, if no such special meeting is called, at the next annual meeting of stockholders. Upon any termination of such voting rights, the term of office of all directors elected pursuant to this Section 7 shall terminate and such directors shall be deemed to have resigned.

7.3 The affirmative vote or consent of the Holders of at least 50% of the outstanding Preferred Stock will be required for the issuance of any class of Senior Securities (or security convertible into Senior Securities or evidencing a right to purchase any shares or any class or series of Senior Securities), and amendments to this Certificate of Designation that would affect adversely the rights of Holders of Preferred Stock or authorize the issuance of any additional shares of Preferred Stock.

7.4 The affirmative vote or consent of the Holders of at least 66 2/3% of the outstanding Preferred Stock will be required for amendments to the Change of Control

provisions in this certificate. In all such cases each share of Preferred Stock shall be entitled to one vote.

7.5 Except as set forth in this Certificate of Designation, the creation, authorization or issuance of any shares of Junior Securities or Parity Securities or an increase or decrease in the amount of authorized Capital Stock of any class, including any preferred stock, shall not require the consent of the Holders of the Preferred Stock and shall not be deemed to affect adversely the rights, preferences, privileges or voting rights of Holders of shares of the Preferred Stock.

7.6 The consent of the Holders of Preferred Stock shall not be required to authorize (by way of reclassification or otherwise) or issue any Parity Securities or any obligation or security convertible into or exchangeable into or evidencing a right to purchase shares of any class or series of Parity Securities.

#### 8. Merger, Consolidation and Sale of Assets

8.1 Without the vote or consent of the Holders of at least 50% of the then outstanding shares of Preferred Stock, the Issuer may not consolidate or merge with or into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its assets to, any person unless (a) the entity formed by such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made (in any such case, the "resulting entity") is a corporation organized and existing under the laws of the United States or any State thereof or the District of Columbia; (b) if the Issuer is not the resulting entity, the Preferred Stock is converted into or exchanged for and becomes shares of such resulting entity, having in respect of such resulting entity the same (or more favorable) powers, preferences and relative, participating, optional or other special rights thereof that the Preferred Stock had immediately prior to such transaction; and (c) immediately after giving effect to such transaction, no dividend arrearages which trigger voting rights have occurred and are continuing. The resulting entity of such transaction shall thereafter be deemed to be the issuer of the Preferred Stock or securities into which it is converted for all purposes of this Certificate of Designation.

#### 9. Amendment, Supplement and Waiver

9.1 Without the consent of any Holder of the Preferred Stock, subject to the requirements of the Delaware General Corporation Law, the Issuer may amend or supplement this Certificate of Designation to cure any ambiguity, defect or inconsistency, to provide for uncertificated Preferred Stock in addition to or in place of certificated Preferred Stock, to provide for the assumption of the Issuer's obligations to Holders of the Preferred Stock in the case of a merger or consolidation, to make any change that would provide any additional rights or benefits to the Holders of the Preferred Stock or that does not adversely affect the legal rights under this Certificate of Designation of any such Holder.

#### 10. Certain Definitions

Set forth below are certain defined terms used in this Certificate of Designation.

10.1 "Act" means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

10.2 "Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement of or otherwise.

10.3 "Average Market Value" of Common Stock means the arithmetic average of the current market value of the Common Stock for the ten trading days ending on the fifth business day prior to (a) in the case of the payment of any dividend, the record date for such dividend and (b) in the case of the mandatory redemption payment, the date of such payment.

10.4 "Business Day" means any day other than a Legal Holiday.

10.5 "Capital Stock" means any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock or partnership or membership interests, whether common or preferred.

10.6 "Cash Adjustment" will be determined based on the proceeds received by the Transfer Agent from the sale of that number of shares of Common Stock, which the Issuer will deliver to the Transfer Agent for such purpose, equal to the aggregate of all such fractions rounded up to the nearest whole share.

10.7 "Closing Price" with respect to the Common Stock on any trading day, means the last reported regular-way sale price of the Common Stock on the NYSE, or if the Common Stock is not then listed on the NYSE, the last reported regular-way sale price of the Common Stock on the principal stock exchange or market of the Nasdaq Stock Market on which the Common Stock is then listed or traded, or if the Common Stock is not then listed or traded on any such stock exchange or market, the average of the closing bid and asked prices in the over-the-counter market as furnished by any NYSE member firm selected from time to time by the Issuer for that purpose.

10.8 "Change of Control" means: (a) the sale, lease, transfer, conveyance or other disposition of all or substantially all of the assets of the Issuer to any "person" or "group" (within the meaning of Sections 13(d)(3) and 14(d)(2) of the Exchange Act or any successor provision to either of the foregoing, including any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in one transaction or a series of related transactions, other than a Permitted Owner or (b) the acquisition of beneficial ownership of shares of the Issuer's Capital Stock by any "person" or "group" (within a meaning of Sections 13(d)(3) and 14(d)(2) of the Exchange Act or any successor provision to either of the foregoing, including any group acting for the purpose of acquiring, holding or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other a Permitted Owner, by means of an exchange offer, liquidation, tender offer, consolidation,

merger, combination, reclassification, recapitalization or otherwise of more than fifty percent (50%) of the total voting power of all classes of the Voting Stock of the Issuer or a successor and/or warrants or options to acquire such Voting Stock, entitled to vote generally in elections of the Issuer's board of directors.

Notwithstanding clause (b) above, a merger or consolidation that would otherwise constitute a Change of Control hereunder shall not constitute a Change of Control if (i) the closing price per share of Common Stock for any five trading days within the period of ten consecutive trading days ending immediately after the announcement of such change of control equals or exceeds 105% of the conversion price of the Preferred Stock in effect on each such trading day or (ii) at least 90% of the consideration in the transaction or transactions constituting a change of control pursuant to this clause consists of shares of Common Stock traded or to be traded immediately following such change of control on a national securities exchange or the Nasdaq National Market and, as a result of such transaction or transactions, the Preferred Stock becomes convertible solely into such Common Stock (and any rights attached thereto).

However, a transaction of a type described above that results in the Common Stock no longer being listed on a stock exchange or traded on the Nasdaq National Market would also be treated as a change in control even if a Permitted Owner were involved.

10.9 "Common Stock" means the Issuer's authorized \$.01 par value Class A Common Stock.

10.10 "Conversion Date" means the date the Issuer or the Transfer Agent receives the Conversion Notice.

10.11 "Conversion Notice" means written notice from the Holder to the Issuer stating that the Holder elects to convert all or a portion of the shares of Preferred Stock represented by certificates delivered to the Issuer or the Transfer Agent contemporaneously. The Conversion Notice will specify or include:

- (i) The number of shares of Preferred Stock being converted by the Holder,
- (ii) The name or names (with address and taxpayer identification number) in which a certificate or certificates for shares of Common Stock are to be issued,
- (iii) A written instrument or instruments of transfer in form reasonably satisfactory to the Issuer or the Transfer Agent, duly executed by the Holder or its duly authorized legal representative, or in blank, and
- (iv) Transfer tax stamps or funds thereof, if required pursuant to Section 4.6.

10.12 "Conversion Price" shall initially be \$40.

10.13 "Conversion Price Adjustment Events" are any of those events specified in Section 4.2.

10.14 "Current Market Price" means, as of any date, the average of the daily Closing Price for the five consecutive Trading Days selected by the Board of Directors beginning not more than 20 trading days before, and ending not later than the date of the applicable event described in Section 4.2(c) or 4.2(d) hereof and the date immediately preceding the record date fixed in connection with that event.

10.15 "Current Market Value" of Common Stock means the average of the high and low sale prices of the Common Stock as reported on the Nasdaq National Market or such other SEC-recognized national securities exchange or trading system which the Issuer may from time to time designate upon which the greatest number of shares of the Common Stock is then listed or traded, for the trading day in question.

10.16 "Dividend Payment Date" is as defined in Section 2.1, above.

10.17 "Dividend Payment Record Date" is as defined in Section 2.1, above.

10.18 "Exchange Act" means the Securities Exchange Act of 1934, as amended.

10.19 "Expiration Date" is as defined in Section 4.4(a)(i), above.

10.20 "Fundamental Change" means any transaction or event, including, without limitation, any merger, consolidation, sale of assets, tender or exchange offer, reclassification, compulsory share exchange or liquidation, in which all or substantially all outstanding shares of the Issuer's Common Stock are converted into or exchanged for stock, other securities, cash or assets.

10.21 "Holder" means a Person in whose name shares of Capital Stock is registered.

10.22 "Issuance Date" is as defined in Section 2.1

10.23 "Issuer" means XM Satellite Radio Holdings Inc., a Delaware corporation.

10.24 "Junior Security" is as defined in Section 3.1, above.

10.25 "Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place payment is to be received are authorized by law, regulation or executive order to remain closed. If a payment date is Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

10.26 "Liquidation Preference" means \$50 per share of Preferred Stock.

10.27 "Mandatory Redemption Price" is as defined in Section 5.4(a), above

10.28 "Market Capitalization" means the product of the then-current market price times the total number of shares of Common Stock then outstanding.

10.29 "Market Value" means the average of the Closing Prices of the Common Stock for the five trading days ending on the last trading day preceding the date of occurrence of a Change of Control.

10.30 "Notice Date" means the tenth day prior to a Deposit Payment Date.

10.31 "Parity Security" is as defined in Section 3.1, above.

10.32 "Permitted Owner" means American Mobile Satellite Corporation, General Motors Corporation, DIRECTV and Clear Channel Communications, Inc. and their respective affiliates.

10.33 "Person" means any individual, corporation, partnership, joint venture, association, joint-stock issuer, interest, trust or unincorporated organization (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

10.34 "Preferred Stock" means the Preferred Stock authorized in this Certificate of Designation.

10.35 "Redemption Agent" means that Person, if any, appointed by the Issuer to hold funds deposited by the Issuer in trust to pay to the Holders of shares to be redeemed.

10.36 "Redemption Date" means that certain date set forth in the Redemption Notice on which date the redemption of the Preferred Stock is completed.

10.37 "Redemption Notice" means that notice to be given by the Issuer to the Holders notifying the Holders as to the redemption, in whole or in part, of the Preferred Stock pursuant to Article 5 hereof. The Redemption Notice shall include the following information: (i) the Redemption Date and the time of day on such date; (ii) the total number of shares of Preferred Stock to be redeemed and, if fewer than all the shares held by such Holder are to be redeemed, the number of such shares to be redeemed from such Holder; (iii) the Redemption Price (whether to be paid in cash or shares of Common Stock); (iv) the place or places where certificates for such shares are to be surrendered for payment of the Redemption Price and delivery of certificates representing shares of Common Stock (if the Issuer so chooses); (v) that dividends on the shares to be redeemed will cease to accrue on such Redemption Date unless the Issuer defaults in the payment of the Redemption Price; and (vi) the name of any bank or trust company, if any, performing the duties of Redemption Agent. Redemption Notice shall be given by first-class mail to each record Holder of the shares to be redeemed, at such holder's address as the same appears on the books of the Issuer.

10.38 "Redemption Notice Date" means the date the Redemption Notice is first mailed or delivered to any Holder.

10.39 "Redemption Price" means that price established for redemption of the Preferred Stock established in Section 5.1(b) hereof.

10.40 "Special Conversion Date" is as defined in Section 4.3, above.

10.41 "Special Conversion Price" is the higher of (a) the Market Value of the Common Stock and (b) \$21.3333 per share, which amount, in the case of this clause (b), shall be adjusted each time that the conversion price is adjusted so that the ratio of such amount (as so adjusted) to the conversion price (as so adjusted) equals the ratio of \$21.3333 to the initial conversion price.

10.42 "Subsidiary" means, with respect to any person, any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such person or one or more of the other Subsidiaries of such person or a combination thereof.

10.43 The "Transfer Agent" shall be as established pursuant to Article 11 hereof.

10.44 "Trading Day" means any business day on which the Nasdaq National Stock Market (or any U.S. national securities exchange or quotation system on which the Common Stock is then listed) is open for the transaction of business.

10.45 "Voting Stock" means with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

#### 11. Transfer Agent and Registrar

The duly appointed Transfer Agent and registrar for the Preferred Stock shall be BankBoston, N.A. The Issuer may, in its sole discretion, remove the Transfer Agent in accordance with the agreement between the Issuer and the Transfer Agent; provided that the Issuer shall appoint a successor transfer agent who shall accept such appointment prior to the effectiveness of such removal.

#### 12. Other Provisions

12.1 With respect to any notice to a Holder of shares of the Preferred Stock required to be provided hereunder, neither failure to mail such notice, nor any defect therein or in the mailing thereof, to any particular Holder shall affect the sufficiency of the notice or the validity of the proceedings referred to in such notice with respect to the other Holders or affect the legality or validity of any distribution, rights, warrant, reclassification, consolidation, merger, conveyance, transfer, dissolution, liquidation or winding up, or the vote upon any such action. Any notice which was mailed in the manner herein provided shall be conclusively presumed to have been duly given whether or not the Holder receives the notice.

12.2 Shares of Preferred Stock issued and reacquired will be retired and canceled promptly after reacquisition thereof and, upon compliance with the applicable requirements of Delaware law, have the status of authorized but unissued shares of preferred stock of the Issuer undesignated as to series and may with any and all other authorized but unissued shares of preferred stock of the Issuer be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Issuer except that any issuance or reissuance of shares of Preferred Stock must be in compliance with this Certificate of Designation.

12.3 In the Issuer's discretion, no fractional shares of Common Stock or securities representing fractional shares of Common Stock will be issued upon conversion, redemption, or as dividends payable in the Preferred Stock. Any fractional interest in a share of Common Stock resulting from conversion, redemption, or dividend payment will be paid in cash based on the last reported sale price of the Common Stock on the Nasdaq National Stock Market (or any national securities exchange or authorized quotation system on which the Common Stock is then listed) at the close of business on the trading day next preceding the date of conversion or such later time as the Issuer is legally and contractually able to pay for such fractional shares.

12.4 The shares of Preferred Stock shall be issuable in whole shares.

12.5 All notices periods referred to herein shall commence on the date of the mailing of the applicable notice.

IN WITNESS WHEREOF, XM Satellite Radio Holdings Inc. caused this Certificate to be signed this 25/th/ day of January, 2000.

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph M. Titlebaum

Name: Joseph M. Titlebaum  
Title: Senior Vice President, General  
Counsel and Secretary

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EXHIBIT 10.28

CONFIDENTIAL

\*\*\*\* Confidential treatment has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONTRACT FOR THE DESIGN, DEVELOPMENT AND PURCHASE  
OF TERRESTRIAL REPEATER EQUIPMENT

By and Between

XM SATELLITE RADIO INC.

and

HUGHES ELECTRONICS CORPORATION

CONFIDENTIALITY NOTICE  
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This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

CONFIDENTIAL

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CONFIDENTIAL

CONTRACT  
FOR THE DESIGN, DEVELOPMENT AND PURCHASE  
OF TERRESTRIAL REPEATER EQUIPMENT

By and Between

XM SATELLITE RADIO INC.

and

HUGHES ELECTRONICS CORPORATION

TERMS AND CONDITIONS

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CONTRACT FOR THE DESIGN, DEVELOPMENT AND PURCHASE OF  
TERRESTRIAL REPEATER EQUIPMENT

THIS CONTRACT FOR THE DESIGN, DEVELOPMENT AND PURCHASE OF TERRESTRIAL REPEATER EQUIPMENT (the "Contract") is made this 14th day of February 2000 (the "Execution Date") by and between XM SATELLITE RADIO INC. ("Customer"), a Delaware corporation with offices located at 1250 23rd Street, N.W., Suite 57, Washington, D.C. 20037, and HUGHES ELECTRONICS CORPORATION, a Delaware corporation by and through its division, Hughes Network Systems ("Contractor"), having a place of business at 10450 Pacific Center Ct., San Diego, CA 92121. As used in this Contract, "Party" means either Customer or Contractor and "Parties" means Customer and Contractor.

WHEREAS, Customer is implementing a satellite system designed to provide digital audio radio services to the continental United States; and

WHEREAS, Customer anticipates providing the business referred to above through two (2) geostationary satellites, a network of terrestrial repeaters located in various cities within the continental United States and end-user receivers; and

WHEREAS, Contractor has represented that it (together with its Subcontractors) is qualified to design, develop, engineer, manufacture, and deliver the terrestrial repeaters required for such networks and has the necessary skill and experience to perform such other services as described in this Contract in a cost-effective, professional and timely manner; and

WHEREAS, the Parties have reached agreement on the terms and conditions of procurement by Customer from Contractor of the design, development, engineering, and manufacturing services related to the terrestrial repeaters and to the other services and activities as set forth and further defined in this Contract.

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the Parties, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1 Certain Definitions.

(a) "Acceptance" means, with respect to any item to be delivered hereunder, written notification from Customer to Contractor stating that such item has satisfied the testing and acceptance criteria applicable to that item in accordance with Article 8 (Testing Criteria and Acceptance).

(b) "Affiliate" means, with respect to an entity, any other entity Controlling or Controlled by or under common Control with such entity.

(c) "Amendment to this Contract" or "Amendment" means a written agreement modifying the terms of this Contract executed in accordance with Article 28.3 (Amendments).

(d) "Approval" means written approval. This term is as defined, whether or not capitalized in this Contract.

(e) "Associates" means, with respect to an entity, its directors, officers, employees agents, consultants, and assigns.

(f) "Background Intellectual Property Rights" means all Intellectual Property Rights in or to the Work that came into existence prior to and/or apart from this Contract.

(g) "Business Day" means any day other than the following: a Saturday, Sunday, and any other day on which national banks are authorized to be closed in New York City, New York.

(h) "Calendar Day" means any day.

(i) "Change Directive" means a written directive executed by Customer directing Contractor to proceed with a change in the Work pending final determination of the appropriate change, if any, in the Contract Price and/or any applicable delivery dates hereunder.

(j) "Change Order" means a written document, executed by both Customer and Contractor, setting forth a change in the Work and agreement between Customer and Contractor as to the change in the Contract Price and/or any applicable delivery dates hereunder associated with such change in the Work.

(k) "Confidential Information" means all information, of any nature and in any form, whether written, oral or recorded or transmitted electronically or by tape or other similar manner, regarding the business, finances, operations, prospects, plans, or affairs of the Furnishing Party (including its Affiliates, Subcontractors, or Consultants), and all data, processes, materials, and software in source code and object code form, related documentation, and other technical data that is confidential and embodies trade secrets or other proprietary information of the Furnishing Party, which information is designated in writing by the Furnishing Party as confidential; provided, however, that if disclosed orally, such information must be confirmed and designated in writing in summary form as confidential within five (5) Business Days of the time at which oral disclosure took place. This Contract is deemed Confidential Information of each Party.

(l) "Consultant" means a person or organization retained by Customer to provide Customer with technical advice and related services and identified by Customer to Contractor.

(m) "Contract" means the written instrument herein dated the day and year first written above, including any Amendments made pursuant to Article 28.3 (Amendments), and Change Orders made pursuant to Article 10 (Changes in Scope of Work), embodying the agreement between Contractor and Customer and including the Terms and Conditions, attachments and Exhibits (and attachments thereto), annexed hereto and made a part of this Contract.

(n) "Contractor Facility" means each facility at or from which Contractor or its Subcontractors perform the Work.

(o) "Control" and its derivatives mean, with respect to an entity, the legal, beneficial, or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or

other ownership interest if not a corporation) of such entity ordinarily having voting rights or the power to direct the management policies of such entity, whether through the ownership of voting stock, by contract, or otherwise.

(p) "Correction Plan" means a plan submitted by Contractor that details the means by which Contractor shall correct a failure to perform any material duty or obligation under this Contract

(q) "Customer Competitor" means any existing or future Satellite Digital Radio Services (SDARS) licensee, including CD Radio. "Customer Competitor" shall not include Contractor, Contractor's Affiliates or WorldSpace Satellite Company (to the extent Customer sublicenses the Foreground Intellectual Property Rights to WorldSpace).

(r) "Customer's Designated Representative" means Jack Wormington, Senior Vice President of Engineering and Operations, or his successor or designee in writing.

(s) "Customer Personnel" means Customer's employees, Consultants or representatives, or Customer's Consultants' employees.

(t) "Data and Documentation" means that data and documentation to be supplied by Contractor pursuant to the requirements of Exhibit B (Statement of Work).

(u) "Defect" and its derivatives (such as "defective") means any failure of any Repeater, the Network Management System or other deliverable item to operate in conformance with its applicable specifications as set forth in Exhibit A (Design Specifications) or in accordance with its applicable acceptance criteria as set forth in Article 8 (Testing Criteria and Acceptance). This term is as defined, whether or not capitalized in this Contract.

(v) "Delivery Requirements" means the delivery requirements for the Repeaters and other deliverables set forth in Exhibit D (Delivery Requirements and Schedule).

(w) "Detailed Delivery Schedule" means the detailed schedule for delivery of the Repeaters and other deliverables as may be set forth in Exhibit D (Delivery Requirements and Schedule)

(x) "Effective Date" or "EDC" has the meaning set forth in Article 4.1 (Effective Date of Contract and Conditions Precedent)

(y) "Enclosure Kit" means, in the case of Standard Repeaters, the Repeater enclosure with all equipment contained therein, the enclosure door with air conditioning unit and the plinth (the enclosure and enclosure door with air conditioning unit to be shipped in separate containers for a total of two (2) containers) and the plinths to be shipped, at Contractor's option, in a separate container or in bulk), and, in the case of High-Power Repeaters, the Repeater enclosure, including controller rack, coupler, transmit filter and all other equipment contained therein.

(z) "Escrowed Materials" has the meaning set forth in Article 13 (Technical Materials Escrow).

(aa) "Excusable Delay" has the meaning set forth in Article 7.9 (Excusable Delay Defined).

(bb) "Execution Date" means the date first set forth above.

(cc) "Financing Agreements" means any and all documents and agreements executed in connection with the debt or equity financing to be obtained by Customer from Financing Entities to provide all or a substantial portion of the funds to finance the Work, and all security instruments, mortgages, assignments and related documentation executed or delivered to secure repayment of such financing.

(dd) "Financing Entity" means any financial institution, bank, corporation, partnership or other entity (other than Contractor, its Affiliates or competitors of Contractor or Affiliates of such competitors), providing all or a substantial portion of the debt or equity financing to Customer to provide funds to finance the Work and any insurance companies or financial institutions providing commercial credit insurance in support of such financing.

(ee) "Foreground Intellectual Property Rights" means all Intellectual Property Rights in or to the Work which are not Background Intellectual Property Rights (including those Intellectual Property Rights in and to the Work first conceived of or first reduced to practice in the performance, execution and/or completion of the Work).

(ff) "Furnishing Party" means the Party who furnishes Confidential Information to the other Party.

(gg) "High-Power Installation Testing" has the meaning set forth in Article 8.2 (Acceptance of Repeaters).

(hh) "High-Power Redundant Repeater" means a High-Power Repeater that utilizes an omni-directional antenna and has a back-up high-power amplifier (HPA), as further described in Exhibit A (Design Specifications).

(ii) "High-Power Repeater" means a terrestrial repeater that has an RF power of 2000 Watts evenly divided between two (2) MCM carriers, as further described in Exhibit A (Design Specifications). High-Power Repeater refers collectively to both High-Power Redundant Repeaters and High-Power Sectored Redundant Repeaters.

(jj) "High-Power Sectored Redundant Repeater" means a High Power Repeater that utilizes paneled/phased-array antennas typically in a 120 degree application (e.g., an installation consisting of three paneled/phased-array antennas) and has a redundant high-power amplifier (HPA), as further described in Exhibit A (Design Specifications).

(kk) "Including" and its derivatives (such as "include" and "includes") means including without limitation. This term is as defined, whether or not capitalized in this Contract.

(ll) "Installation Site" means a building rooftop or other site (e.g., antenna site) located in any of various cities throughout continental United States at which a Repeater is to be installed.

(mm) "Intellectual Property Rights" means any and all common law and statutory proprietary rights, including Patent Rights, Trademark Rights, Trade Secret Rights and Copyrights Rights (each term as defined below), existing from time to time under the intellectual property Laws of the United States, any state or foreign jurisdiction or international treaty regime. The term "Patent Rights" means any and all common law and statutory rights existing from time to time under the Laws of the United States, any state or foreign jurisdiction or international treaty regime with respect to patents, patent applications, and patent registrations. The term "Trademark Rights" means any and all common law and statutory rights existing from time to time under the Laws of the United States, any state or foreign jurisdiction or international treaty regime with respect to trademarks, service marks, trade names and trade dress. The term "Trade Secret Rights" means any and all common law and statutory rights existing from time to time under the Laws of the United States, any state or foreign jurisdiction or international treaty regime with respect to trade secrets and data rights. The term "Copyright Rights" means any and all common law and statutory rights existing from time to time under the Laws of the United States, any state or foreign jurisdiction or international treaty regime with respect to copyrights, mask work rights, moral rights and rights in visual works.

(nn) "Joint Intellectual Property Rights" means Foreground Intellectual Property Rights conceived or reduced to practice jointly by one or more employees or contractors of both Parties.

(oo) "Joint Inventions" means Joint Intellectual Property Rights for which patent protection may be sought.

(pp) "Jointly Owned" means, with respect to Joint Intellectual Property Rights, an equal, undivided interest in and to the Joint Intellectual Property Rights, as well as in and to patent applications and patents thereon in all countries, without any obligation of accounting to the other Party.

(qq) "Key Contractor Personnel" has the meaning set forth in Article 9.1 (Contractor Personnel).

(rr) "Key Tasks" has the meaning set forth in Article 24 (Default and Correction Plan).

(ss) "Klystron Kit" means two (2) Klystron power amplifier ("KPA") units.

(tt) "Law" or "Laws" means any and all laws, including rules, regulations, codes, injunctions, judgments, orders, ordinances, decrees, rulings, licenses, authorizations, approvals or consents and charges thereunder, of any federal, state, local or municipal government of any country (and all agencies thereof) having jurisdiction over any portion of the Work or the performance of any portion of the Work.

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\*\*\*\*\* Certain information on this page has been with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.  
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(uu) "Losses" means all losses, liabilities, damages, royalty payments and claims, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, expert fees, litigation, settlement, judgment, interest, and penalties).

(vv) "Lowest Replaceable Unit" or "LRU" means each and any of the individual block components composing each Repeater as specified in Exhibit A (Design Specifications) and Exhibit B (Statement of Work).

(ww) "Material Adverse Effect" means any material adverse change in (i) the legality, validity, or enforceability of this Contract or (ii) the ability of Customer or Contractor to perform this Contract.

(xx) "Material Subcontract" has the meaning set forth in Article 9.2 (Material Subcontractors).

(yy) "Milestone" means a portion of the definitive, measurable Work, which shall be completed in accordance with this Contract including Exhibit C (Pricing, Milestones and Payment Plan) and upon completion of which a payment is to be made in accordance with such Exhibit C.

(zz) "Milestone Payment" means any of those payments listed as specific milestone payments in Exhibit C (Pricing, Milestones and Payment Plan).

(aaa) "Milestone Achievement Criteria" has the meaning set forth in Exhibit C (Pricing, Milestones and Payment Plan).

(bbb) "Network Management System" or "NMS" means the system, comprising hardware and Software, to be developed by Contractor to monitor the operation and maintenance of the Repeaters, which system is further described in Exhibit A (Design Specifications) and Exhibit B (Statement of Work).

(ccc) "Nominal Order" means Customer's initial order to purchase from Contractor 1,578 Repeaters (excluding Prototype Repeaters) consisting of [\*\*\*\*\*] High-Power Repeaters and [\*\*\*\*\*] Standard Repeaters.

(ddd) "Notice of Defects" means a written notice executed by Customer and delivered to Contractor identifying any Defects in the Work setting forth in reasonable detail a description of the Defect.

(zz) "PA Kit" has the meaning set forth in Article 2.3 (Weight and Size of Repeaters).

(eee) "Pattern Defect" has the meaning set forth in Article 17.13 (Pattern Defect).

(fff) "Payment Escrow Account" has the meaning set forth in Article 0 (Escrow Account and Payment).

(ggg) "Payment Escrow Agent" has the meaning set forth in Article 0 (Escrow Account and Payment).

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(hhh) "Performance Award" has the meaning set forth in Article 7.7 (Performance Award).

(iii) "Permitted Lien" means any lien, security interest, mortgage, assignment, pledge, encumbrance or charge of any kind in favor of the Financing Entities under the Financing Agreements.

(jjj) "Prototype Repeater" means the terrestrial repeaters, as further described in Exhibit A (Design Specifications) and Exhibit B (Statement of Work), that Contractor shall develop for the test network to be established in Pittsburgh, Pennsylvania. Each Prototype Repeater shall include all working and fully operational LRUs.

(kkk) "Project Completion Date" means the date upon which the Network Management System, the last Repeater and all other deliverable items required to be provided hereunder have been delivered and have achieved Acceptance.

(lll) "Regional Inventory Storage Facility" means a facility to be maintained by Customer, or its designee(s), for storing an inventory of Lowest Replaceable Units or other components for the Repeaters for use by Customer, or its designee(s), in performing maintenance and repairs on installed Repeaters. As of the Effective Date of Contract, a Regional Inventory Storage Facility will be located in each of the following six (6) cities: San Francisco, California; Los Angeles, California; Dallas/Ft. Worth, Texas; New York, New York; Washington, DC; and Atlanta, Georgia.

(mmm) "Repeater" means collectively any Prototype Repeater, Standard Repeater, High-Power Repeater, or other terrestrial repeater, the LRUs and other components, parts and sub-parts contained therein, and any Software, all as required to be delivered by Contractor to Customer hereunder.

(nnn) "Repeater Design Verification Testing" has the meaning set forth in Article 8.2 (Acceptance of Repeaters).

(ooo) "Repeater In-Factory Testing" has the meaning set forth in Article 8.2 (Acceptance of Repeaters).

(ppp) "Rooftop Assembly" has the meaning set forth in Article 2.3 (Weight and Size of Repeaters).

(qqq) "Rooftop Testing" has the meaning set forth in Article 2.3 (Weight and Size of Repeaters).

(rrr) "Software" means the machine readable computer code or embedded code, used to instruct a processor to perform a task or series of tasks in object code form including firmware, files, databases, interfaces, documentation and other materials related thereto necessary to make each deliverable item achieve its applicable specifications, as such Software may be revised, updated, corrected and enhanced from time-to-time and provided to Customer pursuant to this Contract.

(sss) "Staging Area" means each site to which Contractor shall deliver Repeaters. The cities in which the Staging Areas shall be located are as specified in Exhibit D (Delivery Requirements and Schedule).

(ttt) "Standard Non-Redundant Repeater" means a Standard Repeater that utilizes an omni-directional antenna and has no redundant/back-up LRUs, as further described in Exhibit A (Design Specifications).

(uuu) "Standard Repeater" means a terrestrial repeater that has an RF power of 200 Watts evenly divided between two (2) MCM carriers, as further described in Exhibit A (Design Specifications). Standard Repeater collectively refers to both Standard Non-Redundant Repeaters and Standard Sectored Non-Redundant Repeaters.

(vvv) "Standard Sectored Non-Redundant Repeater" means a Standard Repeater that utilizes paneled/phased-array antennas typically in a 120 degree application (e.g., an installation consisting of three paneled/phased-array antennas) and has no redundant/back-up LRUs, as further described in Exhibit A (Design Specifications).

(www) "Start of Production Date" means July 1, 2000, as such date may be adjusted by the Parties in accordance with this Contract.

(xxx) "Statement of Work" or "SOW" means the Work described in Exhibit B to this Contract which shall be provided and performed by Contractor.

(yyy) "Subcontract" means a contract awarded by Contractor to a Subcontractor or a contract awarded by a Subcontractor for a portion of the Work.

(zzz) "Subcontractor" means a person, firm, corporation, or business entity that has been awarded a Subcontract.

(aaaa) "Technical Materials" means the detailed technical, engineering and design information and specifications of any kind relating to the Prototype Repeaters, Standard Repeaters, High-Power Repeaters, each LRU, and the Network Management System, including Background and Foreground Intellectual Property, specifications, functional specifications, interface specifications, hardware and circuit diagrams, schematic diagrams, third-party supplier information (including name, address, and parts numbers), and associated documentation.

(bbbb) "Terrestrial Repeater Network System" means the two (2) geostationary satellites and the system of terrestrial repeater networks located in various cities within the continental United States owned and operated by Customer.

(cccc) "Virus" means: (i) program code, programming instruction or set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect the performance or operation of any deliverable item, including the Repeaters, any LRU, the Network Management System, computer programs, embedded code or chips, data files or operations; or (ii) other code typically designated to be a virus (including, for example, "worms," "Trojan horses" and similar items).

(dddd) "Work" means all services (including design, development, engineering, manufacturing, testing and management services), labor, equipment, materials, articles, matters, acts (including tests to be performed), and things to be furnished by Contractor, including Repeaters, and rights to be transferred by Contractor in the performance of this Contract, all as described in Exhibit B (Statement of Work) and Exhibit E (Test Plans and Procedures). "Work" also includes Contractor's warranty obligations set forth herein and any services and things to be furnished pursuant to any options that may be exercised by Customer hereunder.

(eeee) "Year 2000 Compliant" means, with respect to the Work, including Repeaters, that the Work (i) is capable of properly accepting, recording, storing, processing, displaying and outputting calendar dates falling before, on or after January 1, 2000, (ii) is either capable of (A) accepting, recording, storing, processing, displaying and outputting data containing a four-digit year date format without any loss of functionality and in a manner that correctly interprets the data or (B) responding to two-digit year inputs in a way that resolves any ambiguity as to the century in a disclosed, defined and pre-determined manner, (iv) includes date data century recognition calculations that accommodate same century and multi-century formulae and date values and date data interface values that reflect the century, and (v) is capable of accounting for the fact that the year 2000 is a leap year, as well as identifying subsequent leap years.

#### 1.2 Other Terms.

Other terms in this Contract are defined in the context in which they are used and shall have the meanings there indicated.

#### 1.3 Integration and Construction.

(a) The documents listed below in this Article 1.3 (Integration and Construction), including any Exhibits, attachments, and schedules, as amended from time to time in accordance with Article 28.3 (Amendments), constitute this Contract and shall be deemed to constitute one fully integrated agreement between the Parties. In the event of any conflict or inconsistency among the provisions of the various documents of this Contract, such conflict or inconsistency shall be resolved by giving a descending level of precedence to the documents in the order set forth below:

- (1) Terms and Conditions
- (2) Exhibit A - Design Specifications
- (3) Exhibit B - Statement of Work (SOW)

- (4) Exhibit C - Pricing, Milestones and Payment Plan
- (5) Exhibit D - Delivery Requirements and Schedule
- (6) Exhibit E - Test Plans and Procedures
- (7) Exhibit F - Quality Assurance Plan
- (8) Exhibit G - Key Contractor Personnel
- (9) Exhibit H - Technical Materials Escrow Agreement

(b) Exhibits A, B, C, D, E, F, G and H are attached to and incorporated into these Terms and Conditions.

1.4 Headings; Number and Gender.

The article headings are for convenience of reference only and shall not be considered in interpreting the text of this Contract. Words in the singular include the plural and vice versa, and words imputing the masculine gender include the feminine and neuter genders where the context so requires.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

2. SCOPE OF WORK

2.1 General Scope.

(a) In accordance with the requirements of this Contract, Contractor shall furnish and perform and Customer shall purchase the Work.

(b) Without limiting the generality of the foregoing, Contractor shall furnish the following in accordance with this Contract:

- (1) Seven (7) Prototype Standard Repeaters;
- (2) One (1) Prototype High-Power Repeater;
- (3) [\*\*\*\*\*] Standard Repeaters;
- (4) [\*\*\*\*\*] High-Power Repeaters;
- (5) Training;
- (6) Data and Documentation; and
- (7) Network Management System.

2.2 Statement of Work.

The Statement of Work attached hereto as Exhibit B includes descriptions of certain of the Parties' roles and responsibilities with respect to the design, development, manufacture, delivery and testing of the Repeaters. Any role or responsibility not specifically described in Exhibit B (Statement of Work) that is implied by or required for the proper performance of any role or responsibility expressed in the Statement of Work shall be deemed included as part of such expressed role or responsibility.

2.3 Weight and Size of Standard Repeaters.

This Article 2 3 (Weight and Size of Standard Repeaters) applies only to Standard Repeaters.

(a) The Parties acknowledge and agree that the weight and dimensions for the Standard Repeaters as set forth in Exhibit A (Design Specifications) are heavier and larger than the Parties originally anticipated under the ATP and that each of the Parties has agreed to undertake certain responsibilities relating to the increased weight and dimensions to facilitate the installation of the Standard Repeaters by Customer's Terrestrial Repeater Network System integrator at Installation Sites.

(b) Regarding Standard Repeaters, upon completion of the Repeater In-Factory Testing pursuant to Article 8.2(a)(2), Contractor shall disassemble the Repeaters so that the disassembled Repeaters may be shipped in multiple containers. The Standard Repeaters shall be disassembled into two (2) separate kits as follows:

- (1) The Enclosure Kit; and
- (2) The "PA Kit" which shall consist of the power amplifier (to be shipped separately), the filter and the coupler (to be shipped together).

(c) Contractor shall ship the plinths to the Staging Areas in accordance with Article 7.4 (Packing, Tracking and Shipping) as reasonably directed by Customer, or its designee, so that the plinths arrive at the Staging Areas on or before five (5) Business Days prior to the arrival of the balance of the Enclosure Kits to the Staging Areas to facilitate the early site preparation work being performed by Customer's Terrestrial Repeater Network System integrator. Contractor shall ship the Enclosure Kits (less the plinths) to the Staging Areas in accordance with Article 7.2 (Time and Place of Delivery) and Article 7.4 (Packing, Tracking and Shipping).

(d) Contractor shall ship the PA Kits in accordance with Article 7.4 (Packing, Tracking and Shipping) directly to the Installation Sites. Customer shall inform Contractor in writing on a weekly basis of the Installation Sites where an Enclosure Kit has been installed by Customer's Terrestrial Repeater Network System integrator. Customer shall arrange for such installation to include the assembly of the Repeater enclosure on the plinth and the reattachment of the enclosure door to the enclosure (without connection of the air conditioning unit). Within five (5) Business Days of Contractor's receipt of such notice, Contractor shall deliver the PA Kit to the Installation Site and perform all work necessary to reassemble the PA Kit with the Enclosure Kit (the "Rooftop Assembly") to allow the Repeater to function in accordance with the requirements set forth in Exhibit A (Design Specifications).

(e) To ensure that the Repeater functions in accordance with the requirements set forth in Exhibit A (Design Specifications), Contractor shall, immediately upon completion of the Rooftop Assembly, conduct Rooftop Testing. Such Rooftop Testing shall be performed by Contractor in accordance with Exhibit E (Test Plans and Procedures) (to be developed hereunder) and Article 8.2 (Acceptance of Repeaters) and shall be completed within the five (5) Business Day period set forth above.

(f) Contractor shall be responsible for the difference, if any, in the cost of a load spreader required to install the Repeater, at its actual weight, over and above the cost that would have been incurred for a load spreader required to install a 180 kg. Repeater. Such amount shall be determined without any mark-up or additional charge to Contractor and shall be treated as a credit pursuant to Article 6.1(b). If Customer believes a credit is due under this paragraph, then Customer shall provide, along with the written notice to Contractor required by Article 6.1(b), such supporting documentation as may be reasonably required to determine the amount of such credit.

(g) Contractor shall be responsible for the difference, if any, in the cost required to ship the Enclosure Kit, at its actual weight, from the Staging Areas to the Installation Sites over and

above the cost that would have been incurred for shipping a 180 kg. Standard Repeater from the Staging Areas to the Installation Sites. Such amount shall be determined without any mark-up or additional charge to Contractor and shall be treated as a credit pursuant to Article 6.1(b). If Customer believes a credit is due under this paragraph, then Customer shall provide, along with the written notice to Contractor required by Article 6 1(b), such supporting documentation as may be reasonably required to determine the amount of such credit.

(h) The Parties believe that the need for structural analysis at the Installation Sites due to the increased weight of the Standard Repeaters will be greatly minimized if a proper load spreading device is used. Based on this belief, Customer agrees to assume the costs associated with such structural analyses; provided, however, if, after the first fifty (50) Installation Sites are selected by Customer's Terrestrial Repeater Network System integrator, it is determined that a structural analysis was required on in excess of seventy (70%) of such Installation Sites, the Parties agree to meet and discuss, in good faith, an equitable division of the costs associated with the increased need for such structural analyses.

3. STRATEGIC RELATIONSHIP

3.1 Roof Rights.

In the event Customer desires to locate a Repeater on the roof of a building owned, leased or managed by Contractor, Customer shall make such request to Contractor in writing, indicating the location of such building. Contractor shall promptly respond in writing to Customer's request to indicate whether Contractor is willing to grant such roof rights to Customer, in which event the Parties shall negotiate reasonable terms and conditions applicable to such roof rights.

3.2 Marketing Support.

Where requested by Customer, Contractor will provide reasonable technical marketing support to Customer, in accordance with Exhibit B (Statement of Work), including in support of Customer's business opportunities consistent with Contractor's other obligations.

3.3 Alignment of Interests.

Contractor agrees to cooperate with Customer and to take no materially adverse position (in trade associations, regulatory bodies, the press, and otherwise) with respect to the FCC spectrum assigned and designated for use by Customer.

4. EFFECTIVE DATE OF CONTRACT ("EDC"); CONDITIONS PRECEDENT; TERM

4.1 Effective Date of Contract and Conditions Precedent.

(a) This Contract shall be effective as of October 22, 1999 ("Effective Date or "EDC").

(b) Contractor shall have no obligation to commence the Work until Contractor's receipt of Milestone Payment No. 1.

4.2 ATP.

The Parties acknowledge and agree that, as of the Execution Date of this Contract, (i) all Contractor effort in respect of the Work pursuant to the ATP shall be deemed performed under this Contract; (ii) there are no unfulfilled obligations or claims under the ATP; (iii) in the event the ATP has not expired or terminated as of the Execution Date of this Contract, the ATP is hereby terminated; and (iv) the provisions of this Contract shall govern the rights and obligations of the Parties with respect to matters arising under the ATP.

4.3 Term.

The term of this Contract shall commence on EDC and continue until all the Work is completed in accordance with this Contract, unless terminated earlier in accordance with Article 25 (Termination) (the "Term").

## 5. PRICING

## 5.1 Contract Price.

In consideration of Contractor's performance of the Work in accordance with this Contract, Customer shall pay Contractor the amounts determined in accordance with Exhibit C (Pricing, Milestones and Payment Plan) (collectively the "Contract Price") and in accordance with the payment conditions and Milestones set forth therein, as may be adjusted pursuant to this Contract. For the Work provided or to be provided under this Contract, Customer shall not be obligated to pay Contractor any amounts in addition to the Contract Price, except as otherwise specifically provided in this Contract.

## 5.2 Changes in Contract Price.

Except pursuant to Article 10 (Changes in Scope of Work), Exhibit C (Pricing, Milestones and Payment Plan), or as otherwise expressly set forth in this Contract, the Contract Price is not subject to any escalation or to any adjustment or revision.

## 5.3 Most-Favored Customer.

(a) If Contractor provides services to, or performs work for, another customer that are similar to the Work (in nature, scope, volume and duration) to be provided and performed hereunder, and the prices charged to such customer are lower than the prices charged to Customer under this Contract, the prices charged to Customer shall be equitably adjusted to provide to Customer the benefit of such lower prices. Such adjustment shall be retroactive to the first date on which the lower charges to such other customer became effective.

(b) Customer may from time to time conduct an audit to examine and assess Contractor's compliance with the provisions of paragraph (a) above, provided Customer engages an external auditor, at Customer's expense, to conduct such audit. Contractor shall cooperate with the audit initiated by Customer and shall provide the information reasonably requested by Customer to verify its compliance with paragraph (a) above, provided (i) Contractor shall only provide such information, including pertinent financial information, to Customer's designated external auditor and (ii) such external auditor shall execute a confidentiality agreement reasonably satisfactory to Contractor.

(c) In the event the external auditor determines that Contractor is providing services to, or is performing work for, another customer that are similar to the Work (in nature, scope, volume and duration) and the prices charged for such services or work for the other customer are lower than the prices charged to Customer hereunder, the external auditor shall provide notice, in writing, to both Contractor and Customer of its determination and shall include with such notice any supporting documentation of such pricing discrepancy. Such documentation provided to Customer shall be sufficiently redacted to conceal the identity of Contractor's other customer and shall only include such information as is directly pertinent to the determination made by the external auditor. Upon receipt of notice of such pricing discrepancy, Contractor shall promptly implement the lower price adjustment and provide Customer with appropriate credits in accordance with paragraph (a) above.

## 5.4 Taxes.

(a) Contractor shall be responsible for any sales, use, excise, value-added, services, consumption and other taxes payable by Contractor on any goods or services used or consumed by Contractor in providing the Work where such tax is imposed on Contractor's acquisition or use of such goods or services and the amount of such tax is measured by Contractor's costs in acquiring such goods or services.

(b) Customer shall be responsible for any applicable sales and use taxes on any deliverable item, including Repeaters. Contractor shall include on each invoice, as a separate line item, any such applicable sales and/or use taxes and Contractor shall remit all such taxes to the appropriate taxing authorities without any mark-up or other additional charge to Customer. All other excise, value-added, services, consumption, export, import and other taxes, duties, fees or charges shall be included in the Contract Price.

(c) Contractor agrees to act as the "Importer of Record" for all the Work, if required or as applicable. This includes arranging for a customs broker to record the entry of the goods. As "Importer of Record," Contractor will be responsible for remitting to customs all appropriate duty and excise tax and all such duty and excise taxes are included in the Contract Price.

(d) Each Party shall consult and cooperate with the other to minimize the other's tax liability to the extent legally permissible.

(e) Each Party shall cooperate with the other in the settlement of any claim for taxes asserted by applicable taxing authorities.

\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

## 6. INVOICING AND PAYMENT

### 6.1 Invoicing.

(a) Contractor shall invoice Customer monthly for all Milestones completed in accordance with the applicable Milestone Achievement Criteria and all other applicable requirements of this Contract during the period covered by the invoice and any other charge permitted by this Contract; provided, however, with respect to [\*\*\*\*] Milestones set forth in Table 3.2 of Exhibit C (Pricing, Milestones and Payment Plan), Contractor may invoice Customer [\*\*\*\*] for Milestones completed during the applicable invoicing period. The invoice shall show details and supporting documentation as to amounts invoiced as reasonably required by Customer. Each invoice shall state the number of shipped Enclosure Kits and/or Accepted Repeaters and shall be accompanied by Contractor's written certification that the Milestone(s) to which the invoice relates was/were fully and successfully completed in accordance with the Milestone Achievement Criteria set forth in Exhibit C (Pricing, Milestones and Payment Plan). Such certification for Enclosure Kits shall also specify the applicable waybill number. Each invoice shall also be accompanied by conditional releases of claims and waivers of liens, in form and substance reasonably satisfactory to Customer, executed by Contractor and all Subcontractors with respect to the portion of Work for which payment is sought. With respect to invoices for shipped Enclosure Kits and Accepted Repeaters, each such invoice shall also specify the pertinent bar-coded serial number for the LRUs of each such shipped Enclosure Kit and/or the LRUs of each such Accepted Repeater, pursuant to Article 7.4(b) (Labeling and Electronic Tracking).

(b) In the event a Party determines a credit is due Customer pursuant to this Contract, such Party shall notify the other Party in writing. To the extent the Parties agree on the amount of the credit, if any, due to Customer, Contractor shall provide Customer with such credit against amounts then due and owing; if no further payments are due to Contractor, Contractor shall pay the amount of such credit to Customer within thirty (30) Calendar Days after such credit becomes due. To the extent the Parties do not agree on the amount of the credit due to Customer, the matter shall be resolved pursuant to Article 23 (Dispute Resolution).

(c) Contractor shall deliver a copy of each invoice and all details and supporting documentation to:

XM Satellite Radio Inc.  
1250 23rd Street, NW  
Suite 57  
Washington, DC 20037  
Tel: 202-969-7100  
Fax: 202-969-7050  
Attention: Chief Financial Officer

Copy to: Royce Kincaid

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## Vice President, Terrestrial Repeater Program

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## 6.2 Escrow Account and Payment.

(a) On or before [\*\*\*\*\*], Customer shall establish an interest-bearing escrow account (the "Payment Escrow Account") with a bank or other financial institution of Customer's choice, and Customer, Contractor and the agent (the "Payment Escrow Agent") for the Payment Escrow Account shall enter into an escrow agreement pursuant to which Customer shall pay amounts into the Payment Escrow Account in accordance with the schedule of escrow payments set forth in Exhibit C (Pricing, Milestones and Payment Plan). Customer shall maintain such escrow account until the earlier to occur of the following: (i) all amounts required to be deposited therein by Customer have been drawn down by Contractor, (ii) termination of this Contract and payment of Customer's obligations hereunder, or (iii) July 31, 2001. The costs of establishing and maintaining the Payment Escrow Account shall be shared equally by the Parties. Customer shall be entitled to retain all interest and income earned on amounts deposited into the escrow account.

(b) Customer shall pay Contractor [\*\*\*\*\*] Milestone Payment No. 1 within five (5) Business Days after the Execution Date provided Contractor first furnishes Customer with an invoice therefor. Subject to Article 6.5 (Withholding of Payment), with respect to [\*\*\*\*\*] Milestone Payment Nos. 2-5 set forth in Table 3.1 of Exhibit C (Pricing, Milestones and Payment Plan) and [\*\*\*\*\*] Milestone Payments 1-2 in Table 3.3 of Exhibit C, Customer shall pay Contractor within thirty (30) Calendar Days after receipt from Contractor of an invoice in accordance with the requirements of Article 6.1 (Invoicing). With respect to [\*\*\*\*\*] Milestone Payments set forth in Table 3.2 of Exhibit C, and subject to Article 6.5 (Withholding of Payment), within three (3) Business Days after receipt of an invoice (and required supporting documentation) meeting the requirements of Article 6.1 (Invoicing) and, with respect to Accepted Repeaters, Article 8.2 (Acceptance of Repeaters), Customer shall authorize the Payment Escrow Agent to permit Contractor to draw down from the Payment Escrow Account the amount invoiced. With respect to invoices for any other charges hereunder, Customer shall pay Contractor within thirty (30) Calendar Days after receipt from Contractor of an invoice in accordance with the requirements of Article 6.1 (Invoicing). Notwithstanding the foregoing, all payments made under the Authorization to Proceed (ATP), executed by the Parties and dated October 22, 1999, shall be credited in full against the Milestone Payments set forth in Exhibit C (Pricing, Milestones and Payment Plan) until such ATP payments have been exhausted. Contractor may deliver its invoices and supporting documentation to Customer via facsimile.

(c) To secure Contractor's interest in Customer's payment of its obligations hereunder, Customer hereby grants to Contractor a security interest, which Customer represents and warrants is and shall at all times be a first priority security interest, in Customer's right, title and interest in and to amounts deposited by Customer into the Payment Escrow Account (but not interest or income thereon). Customer hereby agrees to take, at Contractor's expense, all such actions as may be reasonably requested by Contractor to create, perfect, maintain and preserve

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

such security interest, including the execution and delivery of such uniform commercial code financing statements, continuation statements, if any, and similar documents or instruments as may be required by applicable law as Contractor may reasonably request. The security interest created herein shall terminate upon the earlier to occur of the following: (i) all amounts required to be deposited therein by Customer have been drawn down by Contractor, (ii) termination of this Contract and payment of Customer's obligations hereunder, or (iii) July 31, 2001. Upon termination of such security interest, Contractor shall release and terminate such security of record by filing termination statements or similar documents in accordance with applicable law. Customer hereby acknowledges and agrees that the provisions of this paragraph constitute a security agreement under the provisions of the uniform commercial code in effect in the jurisdiction applicable to this transaction pursuant to which Customer has granted a security interest in the Payment Escrow Account. Notwithstanding the foregoing, Contractor agrees that any security interest granted hereunder shall be structured in a manner reasonably satisfactory to the Financing Entities.

(d) Customer shall make, or shall instruct the Payment Escrow Agent to make, as applicable, payments on account of invoices by wire transfer to the following bank account (or to such other account as Contractor shall request by written instruction to Customer signed by Contractor's Chief Executive Officer or President):

Bank: Allfirst (to the account of Hughes Network Systems)  
Address: Baltimore, MD 21203  
Account No.: [\*\*\*\*\*]  
ABA No.: [\*\*\*\*\*]

(e) No payment by Customer shall constitute an Acceptance of any Work not in accordance with this Contract.

(f) Customer shall have no obligation to pay or be responsible in any way for payment to a Subcontractor. Contractor shall pay each Subcontractor all undisputed amounts in accordance with the applicable Subcontract.

#### 6.3 Set Off.

In the event Contractor has not paid Customer any amount due and payable to Customer under this Contract, or if Customer is entitled to a credit under this Contract (for example, for overcharges that have been paid by Customer), Customer shall have the right to set off such amount against payments due to Contractor.

#### 6.4 Late Payment.

For any payment under this Contract that is overdue, the Party entitled to such payment shall also be entitled to interest on such payment for each Calendar Day the payment is overdue

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until the date payment is made, such interest to be calculated in accordance with Article 28.11 (Calculation of Interest), unless expressly provided otherwise in this Contract.

6.5 Withholding of Payment.

If Customer, in good faith, does not agree that a Milestone associated with an invoice has been completed in accordance with this Contract or that such invoice is otherwise inaccurate, (i) Customer shall pay or authorize payment of, as the case may be, the undisputed part of such invoice in the time period required by this Contract and (ii) Customer shall have the right to withhold payment or authorization of payment, as the case may be, of the disputed portion of such invoice provided Customer gives to Contractor written notice stating in reasonable detail the reason for withholding such amount within ten (10) Business Days after receipt by Customer of the applicable invoice. Upon receipt of such notice, the Parties shall initiate Dispute Resolution in accordance with Article 23 (Dispute Resolution).

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## 7. DELIVERY AND TIME FOR PERFORMANCE

### 7.1 Repeater Category Selection.

(a) On or before [\*\*\*\*\*], Customer shall provide to Contractor, in writing, a baseline estimate of the distribution of the Nominal Order over the four (4) categories of Repeaters (i.e., an estimate of how many of the total number of Standard Repeaters will be Standard Non-Redundant Repeaters and Standard Sectorred Non-Redundant Repeaters and an estimate of how many of the total number of High-Power Repeaters will be High-Power Redundant Repeaters and High-Power Sectorred Redundant Repeaters) (the "Initial Baseline Estimate").

(b) On or before [\*\*\*\*\*], Customer shall provide to Contractor, in writing, an update of the Initial Baseline Estimate, which updated Initial Baseline Estimate will reflect the definitive distribution of the Nominal Order over the four (4) categories of Repeaters (the "Definitive Baseline Estimate"). For each category of Repeater, the Definitive Baseline Estimate may differ from the Initial Baseline Estimate by up to plus or minus [\*\*\*\*\*]. By way of illustration and as an example only, if the Initial Baseline Estimate requires Contractor to manufacture and deliver [\*\*\*\*\*] Standard Sectorred Non-Redundant Repeaters, Customer may increase or decrease that estimate in the Definitive Baseline Estimate by up to [\*\*\*\*\*], such that the Definitive Baseline Estimate may range from and including [\*\*\*\*\*] to and including [\*\*\*\*\*] Standard Sectorred Non-Redundant Repeaters.

### 7.2 Time and Place of Delivery.

(a) Set forth in Exhibit D (Delivery Requirements and Schedule) are Customer's Delivery Requirements. The Parties acknowledge that as of the Effective Date of Contract, however, Customer is unable to establish a detailed Delivery Schedule for the Enclosure Kits that specifies the timing, quantity and type of Enclosure Kits to be delivered to each Staging Area in the case of Standard Repeaters and Installation Sites in the case of High-Power Repeaters. Accordingly, the Parties are attaching to Exhibit D (Delivery Requirements and Schedule) a model Delivery Schedule, which model Delivery Schedule shall be completed and updated from time to time as Customer is able to refine its Enclosure Kit delivery requirements. As Customer completes and updates the model Delivery Schedule, it shall provide a copy to Contractor and each such completed and updated Delivery Schedule shall be called the Detailed Delivery Schedule, be added to Exhibit D and become a part of and modify this Contract; provided, however, (i) except as expressly provided in this Contract, including Article 7.3 (Rescheduling of Production), for each month, the total number of Enclosure Kits to be delivered in such month shall not exceed the total quantity of Enclosure Kits set forth in the Delivery Requirements for such month and (ii) in no month will the total number of Enclosure Kits for Standard Sectorred Non-Redundant Repeaters and Enclosure Kits for High-Power Sectorred Redundant Repeaters included in Customer's Monthly Delivery Notice (as defined in paragraph (b) below) to

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Contractor exceed in the aggregate [\*\*\*\*\*] for such month ((i) and (ii) together the "Delivery Schedule Restrictions"). With respect to any calendar month, the Detailed Delivery Schedule shall apply to that month provided Customer furnished the Detailed Delivery Schedule to Contractor not less than thirty (30) Calendar Days prior to the beginning of such month.

(b) Unless and until a Detailed Delivery Schedule is established with respect to the Nominal Order, Customer shall provide prior written notice to Contractor of not less than thirty (30) Calendar Days prior to the beginning of each month in which Enclosure Kits are to be delivered by Contractor pursuant to this Contract (each a "Monthly Delivery Notice"). Such notice shall specify the quantity of Enclosure Kits to be delivered to each of the specified Staging Areas in the case of Standard Repeaters and Installation Sites in the case of High-Power Repeaters in such month; provided, however, the notice shall comply with the Delivery Schedule Restrictions set forth in paragraph (a) above.

(c) Contractor shall use its best commercial efforts to deliver the Enclosure Kits in accordance with the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule) and, as applicable, the Detailed Delivery Schedule and each Monthly Delivery Notice provided by Customer pursuant to paragraph (b) above. In the case of Standard Repeaters, Contractor shall deliver the PA Kits in accordance with Article 2.3(d) above and in accordance with the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule). In the case of High-Power Repeaters, within thirty (30) Calendar Days after receipt of the Detailed Delivery Schedule or Monthly Delivery Notice provided by Customer pursuant to paragraph (b) above, Contractor shall (i) ship to, and install at, the Installation Sites identified in such schedule or notice the Enclosure Kit and Klystron Kit and (ii) successfully complete High-Power Installation Site Testing of the complete High-Power Repeater installed at such Installation Sites. Contractor shall deliver the Network Management System and other deliverables to be provided pursuant to this Contract in accordance with the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule). The Parties acknowledge and agree that the delivery times set forth in Exhibit D (Delivery Requirements and Schedule), as may be amended, are firm and time is of the essence.

(d) In the event Contractor is prepared to deliver Enclosure Kits earlier than required by the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule) or, as applicable, the Detailed Delivery Schedule or a Monthly Delivery Notice, Contractor shall promptly provide prior notice to Customer as to the quantity of Enclosure Kits available for early delivery by Contractor and the proposed delivery dates therefor. Customer shall, within five (5) Business Days following receipt of Contractor's notice, provide written notice to Contractor of Customer's agreement with or rejection of the early delivery of such Enclosure Kits, which agreement or rejection shall be in Customer's sole discretion. If Customer agrees to accept early delivery of such Enclosure Kits, Customer shall also specify in its notice to Contractor the Staging Area(s) and Installation Site(s) to which such Enclosure Kits should be delivered.

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(e) Contractor shall deliver the Enclosure Kits, in the case of Standard Repeaters, to the loading dock or other such delivery receiving area of each Staging Area as specified in the Detailed Delivery Schedule or each Monthly Delivery Notice, as applicable, and in the case of High-Power Repeaters, to the Installation Site specified in the Detailed Delivery Schedule or each Monthly Delivery Notice, as applicable. Contractor shall deliver the PA Kits to each of the Installation Sites as specified in Customer's notice as provided in Article 2.3(d). Contractor shall deliver the Klystron Kits as set forth in paragraph (c) above. Contractor shall deliver all other deliverables to the persons and at the address indicated in Article 28.8 (Notices), except as may otherwise be required and directed by Customer or specified in the Detailed Delivery Schedule.

### 7.3 Rescheduling of Production.

(a) Subject to paragraph (c) below and also in recognition of the potential for changes in Customer's business or logistical requirements, Contractor agrees to accommodate a rescheduling of the Start of Production Date for the Nominal Order of Repeaters to allow for a delay of the start of production of the Repeaters and an extension of the Start of Production Date for a period, at Customer's election, of one (1) to three (3) months, provided:

- (1) Customer provides Contractor with prior written notice of its desire to delay the Start of Production Date, such notice to be given by no later than [\*\*\*\*\*]; and
- (2) Customer takes delivery of the entire Nominal Order by no later than the last day of the [\*\*\*\*\*] month following the original Start of Production Date.

(b) Subject to paragraph (c) below, upon thirty (30) Calendar Days prior notice, Customer may direct Contractor to defer delivery of up to [\*\*\*\*\*] of the total number of Repeaters to be delivered in any month during the Term, provided that Customer agrees to take delivery of such deferred Repeaters by no later than the last day of the [\*\*\*\*\*] month following the Start of Production Date.

(c) Contractor shall in no event be required to manufacture or deliver to Customer in excess of [\*\*\*\*\*] Repeaters in any month during the Term of this Contract.

(d) In the event Customer exercises its right under this Article 7.3 (Rescheduling of Production) to delay the Start of Production Date, the applicable delivery dates hereunder and dates of Key Tasks shall be adjusted on a day-for-day basis, and the date of July 31, 2001 set forth in paragraphs (a) and (c) of Article 0 (Escrow Account and Payment) shall be adjusted on a day-for-day basis.

### 7.4 Packing, Tracking and Shipping.

(a) Packing. All deliveries pursuant to this Contract shall be preserved, -----  
packed and crated by Contractor to ensure safe delivery to their destinations without damage due to shipment.

(b) Labeling and Electronic Tracking.  
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- (1) On or before February 4, 2000, the Parties will agree upon appropriate labeling and electronic asset-tracking requirements and procedures. Such requirements and procedures will include at a minimum the labeling of Repeaters and LRUs with bar-coded serial numbers consistent with the Parties' business requirements and asset tracking practices. Contractor shall label each Repeater and LRU, container and packing documentation in accordance with such requirements and procedures.
- (2) Contractor shall notify Customer at least thirty (30) Calendar Days in advance of any administrative changes with respect to any Repeater or LRU, such as changes in product part numbers or descriptions, product discontinuances or substitutions, and newly compatible or substitute components.

(c) Shipping. Unless otherwise instructed by Customer, Contractor shall:  
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- (1) Arrange for the transportation and shipment of the Repeaters and other deliverables required to be delivered by Contractor pursuant to this Contract, such shipments to be made using fully licensed, bonded and insured common carriers, which carriers shall have substantial experience in the shipment of electronic equipment;
- (2) Fully insure each Repeater against all risks, in accordance with Article 20 (Insurance), and maintain such insurance until the following times: in the case of Standard Repeaters, (i) until delivery of the Enclosure Kits to the loading dock or other such delivery receiving area of each Staging Area and (ii) during the period of Rooftop Assembly and Rooftop Testing until Acceptance; in the case of PA Kits, until Acceptance of the Standard Repeater in which the PA Kit is incorporated; and in the case of High-Power Repeaters, until Acceptance of such Repeaters;
- (3) Enclose packing documentation with each shipment and, when more than one package is shipped, identify the one that contains the memorandum;
- (4) Render invoices in duplicate or as otherwise specified by Customer;
- (5) Verify that bills of lading match corresponding shipping invoices; and
- (6) Forward applicable bills of lading and shipping notices with items shipped.

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7.5 Liquidated Damages for Late Delivery of Repeaters.

(a) The Parties acknowledge and agree that failure to meet the Liquidated Damages Schedule, as defined and set forth below, on or before the last day of the month in which delivery of Enclosure Kits is required pursuant to that Schedule will cause substantial financial loss to, or damage sustained by, Customer. The Parties further acknowledge and agree that the following liquidated damages are believed to represent a genuine estimate of the loss (due to non-productive time and increased cost of money) that would be suffered by Customer by reason of any such delay (which losses are difficult or impossible to calculate with reasonable certainty).

(b) Notwithstanding the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule) and for purposes of calculating liquidated damages only, in the event the sum of Enclosure Kits for Standard Repeaters Contractor delivers to Staging Areas plus Enclosure Kits with Klystron Kits for High-Power Repeaters Contractor ships to Installation Sites is less than the total number required by the monthly schedule set forth below (the "Liquidated Damages Schedule"), then, for each such Enclosure Kit in the case of Standard Repeaters and Enclosure Kit together with Klystron Kit in the case of High-Power Repeaters not so delivered or shipped, as applicable, Contractor shall pay Customer, as liquidated damages and not as a penalty, the daily amounts set forth in the Liquidated Damages Schedule for each Calendar Day following the last day of the month in which such Enclosure Kit in the case of Standard Repeaters and Enclosure Kit together with Klystron Kit in the case of High-Power Repeaters was to be delivered or shipped, as applicable, in accordance with the Liquidated Damages Schedule below until the date such Enclosure Kit in the case of Standard Repeaters and Enclosure Kit together with Klystron Kit in the case of High-Power Repeaters is delivered or shipped, as applicable.

Liquidated Damages Schedule		
Month	Total Quantity of Enclosure Kits and Enclosure Kits with Klystron Kits Subject to Liquidated Damages for Late Delivery/ Shipment if not delivered/ shipped by the last day of such Month	Daily Amount of the Liquidated Damages for Each Enclosure Kit Delivered/ Shipped after the Last Day of such Month
[*****]	[*****]	[*****]

(c) The monthly quantities of Enclosure Kits subject to liquidated damages shall not include (i) any Enclosure Kits in excess of the Nominal Order as may be ordered by Customer pursuant to Article 0 (Options) and (ii) any Enclosure Kits Customer requires to be delivered or shipped, as applicable, on an accelerated schedule as against the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule), provided that, in any event, the liquidated

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damages associated with the quantities set forth in the Liquidated Damages Schedule shall continue to apply with respect to any Enclosure Kits delivered/shipped late, as determined under such Liquidated Damages Schedule.

(d) The total amount of liquidated damages for which Contractor may be liable under paragraph (b) above shall not exceed Three Million Dollars (\$3,000,000) in the aggregate.

(e) Customer may deduct any liquidated damages from any amounts due Contractor, or Customer may require Contractor to pay any liquidated damages that exceed amounts due Contractor, within thirty (30) Calendar Days after such request.

(f) As soon as Contractor anticipates or becomes aware of a delay in the delivery of any Enclosure Kit in the case of Standard Repeaters and/or shipment of Enclosure Kit together with Klystron Kit in the case of High-Power Repeaters, Contractor shall, as promptly as possible in the circumstances, notify Customer by telephone, to be followed by written notice, of such anticipated or actual delay in the delivery/shipment of any such Enclosure Kit. Such notice shall indicate the cause of the delay and the expected delivery date of the Enclosure Kit in the case of Standard Repeaters and shipment date for Enclosure Kit together with Klystron Kit in the case of High-Power Repeaters. Following delivery of such notice, Contractor shall provide frequent (e.g., daily) updates as to the status of and timeframe for delivery/shipment. Such notice of anticipated or actual delay shall in no way reduce Contractor's liability for liquidated damages, nor shall it reduce, eliminate, or modify any other rights or remedies available to Customer pursuant to this Contract or at law or equity.

#### 7.6 Incentive for Timely Delivery of the Prototype Repeaters.

In the event that Contractor achieves timely delivery and Acceptance of all of the Prototype Repeaters in accordance with the requirements of this Contract on or before [\*\*\*\*\*], Customer shall award to Contractor an additional amount of [\*\*\*\*\*].

#### 7.7 Performance Award.

(a) In Customer's reasonable discretion, Customer may pay to Contractor a monetary award in recognition of Contractor's exceptional performance under this Contract (the "Performance Award"). Such Performance Award may be in an amount up to, but shall not exceed, the sum of [\*\*\*\*\*] (the "Available Award Amount").

(b) In making its determination as to whether Contractor shall receive a Performance Award, Customer shall give consideration to certain factors with respect to Contractor's performance hereunder, including the following:

- (1) Contractor's delivery of high quality Repeaters, Network Management System and other deliverables;
- (2) Contractor's timely performance;
- (3) Contractor's efforts and success in recovering from its failure to meet the applicable delivery dates hereunder;

- (4) Contractor's flexibility, creativity, support, accommodation and reasonableness in working with Customer and its third-party service providers (including the Terrestrial Repeater Network System integrator) to meet the applicable delivery dates hereunder or Customer's accelerated program requirements and to adapt to changes in the requirements of Customer's program;
- (5) Contractor's demonstrated commitment to Customer's program; and
- (6) Contractor's exceptional performance hereunder.

(c) Customer shall make its determination as to whether to make a Performance Award to Contractor promptly after the Project Completion Date. Contractor acknowledges and agrees that it is within Customer's sole reasonable discretion to award any or all of the Available Award Amount and Contractor has no contractual or legal right to receive a Performance Award. Customer shall pay to Contractor the Performance Award, if any, within sixty (60) Calendar Days after the Project Completion Date.

#### 7.8 Suspension of Work by Customer.

Customer, in its sole discretion, may suspend performance of the Work, in whole or in part, upon written notice to Contractor, and Contractor shall suspend performance of the Work to the extent specified in such notice within twenty-four (24) hours thereof. If, within four (4) months of Customer's notice to suspend the Work, Customer fails to notify Contractor to resume performance of the Work suspended, Contractor may, at any time thereafter, terminate the Contract, but only to the extent the Work was suspended, upon ten (10) Business Days written notice to Customer and shall be entitled to the remedies set forth in Article 25.3(c) only to the extent of the Work so terminated. In the event of a suspension under this Article 7.8 (Suspension of Work by Customer), the Parties shall work together to minimize the impact of such suspension on the Contract Price, applicable delivery dates hereunder and Contractor's performance hereunder (and Customer's liability in the event of termination) and Contractor shall be entitled to an equitable adjustment in the Contract Price and applicable delivery dates hereunder.

#### 7.9 Excusable Delay Defined.

(a) With respect to Contractor's performance of its obligations under this Contract, an "Excusable Delay" shall be any delay in the performance of the Work, in whole or in part, caused by an event that is beyond the reasonable control of Contractor, its Subcontractors or their respective Affiliates, including (i) war (whether declared or undeclared), outbreak of national hostilities, invasion or sabotage; (ii) fire, earthquake, flood, hurricane, tornado, cyclone, monsoon, epidemic, explosion, or quarantine restriction; (iii) strike or work slow-down (other than by the employees of Contractor or any Subcontractor at any Contractor Facility) not reasonably within Contractor's control; (iv) freight embargoes; (v) acts of God; (vi) governmental action in its sovereign capacity; and (vii) Customer's failure to perform its obligations hereunder; provided, however, that no delay shall be an Excusable Delay unless Contractor gives Customer prompt written notice of the delay and the reasons therefor and such

delay could not have been either (x) avoided by Contractor, its Subcontractors or their respective Affiliates through the exercise of reasonable foresight or reasonable precautions or (y) circumvented by Contractor, its Subcontractors or their respective Affiliates through the use of reasonable efforts to establish work-around plans, alternate sources, or other means. Upon Customer's written request, Contractor shall provide Customer a Correction Plan. Contractor shall also provide Customer prompt written notice when the event constituting an Excusable Delay has ended.

(b) In the event Customer disputes any Excusable Delay asserted by Contractor, Customer shall notify Contractor in writing within ten (10) Business Days from the date of notice thereof and, if the Parties have not resolved the dispute within ten (10) Business Days of Contractor's receipt of written notice from Customer, the dispute shall be resolved pursuant to Article 23 (Dispute Resolution).

7.10 Contract Adjustments.

In the event of an Excusable Delay under Article 7.9 (Excusable Delay Defined), there shall be an equitable adjustment to the applicable delivery dates hereunder. Contractor acknowledges and agrees the occurrence of an Excusable Delay shall not entitle Contractor to an increase in the Contract Price, except for those Excusable Delays caused by Customer's failure to perform its obligations hereunder, in which case there shall be an equitable adjustment to the Contract Price.

## 8. TESTING CRITERIA AND ACCEPTANCE

## 8.1 Testing.

Contractor shall develop and provide test plans and procedures in accordance with Exhibit B (Statement of Work) for Prototype Repeaters on or before February 28, 2000 and for all other Repeaters (i.e., production Repeaters) on or before March 31, 2000. Upon Customer's approval of the applicable test plans and procedures in accordance with Exhibit B, such test plans and procedures shall be attached hereto and incorporated herein as Exhibit E (Test Plans and Procedures). Contractor shall test each LRU, Repeater, the Network Management System and other deliverable items to be provided hereunder in accordance with such Exhibit E (Test Plans and Procedures).

## 8.2 Acceptance of Repeaters.

(a) A Repeater shall be deemed to have achieved Acceptance only upon the occurrence of the following events with respect to such Repeater ("Repeater Acceptance Criteria"):

- (1) With respect to Standard and High-Power Repeaters (including all Prototype Repeaters), successful completion of Repeater design verification testing and review ("Repeater Design Verification Testing") in accordance with the requirements of Exhibit E (Test Plans and Procedures) (to be developed hereunder). Within five (5) Business Days following successful completion of the Repeater Design Verification Testing, Contractor shall provide to Customer its written certification, in accordance with Exhibit E, that the Repeater Design Verification Testing has been successfully completed, together with all test data, results and reports generated as a result of such Repeater Design Verification Testing. Unless subsequent design Defects or Pattern Defects are detected, once the Design Verification Testing has been successfully completed in accordance with Exhibit E and Contractor has provided its written certification pursuant to the preceding sentence, such Repeater Design Verification Testing shall be deemed to apply to each Repeater of the same type thereafter delivered by Contractor to Customer pursuant to this Contract and such Testing need not be re-performed on an individual basis for each Repeater of the same type;
- (2) With respect to Standard Repeaters only (including Prototype Repeaters), successful completion of (i) a functionality test of each LRU incorporated in the Repeater and (ii) an overall, integrated system functionality test of the Repeater. Such functionality testing shall be performed by Contractor in accordance with Exhibit E (Test Plans and Procedures) (to be developed hereunder) prior to shipment of the Repeater from a Contractor Facility ("Repeater In-Factory Testing"). Contractor shall deliver with the applicable invoice, its written certification that Repeater In-Factory Testing has been successfully completed, together with all test data, results and reports generated as a result of such In-Factory Testing. Contractor's certification shall also indicate the pertinent Repeater's serial or other tracking number, as

well as the serial or other tracking number of each LRU incorporated within that Repeater; and

- (3) With respect to Standard Repeaters (including Prototype Repeaters) delivery of the Enclosure Kit and PA Kit relating to such Repeater as provided in Article 7.2 (Time and Place of Delivery) and successful completion of the Rooftop Assembly in accordance with Article 2.3 (Weight and Size of Repeaters) and successful completion of Rooftop Testing in accordance with Exhibit E (Test Plans and Procedures) (to be developed hereunder). Contractor shall provide to Customer with the applicable invoice its written certification that the Rooftop Testing has been successfully completed, together with all test data, results and reports generated as a result of such Rooftop Testing. Contractor's certification shall also include the pertinent Repeater's serial or other tracking number, as well as the serial or other tracking number of each LRU incorporated within that Repeater.
- (4) With respect to High-Power Repeaters, delivery of the High-Power Repeater's kits (i.e., the Enclosure Kit and Klystron Kit) to the Installation Site, assembly of such kits at the Installation Site and successful completion of testing at the Installation Site ("High-Power Installation Site Testing") in accordance with Exhibit E (Test Plans and Procedures) (to be developed hereunder). Contractor shall provide to Customer with the applicable invoice its written certification that the High-Power Installation Site Testing has been successfully completed, together with all test data, results and reports generated as a result of such Testing. Contractor's certification shall also include the pertinent Repeater's serial or other tracking number, as well as the serial or other tracking number of each LRU incorporated within that Repeater.

(b) Customer may, at its election and expense, have its Associates, Consultants, or other designees attend the Repeater Design Verification Testing, any Repeater In-Factory Testing, any Rooftop Testing and any High-Power Installation Site Testing. Attendance by Customer shall be for purposes of monitoring and observation and shall be on a non-interference basis; provided, however, Customer may ask questions, make suggestions, or otherwise comment on the proceedings. Contractor shall notify Customer reasonably in advance of the time and place for any such testing activities and Customer shall promptly inform Contractor of its intent to attend the testing. Contractor shall make arrangements for Customer's entrance and access into Contractor Facility(ies) for purposes of attending the testing. Customer attendance at any such test shall in no way be construed or deemed to represent Customer's acceptance of the items being tested or Customer's waiver of any claims or rights hereunder.

(c) For each Repeater, Customer or its designee shall provide Contractor written notification of its acceptance or rejection of such Repeater within five (5) Business Days after receipt of Contractor's written certification that the Rooftop Testing or High-Power Installation Site Testing, as applicable, has been successfully completed in accordance with Exhibit E (Test Plans and Procedures) and provision of all certifications required by paragraph (a) above. Customer shall accept each Repeater if the Repeater meets the Repeater Acceptance Criteria as set forth in paragraph (a) above. In the event Customer provides to Contractor a notice of

Customer's Acceptance of a Repeater, the Accepted Repeater shall be deemed Accepted as of the date of such notice.

(d) In the event Customer rejects a Repeater, Customer shall provide Contractor with a Notice of Defects. If Contractor disputes the contents of a Notice of Defects, Contractor shall notify Customer in writing of the basis for its dispute within five (5) Business Days of receipt of Customer's Notice of Defects.

(e) Where Customer fails to provide Contractor written Acceptance or Notice of Defects within the five (5) Business-Day Period specified in paragraph (c) above, that Repeater shall be deemed to have achieved Acceptance as of the date Contractor delivered the certifications required by paragraph (a) above.

(f) In the event Contractor does not dispute such Notice of Defects, Contractor shall promptly (but within no more than forty-eight (48) hours after receipt of the applicable Notice of Defects) ship the conforming replacement for the defective Repeater or defective LRU, as applicable, and all delivery dates hereunder shall remain in effect. The replacement Repeater shall be subject to the Repeater Acceptance Criteria and procedures set forth in this Article 8.2 (Acceptance of Repeaters). Any Repeater repaired or reconstructed with a replacement LRU shall also be subject to the Repeater Acceptance Criteria and procedures set forth in this Article 8.2 (Acceptance of Repeaters) (except the requirements of paragraph (a)(1) shall not apply). Such procedures shall be repeated until such time as Contractor delivers a Repeater that meets the Repeater Acceptance Criteria set forth herein. Contractor shall be responsible, at its expense, for packing, crating and shipping the defective Repeater or defective LRU for return to Contractor. Contractor shall be responsible for costs related to delivering any replacement Repeaters or LRUs to the appropriate Staging Area or Installation Site, as appropriate, including the costs of packing, crating, transportation, shipping and insurance. Upon receipt of a returned defective Repeater, Contractor may elect to correct its Defects, if possible, and deliver such corrected Repeater to Customer in satisfaction of a subsequent Repeater delivery requirement, subject to the Repeater Acceptance Criteria and procedures set forth in this Article 8.2 (Acceptance of Repeaters).

### 8.3 Acceptance of the Network Management System.

(a) Contractor shall test the Network Management System to be provided hereunder in accordance with Exhibit E (Test Plans and Procedures).

(b) The Network Management System shall be deemed to have achieved Acceptance only upon the occurrence of the following events with respect to such System ("NMS Acceptance Criteria"):

- (1) Successful completion of NMS design verification testing ("NMS Design Verification Testing"), which testing shall be performed by Contractor in accordance with the requirements of Exhibit E (Test Plans and Procedures). Within five (5) Business Days following successful completion of the NMS Design Verification Testing, Contractor shall provide to Customer its written certification that the NMS Design Verification Testing has been successfully

completed, together with all data, results and reports generated as a result of such NMS Design Verification Testing, also as specified in Exhibit E.

- (2) Successful completion of system functionality test for the Network Management System to be performed by Contractor in accordance with Exhibit E (Test Plans and Procedures) prior to shipment of the Network Management System (the "NMS In-Factory Testing"). Contractor shall also deliver with the Network Management System its written certification that the NMS In-Factory Testing has been successfully completed, together with all test data, results and reports generated as a result of such NMS In-Factory Testing;
- (3) Delivery of the Network Management System to the place and in the manner specified in Exhibit D (Delivery Requirements and Schedule), as may be amended in accordance with Article 7.2 (Time and Place of Delivery); and
- (4) Successful completion of an overall, integrated system functionality test of the Network Management System following delivery of the System to Customer at the designated location and successful installation by Contractor (the "NMS Acceptance Testing"), which testing shall be performed by Customer or its designee in accordance with Exhibit E (Test Plans and Procedures); provided, however, that Contractor may, at its election and expense, have its representative present during such NMS Acceptance Testing.

(c) Customer shall provide Contractor written notification of its Acceptance or rejection of the Network Management System within fourteen (14) Calendar Days after delivery of the Network Management System and provision of all certifications required by paragraph (b) above. Customer shall accept the Network Management System if the System meets the NMS Acceptance Criteria set forth in paragraph (b) above. In the event Customer provides to Contractor a notice of Customer's Acceptance of the Network Management System, the accepted System shall be deemed accepted as of the date of such notice.

(d) In the event Customer rejects the Network Management System, Customer shall provide Contractor with a Notice of Defects. If Contractor disputes the contents of a Notice of Defects, Contractor shall notify Customer in writing of the basis for its dispute within fourteen (14) Calendar Days of receipt of Customer's Notice of Defects.

(e) Where Customer fails to provide Contractor written Acceptance or Notice of Defects within the said fourteen (14) Calendar-Day Period specified in paragraph (c) above, the Network Management System shall be deemed accepted as of the date Contractor delivered and installed the Network Management System in accordance with this Article 8.3 (Acceptance of the Network Management System).

(f) In the event Contractor does not dispute such Notice of Defects, Contractor shall repair or replace the defective Network Management System promptly after receipt of the Notice of Defects and all delivery dates hereunder shall remain in effect. The repaired or replaced Network Management System shall be subject to the NMS Acceptance Criteria and procedures.

set forth in this Article 8.3 (Acceptance of the Network Management System) and such procedure shall be repeated until such time as Contractor delivers a Network Management System that meets the NMS Acceptance Criteria set forth herein. Contractor may repair the defective NMS at the location in which the NMS is installed, subject to advance notice to Customer so that Customer may make reasonable arrangements for access by Contractor. In the event the NMS is not repaired on site, Customer shall be responsible for packing and crating the Network Management System and making such System available to the common carrier or other shipper that delivered such System to Customer for return to Contractor, all at Contractor's expense, including the costs of de-installation, packing, crating, transportation, shipping and insurance. Contractor shall also be responsible for costs related to delivering the replacement or repaired NMS to Customer, including the costs of packing, crating, transportation, shipping, insurance and re-installation of the NMS.

#### 8.4 Acceptance of Non-Repeater Deliverables.

(a) Customer shall provide Contractor written notification of its acceptance or rejection of each item to be furnished by Contractor to Customer pursuant to this Contract, but excluding Repeaters and the Network Management System (each, a "Non-Repeater Deliverable"), within fourteen (14) Calendar Days after Customer has received such item from Contractor. Customer shall accept each Non-Repeater Deliverable if such item is in a condition fully conforming to the provisions of this Contract. In the event Customer provides Contractor a written notice of Acceptance with respect to such Non-Repeater Deliverable, such item shall be deemed accepted as of the date of such notice.

(b) In the event Customer rejects a Non-Repeater Deliverable, Customer shall provide Contractor with a Notice of Defects. If Contractor disputes the contents of a Notice of Defects, Contractor shall notify Customer in writing of the basis for its dispute within fourteen (14) Calendar Days of receipt of Customer's Notice of Defects.

(c) Where Customer fails to provide Contractor written Acceptance or a Notice of Defects within the fourteen (14) Calendar-Day Period specified in paragraph (a) above, that Non-Repeater Deliverable shall be deemed accepted as of the date Contractor furnished such item to Customer in accordance with Article 7.2 (Time and Place of Delivery).

(d) In the event Contractor does not dispute such Notice of Defects, Contractor shall promptly correct any Defects in the Non-Repeater Deliverable and all delivery dates hereunder shall remain in effect. Upon correcting such Defect(s), Contractor shall re-submit the Non-Repeater Deliverable to Customer and the provisions of this Article 8.3 (Acceptance of Non-Repeater Deliverables) shall apply again.

#### 8.5 Title and Risk of Loss.

(a) For each item of Work, title, free and clear of all liens and encumbrances of any kind (except for Permitted Liens), shall pass to Customer as provided below:

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

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- (1) For each Enclosure Kit, upon shipment from Contractor's Facility in accordance with the Milestone Achievement Criteria applicable to [\*\*\*\*\*] set forth in Exhibit C (Pricing, Milestones and Payment Plan);
  - (2) For each PA Kit, upon Customer's Acceptance of the Repeater in which such PA Kit is incorporated in accordance with Article 8.2 (Acceptance of Repeaters);
  - (3) For each Klystron Kit, upon Customer's Acceptance of the Repeater in which such Klystron Kit is incorporated in accordance with Article 8.2 (Acceptance of Repeaters);
  - (4) For the Network Management System, upon Customer's Acceptance of the NMS in accordance with Article 8.3 (Acceptance of the Network Management System); and
  - (5) For any Non-Repeater Deliverables, upon Customer's Acceptance in accordance with Article 8.4 (Acceptance of Non-Repeater Deliverables).
- (b) For each item of the Work, risk of loss or damage shall pass to Customer as provided below:
- (1) For each Enclosure Kit for a Standard Repeater, upon delivery to the loading dock or other such delivery receiving area of the applicable Staging Area in accordance with Article 0 (Delivery and Time for Performance) until such time that Contractor performs the Rooftop Assembly and Rooftop Testing, during which time the risk of loss or damage shall pass back to Contractor and then the risk of loss or damage shall again pass to Customer upon completion of the Rooftop Assembly and Rooftop Testing by Contractor;
  - (2) For each PA Kit for a Standard Repeater, upon delivery to the appropriate Installation Site in accordance with Article 2.3 (Weight and Size of Repeaters) and Acceptance of the Repeater in which such PA Kit is incorporated in accordance with Article 8.2 (Acceptance of Repeaters);
  - (3) For each High-Power Repeater, upon delivery to the appropriate Installation Site in accordance with Article 0 (Delivery and Time for Performance) and Acceptance of such Repeater in accordance with Article 8.2 (Acceptance of Repeaters);
  - (4) For the Network Management System, upon Acceptance in accordance with Article 8.3 (Acceptance of the Network Management System); and
  - (5) For Non-Repeater Deliverables, upon delivery of such item to Customer, all deliveries in accordance with this Contract.

## 9. PROJECT MANAGEMENT

## 9.1 Contractor Personnel.

(a) As of the Effective Date, Contractor shall appoint:

- (1) a project executive with responsibility for Customer's account and who shall (i) be an officer of Contractor and (ii) have authority to act for and bind Contractor in connection with all aspects of this Contract (the "Contractor Project Executive");
- (2) a business line manager with responsibility for Customer's account and who shall be the primary executive level contact point for Customer communications ("Contractor Business Line Manager");
- (3) a project manager whose primary responsibility shall be to Customer's account and who shall (i) remain dedicated to managing Contractor's responsibilities under this Contract, (ii) serve as the single point of accountability for Contractor's performance under this Contract, (iii) serve as the point of contact for all Customer communications, (iv) have authority to act for Contractor in connection with all aspects of this Contract, and (v) have day-to-day authority for undertaking to ensure Customer satisfaction (the "Contractor Project Manager"); and
- (4) a technical manager whose primary responsibility shall be to Customer's account and who shall (i) serve as the point of accountability for technical, design and operational issues, working in coordination with the Contractor Project Manager and (ii) have authority to act for Contractor with respect to technical issues (the "Contractor Technical Manager").

(b) The individuals filling the positions identified in paragraph (a) above shall be deemed to be "Key Contractor Personnel." The Key Contractor Personnel that have been approved as of the Effective Date are listed in Exhibit G (Key Contractor Personnel).

(c) In the event of any conflict between the commitments and responsibilities to Customer and the commitments or responsibilities to any other customers, the Contractor Business Line Manager, Contractor Project Manager and Contractor Technical Manager shall each give priority to his or her commitments and responsibilities to Customer.

(d) Before assigning an individual to any position described in Exhibit G (Key Contractor Personnel), whether as an initial assignment or a subsequent assignment, Contractor shall notify Customer of the proposed assignment, shall introduce the individual to appropriate Customer representatives, and shall provide Customer with a resume and other information about the individual as reasonably requested by Customer. If Customer in good faith objects to the proposed assignment, the Parties shall attempt to resolve Customer's concerns on a mutually agreeable basis. If the Parties have not been able to resolve Customer's concerns after engagement of senior management within five (5) Business Days, Contractor shall not assign the

individual to that position and shall propose to Customer the assignment of another individual of suitable ability and qualifications. Key Contractor Personnel may not be transferred or re-assigned until a suitable replacement has been approved by Customer. Contractor shall conduct an exit interview with all Key Contractor Personnel who terminate their employment with Contractor to review their confidentiality and non-disclosure obligations as provided herein.

9.2 Material Subcontractors.

(a) Contractor has represented that in the performance of the Work, it will be necessary for Contractor to enter into the Subcontracts ("Material Subcontracts") listed below:

Name of Material Subcontractor	Description of Work
Unique Broadband Systems	High-Power Amplifier (HPA) development and manufacture
Unique Broadband Systems	Transcoder development and manufacture
Unique Broadband Systems	Filters

(b) Contractor shall provide Customer a copy of the technical content of all Material Subcontracts (with financial details redacted). Customer shall treat the information contained in such Subcontracts confidentially and shall execute any reasonable confidentiality agreement requested by the relevant Subcontractor.

(c) In the event Contractor desires to replace a Material Subcontractor, Contractor shall provide Customer with reasonable prior notice thereof, and shall consult with Customer concerning the selected replacement.

(d) Customer's consultation with Contractor concerning any Material Subcontractor shall not relieve Contractor from any obligations or responsibilities under this Contract.

9.3 Subcontractor Relations.

(a) Nothing in this Contract shall be construed as creating any contractual relationship between Customer and any Subcontractor, including Material Subcontractors. Contractor acknowledges and agrees that it is the prime contractor under this Contract and as such, assumes full responsibility and liability for the performance of all suppliers, Subcontractors, or third parties used by Contractor hereunder to the same extent as if such obligations were performed by Contractor. Further, Contractor is fully responsible to Customer for the acts or omissions of Subcontractors and all persons used by Contractor or a Subcontractor in connection with performance of the Work. Any failure by a Subcontractor to meet its obligations to Contractor shall not constitute a basis for Excusable Delay, except as expressly permitted in Article 7.9 (Excusable Delay Defined), and shall not relieve Contractor from meeting any of its obligations under this Contract. Without limiting the generality of the foregoing, Contractor shall be responsible for discharging any liens (including Subcontractor mechanic liens) or encumbrances placed by any Subcontractor on any component or part purchased by Customer hereunder.

(b) Contractor shall include in each of the Material Subcontracts and shall use commercially reasonable efforts to include in all other Subcontracts, that any such Subcontract

include provisions substantially similar to Article 12 (Access to Work), Article 14 (Intellectual Property Rights), Article 15 (Confidentiality), and Article 23 (Dispute Resolution).

9.4 Customer Third-Party Services and Products.

Contractor agrees that during the Term of this Contract it shall provide all necessary and reasonable cooperation with the agents, Consultants, subcontractors and third-party suppliers of Customer as requested by Customer to achieve functional compatibility of the Repeaters with Customer's Terrestrial Repeater Network System.

9.5 Quality Assurance.

Contractor shall perform the Work in accordance with Exhibit F (Quality Assurance Plan) and all applicable industry standards, including applicable US Federal Communications Commission (FCC) regulations, NEBS (1, 2 and 3), Underwriters Laboratory, EIA/TIA, Bellcore, ANSI, IEEE, ATM-Forum, NESC, ITU-T, NEC, and ISO 9000 requirements, all as may be amended from time to time.

9.6 Accountability.

Notwithstanding anything to the contrary contained in this Contract, Customer's participation in, or approval of, the design or testing of Repeaters hereunder shall not be construed or interpreted as Customer having accountability for the Repeaters to perform in accordance with this Contract. Without limiting the generality of the preceding sentence, Contractor shall remain responsible for designing, developing, manufacturing, and delivering Repeaters that are compliant with this Contract.

## 10. CHANGES IN SCOPE OF WORK

## 10.1 Changes Requested by Customer.

(a) Subject to Article 7.2 (Time and Place of Delivery) and paragraphs (b), (c) and (d) below, Customer shall be entitled to direct, during the performance of this Contract, any change within the general scope of this Contract, including any change that will add, delete, or change the Work, affect the design or construction of any Repeater, the time for performance of the Work and/or the delivery dates hereunder.

(b) Any changes directed by Customer as described in paragraph (a) above shall be submitted in writing to Contractor. Contractor shall respond to such directed change in writing to Customer within fourteen (14) Calendar Days after receipt of such directed change and shall include in such response the details of the impact of such change in the Work on the Contract Price and/or the delivery dates hereunder.

(c) If Customer and Contractor agree upon the change in the Contract Price and/or the delivery dates hereunder caused by the change in Work, Contractor shall proceed with the performance of this Contract as changed immediately upon the execution by both Parties of a Change Order reflecting such change.

(d) If the Parties cannot agree on a change to the Contract Price and/or the delivery dates hereunder, as occasioned by the additions or changes in the Work directed by Customer pursuant to paragraph (a) above, Customer may issue a Change Directive for such additions or changes. Contractor shall proceed with the Work in accordance with the Change Directive and Customer may dispute the reasonableness of Contractor's determination with respect to the appropriate change to the Contract Price and/or the delivery dates hereunder pursuant to Article 23 (Dispute Resolution). Pending resolution of such dispute, Customer shall pay Contractor a reasonable amount. If it is determined by written agreement of the Parties or pursuant to Article 23 (Dispute Resolution) that Contractor is entitled to an amount other than the amount paid by Customer, Customer shall pay to Contractor the amounts of the shortfall or Contractor shall refund to Customer the amount of the excess, as the case may be, with interest on such amount running from the date of initial payment by Customer to the date of additional payment or refund, as the case may be, at the interest rate set forth in Article 28.11 (Calculation of Interest).

## 10.2 Changes Requested by Contractor.

(a) Subject to paragraphs (b) and (c) below, Contractor may request, during the performance of this Contract, any change within the general scope of this Contract, including any change that will add or delete Work, cause a revision to the delivery dates hereunder or affect any other requirement of this Contract.

(b) Any changes as described in paragraph (a) above requested by Contractor shall be submitted in writing to Customer at least thirty (30) Calendar Days prior to the proposed date of the change. If such Contractor-requested change causes an increase or decrease or other impact on the Work, Contract Price, or delivery dates hereunder or other terms of this Contract,

Contractor shall submit, with such request, a written proposal identifying such change and the impact thereof on the Contract Price, delivery dates hereunder, or other terms of this Contract.

(c) Customer may accept or reject such request in Customer's sole discretion. Customer shall notify Contractor in writing, within fourteen (14) Calendar Days after receipt of the requested change proposal. If Customer agrees with and accepts Contractor's requested change and such impact thereof, Contractor shall proceed with the performance of this Contract as changed upon the execution by both Parties of a written Change Order reflecting such changes. If Customer does not agree to the requested change, Contractor shall continue performance in accordance with this Contract without regard to such requested change.

#### 10.3 Pricing of Changes.

(a) When calculating the change in the Contract Price caused by changes in the Work pursuant to this Article 10 (Changes in Scope of Work), such calculation shall be consistent with general administrative and overhead rates then in effect at the time of the change and Contractor's labor rates, which labor rates shall be subject to the most favored customer provisions of Article 5.3 (Most Favored Customer).

(b) Any adjustment made pursuant to this Article 10 (Changes in the Scope of Work) shall be set forth in an Amendment to this Contract in accordance with Article 28.3 (Amendments).

11. SECURITY INTEREST

(a) To secure Customer's interest in the Work arising from Customer's payment of NRE Milestone Payment Nos. 1, 2, 3, 4 and 5 and all amounts due Customer under this Contract in the event of Contractor's default, Contractor hereby grants to Customer a security interest, which Contractor represents and warrants is and shall at all times be a first priority security interest, in Contractor's right, title and interest in, to and under this Contract and the Work. Contractor hereby agrees to take, at Customer's expense, all such actions as may be reasonably requested by Customer to create, perfect, maintain and preserve such security interest, including the execution and delivery of such uniform commercial code financing statements, continuation statements, if any, and similar documents or instruments as may be required by applicable law as Customer may reasonably request.

(b) The security interest created herein shall terminate upon Acceptance of the Work by Customer. Upon termination of such security interest, Customer shall release and terminate such security of record by filing termination statements or similar documents in accordance with applicable law.

(c) Contractor hereby acknowledges and agrees that the provisions of this Article 11 (Security Interest) constitute a security agreement under the provisions of the uniform commercial code in effect in the jurisdiction applicable to this transaction pursuant to which Contractor has granted a security interest in the collateral described in paragraph (a) above.

12. ACCESS TO WORK

12.1 Access to Work.

Contractor shall provide Customer Personnel access to all Work (including Work-in-progress, documentation, and testing) at each Contractor Facility on a non-interference basis during business hours.

12.2 Documentation.

(a) Subject to Article 12.1 (Access to Work), Customer Personnel will at all times have access to (i) the Data and Documentation and (ii) Work-in-progress, technical and schedule data and documentation relevant to the Work. To facilitate Customer's rights hereunder, Contractor will allow Customer Personnel access to all indices related to the materials referenced in this paragraph (a).

(b) Where the materials described in paragraph (a) are necessary for evaluation of designs, performance considerations, assessment of test plans and test results, or for any other purpose connected with the design, qualification, testing, acceptance, or operation of the Work, or any part thereof, Contractor will, subject to Article 15 (Confidentiality), make available to Customer Personnel copies of such documentation on the reasonable request of Customer Personnel.

(c) Any data provided by a Party to the other Party in electronic form shall be embodied in, or be in a form compatible with, commercially available software.

12.3 Electronic Access.

With respect to electronically generated information, Contractor will provide Customer with a copy of and/or electronic access (via the Internet, Contractor's email, or as agreed upon) to such information as is necessary to keep Customer advised, on a current basis, of program issues, decisions, and problems.

12.4 Meetings.

(a) Contractor shall hold progress meetings in accordance with the requirements of Exhibit B (SOW).

(b) Customer Personnel shall be entitled, at Customer's expense, to participate in the meetings (including in person, or through teleconference, video conference or internet) of Contractor and of Contractor with any Subcontractor(s) where such meetings (or portions of such meetings) are related to the Work, and shall have the right to participate in and make recommendations, but not to control, give directions or assign actions, in all such meetings. Contractor shall provide Customer with reasonable prior written notice of the date and time of scheduled meetings.

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(c) In the event a meeting is convened at a Contractor Facility or another Contractor or Subcontractor controlled site, Contractor shall make appropriate arrangements to ensure the entry of Customer Personnel to the meeting place.

12.5 Financing Entities.

Each Financing Entity shall have access to the Work in the same manner and to the same extent as Customer Personnel under this Article 12 (Access to Work).

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## 13. TECHNICAL MATERIALS ESCROW

(a) Within thirty (30) Calendar Days following the Execution Date, Contractor, Customer and Escrow Agent will enter into a written escrow agreement substantially in the form attached hereto in Exhibit H (Technical Materials Escrow Agreement) pursuant to which Contractor will deposit with Escrow Agent all the Technical Materials available at that time (the "Escrowed Materials"). Customer shall pay the applicable escrow fees to Escrow Agent. Contractor represents and warrants that the Escrowed Materials shall, immediately upon the Start of Production Date, be sufficient for an individual reasonably experienced in the design and manufacture of terrestrial repeaters or similar electronic equipment technology to understand and utilize such materials to construct, manufacture, support and/or maintain the Repeaters, Network Management System and other deliverables as contemplated herein. During the Term, Contractor will maintain such Escrowed Materials current and provide updates thereto to Escrow Agent as appropriate. Escrow Agent will make the Escrowed Materials available to Customer upon Customer's notice to Escrow Agent that one of the following has occurred:

- (1) the institution by Contractor of insolvency, receivership or bankruptcy proceedings;
- (2) a general assignment by Contractor for the benefit of creditors;
- (3) the appointment of a receiver for Contractor;
- (4) the filing by creditors of Contractor of a petition in bankruptcy against Contractor that is not stayed or dismissed within sixty (60) Calendar Days; or
- (5) Customer's termination of this Contract for cause in accordance with Article 25.2 (Termination for Contractor's Default).

(items (1) through (5) hereinafter referred to as the "Release Conditions").

(b) In accordance with Exhibit H (Technical Materials Escrow Agreement), Escrow Agent will give written notice to Contractor prior to the delivery of the Escrowed Materials to Customer. Notwithstanding the provisions of Article 23 (Dispute Resolution) of this Contract, disputes concerning whether or not the Release Condition set forth in paragraph (a) (5) (i.e., with respect to Article 25.2 (Termination for Contractor's Default)) has occurred shall be subject exclusively to the arbitration provisions and processes set forth below. Disputes and remedies relating to Article 25.2 (Termination for Contractor's Default) other than as set forth in the preceding sentence will remain subject to Article 23 (Dispute Resolution).

- (1) In the event Customer is of the opinion that the Release Condition set forth in paragraph (a) (5) above has occurred, and Customer has given notice to Escrow Agent in accordance with the Technical Materials Escrow Agreement that Customer desires release of the Escrowed Materials from escrow upon the occurrence of that Release Condition, Escrow Agent shall deliver a notice to that effect to Contractor in accordance with the requirements of the Technical Materials Escrow Agreement.

- (2) If Contractor is of the opinion that it has a reasonable basis to challenge Customer's request for release of the Escrowed Materials, it shall deliver a notice ("Notice of Objection") setting out its objections to Customer's request to Customer and Escrow Agent simultaneously in accordance with the time limits set forth in the Technical Materials Escrow Agreement.
- (3) Upon receipt of the Notice of Objection by Customer, an expedited arbitration process ("Escrow Arbitration") shall immediately be commenced for the purpose of establishing whether or not the alleged Release Condition pursuant to paragraph (a)(5) above has occurred. Customer shall be entitled to select any of the following arbitrators as the sole arbitrator ("Arbitrator") conducting the Escrow Arbitration:

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Arbitrator 1	Arbitrator 2	Arbitrator 3
Kenneth R. Feinberg	Jonathan B. Marks	John E. Nolan
The Feinberg Group LLP	MarksADR, LLC	Steptoe & Johnson
Washington, DC	Washington, DC	Washington, DC
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- (4) If none of these three individuals is immediately available to conduct the Escrow Arbitration, Customer may ask any one of the said three individuals to appoint another individual as Arbitrator. However, under no circumstance shall any person be appointed as Arbitrator of the Escrow Arbitration unless the person: (A) has not previously been engaged by Customer, Contractor or any affiliate of either one of those two parties in any capacity (other than as a mediator or arbitrator for a third-party dispute); (B) has not had any relationship with Customer, Contractor or any affiliate of either of those two parties (other than as a mediator or arbitrator of a third-party dispute); and (C) has had a significant degree of prior experience in conducting commercial arbitration.
- (5) respect to the Escrow Arbitration:
  - (i) If Contractor and Customer ("Arbitration Parties") cannot agree on a procedural matter on a timely basis to ensure completion of the arbitration within thirty (30) Calendar Days after Customer's selection of the Arbitrator, the matter shall be resolved expeditiously by the Arbitrator at the request of either Arbitration Party.
  - (ii) The Arbitrator's fees shall be paid for equally by the Arbitration Parties, unless otherwise ordered or directed by the Arbitrator;
  - (iii) The procedural rules and rules of evidence adopted for the Escrow Arbitration shall be determined by the Arbitrator with a view to affording both Arbitration Parties a fair hearing and always

observing the strict timeframe for the completion of the Escrow Arbitration set out herein;

- (iv) Article 28.7 (Applicable Law) shall apply to the Escrow Arbitration;
- (v) The Escrow Arbitration hearing(s) shall take place at such time(s) and place(s) in Washington, DC as the Arbitrator determines;
- (vi) The Arbitrator shall have all of the powers required to determine whether or not the pre-conditions for the conduct of the Escrow Arbitration have been met, to conduct the Escrow Arbitration, and he or she shall be empowered to make any necessary procedural or substantive rulings and may proceed with the Escrow Arbitration if an Arbitration Party refuses to participate or co-operate in the conduct of the Escrow Arbitration.
- (vii) The Arbitrator's decision ("Award") shall be in writing, shall be accompanied by written reasons, shall be made within thirty (30) Calendar Days after the date that the Arbitrator is appointed to conduct the Escrow Arbitration, and shall be evidenced by a dated certificate bearing the signature of the Arbitrator issued within the same timeframe specifying whether or not the Release Condition specified in Customer's request for the release of the Escrowed Materials has occurred ("Escrow Arbitration Award Certificate");
- (viii) The Arbitrator's Award shall be final and binding on the Arbitration Parties; and
- (ix) The Arbitration proceedings are private and confidential, unless an appeal is taken to a court of competent jurisdiction.

(c) In any event, if it is determined that a Release Condition did not occur, Customer shall promptly return the Escrowed Materials to Escrow Agent; provided, however, Customer may retain any portion of the Technical Materials for which Customer has ownership or license rights as granted pursuant to Article 14 (Intellectual Property Rights).

(d) In the event a Release Condition has occurred (including as determined pursuant to Escrow Arbitration above), Customer shall be entitled to use, or have used, the Escrowed Materials as necessary to support and maintain its purchased Repeaters, Network Management System and other deliverables hereunder and to construct or manufacture, or have constructed or manufactured, such Repeaters, Network Management System and other deliverables. Such use shall include the right to copy, disclose, modify, enhance, upgrade, revise, and create derivative works of such Escrowed Materials. Customer shall be entitled to permit its Associates, Consultants, and third-party service providers to use the Escrowed Materials on behalf of Customer. With respect to Customer disclosures to third parties, Customer agrees to disclose the Escrowed Materials only to third parties that are working for Customer pursuant to a

confidentiality agreement. Subject to Article 14 (Intellectual Property Rights), Customer will immediately return the Escrowed Materials, including all copies thereof, to Escrow Agent when Customer no longer requires the Escrowed Materials for the purposes permitted hereunder.

## 14. INTELLECTUAL PROPERTY RIGHTS

## 14.1 Ownership of Intellectual Property Rights.

(a) All Background Intellectual Property Rights of Contractor shall remain the sole and exclusive property of Contractor.

(b) All Background Intellectual Property Rights of Customer shall remain the sole and exclusive property of Customer.

(c) Notwithstanding the definition of "Joint Intellectual Property Rights", all Foreground Intellectual Property Rights first conceived or first reduced to practice solely by Contractor or Customer as part of the Work or otherwise pursuant to the Statement of Work, shall become Joint Intellectual Property Rights and shall be Jointly Owned.

## 14.2 Joint Inventions.

(a) An assignment of rights in all Joint Inventions shall be executed in the names and for the benefit of both Contractor and Customer, or their designees.

(b) With respect to Joint Inventions first conceived or reduced to practice by Contractor as part of the Work, Contractor shall have the first right of election to file patent applications in any country, including the selection of the attorney or agent to prepare the patent application, and Customer shall have a second right of election. Each Party in turn shall make its election at the earliest practicable time, and shall notify the other Party, in writing, of its decision.

(c) With respect to Joint Inventions first conceived or reduced to practice by Customer as part of the Work, Customer shall have the first right of election to file patent applications in any country, including the selection of the attorney or agent to prepare the patent application, and Contractor shall have a second right of election. Each party in turn shall make its election at the earliest practicable time, and shall notify the other Party, in writing, of its decision.

(d) The expenses for preparing, filing and securing each Joint Invention patent application subject to paragraphs (b) or (c) above, and for issuance of the respective patent, shall be borne by the Party that prepares and files the application. The other Party shall furnish the filing Party with all documents or other assistance that may be necessary for the filing and prosecution of each application. Where such Joint Invention application for patent is filed by either Party in a country that requires the payment of taxes, annuities or maintenance fees on a pending application or on an issued patent, the Party that files the application shall, prior to filing, request the other Party to indicate whether it will agree to pay one-half of such taxes, annuities or maintenance fees. If, within sixty (60) Calendar Days of receiving such request, the non-filing Party fails to assume in writing the obligation to pay its proportionate share of such taxes, annuities or maintenance fees, or if either Party subsequently fails to continue such payments within sixty (60) Calendar Days of demand, it shall forthwith relinquish to the other Party, providing that said other Party continues such payments, its share of the title to such application and patent, subject, however, to retention of an irrevocable, fully paid-up, non-exclusive, non-assignable, non-sublicensable license in favor of the relinquishing Party and its

Affiliates to make, have made, use, lease and sell, apparatus and/or methods under said application and patent.

(e) With respect to Joint Inventions first conceived or reduced to practice jointly by Customer and Contractor, the Parties shall determine, on a case-by-case basis, the priority of election rights with respect to the filing of patent applications and responsibility for expenses therefor.

#### 14.3 Intellectual Property Rights License Grant.

(a) Contractor hereby grants to Customer a non-transferable, perpetual, irrevocable, fully paid-up, royalty-free, non-exclusive, world wide license in and to Contractor's Background Intellectual Property Rights solely as necessary for Customer, its Affiliates or their respective designee(s) (only on Customer's or its Affiliates' behalf): (i) to use, copy, modify and/or prepare derivative works of the Work in connection with Customer's business as such is constituted from time to time; and (ii) to make, use, sell, import and export, operate, maintain, modify, prepare derivative works of, offer, market, display, reproduce and license the Repeaters, Network Management System and other deliverables hereunder and related equipment and services similar to such Repeaters, Network Management System and other deliverables hereunder, all in connection with Customer's business as such is constituted from time to time. Customer may sublicense its Affiliates and Customer and its Affiliates' respective designees, and Customer may not otherwise sublicense the rights granted under this paragraph (a) without the express written authorization of Contractor. Subject to Article 13 (Technical Materials Escrow) and notwithstanding anything to the contrary contained in this paragraph (a), the license in and to Contractor's Background Intellectual Property Rights shall not extend to the manufacturing for the marketing or sale by Customer or its Affiliates of Repeaters, the Network Management System and the other deliverable items hereunder, to any unrelated third parties.

(b) Customer hereby grants to Contractor a royalty-free, non-exclusive, world wide license to use Customer's Background Intellectual Property Rights and Customer's Foreground Intellectual Property Rights solely as necessary for Contractor's performance and/or execution of the Work, and solely as necessary to make, use, have made, sell, import and export the Repeaters, Network Management System and other deliverables hereunder on Customer's behalf. Contractor may not otherwise sublicense the rights granted under this paragraph without the express written authorization of Customer, which authorization may be granted or withheld at Customer's sole discretion.

#### 14.4 Third-Party Intellectual Property Rights.

(a) Each Party hereby represents and warrants to the other that it will not knowingly design or otherwise incorporate any third-party Intellectual Property Rights into the Work, without: (i) a license to do so from the third party; and (ii) the express written authorization of the other Party. Customer hereby authorizes Contractor to incorporate into the Work the repeater design developed by Unique Broadband Systems, Inc. pursuant to the Interim Services Agreement by and between Customer and Unique Broadband Systems, Inc. dated August 9, 1999 to the extent Contractor obtains license rights from Unique Broadband Systems, Inc. to so incorporate such design.

(b) In the event that either Party has secured a license to any third-party Intellectual Property Rights that are designed or otherwise incorporated into the Work, that Party shall offer to the other Party any such license rights that it is legally or contractually permitted to offer at terms no less favorable than its own license grant.

14.5 Contractor Restriction on Use of Foreground Intellectual Property Rights.

Notwithstanding any provision herein to the contrary, without the prior written approval of Customer, which approval Customer may grant or withhold in its sole discretion, neither Contractor, nor any Affiliate of Contractor, nor any other entity in which Contractor has an ownership interest, shall: (i) (A) license, lease or otherwise transfer, furnish or convey any of the Foreground Intellectual Property Rights to, (B) provide any equipment or services that use or require any of the Foreground Intellectual Property Rights to, or (C) otherwise provide any other benefits of use of the Foreground Intellectual Property Rights to, any existing or future Customer Competitor; or (ii) directly, or indirectly through any third party, contact, negotiate with or contract with any person, corporation, partnership, limited liability company or other entity for the purpose of (A) licensing, leasing or otherwise transferring, furnishing or conveying any of the Foreground Intellectual Property Rights to, (B) providing any equipment, services or other materials that use or require any of the Foreground Intellectual Property Rights to, or (C) otherwise providing any other benefits of use of the Foreground Intellectual Property Rights to, any existing or future Customer Competitor.

## 15. CONFIDENTIALITY

## 15.1 Confidentiality Obligations.

(a) Any Confidential Information shall be maintained in strict confidence by the Receiving Party. Except as provided in this Article 15 (Confidentiality), the Receiving Party shall not use, or disclose in any manner to any third party, Confidential Information of the Furnishing Party without the prior express written consent of the Furnishing Party. The obligation of confidentiality shall not be limited in time except to the extent the Receiving Party can establish one of the exceptions set forth in Article 15.2 (Exceptions) below by clear and convincing evidence.

(b) Access to and use of the Furnishing Party's Confidential Information shall be restricted to those employees and persons within the Receiving Party's organization (including its Consultants, attorneys, Subcontractors, shareholders, representatives, and Financing Entities) with a need to use such Confidential Information for the purpose of performing this Contract or any transaction contemplated hereby or, in the case of Customer, obtaining debt or equity financing. The Receiving Party's Consultants, Subcontractors, shareholders and representatives and the Financing Entities may be included within the meaning of "persons within the Receiving Party's organization," provided that such persons have executed a non-disclosure or confidentiality agreement no less stringent than this Article 15 (Confidentiality). In addition, all information provided is to be subject to the provisions of paragraph (c) below.

(c) Each Party shall use the other's Confidential Information solely for the purpose of performing this Contract or any transaction contemplated hereby or, in the case of Customer, obtaining debt or equity financing.

(d) Data and Documentation shall be deemed Confidential Information and shall be subject to the obligations of this Article 15 (Confidentiality) with respect thereto.

## 15.2 Exceptions.

(a) Subject to paragraph (b) below, the obligations set forth in Article 15.1 (Confidentiality Obligations) shall not apply to information that is:

- (1) Already known to or otherwise in the possession of the Receiving Party at the time of receipt from the Furnishing Party and that was not so known or received in violation of any confidentiality;
- (2) Publicly available or otherwise in the public domain prior to disclosure by the Receiving Party or becomes publicly available or otherwise in the public domain after receipt by the Receiving Party without breach of this Contract;
- (3) Rightfully obtained by the Receiving Party from any third party without restriction and without breach of any confidentiality obligation by such third party;

- (4) Developed by the Receiving Party independent of any disclosure hereunder, as evidenced by written records; or
- (5) Disclosed pursuant to the order of a court or administrative body of competent jurisdiction or a government agency or required to be released pursuant to Law, or as the Receiving Party may reasonably determine advisable or necessary under the Securities Act of 1933, as amended, the Securities Act of 1934, as amended, NASDAQ, NYSE or any other national securities exchange, provided the Receiving Party shall notify the Furnishing Party prior to such disclosure and shall cooperate with the Furnishing Party in the event the Furnishing Party elects to contest legally, request confidential treatment, or otherwise avoid such disclosure.

(b) The burden shall be on the Receiving Party to demonstrate the applicability of one or more of the foregoing exceptions by documentary evidence in the event the Furnishing Party questions the applicability of any such exceptions.

#### 15.3 No License.

Except as expressly provided in this Contract, nothing in this Contract shall be construed as granting the Receiving Party, whether by implication, estoppel, or otherwise, any license or any right to use any Confidential Information received from the Furnishing Party, or use any Intellectual Property Right now or hereafter owned or controlled by the Furnishing Party.

#### 15.4 Return of Confidential Information.

All Confidential Information disclosed pursuant to this Contract is considered loaned for use solely in connection with this Contract. All Confidential Information in tangible form of expression that has been disclosed to or thereafter created, whether by copy or reproduction, by the Receiving Party shall be and remain the property of the Furnishing Party, except to the extent the Receiving Party has ownership or license rights in such Confidential Information pursuant to Article 14 (Intellectual Property Rights). All such Confidential Information and any and all copies and reproductions thereof shall, within thirty (30) Calendar Days of written request by the Furnishing Party, be either promptly returned to the Furnishing Party or destroyed at the Furnishing Party's direction, except to the extent the Receiving Party has ownership or license rights in such Confidential Information pursuant to Article 14 (Intellectual Property Rights). In the event of such requested destruction, the Receiving Party shall provide to the Furnishing Party written certification of compliance therewith within thirty (30) Calendar Days of such written request.

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15.5 Inconsistent Legends.

This Article 15 (Confidentiality) shall control in lieu of and notwithstanding any proprietary or restrictive legend or statements inconsistent with this Article that may be printed on or associated with any particular information disclosed pursuant to this Contract.

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16. RECORDS RETENTION

Contractor will maintain and provide access upon request to the records, documents and other information required to meet Customer's access to work and audit rights under this Contract until the later of (i) three (3) years after expiration or termination of this Contract, (ii) all pending matters relating to this Contract (e.g., disputes) are closed, or (iii) such records, documents and other information are no longer required to meet Customer's records retention policy as such policy may be adjusted from time to time, which Customer record retention policy shall not exceed seven (7) years.

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## 17. REPRESENTATIONS AND WARRANTIES

## 17.1 Work Standards.

Contractor represents and warrants that it shall perform the Work hereunder in a manner to ensure that such Work is rendered with promptness and diligence and shall be executed in a workmanlike manner, in accordance with the practices and high professional standards used in well-managed operations performing Work similar to the Work performed hereunder. Contractor agrees that it shall use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the Work.

## 17.2 Design and Performance Warranties.

(a) Contractor hereby represents and warrants for the benefit of Customer as follows:

- (1) that the Work shall be free from Defects in design, material and workmanship;
- (2) that the Network Management System and each Repeater shall conform to and operate in accordance with this Contract, including without the need for any additional equipment, software or other materials, except as expressly specified in Exhibit A (Design Specifications) or Exhibit B (Statement of Work);
- (3) that the Network Management System and the Repeaters shall perform at normal levels with no more than the levels of standard and preventive maintenance as may be specified in Exhibit B (Statement of Work);
- (4) that the Network Management System, Repeaters and LRUs provided hereunder (excluding as warranty replacements) shall be new and of recent manufacture, not refurbished;
- (5) that each replacement Repeater, LRU or other component, part or sub-part supplied by Contractor in the performance of its warranty obligations hereunder shall conform to the requirements of this Contract as if it were an original part;
- (6) subject to paragraphs (b) and (c) below, that it shall maintain the availability of LRUs, components, parts and sub-parts for a period of seven (7) years after the Project Completion Date and that replacement Repeaters and such replacement LRUs, parts and sub-parts shall be made available as needed in accordance with the requirements of Article 17.11 (Remedies (Repeaters));
- (7) that all upgrades to the Network Management System, Repeaters and LRUs shall be backward compatible to the then-existing Repeaters in use by Customer; and

- (8) that the Technical Materials shall, at all times, be sufficient for an individual reasonably experienced in the design and manufacture of terrestrial repeaters or similar electronic equipment technology to understand and utilize such materials to support and/or manufacture the Repeaters.

(b) In the event Contractor (and not its suppliers or Subcontractors) is the manufacturer of any LRUs, components, parts and sub-parts of the Repeaters, Contractor shall continue to manufacture, and make available to Customer, such LRUs, components, parts and sub-parts for a period of seven (7) years as set forth in paragraph (a) (6) above; provided such items shall be available to Customer, without additional charge, during the Warranty Period in accordance with Article 17.11 (Remedies (Repeaters)).

(c) In the event an LRU, component, part or sub-part is manufactured or otherwise available by an entity other than Contractor, including Contractor's suppliers and Subcontractors, Contractor shall:

- (1) Use best commercial efforts to include in each supplier agreement or Subcontract an obligation that the supplier or Subcontractor provide to Contractor reasonable advance notice of its decision to cease production, or otherwise limit or eliminate the availability, of the LRU, component, part or sub-part that such supplier or Subcontractor provides, including due to obsolescence of such item;
- (2) Upon receipt of notice from a supplier or Subcontractor pursuant to paragraph (c) (1) above, Contractor shall promptly, but in no event later than the third (3<sup>rd</sup>/) Business Day following the date of receipt of such notice from its supplier or Subcontractor, provide written notice to Customer of the impending unavailability of the LRU, component, part or sub-part related to the Repeaters, such notice to also include any other pertinent information related to the availability of such items prior to the impending date of unavailability;
- (3) Advise Customer, in writing and at no charge to Customer, of commercially available alternatives to the LRUs, components, parts or sub-parts of the Repeaters, which commercially available alternative is technically and functionally compatible with the Repeaters and will cause the Repeaters to function in accordance with requirements specified in this Contract. Contractor shall so advise Customer from time to time during the Term of this Contract as it becomes aware of such alternatives, but also at the time Contractor gives notice to Customer pursuant to paragraph (c) (2) above of the impending unavailability of an LRU, component, part or sub-part;
- (4) In the event there is no viable commercially available alternative to replace the unavailable LRU, component, part or sub-part, at Customer's request, Contractor shall design, engineer, develop and manufacture (or have manufactured) a viable alternative or other work-around solution to the unavailable LRU, component, part or sub-part, subject to the Parties'

negotiation and agreement as to reasonable terms and conditions and charges therefor (except where such situation arises prior to the expiration of the applicable Warranty Period for the Repeaters).

(d) The warranties provided under this Article 17.2 (Design and Performance Warranties) do not cover defects or damage resulting from (i) the use of any Work in any manner which is not normal or customary; (ii) misuse, accident or neglect including dropping or spills of liquid; (iii) improper testing, operation, maintenance, installation or adjustment (unless performed by or on behalf of Contractor); or (iv) any alteration or modification of any kind (unless performed by or on behalf of Contractor).

#### 17.3 Documentation.

Contractor represents and warrants that all Documentation provided by Contractor pursuant to this Contract shall be accurate, complete and written in a manner understood by Customer, and shall be updated from time to time to reflect any changes in the Work or to the Repeaters.

#### 17.4 Inducements.

Contractor represents and warrants that it has not violated any applicable laws or regulations or any Customer policies of which Contractor has been given notice regarding the offering of unlawful inducements in connection with this Contract. If at any time during the Term of this Contract, Customer determines that the foregoing warranty is inaccurate, then, in addition to any other rights Customer may have at law or in equity, Customer shall have the right to terminate this Contract for cause without affording Contractor an opportunity to cure.

#### 17.5 Viruses.

Contractor represents and warrants that it shall use its best commercial efforts to ensure that no Viruses are coded or introduced into the Work or in any systems used to perform the Work. Contractor agrees that, in the event a Virus is found to have been introduced into the systems used to perform the Work, Contractor shall use its best commercial efforts at no additional charge to eliminate the effects of the Virus and, if the Virus causes a loss of operational capability or efficiency of any Repeater, to use best efforts to mitigate and restore such losses.

#### 17.6 Disabling Code.

Contractor represents and warrants that, without the prior written consent of Customer, Contractor shall not insert into the Work any code that would have the effect of disabling or otherwise shutting down the NMS or any Repeater. Contractor further represents and warrants that, with respect to any disabling code that may be part of any code (embedded or otherwise) to

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

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be delivered hereunder, Contractor shall not invoke such disabling code at any time, including upon expiration or termination of this Contract for any reason, without Customer's prior written consent.

17.7 Year 2000.

Contractor represents and warrants that the Work and all items to be delivered hereunder, including Repeaters, are and shall continue to be Year 2000 Compliant.

17.8 Compliance with Applicable Law.

Contractor represents and warrants that it shall perform its obligations in a manner that complies with all applicable Laws, including export, import and foreign controls, the Foreign Corrupt Practices Act, the U.S. Export Administration Act, and requirements of the FCC (including RF human exposure emission requirements and harmful interference standards), EPA, and OSHA, all as may be amended from time to time. If Contractor is charged with the failure to comply with any of such laws, Contractor shall promptly notify Customer of such charges in writing.

17.9 Warranty Disclaimer.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS CONTRACT, NEITHER PARTY MAKES ANY OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OF INTELLECTUAL PROPERTY NON-INFRINGEMENT.

17.10 Warranty Period.

(a) Subject to Article 17.11 (Remedies (Repeaters)) and Article 17.12 (Remedies (Network Management System)), Contractor shall be liable to Customer for a breach of the warranties set forth in Article 17.2 (Design and Performance Warranties) only if written notice of such alleged breach is given to Contractor prior to the expiration of the [\*\*\*\*\*] period following the Project Completion Date (the "Warranty Period").

(b) Upon Customer's written notice given to Contractor at least thirty (30) Calendar Days prior to the expiration of the applicable Warranty Period for each Repeater, Customer may elect to extend the Warranty Period for each Repeater for an additional [\*\*\*\*\*] period, subject to payment by Customer of the charges for such optional extended coverage as set forth in Exhibit C (Pricing, Milestones and Payment Plan). In the event Customer notifies Contractor of its interest in purchasing from Contractor additional extended warranty coverage for any period following the expiration of the [\*\*\*\*\*] optional warranty coverage period specified in the preceding sentence, Contractor shall propose, in writing within thirty (30) Calendar Days following the date of Customer's notice, a price for such extended warranty coverage, such price to take into account the actual annual failure rates in the deployed Repeaters experienced prior to Customer's request for additional extended warranty coverage.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

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17.11 Remedies (Repeaters).

(a) In the event a Repeater requires maintenance or repair, Customer, or its designee(s), shall perform such maintenance or repair.

(b) Customer, or its designee(s), shall maintain, at the Regional Inventory Storage Facilities, an inventory of the Lowest Replaceable Units with respect to Repeaters, such inventory to be utilized by Customer, or its designee(s), to maintain or repair Repeaters. Customer, or its designee(s), shall be responsible, at Customer's expense, for returning to Contractor, in a reasonably prompt manner, any defective LRU, provided that Contractor, at Contractor's expense, shall provide Customer with all necessary and appropriate packing and crating materials. In the event Contractor tests the returned LRU and is able to demonstrate, to Customer's reasonable satisfaction, that the returned LRU is in good working order in accordance with its specifications (or, "no trouble found" ("NTF")), Customer shall pay Contractor the amount of [\*\*\*\*\*] for each returned LRU demonstrated to be NTF and shall reimburse Contractor for the actual costs incurred by Contractor with respect to the round-trip shipment of the LRU, as established by supporting shipping invoices.

(c) During the Warranty Period for each Repeater (as such period may be extended), Contractor shall provide the following items or perform the following services at no additional charge to Customer:

- (1) Training in accordance with Exhibit B (Statement of Work);
- (2) Subject to paragraph (d) below, an initial written inventory plan for inventories of replacement LRUs to be maintained by Customer, or its designee(s), pursuant to paragraph (b) above. Contractor shall propose such inventory plan to Customer on or before the ninetieth (90th) Calendar Day following EDC, and shall reasonably consider incorporating Customer's reasonable comments thereto. In no event shall Contractor's proposed inventory plan provide for a sparing level that is less than the preliminary sparing level set forth in Exhibit B (Statement of Work). Such plan shall specify the total number of LRUs to be maintained in Customer's inventory of spare LRUs, which Customer shall reasonably allocate among each of its Regional Inventory Storage Facilities. The total sparing level proposed by Contractor shall be sufficient so that appropriate LRUs are immediately available to Customer, or its designee, as they perform maintenance and repair on the Repeaters. Such inventory plan shall also specify the environmental and maintenance requirements for the proper storage of such LRUs;
- (3) Replacement LRUs as may be actually required by Customer to repair defective Repeaters, even if the number of LRUs provided by Contractor exceeds the sparing levels indicated in the inventory plan;
- (4) Re-stock of the LRU inventory on an as-needed basis to maintain the sparing levels indicated in the inventory plan, as it may be updated from time to time;

- (5) On-going consultation services and advice to Customer, or its designee(s), on the proper methods of performing maintenance and repair functions for the Repeaters, including telephonic troubleshooting of defective units and, if necessary, on-site diagnostic and remedial services;
  - (6) Repair or disposal of a defective LRU returned to Contractor by Customer or its designee(s). If Contractor repairs the returned LRU such that the LRU performs in accordance with its applicable technical specifications, Contractor may use such repaired LRU for inventory restocking purposes; and
  - (7) Replacement of Repeaters, if it is reasonably determined by Customer, or its designee(s), after consultation with Contractor, that repair of a Repeater cannot be accomplished using the LRUs or other components or parts available at the Regional Inventory Storage Facility. In such event, Customer may, at its option:
    - (i) require Contractor to ship a replacement Repeater, at its expense, within twenty-four (24) hours after receipt of notice of such determination so that the replacement Repeater shall arrive at the interior of its designated place of installation as soon as commercially practicable, but in no event later than fourteen (14) Calendar Days after the date of Customer's notice to Contractor; or
    - (ii) require Contractor to ship a replacement Repeater within twenty-four (24) hours after receipt of notice of such determination and use air shipment for delivery of such replacement Repeater so that the replacement Repeater is received by Customer as soon as commercially possible, provided that Customer shall reimburse Contractor for the incremental difference in the shipping charges incurred by Contractor for air shipment over Contractor's reasonable expenses for surface delivery; or
    - (iii) assemble a complete Repeater using the LRU's in stock at Customer's Regional Inventory Storage Facilities. Customer, or its designee, shall install the replacement Repeater and arrange for the return of the replaced Repeater to Contractor, subject to reimbursement by Contractor to Customer for the costs of shipping (including packing, crating, shipping, transportation and insurance).
- (d) Following implementation of the inventory plan specified in paragraph (c)(2) above, Customer may, from time to time, propose changes to the inventory plan, provided such changes are based upon the actual failure rates experienced with respect to Repeaters or LRUs. Contractor shall revise the inventory plan to incorporate and accommodate Customer's proposed reasonable changes and shall promptly implement the revised inventory plan. Similarly, following Customer's initial allocation of spare LRUs among the Regional Inventory Storage Facilities, Contractor may, from time to time, propose changes to the manner in which Customer

allocates such spare LRUs, provided such proposed changes are based upon actual LRU replacement requirements experienced with respect to the Repeaters. Customer shall revise the method of allocating spare LRUs among the Regional Inventory Storage Facilities to incorporate Contractor's proposed reasonable changes and shall promptly implement the revised allocation scheme.

(e) Customer may, in addition to the remedies provided by Contractor hereunder and at no additional charge to Customer,

- (1) seek recourse pursuant to such other warranties as may be provided by the original equipment manufacturers (O.E.M.), Subcontractors, or other warranties on any materials or equipment furnished by Contractor, all in accordance with the respective terms of such warranties; and
- (2) request Contractor and/or its Subcontractors to provide, and Contractor shall provide, reasonable on-site support at Customer's facilities or other system-related sites as necessary to complete the Work ("Field Support"), including to assist Customer in the identification and remediation of significant systems engineering problems relating to the Work and with respect to installed Repeaters.

#### 17.12 Remedies (Network Management System).

Contractor shall maintain, repair or replace the Network Management System during the Warranty Period so that the Network Management System shall at all times be fully operational in accordance with all applicable specifications and warranties and available for use by Customer at all times. If circumstances arise where Contractor is unable to maintain or repair the NMS, or any part or portion thereof, so that it operates in accordance with the above standard, Contractor shall replace such item at Contractor's expense. Subject to Article 14 (Intellectual Property Rights), Customer shall own any such replacement item. For purposes hereof, Contractor shall be deemed to be unable to maintain or repair the NMS, or any part or portion thereof, if it fails more than three (3) times during any three (3) consecutive month period during the Warranty Period.

#### 17.13 Pattern Defect.

(a) In addition to the other warranties and remedies set forth herein, in the event that any LRU is determined to have a Pattern Defect during the applicable Warranty Period, as may be extended, Contractor will promptly modify the design, material and/or manufacturing process such that the Pattern Defect is eliminated and deliver, at its expenses (including packing, crating, transportation, shipping and insurance) replacements for all affected LRUs to eliminate such Pattern Defect. During the period that any LRU is determined to have a Pattern Defect, Contractor shall regularly advise Customer of the status of remedial efforts being undertaken with respect to such problem. A "Pattern Defect" will be determined to exist in any LRU when three percent (3%) or more of the total number of Repeaters purchased hereunder experience failures with respect to such LRUs within any rolling three (3) month period, due to the same Defect in design, material or manufacturing process carried out by Contractor or its Subcontractors

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(b) Customer, or its designee, at Customer's expense, shall install the replacement LRU and shall pack and crate for return to Contractor the replaced LRU, provided that Contractor, at Contractor's expense, shall provide Customer with all necessary and appropriate packing and crating materials.

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18. CONTRACTOR'S ADDITIONAL REPRESENTATIONS AND WARRANTIES

(a) Contractor additionally represents and warrants:

- (1) Contractor is a corporation duly organized, validly existing and in good standing under the Laws of Delaware;
- (2) it has all requisite power and authority to own and operate its material properties and assets and to carry on its respective business as now conducted in all material respects;
- (3) it is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect;
- (4) it is, or at the time of performance of the Work will be, fully licensed and authorized to perform the Work in each jurisdiction in which the Work is to be performed;
- (5) it has all requisite corporate power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract;
- (6) the execution, delivery, and performance of this Contract and the consummation of the transactions contemplated by this Contract have been duly authorized by all requisite corporate action of Contractor;
- (7) this Contract is a valid and binding obligation of Contractor, enforceable in accordance with its terms, except Contractor makes no representation or warranty as to the enforceability of remedies due to applicable bankruptcy, insolvency, moratorium, reorganization, or similar laws relating to or affecting the enforcement of creditor's rights or by reason of general principles of equity;
- (8) in the event Contractor becomes a party to any legal, administrative, arbitral, investigatory or other proceeding or controversy pending or, to the best of its knowledge, threatened, which reasonably would be expected to have a Material Adverse Effect, Contractor will notify Customer as soon as practicable; and
- (9) it is not subject to any contractual or other obligation that would prevent it from entering into this relationship and the execution and delivery of this Contract by Contractor and the performance by Contractor of its obligations hereunder will not result in or constitute a breach or violation of, or a default under, any provision of any lease, license, contract, agreement or any other document to which it is a party or by which it is bound.

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(b) Contractor represents that it is not a party to any legal, administrative, arbitral, investigatory or other proceeding or controversy pending or, to the best of its knowledge, threatened, which reasonably would be expected to have a Material Adverse Effect.

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19. CUSTOMER'S REPRESENTATIONS AND WARRANTIES

(a) Customer represents and warrants:

- (1) it is duly organized, validly existing and in good standing under the Laws of the State of Delaware;
- (2) it has all requisite power and authority to own and operate its material properties and assets and to carry on its respective business as now conducted in all material respects;
- (3) it is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect;
- (4) it has all requisite corporate power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract;
- (5) the execution, delivery, and performance of this Contract and the consummation of the transactions contemplated by this Contract have been duly authorized by the requisite corporate action of Customer and do not conflict with any other agreement or obligation to which it is a party or which binds its assets;
- (6) this Contract is a valid and binding obligation of Customer, enforceable in accordance with its terms, except Customer makes no representation or warranty as to the enforceability of remedies due to applicable bankruptcy, insolvency, moratorium, reorganization, or similar laws relating to or affecting the enforcement of creditor's rights or by reason of general principles of equity; and
- (7) in the event Customer becomes a party to any legal, administrative, arbitral, investigatory or other proceeding or controversy pending, or to the best of its knowledge threatened, which reasonably would be expected to have a Material Adverse Effect, Customer will notify Contractor as soon as practicable.

(b) Customer represents that as of the Effective Date, except as otherwise set forth in the filing of the Registration Statement on Form S-1 by XM Satellite Radio Inc. with the U.S. Securities and Exchange Commission on July 23, 1999, Registration No. 333-38619, Customer is not a party to any legal, administrative, arbitral, investigatory or other proceeding or controversy pending or, to the best of its knowledge, threatened, which reasonably would be expected to have a Material Adverse Effect.

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## 20. INSURANCE

## 20.1 General.

(a) Contractor shall purchase and maintain primary insurance coverage from a company or companies licensed to do business in each state in which the Work shall be performed and such company or companies shall carry at least an A.M. Best's rating of A-/VIII; provided, however, Contractor's insurer, Lloyds of London, shall be deemed to meet the foregoing standard notwithstanding that Lloyds of London may not be so rated in each state in which the Work may be performed. Such insurance shall protect Contractor from claims set forth below that may arise out of or result from Contractor's operations under the Contract, whether due to sole or passive negligence or arising from a Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them are liable:

- (1) claims for damages because of bodily injury, occupational sickness or disease, or death of its employees arising under workers' or workmen's compensation, disability benefit and/or other employee benefit acts;
- (2) claims for damages because of bodily injury, sickness or disease, or death of any persons other than its employees;
- (3) claims for damages insured by usual personal injury liability coverage;
- (4) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- (5) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

(b) Compliance by Contractor with the foregoing insurance requirements shall not limit Contractor's liability or relieve it of liability under this Contract or any Law

## 20.2 Specific Insurance Requirements.

The insurance required by this Article 20 (Insurance) shall be written for not less than the limits of liability specified in this Contract, or required by Law, whichever is greater. Before commencement of the Work and until the last payment made hereunder (except that product liability coverage shall continue in force until two years after the date of the last payment made hereunder), Contractor shall procure, deposit, and maintain for Customer's benefit, insurance satisfactory to Customer, as set forth in this Article 20.2 (Specific Insurance Requirements).

(a) Worker's Compensation as required by the Worker's Compensation Laws of the state(s) in which the Work is performed and Employer's Liability Insurance in an amount not less than \$100,000/\$500,000/\$500,000 each accident, bodily injury by accident/policy limit, bodily injury by disease/each employee, bodily injury by disease.

(b) Commercial General Liability Insurance, including products liability insurance, covering Bodily Injury, Personal Injury, Property Damage, and Advertising Injury, as follows.

- (1) Minimum Limits: Such insurance shall be written for a combined single limit not less than the following:

General aggregate per project	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Each occurrence	\$1,000,000

- (2) This insurance shall be written on an occurrence basis and on a coverage form at least equal to that provided under ISO CG 00 01, latest available edition, without overly restricting endorsements that reduce coverage.

(c) Automobile Liability Insurance covering Bodily Injury and Property Damage as follows:

- (1) Minimum Limits: The Combined Single Limit for Bodily Injury and Property Damage shall be not less than \$1,000,000 per accident.
- (2) This insurance shall be written on a coverage form at least equal to that provided under ISO CA 00 01, latest available edition, without restricting endorsements that reduce coverage and shall cover all owned, operated and hired vehicles of Contractor and non-ownership protection for all employees of Contractor engaged in the performance of this Contract.

(d) Excess Liability Insurance, written on an occurrence basis, in the amount of not less than a combined single limit for Bodily Injury and Property Damage and Personal and Advertising Injury of \$25,000,000 per occurrence or each offense/\$25,000,000 in the aggregate following the form and amounts of the primary insurance described in paragraphs (a), (b) and (c) of this Article 20.2 (Specific Insurance Requirements).

(e) Contractor shall procure cargo/transit insurance adequate to cover the value of the Work. Contractor shall assume the risk of goods in transit. Such coverage shall be written on an "all risk" basis.

(f) All insurance maintained by Contractor shall provide:

- (1) A Certificate of Insurance signed by the insurance broker stating the limits of liability and coverage effective dates shall be filed in triplicate with Customer before operations are begun. Such certificates not only shall name the types of policies provided, but also shall refer specifically to this Contract and Article. If the initial insurance expires prior to completion of the Work, renewal certificates shall be furnished by the date of expiration.
- (2) Customer, its Affiliates and Associates shall be included in the Commercial General Liability and Excess Liability policies as "additional insureds" with

the understanding that the liability to pay premiums shall be the sole obligation of Contractor and not that of any other insured.

- (3) Except in the case of Worker's Compensation Insurance, proceeds for first party losses, if any, shall be adjusted by and payable to the party purchasing the insurance, except property insurance purchased by Contractor for the benefit of Contractor, Subcontractors and Customer, which shall be adjusted with and payable to Contractor, Subcontractors and Customer, as their interest may appear.
- (4) The insurer thereunder waives all rights of subrogation against Customer, its Affiliates and Associates, as well as any rights of setoff and counterclaim and any other right to deduction whether by attachment or otherwise.
- (5) Such insurance shall be primary without any right of contribution of any other insurance carried by or on behalf of Customer, its Affiliates and Associates.

(g) Contractor shall require each of its Subcontractors to procure and maintain, until the completion of that Subcontractor's work, adequate insurance in a form similar to the above.

#### 20.3 Certificates of Insurance.

Certificates of Insurance in the "ACORD" form shall be provided to Customer on or before the Execution Date plus ten (10) Business Days; provided, however, the words "endeavor to" must be deleted from the cancellation section of the form. These Certificates, as well as insurance policies required by this Article 20 (Insurance), shall contain a provision that coverage shall not be canceled or allowed to expire until at least ninety (90) Calendar Days' prior written notice has been given to Customer; provided, however, ten (10) Calendar Days notice is permitted if the insurance is cancelled for non-payment reasons. Such Certificates shall also indicate that the Commercial General Liability and Excess Liability insurance policies have been endorsed to name Customer, its Affiliates and Associates as additional insureds as respects work performed by Contractor on their behalf.

## 21. INDEMNIFICATION

## 21.1 Indemnity by Contractor.

Subject to Article 21.4 (Indemnification Procedures), Contractor shall indemnify, defend and hold harmless Customer and its Affiliates and their respective Associates, from any and all Losses arising from, in connection with, or based on allegations of, any of the following:

(a) any claims made by third parties for injury to person (including death) or loss or damage to tangible property arising out of any error, omission or negligent act of Contractor or its Subcontractors; and

(b) any claims arising out of or related to occurrences Contractor is required to insure against pursuant to Article 20 (Insurance).

## 21.2 Indemnity by Customer.

Subject to Article 21.4 (Indemnification Procedures), Customer shall indemnify, defend and hold harmless Contractor and its Affiliates and their respective Associates, from any and all Losses arising from, in connection with, or based on allegations of any of the following:

(a) any claims made by third parties for injury to person (including death) or loss or damage to tangible property arising out of any error, omission or negligent act of Customer; and

(b) any third-party allegations of infringement of any Intellectual Property Right, alleged to have occurred because of systems, designs, instructions, specifications or other resources provided by Customer directly or indirectly to Contractor for incorporation into the Repeaters, Network Management System or other deliverables; provided, however, Customer's total liability to Contractor or any third party with respect to such indemnity shall not, in the aggregate, exceed Seven Million, Five Hundred Thousand Dollars (\$7,500,000).

## 21.3 Intellectual Property Infringement Indemnification.

(a) Contractor shall indemnify, defend, and hold harmless Customer from any and all Losses arising from, in connection with, or based on any allegations made by third parties (including Subcontractors of Contractor) that Customer's possession or use of the Work, or any part thereof, infringes any third-party Intellectual Property Right; provided, however, (i) Contractor's total liability to Customer or any third party with respect to such intellectual property infringement indemnity shall not exceed (A) Seven Million, Five Hundred Thousand Dollars (\$7,500,000) with respect to claims related to Work performed by Contractor or any of its Subcontractors (except Unique Broadband Systems) hereunder and (B) One Million Dollars (\$1,000,000) with respect to claims related to Work performed by Contractor's Material Subcontractor Unique Broadband Systems under this Contract, and (ii) Contractor's total aggregate liability under (i) shall not exceed Seven Million, Five Hundred Thousand Dollars (\$7,500,000) Notwithstanding the foregoing, Contractor shall not be liable under this paragraph (a) to the extent Losses are caused by (i) the contributory infringement by Customer as described in paragraph (b) of Article 21.2 (Indemnity by Customer) or are based on claims related to work or deliverable items furnished by Unique Broadband Systems pursuant to the Interim Services Agreement with Customer, dated August 9, 1999; or (ii) modifications to the Work by any

person other than Contractor or its Subcontractors unless otherwise directed by Contractor or its Subcontractors; or (iii) Customer's use of the Work in combination with items not provided by Contractor or its Subcontractors unless such non-deliverables are identified in Exhibit A (Design Specifications) as items with which the deliverables hereunder will be used in combination.

(b) If the use of the Work or any part thereof is enjoined, Contractor shall, or, if in Contractor's reasonable opinion the Work or any part thereof is likely to be enjoined, Contractor may, in either case at its expense, either procure for Customer the right to use the Work or infringing part thereof, as the case may be, or substitute an equivalent product reasonably acceptable to Customer, or modify the Work or infringing part thereof to render them non-infringing without materially affecting their utility or functionality. If Contractor determines that none of these alternatives is reasonably available or feasible, Contractor shall meet with Customer to address the matter and reach an equitable solution reasonably acceptable to Customer.

(c) Contractor's obligations under this Article 21.3 (Intellectual Property Infringement Indemnification) shall be subject to Article 21.4 (Indemnification Procedures).

#### 21.4 Indemnification Procedures.

(a) Promptly after receipt by the indemnified Party of notice of the commencement or threatened commencement of any civil, criminal, administrative, or investigative action or proceeding involving a claim in respect of which the indemnified Party will seek indemnification pursuant to this Article 21 (Indemnification), the indemnified Party shall notify the indemnifying Party of such claim in writing. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of its obligations under this Contract except to the extent it can demonstrate it was prejudiced by such failure. Within fifteen (15) Calendar Days following receipt of written notice from the indemnified Party relating to any claim, but no later than ten (10) Calendar Days before the date on which any response to a complaint or summons is due, the indemnifying Party shall notify the indemnified Party in writing if the indemnifying Party elects to assume control of the defense or settlement of that claim (a "Notice of Election").

(b) If the indemnifying Party delivers a Notice of Election relating to any claim within the required notice period, so long as it is actively defending such claim, the indemnifying Party shall be entitled to have sole control over the defense and settlement of such claim; provided that (i) the indemnified Party shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim; (ii) where the indemnified Party is so represented, the indemnifying Party shall keep the indemnified Party's counsel informed of each step in the handling of any such claim; (iii) the indemnified Party shall provide, at the indemnifying Party's request and expense, such assistance and information as is available to the indemnified Party for the defense and settlement of such claim; and (iv) the indemnifying Party shall obtain the prior written approval of the indemnified Party before entering into any settlement of such claim or ceasing to defend against such claim. After the indemnifying Party has delivered a Notice of Election relating to any claim in accordance with the preceding paragraph, the indemnifying Party shall not be liable to the indemnified Party for any legal expenses incurred by the indemnified Party in connection with the defense of that claim; provided, however, the indemnifying Party shall be liable to the indemnified Party for

such legal expenses if the indemnified Party chooses to participate in the defense and settlement of such claim because the indemnified Party reasonably concluded that the indemnifying Party had a conflict of interest and could not adequately represent the indemnified Party. In addition, the indemnifying Party shall not be required to indemnify the indemnified Party for any amount paid or payable by the indemnified Party in the settlement of any claim for which the indemnifying Party has delivered a timely Notice of Election if such amount was agreed to without the prior written consent of the indemnifying Party.

(c) If the indemnifying Party does not deliver a Notice of Election relating to any claim within the required notice period or fails actively to defend such claim, the indemnified Party shall have the right to defend and/or settle the claim in such manner as it may deem appropriate, at the cost and expense of the indemnifying Party. Provided that the indemnified Party acts in good faith, it may settle such claim on any terms it considers appropriate under the circumstances without in any way affecting its right to be indemnified hereunder. The indemnifying Party shall promptly reimburse the indemnified Party for all such costs and expenses.

#### 21.5 Waiver of Subrogation.

If a Party insures against any loss or damage it may suffer in respect of which it is required to indemnify the other Party, its Affiliates and their respective Associates pursuant to this Article 21 (Indemnification), it shall be a condition that the insuring Party arrange for the insurer to waive its right of subrogation against such other Party and such other Party's Affiliates and their respective Associates. Each Party shall be entitled to require proof from time to time that the other Party has complied with its obligations under this Article 21.5 (Waiver of Subrogation). In the event a Party does not comply with such obligations, the indemnities referred to in Articles 21.1 (Indemnity by Contractor), 21.2 (Indemnity by Customer) and 21.3 (Intellectual Property Infringement Indemnification) shall extend to any claim that may be made by an insurer pursuant to an alleged right of subrogation.

22. LIABILITY

22.1 General Intent.

Subject to the specific provisions of this Article 22 (Liability), it is the intent of the Parties that each Party shall be liable to the other Party for any actual damages incurred by the non-breaching Party as a result of the breaching Party's failure to perform its obligations in the manner required by this Contract.

22.2 Liability Restrictions.

(a) SUBJECT TO PARAGRAPH (c) BELOW, IN NO EVENT, SHALL A PARTY BE LIABLE IN CONTRACT, WARRANTY, STRICT LIABILITY, TORT OR OTHERWISE FOR INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES ARISING OUT OF, RESULTING FROM, OR IN ANY WAY CONNECTED TO THE PERFORMANCE OR BREACH OF THIS CONTRACT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

(b) SUBJECT TO PARAGRAPH (c) BELOW, EACH PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY HEREUNDER, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, TORT OR OTHERWISE, SHALL BE LIMITED TO AN AMOUNT EQUAL TO TEN MILLION DOLLARS (\$10,000,000).

(c) The limitations set forth in paragraphs (a) and (b) above shall not apply with respect to claims that are the subject of indemnification pursuant to Articles 21.1(a), 21.1(b) and 21.2(a). In addition, the limitations set forth in paragraph (b) above shall not apply with respect to the Parties' respective liabilities specified in Article 25 (Termination). In addition, the limitations set forth in paragraph (a) above shall not apply to the liquidated damages remedy set forth in Article 7.5 (Liquidated Damages for Late Delivery of Repeaters).

(d) Each Party shall have a duty to mitigate damages for which the other Party is responsible.

22.3 Contractor Responsibility for Certain Claims.

(a) In the event any Subcontractor asserts a claim of non-payment against Customer, Contractor shall assume full responsibility for such claims and shall reimburse Customer for any settlements or judgments incurred by or assessed against Customer with respect to such claims and all related costs and expenses (including reasonable legal fees and disbursements), provided that Contractor is (i) given prompt notice of such claims (provided that failure to so notify Contractor shall not relieve Contractor of its responsibilities hereunder except to the extent it can demonstrate it was prejudiced by such failure) and (ii) permitted (but without obligation) to control the defense of such claims.

(b) With respect to any claims made by third parties arising out of Contractor's breach of the warranties set forth in Article 17.8 (Compliance with Applicable Law) and any claims by Customer or any third party with respect to a breach of the warranties and representations set

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forth in Article 18 (Contractor's Additional Representations and Warranties), Contractor shall assume full responsibility for such claims and shall reimburse Customer for any settlements or judgments incurred by or assessed against Customer with respect to such claims and all related costs and expenses (including reasonable legal fees and disbursements), provided that Contractor is (i) given prompt notice of such claims (provided that failure to so notify Contractor shall not relieve Contractor of its responsibilities hereunder except to the extent it can demonstrate it was prejudiced by such failure) and (ii) permitted (but without obligation) to control the defense of such claims.

(c) Notwithstanding anything to the contrary herein, any liability arising pursuant to paragraphs (a) or (b) above shall not be subject to the limitation on Contractor's liability set forth in Article 22.2(b) hereof.

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23. DISPUTE RESOLUTION

Any dispute, claim, or controversy between the Parties arising out of or relating to this Contract ("Dispute"), including any Dispute with respect to the interpretation, performance, termination, or breach of this Contract or any provision thereof shall be resolved as provided in this Article 23 (Dispute Resolution).

23.1 Informal Dispute Resolution.

Prior to the initiation of formal dispute resolution procedures, the Parties shall first attempt to resolve their Dispute informally, in a timely and cost-effective manner, as follows:

(a) If, during the course of the Work, a Party believes it has a Dispute with the other Party, the disputing Party shall give written notice thereof, which notice will describe the Dispute and may recommend corrective action to be taken by the other Party. Contractor's Project Manager shall promptly consult with Customer's Project Manager in an effort to reach an agreement to resolve the Dispute.

(b) In the event agreement cannot be reached within five (5) Calendar Days of receipt of written notice, either Party may request the Dispute be escalated, and the respective positions of the Parties shall be forwarded to an executive level higher than that under paragraph (a) above for resolution of the Dispute, which in the case of Contractor, shall be the Contractor Business Line Manager identified in Article 9.1 (Contractor Personnel) above.

(c) In the event agreement cannot be reached under paragraphs (a) or (b) above within a total of ten (10) Calendar Days after receipt of the written notice described in paragraph (a) above, either Party may request the Dispute be escalated, and the respective positions of the Parties shall be forwarded to the Chief Executive Officer (CEO) of each Party, and such executives shall meet (in person or via telephone or video conference) during such time to resolve the Dispute.

(d) In the event agreement cannot be reached under paragraphs (a), (b) or (c) above within a total of twenty (20) Calendar Days after receipt of the written notice described in paragraph (a) above, either Party may proceed with arbitration in accordance with Article 232 (Arbitration).

23.2 Arbitration.

(a) Subject to the provisions of Article 23.1 (Informal Dispute Resolution) and Article 23.3 (Litigation), any Dispute shall be resolved by mandatory and binding arbitration in accordance with the then-effective Center for Public Resources Rules for Nonadministered Arbitration of Business Disputes, as may be amended from time to time (the "CPR Rules"), which are incorporated herein by reference. Notwithstanding the foregoing, to the extent any provision of this Article 23.2 (Arbitration) modifies, adds to, or is inconsistent with any provision of the CPR Rules, the provisions of this Article shall control.

(b) The arbitration shall be conducted by a three-arbitrator tribunal (the "Tribunal"). Within thirty (30) Calendar Days after the commencement of the arbitration, each Party shall appoint one arbitrator, and those two arbitrators shall together appoint the third arbitrator as provided in CPR Rule 5.2. Each arbitrator appointed by the Parties shall be knowledgeable and experienced in contracting for technical systems and shall have senior management and/or legal/judicial experience.

(c) Unless otherwise limited by the Tribunal or the agreement of the Parties, the Parties shall be permitted to take discovery, if and as needed, by deposition upon oral examination, requests for production of documents and things, and requests for entry upon land for inspection and other purposes, as those discovery methods are described and defined in the Federal Rules of Civil Procedure; provided, however, that any limitations in the Federal Rules on the number, timing, or sequence of such discovery requests shall not apply. The scope of permissible discovery shall generally be as described in Federal Rule of Civil Procedure Rule 26(b)(1), but the Parties shall use their best efforts to focus and limit their discovery in accordance with the nature of the dispute and the need for expedited resolution. The Tribunal may expand or limit the scope of permissible discovery, establish the time period within which discovery responses must be served, and expand or limit the type and number of discovery methods and requests as it shall determine is appropriate in the circumstances, taking into account the needs of the Parties and the desirability of making discovery expeditious and cost-effective. The Tribunal may issue orders to protect the confidentiality of proprietary information, trade secrets, and other similar information disclosed in discovery and may order that discovery not be had or that discovery may be had only on specific terms and conditions.

(d) Time is of the essence in the initiation and completion of the arbitration. The arbitral hearing shall be commenced and conducted expeditiously. Unless the Tribunal orders otherwise, the Dispute should be submitted to the Tribunal for decision within three (3) months after the commencement of the arbitration, and the final award shall be rendered within one (1) month thereafter. The Parties and the Tribunal shall use their best efforts to comply with this schedule, and the Tribunal may impose any remedy it deems just for any Party's effort to unnecessarily delay, complicate or hinder the proceedings.

(e) The arbitration shall be held in Washington, D.C., USA.

(f) Any arbitration proceeding held pursuant to this Article shall be governed by the United States Arbitration Act, 9 U.S.C. (S)(S) 1 et seq., and judgment upon the award rendered by the Tribunal may be entered in any court having jurisdiction thereof.

(g) The Tribunal's award may grant any remedy or relief that the Tribunal deems just and equitable and within the scope of this Contract, including specific performance or other equitable relief. Notwithstanding the foregoing, the Tribunal shall have no power or authority to amend or disregard any provision of this Article 23.2 (Arbitration) or any other provision of this Contract; in particular, but without limiting the generality of the foregoing, the Tribunal shall not have the power or authority to exclude the right of a Party to terminate this Contract when a Party would otherwise have such right. The Tribunal also shall have no power or authority to award punitive or exemplary damages to any Party.

(h) The non-prevailing Party, as determined by the Tribunal, shall pay the costs of the arbitration and the prevailing Party's fees and expenses incurred with respect to the arbitration, including reasonable attorneys' fees as determined by the Tribunal. In the event of an arbitration involving multiple claims with different Parties prevailing on each claim, the Tribunal shall apportion the expenses and fees between or among the Parties in such manner as it deems reasonable, taking into account the circumstances of the case, the nature of the claims, and the result of the arbitration.

(i) At any time more than ten (10) Calendar Days before the commencement of the hearing, any Party defending against any claim may serve upon the adverse Party an offer to allow an award to be entered against the defending Party on any claim for the money or property or to the effect specified in the offer. If within ten (10) Calendar Days after the service of the offer, the adverse Party serves written notice that it accepts the offer, either Party may file the offer and acceptance with the Tribunal, which will thereupon promptly enter an award on the claim as provided in the offer. An offer not accepted shall be deemed withdrawn and shall not be admissible into evidence except with respect to a determination of fees and expenses. If the award finally made on the claim is not equal to or more favorable than the offer, then for the purpose of apportioning expenses and fees pursuant to this Article 23.2 (Arbitration), the Party making the offer shall be deemed the Prevailing Party with respect to such claim.

(j) If at the time any Dispute arises, the Center for Public Resources no longer provides rules or services with respect to the arbitration of business disputes, then the Parties hereto agree that the arbitration shall be conducted before the American Arbitration Association ("AAA"). Such arbitration shall be conducted pursuant to the AAA's Commercial Arbitration Rules then effective, provided, however, that in the event of any inconsistency with the AAA rules and this Article, the provisions of this Article shall control.

### 23.3 Litigation.

(a) Notwithstanding the provisions of Article 23.1 (Informal Dispute Resolution) and Article 23.2 (Arbitration) above, if the Dispute requires that immediate equitable relief or relief in aid of arbitration be obtained, either Party shall have the right to bring suit at any time to obtain preliminary or temporary injunctive relief, including specific performance, but requests for permanent injunctive relief shall be arbitrated pursuant to Article 23.2 (Arbitration).

- (1) Any such suit shall be brought in a court of competent jurisdiction in the State of Delaware and the Parties hereby waive any objection to venue in such court. The Parties hereby irrevocably consent to personal jurisdiction in the state and federal courts in the State of Delaware concerning any Dispute between the Parties. If, for any reason, the state and federal courts of Delaware do not have or refuse to exercise jurisdiction over the Dispute, then litigation as permitted herein may be brought in any court of competent jurisdiction in the United States of America, or if there is no such court, in any other nation.
- (2) In the event a Party files a lawsuit pursuant to this Article 23.3 (Litigation), the Prevailing Party is entitled to an award of its costs and fees, including

reasonable attorney's fees, incurred with respect to the lawsuit. The defendant in such litigation shall be regarded as the Prevailing Party if either the court denies the equitable relief sought on the merits or the court otherwise decides that equitable relief is not warranted or the matter should be resolved by arbitration.

(b) In the event an entity or person not subject to the provisions of this Article 23 (Dispute Resolution) commences any litigation or proceeding against any Party hereto in which the other Party hereto is an indispensable party, the Party against which the litigation or proceeding is brought may join or attempt to join the other Party in such litigation or proceeding notwithstanding the provisions of Article 23.2 (Arbitration). For the purposes of this provision, the other Party is an indispensable party in the lawsuit or proceeding if (i) in its absence, complete relief could not be accorded among those already a party to the lawsuit or proceeding; (ii) its absence may as a practical matter impair or impede its ability to protect its interests relating to the subject of the lawsuit or proceeding; or (iii) its absence may leave the Party against which the litigation or proceeding is brought subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the interest of the other Party relating to the subject of the lawsuit or proceeding.

(c) Nothing in this Contract precludes a Party prevailing on any claim, whether in arbitration or litigation, from initiating litigation in any appropriate forum to enter or enforce a judgment based on the Tribunal's or court's award on that claim.

#### 23.4 Continued Performance.

Pending final resolution of any Dispute, each Party shall, unless directed otherwise by the other Party in writing, fulfill all of its obligations under this Contract, including the obligation to take all steps necessary during the pendency of the Dispute to ensure the Work will be performed within the time stipulated or within such extended time as may be allowed under this Contract, provided Customer shall continue to make payments of undisputed sums therefore in accordance with this Contract (including the dispute resolution provisions hereof).

## 24. DEFAULT AND CORRECTION PLAN

## 24.1 Material Breach.

(a) In the event Contractor fails to complete a Key Task on or before the date identified or referenced in Article 0 (Key Tasks) or fails to perform a material obligation hereunder (in either case a "Failure"), Customer shall be entitled to deliver to Contractor a written demand that it correct such Failure. Contractor shall acknowledge receipt of Customer's demand within one (1) Business Day and shall submit to Customer, for Customer's review, comment and approval, a Correction Plan within ten (10) Business Days after the date of Customer's demand (or such longer time as Customer may establish, including as a result of Contractor's reasonable request for an extension of time to provide a Correction Plan).

(b) If the Correction Plan does not set forth a reasonable manner in which, or reasonable date by which, Contractor will correct or offset the Failure, Customer may reject the Correction Plan upon written notice to Contractor, which notice shall include, in reasonable detail, the deficiencies in the Correction Plan noted by Customer, and other relevant comments. Contractor shall revise the Correction Plan, including by incorporating Customer's reasonable comments, and shall re-submit the revised Correction Plan to Customer for its approval within seven (7) Business Days after receipt of Customer's comments. This process may be repeated until such time as Contractor provides a Correction Plan acceptable to Customer.

(c) If Customer approves the Correction Plan (or revision thereof) or does not reject the Correction Plan (or revision thereof) within thirty (30) Calendar Days after receipt thereof, this Contract shall be deemed modified in accordance with the Correction Plan (or revision thereof) and the Failure shall be deemed cured so long as Contractor complies with the terms of such Correction Plan (or revision thereof). Nothing herein shall be construed to release Contractor from its obligation to make liquidated damages payments as applicable in accordance with Article 7.5 (Liquidated Damages for Late Delivery of Repeaters).

(d) In the event Contractor does not submit a Correction Plan to Customer within fifteen (15) Business Days after receipt of a demand therefor, or if Contractor fails to submit a revised Correction Plan within seven (7) Business Days after receipt of Customer's notice of rejection of the original Correction Plan, or if Contractor fails to provide an acceptable Correction Plan within three (3) iterations thereof (including the first draft), or if Contractor fails to complete the Customer-approved Correction Plan within thirty (30) Calendar Days after Customer's approval of the Correction Plan (or such period as otherwise specified in the Correction Plan), Customer shall be entitled to terminate this Contract in accordance with the provisions of Article 25.2 (Termination for Contractor's Default).

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

24.2 Key Tasks.

(a) For purposes of this Agreement, each of the following shall be a "Key Task":

Completion Date:	Key Task:
[*****]	[*****]

(b) A Key Task shall be deemed "completed" when each item of such Key Task has been completed in accordance with the requirements of this Contract.

## 25. TERMINATION

## 25.1 Termination for Customer's Convenience.

(a) Customer may, upon written notice to Contractor, at any time, reduce the Nominal Order to the amounts indicated in paragraphs (d) and (e) below and Contractor shall immediately cease performance of the Work on the date specified in the notice to the extent reduced in the manner and to the extent specified below. Notwithstanding the foregoing, as long as Contractor provides the Work in accordance with the requirements of this Contract, Customer intends to obtain the Nominal Order of Repeaters from Contractor, except for reasons due to changes in its financial, technical or business needs.

(b) In the event of partial termination of the Work in accordance with this Article 25.1 (Termination for Customer's Convenience), Customer's notice of termination will specify the portion of the Work terminated and the remaining provisions of this Article 25.1 (Termination for Customer's Convenience) shall apply to such terminated portion. All other portions of the Work shall continue unaffected.

(c) Upon receipt of a notice of termination, as provided in paragraph (a) above, Contractor shall take the following actions:

- (1) stop Work under this Contract on the date and to the extent specified in the notice of termination, except those services that are reasonably necessary to be provided in connection with a termination of this Contract;
- (2) place no further orders or Subcontracts for materials, services, or facilities to the extent they relate to the performance of the Work terminated;
- (3) terminate Subcontracts to the extent they relate to the performance of the Work terminated;
- (4) settle all outstanding liabilities and all claims arising out of any termination of Subcontracts for materials, services, or facilities provided Customer pays amounts due under paragraph (e) below;
- (5) take such action as may be reasonably necessary, or as Customer may direct, for the protection and preservation of the property related to this Contract that is in the possession of Contractor or any Subcontractor and in which Customer has or may acquire an interest; and
- (6) complete wind-down activities within thirty (30) Calendar Days of the effective date of termination.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

(d) From EDC up to and including [\*\*\*\*\*], Customer may reduce the Nominal Order to no less than [\*\*\*\*\*] Repeaters ([\*\*\*\*\*] High Power Repeaters and [\*\*\*\*\*] Standard Repeaters) with no impact on the unit pricing therefor (as set forth in Exhibit C (Pricing, Milestones and Payment Plan)) or the Delivery Requirements set forth in Exhibit D (Delivery Requirements and Schedule).

(e) Beginning [\*\*\*\*\*] and continuing throughout the Term of this Contract, Customer may reduce the Nominal Order without impact on the unit pricing therefor as follows:

- (1) to no less than [\*\*\*\*\*] Repeaters ([\*\*\*\*\*] High-Power and [\*\*\*\*\*] Standard Repeaters), in which case Customer shall pay Contractor for Contractor's costs (if any) actually incurred, with respect to that part of the Nominal Order terminated, for termination of work-in-progress and termination of contracts for material supplies, plus [\*\*\*\*\*] of such costs (Customer's maximum liability for such costs (including the [\*\*\*\*\*] markup) shall not exceed [\*\*\*\*\*] for termination effective on or before [\*\*\*\*\*], [\*\*\*\*\*] for termination effective on or before [\*\*\*\*\*], [\*\*\*\*\*] for termination effective on or before [\*\*\*\*\*] and, [\*\*\*\*\*] for termination effective any date on or after [\*\*\*\*\*]), and
- (2) to zero (that is, cancel the entire Nominal Order), in which case Customer shall pay Contractor (i) the amounts set forth in paragraph (1) above, (ii) plus the amounts set forth in the following table, (iii) less the sum of any amounts paid pursuant to the ATP and amounts paid under this Contract in respect of NRE Milestone Payment Nos. 1-5:

Termination Date	Amount
[*****]	[*****]
[*****]	[*****]
Feb. 1, 2000-Mar. 31, 2000	\$8.0 million
Apr. 1, 2000 and thereafter	\$14.0 million

(f) Contractor agrees to use best commercial efforts to minimize costs described in paragraph (e) (1) above. Contractor will provide Customer with documentation and audit rights with respect to such costs.

(g) Contractor shall submit an invoice to Customer for amounts due under this Article 25.1 (Termination for Customer's Convenience) within sixty (60) Calendar Days after the effective date of termination specified in the notice thereof. Contractor shall be entitled to payment by Customer of undisputed amounts in such invoice within thirty (30) Calendar Days after Customer's receipt of the invoice. Payment of such amount by any Financing Entity on behalf of Customer shall relieve Customer from its obligation to make such payment.

(h) Payment of the amount payable by Customer to Contractor pursuant to this Article 25.1 (Termination for Customer's Convenience) shall constitute a total discharge of Customer's

liabilities to Contractor for termination pursuant to this Article 25.1 (Termination for Customer's Convenience).

(i) Upon payment in full of all amounts outstanding under this Contract, Customer may require Contractor immediately to transfer to Customer in the manner and to the extent directed by Customer, title to and possession of any items comprising all or any part of the Work terminated (including all Work-in-progress, parts and materials, and all inventories, Subcontracts and associated warranties) free and clear of all liens and encumbrances of any kind. Contractor shall, upon direction of Customer, use commercially reasonable efforts to protect and preserve property in the possession of Contractor or its Subcontractors in which Customer has an interest arising out of this Contract and shall facilitate access to and possession by Customer of items comprising all or part of the Work terminated; Customer shall be responsible for costs reasonably incurred by Contractor in protecting and preserving such property. In the event Customer neither takes possession of, nor directs Contractor to protect and preserve the Work, Customer shall be responsible for costs reasonably incurred by Contractor in storing the Work. Upon Customer's request, Contractor shall make a reasonable, good-faith effort to sell such items and to remit any sales proceeds to Customer, less a deduction for costs of disposition reasonably incurred by Contractor for such efforts provided the selling price shall be subject to Customer's prior written approval.

#### 25.2 Termination For Contractor's Default.

(a) Customer may terminate this Contract upon service of written notice of default to Contractor at any time after the occurrence of any of the following:

- (1) Contractor fails to deliver the Prototype Repeaters in accordance with the applicable delivery dates hereunder, and Contractor fails to cure such breach within thirty (30) Calendar Days of such delivery dates;
- (2) Any of the conditions set forth in paragraph (d) of Article 24 (Default and Correction Plan);
- (3) Contractor commits a material breach of any of its duties or obligations hereunder and, except as provided in paragraph (a) (4) below, Contractor fails to cure such breach within thirty (30) Calendar Days of notice thereof; or
- (4) with respect to a breach that cannot with due diligence be cured within thirty (30) Calendar Days notice thereof, Contractor fails to proceed promptly and diligently to correct the breach (in which case Contractor shall notify Customer, in writing, within ten (10) Calendar Days of receipt of notice of the breach, describing in reasonable detail the reason such breach cannot be cured in such thirty (30) Calendar-Day period and setting forth a Correction Plan to cure such breach) or fails to cure the breach within sixty (60) Calendar Days of notice of breach or as otherwise agreed in such plan; or
- (5) the breach is not subject to cure with due diligence within sixty (60) Calendar Days notice of the breach; or

- (6) Contractor commences a voluntary proceeding concerning itself under any applicable bankruptcy, insolvency, reorganization, adjustment of debt, relief of debtors, or similar law ("Insolvency Law"); or any involuntary proceeding commences against Contractor under an Insolvency Law and the petition has not been dismissed within ninety (90) Calendar Days after commencement of the proceeding; or a receiver or custodian is appointed for or takes charge of all or a substantial portion of the property of Contractor and such custodian or receiver has not been dismissed or discharged within sixty (60) Calendar Days; or Contractor has taken action toward the winding-up, dissolution, or liquidation of Contractor or its business; or Contractor has been adjudicated insolvent or bankrupt or an order for relief or any other order approving a case or proceeding under any Insolvency Law has been entered; or Contractor has made a general assignment for the benefit of creditors or becomes unable to pay its debts generally as they become due. Should Contractor become a debtor in any bankruptcy proceeding, Contractor shall move to assume or reject this Contract within forty-five (45) Calendar Days after the entry of any order for relief; or
- (7) Contractor has purported to assign or transfer this Contract in violation of the provisions of Article 28.1 (Assignment) and Contractor fails to cure such unauthorized purported assignment or transfer within thirty (30) Calendar Days after receiving written notice from Customer of the unauthorized purported assignment or transfer.

(b) In the event Customer terminates this Contract pursuant to paragraph (a) above, (i) Customer shall be entitled to have the Work completed by another party or parties and Contractor shall be liable to Customer for damages resulting from such termination, including any reasonable re-procurement costs and commercially reasonable costs of "cover" incurred in connection therewith in excess of the Contract Price, such damages to be actually incurred and invoiced to Contractor in reasonable detail, and for all liquidated damages then due pursuant to Article 7.5 (Liquidated Damages for Late Delivery of Repeaters), and (ii) Customer shall be liable to Contractor for unpaid amounts invoiced hereunder for Milestones completed in accordance with this Contract through the effective date of termination. Nothing contained in this Contract shall be construed so as to obligate Customer to exercise such right to terminate for Contractor's benefit.

(c) Each Party shall submit an invoice to the other Party for amounts due under this Article 25.2 (Termination for Contractor's Default) within sixty (60) Calendar Days after the effective date of termination specified in the notice thereof, which invoice shall state the amounts due from such other Party. Each such invoice shall be deemed accepted by the Party receiving such invoice, unless written notice disputing such invoice is provided to the Party furnishing the invoice within fifteen (15) Business Days after receipt of such invoice. The amounts payable by a Party under this Article 25.2 (Termination for Contractor's Default) shall be verified at such Party's request and expense by a nationally recognized firm of certified public accountants appointed by such Party and reasonably acceptable to the other Party. Each Party's right to verification shall be without prejudice to the rights of either Party under Article 23 (Dispute

Resolution). Each Party shall be entitled to payment of all undisputed amounts within thirty (30) Business Days after the other Party's receipt of such invoice.

(d) Customer may require Contractor to transfer to Customer in the manner and to the extent directed by Customer, title to and possession of any items comprising all or any part of the Work terminated (including all Work-in-progress, parts and materials, and all inventories, Subcontracts and warranties) free and clear of any liens and encumbrances of any kind. Contractor shall, upon direction of Customer and at Customer's expense, protect and preserve property in the possession of Contractor or its Subcontractors in which Customer has an interest arising out of this Contract and shall facilitate access to and possession by Customer of items comprising all or part of the Work terminated, such expenses to be reimbursed in accordance with the terms of Exhibit C (Pricing, Milestones and Payment Plan). In the event Customer neither takes possession nor directs Contractor to protect the Work, Customer shall be responsible for costs reasonably incurred by Contractor in restoring the Work. Upon Customer's request, Contractor shall make a reasonable good-faith effort to sell such items and to remit any sales proceeds to Customer, less a deduction for costs of disposition reasonably incurred by Contractor for such efforts, provided the selling price shall be subject to Customer's prior written approval.

(e) If, after termination of this Contract under the provisions of paragraph (a) above, it is determined by dispute resolution, pursuant to Article 23 (Dispute Resolution), or admitted in writing by Customer, that Contractor was not in default under the provisions of paragraph (a), or that any delay giving rise to the default was excusable under the provisions of Article 7.9 (Excusable Delay Defined), such termination shall be considered a Termination for Convenience by Customer and the provisions of Article 25.1 (Termination for Customer's Convenience) shall apply.

#### 25.3 Termination for Customer's Default.

(a) Contractor may terminate this Contract upon service of written notice of default to Customer at any time after the occurrence of any of the following events of default:

- (1) Customer fails to pay undisputed amounts due hereunder and fails to cure such nonpayment within thirty (30) Calendar Days of written notice thereof; or
- (2) Customer commences a voluntary proceeding concerning itself under any applicable bankruptcy, insolvency, reorganization, adjustment of debt, relief of debtors, or similar law ("Insolvency Law"); or any involuntary proceeding commences against Customer under an Insolvency Law and the petition has not been dismissed within ninety (90) Calendar Days after commencement of the proceeding; or a receiver or custodian is appointed for or takes charge of all or a substantial portion of the property of Customer and such custodian or receiver has not been dismissed or discharged within sixty (60) Calendar Days; or Customer has taken action toward the winding-up, dissolution, or liquidation of Customer or its business; or Customer has been adjudicated insolvent or bankrupt or an order for relief or any other order approving a case

or proceeding under any Insolvency Law has been entered; or Customer has made a general assignment for the benefit of creditors or becomes unable to pay its debts generally as they become due. Should Customer become a debtor in any bankruptcy proceeding, Customer shall move to assume or reject this Contract within forty-five (45) Calendar Days after the entry of any order for relief; or

- (3) Customer has purported to assign or transfer this Contract in violation of the provisions of Article 28.1 (Assignment) and Customer fails to cure such purported unauthorized assignment or transfer within thirty (30) Calendar Days after receiving written notice.

(b) Upon the occurrence of an event of default under paragraph (a) above, Contractor shall take the following actions:

- (1) stop Work immediately under this Contract and all obligations of Contractor shall terminate hereunder, except those services that are reasonably necessary to be provided in connection with a termination of this Contract;
- (2) place no further orders or Subcontracts for materials, services, or facilities to the extent they relate to the performance of the Work;
- (3) terminate orders and Subcontracts to the extent they relate to the performance of the Work;
- (4) settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts for materials, services, or facilities provided Customer pays amounts due under paragraph (c) below; and
- (5) take such action as may be reasonably necessary, for the protection and preservation of the property related to this Contract that is in the possession of Contractor or any Subcontractor and in which Customer has or may acquire an interest.

(c) In the event Contractor terminates this Contract as provided in paragraph (a) above, Contractor shall be entitled to payment of the following amounts: (i) all unpaid amounts hereunder for Milestones completed in accordance with this Contract through the effective date of termination; (ii) all unpaid amounts for Work-in-progress on any Milestone that has not been completed as of the effective date of termination, with the payment equal to a percentage of the applicable Milestone Payment that is equal to the percentage of Work actually completed on the applicable Milestone; (iii) reasonable wind-down expenses incurred by Contractor as a result of early termination, including costs associated with terminating Subcontractor and other supplier agreements; and (iv) an amount equal to Contractor's profit reasonably allocable to the Work completed and the Work-in-progress as of the effective date of termination, provided (A) profits shall be reasonably allocable only to the extent Contractor can reasonably demonstrate the amount of profit it would have earned had the Work under the Contract been completed (excluding Work related to any unexercised option hereunder) and the portion of total profits

claimed is in direct proportion to the amount of Work completed and Work-in-progress as of the effective date of termination compared to the total amount of Work under the Contract (excluding Work related to any unexercised option hereunder) and (B) such allocable profits have not been, or will not be, otherwise recovered by Contractor hereunder (for example, through amounts previously paid by Customer or amounts payable under (i) and (ii) above). In no event shall the amounts payable pursuant to this Article 25.3 (Termination for Customer's Default) exceed the Contract Price less amounts paid prior to termination.

(d) In the event Contractor terminates this Contract as provided in paragraph (a) above, the invoicing and payment provisions of paragraph (g) of Article 25.1 (Termination for Customer's Convenience) shall apply.

(e) Payment of the amount payable by Customer to Contractor pursuant to paragraph (c) above shall constitute a total discharge of Customer's liabilities to Contractor for termination pursuant to this Article 25.3 (Termination for Customer's Default).

(f) Upon payment in full of all amounts outstanding under this Contract, Customer may require Contractor immediately to transfer to Customer in the manner and to the extent directed by Customer, title to and possession of any items comprising all or any part of the Work terminated (including all Work-in-progress, parts and materials, and all inventories, Subcontracts and warranties) free and clear of any liens and encumbrances of any kind, and Contractor shall, upon direction of Customer, protect and preserve property in the possession of Contractor or its Subcontractors in which Customer has an interest arising out of this Contract and shall facilitate access to and possession by Customer of items comprising all or part of the Work terminated; Customer shall be responsible for costs reasonably incurred by Contractor in protecting and preserving such property. In the event Customer neither takes possession nor directs Contractor to protect the Work, Customer shall be responsible for costs reasonably incurred by Contractor in storing the Work. Upon Customer's request and at Customer's expense, Contractor shall make a reasonable, good-faith effort to sell such items and to remit any sales proceeds to Customer less a deduction for costs of disposition reasonably incurred by Contractor for such efforts.

(g) Except as expressly stated in this Article 25.3 (Termination for Customer's Default), Contractor shall have no right to terminate or suspend this Contract.

#### 25.4 Termination/Expiration Assistance.

(a) Commencing upon notice of termination and continuing through the effective date of termination or expiration of this Contract, as applicable, Contractor shall provide to Customer, or at Customer's request to Customer's designee, the reasonable termination/expiration assistance requested by Customer to allow the Work to continue without interruption or adverse effect and to facilitate the orderly transfer of the Work to Customer or its designee; provided, however, that Customer has paid all outstanding invoices. Such assistance shall include the following:

- (1) Contractor shall continue to perform all warranty services as set forth in Article 17 (Representations and Warranties) with respect to all materials and equipment furnished by Contractor hereunder;

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- (2) Contractor shall assign, to the extent assignable, to Customer all O.E.M. (Original Equipment Manufacturers') component warranties, and Subcontractors', or other warranties on all materials or equipment furnished by Contractor hereunder. Where non-assignable, Contractor shall use its best commercial efforts to obtain for Customer's benefit all such warranties; and
- (3) except in the case of termination pursuant to Article 25.1 (Termination for Customer's Convenience), upon Customer's request, Contractor shall assign to Customer or its designee the Material Subcontracts, as well as any and all Subcontracts requested by Customer, provided that such Material Subcontracts and other Subcontracts are assignable.

(b) Customer shall pay Contractor for termination/expiration assistance in accordance with the pricing set forth in Exhibit C (Pricing, Milestones and Payment Plan), provided, however, that in the event Contractor terminates the Contract due to Customer's failure to pay undisputed amounts, Contractor shall be entitled to payment in advance for termination/expiration assistance.

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\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

## 26. OPTIONS

### 26.1 Option to Purchase Additional Repeaters.

(a) In addition to the total number of Repeaters Contractor shall deliver and Customer shall purchase pursuant to this Contract, Customer may, at its sole option and discretion, elect to purchase additional Repeaters from Contractor for delivery following the Project Completion Date.

(b) Customer may exercise this option to purchase additional Repeaters at any time commencing at EDC and continuing up to and including the [\*\*\*\*\*] anniversary of the Project Completion Date (the "Repeater Option Period").

(c) The unit price for optional Repeaters shall be determined in accordance with Exhibit C (Pricing, Milestones and Payment Plan).

(d) Upon exercise of any such option, (i) the Parties shall mutually agree upon a reasonable delivery schedule and (ii) Customer shall indicate in writing the number of Standard Repeaters and High-Power Repeaters to comprise the total number of optional additional Repeaters ordered. The warranty terms, including the applicable Warranty Period, set forth in Article 17 (Representations and Warranty) shall also apply to any optional Repeaters purchased by Customer; provided, however, the Warranty Period shall commence upon acceptance by Customer of each optional Repeater in accordance with Article 8 (Testing Criteria and Acceptance).

### 26.2 Network Management System - Video Wall.

At any time commencing at EDC and continuing up to and including the [\*\*\*\*\*] anniversary of EDC (the "NMS Video Wall Option Period"), Customer may, at its sole option and discretion, elect to purchase a full-motion "video wall" for use in conjunction with the Network Management System. The charge for such "video wall" is set forth in Exhibit C (Pricing, Milestones and Payment Plan). The warranty coverage, including the applicable Warranty Period, for the full-motion "video wall" shall be consistent with the warranty coverage applicable to the Network Management System, as set forth in Article 17.12 (Remedies (Network Management System)); provided, however, the Warranty Period shall commence upon Customer's acceptance of the full-motion "video wall." If Customer elects to exercise this option, Customer shall provide written notice thereof to Contractor and the Parties shall mutually agree upon a reasonable delivery schedule for the optional "video wall" as well as applicable test plans and procedures and acceptance criteria.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

26.3 Annual Maintenance of NMS.

On or before [\*\*\*\*\*], Contractor shall provide Customer with a proposal for annual maintenance of the NMS, such proposal to include a firm fixed price not to exceed [\*\*\*\*\*], a description of services, standards of performance and response times, payment plan and renewal procedures.

26.4 Contract Adjustments.

Should Customer exercise any of the options described in this Article 0 (Options), the Parties shall execute Amendment(s) as soon as is reasonably possible after option exercise to incorporate the schedule adjustments, price adjustments, payment schedule adjustments, and changes to the Exhibits and other terms and conditions as made necessary by such exercise. Except as otherwise provided in this Article 0 (Options), the terms of this Contract shall apply to any such options.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

27. [\*\*\*\*\*]

The Parties recognize that this program may be [\*\*\*\*\*] and that some form [\*\*\*\*\*] may be requested from Contractor in connection with such [\*\*\*\*\*].

In the event that Customer desires Contractor to [\*\*\*\*\*], Customer will submit a detailed description of such [\*\*\*\*\*] for Contractor's review and consideration. Contractor agrees to promptly review such request and notify Customer if [\*\*\*\*\*] after considering the terms thereof, the status of the program, the risks associated with the [\*\*\*\*\*] and financial, economic and other information as Contractor may deem reasonable or desirable.

The parties further agree that the above statements do not [\*\*\*\*\*] or the terms thereof.

## 28. GENERAL

## 28.1 Assignment.

(a) Contractor shall not, without the prior written approval of Customer and except on such terms and conditions as shall be reasonably acceptable to Customer, assign, mortgage, charge, or encumber this Contract or any part thereof, any of its rights, duties, or obligations hereunder, or the Work to any person or entity, provided that: (i) nothing in this Article shall be construed as limiting Contractor's right to enter into Subcontracts in respect of the Work and (ii) Contractor shall have the right to assign or transfer this Contract or all of its rights, duties, or obligations hereunder to: (x) any Affiliate of Contractor, or (y) any corporation in connection with the sale, transfer or assignment of all or substantially all of Contractor's assets or capital stock, whether by way of merger, consolidation or otherwise, subject to the following conditions: (A) in the case of a transfer to an Affiliate, the net worth of such Affiliate is not less than the net worth of Contractor immediately prior to such transfer and, in the reasonable discretion of Customer, such Affiliate has the experience, resources, and personnel required to perform the Work in accordance with this Contract; (B) in the case of a transfer or assignment contemplated in clause (y), immediately after giving effect to such transaction or series of related transactions, the net worth of Contractor (or in the event Contractor is not the continuing person, the net worth of the person or entity formed by such consolidation or into which Contractor is merged or to which its properties are transferred substantially as an entirety) shall be no less than the net worth of Contractor immediately before such transaction or series of related transactions, and in the case of the sale of all or substantially all of the assets of Contractor, the assignee or transferee, in the reasonable discretion of Customer, has the experience, resources and personnel required to perform the Work in accordance with this Contract; and (C) the assignee, transferee or successor to Contractor has expressly assumed all the obligations of Contractor and all terms and conditions applicable to Contractor under this Contract pursuant to an assumption agreement (between Contractor and assignee or transferee) in form and substance reasonably satisfactory to Customer.

(b) Customer shall not, without the prior written approval of Contractor, assign, transfer, mortgage, charge, or encumber this Contract, any part thereof, or any of Customer's rights, duties or obligations hereunder, provided that Contractor hereby agrees that Customer may make any assignment or transfer of this Contract to (i) any or all Financing Entities in connection with obtaining financing for the payment of Contractor's invoices and any and all other fees, charges or expenses payable under this Contract under any Financing Agreement, (ii) as part of any collateral pool in favor of other senior lenders providing financing to Customer in connection with completion of the Terrestrial Repeater Network System facility and related equipment and (iii) any Affiliate of Customer provided that in the case of a transfer to an Affiliate, the Affiliate has sufficient financial resources to fulfill its obligations under this Contract. Customer hereby agrees that, prior to entering into any contract or agreement to sell or transfer this Contract, the acquirer shall agree to assume this Contract and all of Customer's rights, duties and obligations hereunder pursuant to an assumption agreement (between Customer and assignee or transferee) in form and substance reasonably satisfactory to Contractor.

(c) The assigning Party shall reimburse the other Party for all reasonable expenses incurred by the other Party (and invoiced in reasonable detail) in obtaining advice from its external financial and legal advisors relating to the assigning Party's proposed assignment or transfer.

(d) This Contract shall be binding on the Parties and their successors and permitted assigns. Except as otherwise expressly agreed in writing, assignment of this Contract shall not relieve the assigning Party of any of its obligations nor confer upon the assigning Party any rights except as provided in this Contract.

28.2 Entire Agreement.

This Contract contains the entire agreement between the Parties regarding the Work hereunder and supersedes all communications, negotiations, and other agreements either written or oral, relating to the Work and made prior to EDC, unless the same are expressly incorporated by reference into this Contract. Without limiting the generality of the foregoing, this Contract supersedes and replaces the Authorization to Proceed, executed by Customer and Contractor on October 22, 1999, and the rights, liabilities and obligations of the Parties with respect to the Work performed under such Authorization to Proceed shall be governed by this Contract and deemed performed hereunder.

28.3 Amendments.

Except as otherwise expressly permitted in Article 7.2 (Time and Place of Delivery), this Contract, including any and all its Attachments, Exhibits and Schedules, may not be modified except by written instrument of subsequent date signed by a duly authorized representative of Contractor and a Senior Vice President or the President of Customer.

28.4 Waiver of Breach of Contract.

A waiver of any provision or any breach of a provision of this Contract shall not be binding upon either Party unless the waiver is in writing, signed by a duly authorized representative of the Party, as applicable, and such waiver shall not affect the rights of the Party not in breach with respect to any other or future breach. No course of conduct by a Party shall constitute a waiver of any provision or any breach of a provision of this Contract unless a written waiver is executed in accordance with the provisions of this Article 28.4 (Waiver of Breach of Contract).

28.5 Remedies Cumulative.

All remedies provided for in this Contract shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity and/or otherwise.

28.6 Severability.

In the event any one or more of the provisions of this Contract shall for any reason be held to be invalid or unenforceable, the remaining provisions of this Contract shall be unimpaired and the invalid or unenforceable provision shall be replaced by a mutually acceptable provision,

which, being valid and enforceable, comes closest to the intention of the Parties underlying the invalid or unenforceable provision.

28.7 Applicable Law.

Except as provided in Article 23 (Dispute Resolution), this Contract and performance under it shall be governed by, construed and enforced in accordance with the Laws in force in the State of New York, without regard to conflict of laws provisions thereof other than Section 5-1401 of the General Obligations Law of the State of New York or to the United Nations Convention on Contracts for the International Sale of Goods.

28.8 Notices.

(a) All notices, requests, demands, and determinations under this Contract, including any required under Article 28.1 (Assignment) (other than routine operational communications) shall be in writing and shall be deemed duly given (i) if delivered by hand, when delivered, (ii) if delivered by express courier, two (2) Business Days after being given to an express courier with a reliable system for tracking delivery, or (iii) if delivered by facsimile, when sent by facsimile (confirmed by the specific individual to whom the facsimile is transmitted) with a copy sent by another means specified in this Article 28.8 (Notices), and addressed as follows:

If to Customer:

XM Satellite Radio Inc.  
1250 23rd Street, NW  
Suite 57  
Washington, DC 20037  
Tel. No.: 202-969-7074  
Fax No.: 202-969-7124  
Attention: Joseph M. Titlebaum, Esq.

Copy to:  
John R. Wormington  
Senior Vice President  
Engineering and Operations

If to Contractor: Hughes Electronics Corporation  
c/o Hughes Network Systems  
10450 Pacific Center Ct.  
San Diego, CA 92121  
Tel. No.: 858-452-4717  
Fax No.: 858-457-4994  
Attention: Neil Wilson

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

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Copy to:  
Site Counsel  
10450 Pacific Center Ct.  
San Diego, CA 92121

(b) A Party may from time to time change its address or designee for notification purposes by giving the other Party prior written notice of the new address or designee and the date upon which it will be effective.

28.9 Relationship of the Parties.

(a) Contractor, in performing the Work hereunder, is acting as an independent Contractor, and Contractor has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed, all Work to be performed by Contractor under this Contract.

(b) None of the provisions of this Contract or of any of its Attachments, Exhibits or Schedules shall be construed to mean that either Party is appointed or is in any way authorized to act as an agent of the other Party or that there exists a joint venture, partnership, agency or formal business organization of any kind between the Parties.

28.10 Media Releases.

All media releases, public announcements, and public disclosures by either Party relating to this Contract or the subject matter of this Contract, including promotional or marketing material (both internal and external), but not including announcements intended solely for internal distribution or to meet legal or regulatory requirements beyond the reasonable control of the disclosing Party, shall be coordinated with and approved by the other Party prior to release.

28.11 Calculation of Interest.

Except as otherwise specified in this Contract, any interest due to either Party under this Contract shall be calculated at the annual rate equal to the three (3) month London Interbank Offer Rate (LIBOR) for U.S. Dollars plus [\*\*\*\*\*].

28.12 Survival.

The following Articles, and the provisions contained therein, shall be deemed to survive the termination (for any reason) or expiration of this Contract, and, accordingly, such Articles shall remain applicable and enforceable in accordance with their terms:

- (a) Article 1 (Definitions);
- (b) Article 7.5 (Liquidated Damages for Late Delivery of Repeaters);

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- (c) Article 7.9 (Excusable Delay Defined);
- (d) Article 8.5 (Title and Risk of Loss);
- (e) Article 13 (Technical Materials Escrow);
- (f) Article 14 (Intellectual Property Rights);
- (g) Article 15 (Confidentiality);
- (h) Article 17 (Representations and Warranties);
- (i) Article 18 (Contractor's Additional Representations and Warranties);
- (j) Article 19 (Customer's Representations and Warranties);
- (k) Article 21 (Indemnification);
- (l) Article 23 (Dispute Resolution);
- (m) Article 24 (Termination);
- (n) Article 28.7 (Applicable Law);
- (o) Article 28.11 (Calculation of Interest); and
- (p) Article 28.18 (Covenant of Good Faith).

28.13 No Third-Party Beneficiaries.

This Contract is entered into solely between, and may be enforced only by, Customer and Contractor and their permitted assigns, and this Contract shall not be deemed to create any rights in third parties, including suppliers and owners of a Party, or to create any obligations of a Party to any such third parties.

28.14 Consents and Approvals.

Except where expressly provided as being in the sole discretion of a Party, where agreement, approval, acceptance, consent, or similar action by either Party is required under this Contract, such action shall not be unreasonably delayed or withheld. An approval or consent given by a Party under this Contract shall not relieve the other Party from responsibility for complying with the requirements of this Contract, nor shall it be construed as a waiver of any rights under this Contract, except as and to the extent otherwise expressly provided in such approval or consent.

28.15 Lender Requirements.

(a) The Parties recognize Customer may obtain financing for the amounts due in respect of this Contract and the construction of its Terrestrial Repeater Network and related equipment

facilities and services through external sources. Contractor shall provide to any Financing Entity any project information or certification that such Financing Entity reasonably requires (subject to confidentiality agreements governing such project information).

(b) Contractor agrees to work cooperatively with Customer in connection with Customer's efforts to obtain financing for the Work, including the financing described in Article 27 (Contractor Guarantee).

(c) Contractor agrees to execute such documents as may be reasonably required by any Financing Entity, including such documents, instruments, contracts, agreements and amendments to this Contract that may be required in connection with Customer's assignment of this Contract to such Financing Entity under terms that are customary in the secured financing of Work of this nature, provided Contractor's rights and obligations with respect to the Contract Price, time of performance and/or other economic terms under this Contract are not materially adversely affected by any such amendment to this Contract or, in the event of such material adverse effect, the Parties execute a Change Order resolving such material adverse effect.

28.16 No Solicitation.

During the period of performance of the Work and for one (1) year following the Project Completion Date, neither Party shall, directly or indirectly, solicit for employment, employ or engage for consulting services any employee or consultant of the other Party, or any individual who was an employee or consultant of the other Party during the six (6) month period immediately preceding such hiring or solicitation.

28.17 Time of the Essence.

Time is of the essence in this Contract, including with respect to the resolution of any Disputes between the Parties under Article 25 (Termination).

28.18 Covenant of Good Faith.

Each Party agrees that, in respective dealings with the other Party under or in connection with this Contract, it shall act in good faith

28.19 Counterparts.

This Contract may be executed in two (2) or more counterparts, which taken together constitute one single contract between the Parties.

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IN WITNESS WHEREOF, the Parties have made and executed this Contract effective as of the Effective Date of this Contract.

XM SATELLITE RADIO INC.

HUGHES ELECTRONICS CORPORATION

By: /s/ John R. Wormington  
-----  
(Signature)

By: /s/ James F. Gandolfi  
-----  
(Signature)

Name: John R. Wormington  
-----  
(Print)

Name: James F. Gandolfi  
-----  
(Print)

Title: Senior Vice President--  
Engineering and Operations  
-----

Title: Vice President  
-----

Terms and Conditions

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\*\*\*\*Confidential treatments has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONTRACT

FOR

THE DESIGN, DEVELOPMENT AND PURCHASE OF

TERRESTRIAL REPEATER EQUIPMENT

BY AND BETWEEN

XM SATELLITE RADIO INC.

AND

HUGHES ELECTRONICS CORPORATION

EXHIBIT A

TECHNICAL SPECIFICATIONS

CONFIDENTIALITY NOTICE

-----

This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

[\*\*\*\*] This entire Exhibit A has been redacted for confidentiality reasons.

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\*\*\*\*Confidential treatments has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONTRACT  
FOR  
THE DESIGN, DEVELOPMENT AND PURCHASE OF  
TERRESTRIAL REPEATER EQUIPMENT

By and Between

XM SATELLITE RADIO INC.

and

HUGHES ELECTRONICS CORPORATION

EXHIBIT B  
STATEMENT OF WORK (SOW)

CONFIDENTIALITY NOTICE  
-----

This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

EXHIBIT B  
STATEMENT OF WORK  
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Revision Log

Rev	Author	Summary of changes to previous versions	Date	Approval
-		Initial Release		

EXHIBIT B  
STATEMENT OF WORK

## 1. INTRODUCTION

## 1.1 Purpose and Scope.

(a) This Statement of Work (SOW) defines the Work to be performed by Contractor in support of Customer's Terrestrial Repeater Network System program. This Work includes the design, development, engineering, manufacture, testing, and delivery of Prototype Standard and High Power Repeaters and Production Standard and High Power Repeaters, together with the Network Management System (NMS) and other deliverable equipment, hardware, software, services and documentation. Contractor shall complete this Work in accordance with the terms and conditions of the Contract and the requirements specified herein.

(b) Defined terms herein shall have the meaning set forth in the Contract, unless otherwise specified herein.

(c) In the event that Customer elects to exercise any option set forth in the Contract, Contractor shall provide or perform such option as required by the Contract.

## 1.2 Applicable Documents.

The following documents are applicable to this Statement of Work to the extent specified in the Contract. Unless otherwise specified, the latest issue of each of the following documents shall be applicable.

(a) Exhibit A (Design Specifications);

(b) ISO9001-1994, Quality Systems - Model for Quality Assurance in Design/Development, production, Installation and Servicing International Standards Organization;

(c) DARS System: Waveform Requirements - Transport Layer (DARS-FHG-FDSC-602-110000), Edition 05, Revision 01) XM-SYS-0-0001-RD Revision 1.1;

(d) DARS System: Waveform Requirements - Satellite Physical Layer (DARS-FHG-FDSC-608-110000, Edition 03, Revision 01) XM-SYS-0-0004-RD Revision 0; and

(e) DARS System: Waveform Requirements - Terrestrial Physical Layer (DARS-FHG-FDSC-601-110000, Edition 03, Revision 01), XM-SYS-0-0004-RD Revision 0.

1.3 Glossary.

A glossary of acronyms and other terms is attached hereto as Attachment No. 1 to this Exhibit B (Statement of Work).

1.4 Responsibility.

Contractor is fully responsible for the performance of all other tasks identified herein, unless otherwise expressly stated herein. Contractor shall also deliver the Data and Documentation data specified herein.

2. SCHEDULE

The Contract shall be performed in accordance with Exhibit D (Delivery Schedule) and the Milestone schedules set forth in Exhibit C (Pricing, Milestones and Payment Plan).

3. EQUIPMENT AND TOOLS

3.1 Introduction.

(a) This Section 3 (Equipment and Tools) defines the hardware and equipment to be delivered by Contractor hereunder, including the Repeaters, the NMS and related hardware, Software and other deliverable items.

(b) The Work to be performed with respect to such hardware and equipment deliverables includes:

- (1) Design, development, engineering, manufacture, testing, and delivery of all such deliverables identified in the Contract;
- (2) provision of warranty support and training.

3.2 Repeater Description.

(a) The Repeaters shall provide terrestrial re-broadcasting of Customer's DARS programming and include the following key subsystems:

- (1) A High-Powered Amplifier (HPA) subsystem, which amplifies the signal received from Customer's satellites for re-transmission by each Repeater;
- (2) A Signal Processing System (SPS), which converts the QPSK signal received from Customer's satellites into the MCM signal, which signal is then re-transmitted by each Repeater;
- (3) A controller which monitors the operations of the amplifier, the SPS, environmental sensors, etc., and interfaces with the NMS in reporting the status of the various components; and

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

(4) A transmit filter which limits the out-of-band emissions of the transmitter.

(b) The Repeaters and the NMS each shall be capable of satisfactory operation for a period of seven (7) years commencing upon the Project Completion Date.

(c) Contractor shall design, develop, engineer, manufacture, test, and deliver the types of Repeaters specified below to meet the technical and operational requirements of the Contract.

### 3.3 Standard Prototype Repeaters.

Contractor shall design, develop, engineer, manufacture and test (in accordance with Exhibit E (Test Plans and Procedures)) seven (7) Prototype Standard Repeaters and shall deliver such fully-operational Prototype Standard Repeaters to the location(s) specified in Exhibit D (Delivery Schedule), all in conformance with the requirements of Exhibit A (Design Specifications).

### 3.4 High-Power Prototype Repeater.

Contractor shall design, develop, engineer, manufacture and test (in accordance with Exhibit E (Test Plans and Procedures)) one (1) Prototype High-Power Repeater and shall deliver such fully-operational Prototype High-Power Repeater to the location specified in Exhibit D (Delivery Schedule), all in conformance with the requirements of Exhibit A (Design Specifications).

### 3.5 Standard Production Repeaters.

Contractor shall design, develop, engineer, manufacture and test (in accordance with Exhibit E (Test Plans and Procedures)) [\*\*\*\*\*] Standard Repeaters and shall deliver such Standard Repeaters to the location(s) specified in Exhibit D (Delivery Schedule), all in conformance with the requirements of Exhibit A (Design Specifications). Of this total number of Standard Repeaters, Customer shall notify Contractor, in accordance with Article 7.1 (Repeater Category Selection) of the Contract, how many Standard Repeaters shall be Standard Non-Redundant Repeaters and how many shall be Standard Sectorized Non-Redundant Repeaters.

### 3.6 High-Power Production Repeaters.

Contractor shall design, develop, engineer, manufacture and test (in accordance with Exhibit E (Test Plans and Procedures)) [\*\*\*\*\*] High-Power Repeaters and shall deliver such High-Power Repeaters to the location(s) specified in Exhibit D (Delivery Schedule), all in conformance with the requirements of Exhibit A (Design Specifications). Of this total number of High-Power Repeaters, Customer shall notify

Contractor, in accordance with Article 7.1 (Repeater Category Selection) of the Contract, how many High-Power Repeaters shall be High-Power Redundant Repeaters and how many shall be High-Power Sectorized Redundant Repeaters.

### 3.7 Network Management System

Contractor shall design, develop, engineer, manufacture and test (in accordance with Exhibit E (Test Plans and Procedures)) the fully operational NMS and shall deliver and install such NMS to and at the location specified in Exhibit D (Delivery Schedule), all in conformance with the requirements of Exhibit A (Design Specifications).

### 3.8 Test Equipment.

(a) Contractor shall provide a list of test equipment for the purpose of performance verification and field troubleshooting and maintenance of accepted Repeaters.

(b) Routine calibration of the test equipment shall be performed in accordance with the manufacturer's recommendations that are contained in the operation and maintenance manuals for that equipment.

(c) Contractor shall, at its expense, provide all necessary test facilities for fault diagnosis and repair of faulty Repeaters and LRUs, which are returned to Contractor during the applicable warranty periods, as such periods may be extended.

### 3.9 Special Tools.

Contractor shall identify all special tools required to operate, adjust, tune, maintain, replace or repair the Repeaters or any LRUs. Where routine calibration of special tools is required, adequate calibration instruction shall be provided.

## 4. DATA AND DOCUMENTATION

### 4.1 General.

(a) Customer shall have access as needed to all non-financial Data and Documentation and other information related to the Contract that is generated under or in the performance of this Contract by Contractor and its Subcontractors. Certain specific items of information shall be produced and formally submitted to Customer by Contractor as specified herein.

(b) Contractor agrees to furnish and convey, at no charge, all Documents pertaining to the Repeaters, the NMS and other items to be delivered under this Contract as is necessary to permit Customer to use, operate and maintain the Repeaters, NMS and other deliverable items. For purposes of this Statement of Work, "Documents" includes specifications, drawings, procedures, reports (including inspection, test or incident reports), certificates, training documentation, user manuals, or other materials,

documents, reports, lists, procedures, data, or similar items. All Documents specified herein are a subset of Data and Documentation.

(c) Contractor shall deliver to Customer at least five (5) sets of such Documents, and Customer may make copies of such Documents for its use, including use in connection with the use, operation and maintenance of Repeaters (including at each location to which such Repeaters may be deployed), the NMS and other deliverable items; provided that all such copies shall contain the legends placed on the original versions thereof.

(d) In addition to the rights set forth in paragraph (c), Contractor hereby grants to Customer the right to modify and enhance such Documents. Customer also has the right to make copies of such modifications and enhancements and distribute the same. In the event Customer modifies the Documents in a manner not directed or approved by Contractor, Contractor will not be responsible for Customer's use of such Documents to the extent it is modified by Customer. Contractor may review Customer's modifications and enhancements to such Documents.

(e) Contractor shall supply Data and Documentation in each of the following categories for the items to be delivered hereunder:

- (1) System;
- (2) Maintenance;
- (3) Operations; and
- (4) Quality Assurance (QA) and Configuration and Data Management (CADM).

4.2 Deliverable Documents.

(a) All Data and Documentation to be delivered under the Contract to Customer shall be in the version of tools and/or file formats specified in Table 4-A (Tool/File Format Requirements) below:

Project Schedules	MS Project 95
Written Documents	MS Word 97
Spreadsheets	MS Excel 97
Presentations	MS PowerPoint 97

Diagrams	Visio 5.0
Graphics	GIF or JPEG format

(b) Contractor shall provide Customer with five (5) sets of each type of Document specified in Table 4-B (Document Requirements List) related to the Repeaters, the NMS and other deliverable items and services to be delivered or provided pursuant to the Contract. Contractor shall be responsible for maintaining the currency of the Documents, and shall forward copies of all changes and revisions to Customer. The submission requirements of these Documents shall be in accordance with Table 4-B (Document Requirements List). In addition, Contractor shall provide Customer with one (1) copy of each Document, upon its initial issue and at each formal re-issue, on suitable magnetic media designated by Customer.

(c) The Documents shall include, at a minimum, those Documents described in the following Table 4-B and shall be subject to the approval or review of Customer, as specified in such Table.

Table 4-B

## Document Requirements List

Item	Submission Requirements	Submission Criteria	No of Copies	Comments
Management Plan	EDC	Approval	5	
Interface Control Documents	EDC, FDR	Approval	5	Detailed at EDC Final at FDR
Power and Thermal Budgets	EDC, FDR	Review	5	Detailed at EDC Final at FDR
Unit Performance Requirements	FDR	Review	5	
Glossary	EDC, FDR	Information	5	
Progress Report	Monthly	Information	5	
Design Review Notification	2 weeks before review	Information	2	
Design Review Documents	1 week before review	Review	5	See relevant section for detailed description

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Table 4-B

Document Requirements List

Item	Submission Requirements	Submission Criteria	No of Copies	Comments
Detailed Repeater system specification(s) and descriptions of all Repeaters and the NMS to be delivered hereunder	FDR	Approval	5	
Interface Requirements	1 week before review	Approval	5	
Prototype Test Plan and Procedures (including for individual LRUs)	[*****]	Approval	5	Shall address Design Verification, In-Factory, Rooftop, and High-Power Installation Site Testing of Repeaters.
Production Test Plan and Procedures (including for individual LRUs)	[*****]	Approval	5	Shall address Design Verification, In-Factory, Rooftop, and High-Power Installation Site Testing of Repeaters Shall address Design Verification, In-Factory, and Site Installation Testing of NMS.
Notification of Acceptance Test	2 weeks before test start	Approval	5	
Final Test Report	Within one week of test completion	Approval	5	
Notification of Shipment	15 days before shipment	Information	5	
System documentation (user & maintenance	[*****]	Approval	5	

Table 4-B				
Document Requirements List				
Item	Submission Requirements	Submission Criteria	No of Copies	Comments
manuals)				
Training Program	FDR	Approval	5	
QA Plan	EDC, FDR	Approval	5	
CADM Plan	EDC, FDR	Approval	5	
QA Procedures	As Requested	Information	0	These procedures will be made available for review at Contractor's facility
List of Spares	FDR	Approval	5	

#### 4.3 Language.

- (a) All documents shall be in the English language.
- (b) Contractor shall maintain consistency in nomenclature in all documentation. Contractor shall use and update as necessary the standard glossary of terms attached hereto.

#### 4.4 Documents Categories.

All documents shall be classified into the following categories. Documents for approval or review shall be submitted in five (5) copies plus a single copy on suitable magnetic media and in a format as listed in Table 4-A (Tool/File Format Requirements).

##### (a) Approval.

- (1) A Document requiring Customer approval shall be received, reviewed and approved by Customer prior to its planned use and/or implementation by Contractor.
- (2) If Customer approves such Document, Customer shall sign the Document and notify Contractor in writing of its approval within ten (10) Business Days after its receipt of such Document from Contractor. Such Document shall be deemed approved if Customer fails to deliver its written approval or a notice of disapproval (pursuant to paragraph (a)(3) below) to Contractor within such ten (10) Business Day period.

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- (3) If the Document is not approved by Customer, Customer shall notify Contractor within ten (10) Business Days after its receipt of the Document from Contractor of those parts of the Document which cannot be approved, together with the reasons for the disapproval, and instructions concerning the submission of the revised Document.
- (4) The use by Contractor of a document in the "Approval" category, prior to receipt by Contractor of Customer's written approval, shall be at Contractor's own risk and expense.

(b) Review.  
-----

- (1) A Document required to be submitted by Contractor for review by Customer, shall be delivered to Customer prior to its planned use and/or implementation by Contractor.
- (2) If Customer's review reveals inadequacies in the Document, Customer shall, within ten (10) Business Days after receipt of the Document by Customer, inform Contractor of such inadequacies and the part(s) of the Document to be altered. Customer may also recommend actions and give re-submission instructions according to the character of the inadequacies.
- (3) The use or implementation by Contractor of a document in the "Review" category prior to the lapse of the ten (10) Business Day period referenced above or prior to the incorporation of Customer's comments or the completion of other corrective action acceptable to both Parties shall be at Contractor's own risk and expense.

(c) Information.  
-----

A Document required to be submitted for information purposes only shall be sent to Customer promptly upon issuance and approval of the Document by Contractor.

4.5 System Documentation.

(a) Ten (10) Business Days prior to commencement of In-Factory Testing of the Prototype Repeaters, Contractor shall provide a complete set of documentation for all deliverable items to be tested by Contractor. The "System Documentation" shall include the following elements:

- (1) An Operations Manual shall cover the functions of the Repeaters and the NMS, describing and interrelating the major features, and shall consist of a description, the operating parameters, operations and maintenance, and recommended troubleshooting procedures at system level.

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- (2) Documentation for all Software and firmware contained within or related to each Repeater and the NMS, together with listings of self-documented source code. Software source code delivered on magnetic medium may be substituted for software listings.
- (3) For all equipment that includes a high-level graphic interface, details concerning each elementary function that an operator can perform by detailing the successive selection of Graphic Unit Interfaces (GUIs).

4.6 Maintenance Documentation.

Contractor shall specify and describe routine and preventive maintenance guidelines and procedures and troubleshooting procedures in the Operations Manual. A corrective maintenance manual shall also be provided, in which the failure and maintenance reporting procedures and philosophy are indicated.

4.7 Operations Documentation.

Ten (10) copies of "Station Operator's Manuals" shall be provided by Contractor with respect to the Repeaters, NMS and other hardware, Software or related equipment to be provided by Contractor hereunder, including:

- (a) equipment configuration and functional settings;
- (b) manual operation of Contractor-supplied equipment; and
- (c) recommended maintenance schedules and procedures.

4.8 Quality Assurance and CADM Documentation.

The QA and CADM documentation shall consist of:

- (a) A Quality Assurance Plan, as set forth in Exhibit F (Quality Assurance Plan).
- (b) Quality Assurance Reports, which reports shall be generated as required by Exhibit F (Quality Assurance Plan), and shall include descriptions of failures, repairs, re-tests, and the results of the required audits. The QA report may be delivered as part of the weekly progress report.
- (c) CADM Documentation, including a CADM Plan and Procedures which describes Contractor's methodology of referencing documents, format of documents and control of updating documents. A current list of the latest approved versions of all Documentation issued shall be maintained and provided to Customer.

4.9 Progress Reporting.

Contractor shall prepare and submit to Customer's Program Manager reports on the progress of the program, at monthly intervals ("Progress Reports"). Contractor shall

submit five (5) sets of each Progress Report to Customer, which reports shall include the following:

- (a) progress made since the previous report;
- (b) resolution of previous problems and action items;
- (c) newly identified technical problems and action items;
- (d) work plan for the upcoming month;
- (e) overall schedule progression and the impact of problems on the schedule;
- (f) action items requiring Customer assistance;
- (g) details on Subcontractor schedules;
- (h) action items in progress; and
- (i) tests planned for the upcoming month, including tests planned by any Subcontractor.

#### 5. SERVICES

- (a) Testing. Contractor shall perform all required testing, including

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Design Verification, In-Factory , and Rooftop Testing for the Prototype and Production Standard Repeaters; Design Verification, In-Factory, and High-Power Installation Site Testing for the Prototype and Production High-Power Repeaters; and Design Verification, In-Factory, and Site Installation Testing for the NMS, as specified in Exhibit E (Test Plans and Procedures) (to be developed hereunder).

- (1) Rooftop Testing of the Standard Repeaters shall demonstrate successful mating and operation of all LRUs and associated hardware; successful operation of the Repeater controller and its interface with the NMS; and successful operation of the complete Repeater in accordance with Exhibit A (Design Specifications).
- (2) High-Power Installation Site Testing of the High Power Repeaters shall demonstrate successful mating and operation of the Enclosure Kit and the Klystron Kit and associated hardware; successful operation of the Repeater controller and its interface with the NMS; and successful operation of the complete Repeater in accordance with Exhibit A (Design Specifications).
- (3) Site Installation Testing of the NMS shall demonstrate successful integration and operation of the NMS with the Repeater network in accordance with Exhibit A (Design Specifications).

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- (4) Performance of all Rooftop Testing shall include Rooftop Assembly of LRUs and all associated hardware. Performance of High-Power Installation Site Testing shall include assembly of all associated hardware.
- (5) Performance of all testing and preparation and submission of required test-related documentation shall be in accordance with the Contract

(b) Training. Contractor shall provide training courses and materials as specified herein.

(c) Warranty Coverage. Contractor shall provide warranty services as specified in the Contract.

(d) Marketing Support. At Contractor's expense, Contractor shall provide, during the Term of the Contract, reasonable technical marketing support to Customer by telephone during Contractor's normal business hours, in support of Customer's business opportunities consistent with Contractor's other obligations hereunder. In the event Customer requires other marketing support beyond telephone support, Customer shall submit its request to Contractor for such additional marketing support and Contractor shall provide such additional support, subject to the Parties' mutual agreement on reasonable terms and conditions to governs such additional marketing support.

6. PROGRAM MANAGEMENT

6.1 Responsibilities.

(a) Contractor shall manage all matters relating to the performance of this Contract, and shall ensure that the personnel and facilities necessary for the performance of the Contract are assigned and made available at the times and places necessary to meet the schedule established by the Contract.

(b) Contractor shall designate a person responsible for Quality Assurance for the duration of the Contract who has an independent reporting chain from the project management. Customer shall have access to all QA aspects of the Contract, without restriction on time or location of access.

6.2 Program Management Plan.

(a) Contractor shall provide a Program Management Plan. This Plan shall be provided within ten (10) Calendar Days after EDC and shall thereafter be updated as required to maintain a full description of the program structure and management methods.

(b) The Program Management Plan shall provide a "Program Control System," which monitors all program activities and clearly identifies all milestones, reporting

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dates, completion dates, deliveries, design reviews, and critical paths. This Program Control System shall cover the period from EDC to the Project Completion Date.

(c) The Program Management Plan shall include a schedule showing the significant events of the program. The events on this schedule shall include factory testing, expected delivery by Subcontractors of major subsystem equipment, on-site acceptance testing, Milestones, and progress reports.

### 6.3 Data and Documentation Management.

Contractor shall provide a "Configuration and Data Management Plan," which shall detail the system to be adopted for Document management, defining the issue status designation system for controlled Documents, and the registration, handling, filing, and archiving system for controlled and uncontrolled, baseline and non-baseline Documents. The plan shall also define the specified forms to be used in the project management and to control the status of Documents. Within this Configuration and Data Management Plan, reference shall be made to Customer Document submission and review criteria, specified in Table 4-B (Document Requirements List), and to the delivery requirements specified in Exhibit D (Delivery Schedule). This Plan complements the Quality Assurance Plan (set forth in Exhibit F) to ensure that up-to-date technical information is available at all times.

## 7. MEETINGS.

### 7.1 General.

(a) Contractor shall keep Customer currently informed, and shall meet with Customer to discuss and review the status and the progress of the Work being performed. In particular, the meetings specified in this Section 7 (Meetings) shall be arranged in accordance herewith.

(b) For all meetings, except as otherwise specified herein, Contractor shall provide an agenda (at least two (2) Business Days in advance of each meeting), all supporting material (as required in Table 4-B (Document Requirements List)), and minutes of the meetings (to be delivered by Contractor to Customer by no later than five (5) Business Days following the meeting for Customer's approval).

### 7.2 Contractor Review Meetings.

(a) Contractor shall plan and execute major program reviews as follows (each a "Review"):

- (1) Program Kick-Off Meeting, to be held at Contractor's premises;
- (2) Final Design Review (FDR), to be held at Contractor's premises;
- (3) Design Verification Testing Review (Prototypes), to be held at Contractor's premises; and
- (4) Design Verification Testing Review (Production), to be held at Contractor's premises

(b) These Reviews shall be scheduled so as to allow a thorough and comprehensive evaluation of the design, test readiness, and other significant elements of the program, as applicable, and shall act as major decision milestones before proceeding

to the next phase of the program. Other technical and/or management Reviews shall be scheduled when required at Contractor's premises, or at a venue to be mutually agreed.

(c) Five (5) Business Days prior to each Review, Contractor shall provide the whole of the Data and Documentation package to be discussed at or relevant to such Review.

(d) "Successful Completion" of each Review shall be deemed to occur when (1) Contractor has provided all required Data and Documentation to Customer, (2) Customer has reviewed and approved the Data and Documentation, and (3) the Parties have reviewed all Action Items and agreed to a closure plan therefor.

(e) The Data and Documentation provided shall be self-contained, of sufficiently high quality and properly structured, such that it provides all of the information necessary to a reviewer experienced in signal processing and telecommunications systems, and having access to the Contract but not to reports of previous presentations or other, non-contractual documents.

### 7.3 Program Kick-Off Meeting.

The objective of the Program Kick-Off Meeting is to review the Program Management Plan, meet key personnel, review manufacturing facilities, and finalize and delineate responsibilities between and among Contractor and the Customer's network integration contractor.

### 7.4 Final Design Review Meeting (FDR).

(a) The objective of the FDR is to conduct a formal technical review of the Repeaters and the NMS and any related hardware or software after the detailed design of each item is completed. The FDR establishes:

- (1) the completeness and integrity of the detailed design;
- (2) that the design complies with all the requirements of this Contract and of all applicable documents, and that the presented analyses and/or test data demonstrate such compliance; and
- (3) that the external interfaces of the Repeaters comply with the interface control documents (ICDs).

(b) To this end, the FDR will cover the technical, operational and maintenance material, which shall include the following:

- (1) detailed overall description of the Repeaters, including interconnections between racks, and grounding requirements;

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- (2) a detailed Repeater system specification(s) and descriptions of all Repeaters and the NMS to be delivered hereunder, which is subject to the approval of Customer;
- (3) detailed specifications, descriptions and final schematic drawings of all LRUs, including the DSP Block Assembly, the RF Down-Converter, the RF Up-Converter, the Power Amplifier, the Output Filter, the Controller Assembly, and the NMS;
- (4) complete overall and subsystem block and level diagrams for the Repeaters, each LRU and the NMS;
- (5) detailed analyses, showing compliance with Exhibit A (Design Specifications);
- (6) operation and maintenance plans;
- (7) MTBF by LRU and overall Repeater availability and reliability;
- (8) finalization of ICDs and detailed descriptions of all interfaces;
- (9) tests plans, procedures, and schedules for all required testing, including sufficient detail to permit evaluation of the proposed test methods;
- (10) updated project planning documentation for the remainder of the Contract;
- (11) QA Reports, detailing QA activities through FDR and schedule of QA activities to the end of the program; and
- (12) a list of all deliverable items.

7.5 Design Verification Testing Review (Prototype Repeaters).

(a) Contractor shall convene a meeting to review the results of the Design Verification Tests conducted on the Prototype Repeaters in the factory environment, prior to shipment to the designated installation sites specified in Exhibit D (Delivery Schedule), with the purpose of verifying that these tests have been completed satisfactorily and in accordance with the Test Plans and Procedures (Exhibit E). This meeting shall be held at Contractor's premises. Contractor shall supply Customer with five (5) copies of the test results, at the completion of each applicable test.

(b) If deficiencies are observed with the test methods or results in demonstrating compliance with the requirements, Customer will have the right to request additional testing, with alternative test methods as appropriate, to be performed by Contractor.

(c) In addition to the requirements of Section 7.2(d), Successful Completion of this Review shall be deemed to occur upon satisfactory completion of all outstanding actions and solution of all discrepancies identified by Customer. Customer shall provide notice to Contractor in writing upon such Successful Completion of this Review.

7.6 Design Verification Testing Review (Production Repeaters).

(a) Contractor shall convene a meeting to review the results of the Design Verification Tests conducted on the Repeaters (manufactured during the production phase of the Contract) in the factory environment, prior to shipment to the installation sites specified in Exhibit D (Delivery Schedule), with the purpose of verifying that these tests have been completed satisfactorily in accordance with the Test Plans and Procedures (Exhibit E). This meeting shall be held at Contractor's premises. Contractor shall supply Customer with five (5) copies of the test results, at the completion of each test.

(b) If deficiencies are observed with the test methods or results in demonstrating compliance with the requirements, Customer will have the right to request additional testing, with alternative test methods as appropriate, to be performed by Contractor.

(c) In addition to the requirements of Section 7.2(d), Successful Completion of this Review shall be deemed to occur upon satisfactory completion of all outstanding actions and solution of all discrepancies identified by Customer. Customer shall provide notice to Contractor in writing upon such Successful Completion of this Review.

7.7 Subcontractor Status and Design Reviews.

Customer, at its discretion, may attend and observe all status and design reviews which Contractor may require of its Subcontractors. Contractor shall supply Customer with documentation on all matters relating to such reviews one (1) week prior to each scheduled review.

7.8 Progress Meetings.

(a) Customer may, at its discretion, convene meetings to discuss and review Repeater and NMS design and to discuss progress of the Contract at least twice each month during the period from EDC through Project Completion Date (the "Progress Meetings"). For all such Progress Meetings, Customer shall provide an agenda to Contractor by no later than two (2) Business Days prior to the scheduled meeting date.

(b) These Progress Meetings shall be organized either through teleconferences, video conference, or in person at a location to be mutually agreed.

7.9 Contract Review Meetings.

In addition to the Progress Meetings, Customer shall be advised by Contractor of and shall have the option of attending, any regularly scheduled internal meetings that Contractor may establish to assess progress and problems. Customer shall be provided with the agenda relevant to these meetings two (2) Business Days prior to the meetings

taking place.

7.10 Attendance at Meetings.

In the event that a meeting is convened at Contractor's or any Subcontractor's plant, Contractor shall make all necessary arrangements to facilitate entry to the meeting place by Customer Personnel and Customer's Associates.

7.11 Action Item Control.

(a) Contractor, in consultation with Customer, shall maintain a register of all actions items identified in each meeting or Review and shall uniquely identify each action item. This register shall include the action item description, the person(s) responsible for the resolution of each action item, the date the action item was raised, the completion due date, and the actual completion date.

(b) Copies of this register shall be provided to Customer at the regular Progress Meetings.

8. PRODUCT ASSURANCE REQUIREMENTS

8.1 Scope.

This Section 8 (Product Assurance Requirements) defines the minimum product assurance requirements for the Repeater and NMS. These requirements are the principal elements that Contractor shall satisfy in the establishment and implementation of the product assurance program under this Contract. The requirements of this section shall also be applicable to Work performed by all Subcontractors.

8.2 Product Assurance Program Objectives.

(a) A comprehensive product assurance program shall be established and maintained to ensure that all Repeaters, the NMS, and other deliverable items, including Software, are designed, manufactured, tested, stored and delivered to meet the specified performance requirements of the Contract (the "Product Assurance Program"). The Product Assurance Program shall include detailed requirements, policies, objectives, plans and methods of implementation relative to reliability, parts and materials, processes control, non-conforming material control, configuration and data management, and safety which are to be applied throughout the design, development, fabrication, integration, testing, storage, delivery and operations phases of the Contract. Contractor's Product Assurance Program shall ensure that these requirements are effectively implemented throughout the duration of the Contract.

(b) The Product Assurance Program shall provide for the early and prompt detection of actual and potential deficiencies, system incompatibilities, marginal quality, trends, and any other conditions which could result in unsatisfactory performance. It shall provide for the effective action to correct all such conditions.

(c) The program shall provide full visibility of Contractor and Subcontractor activities to Customer.

8.3 Quality Assurance Plan.

Contractor shall comply with the Quality Assurance Plan set forth in Exhibit F.

8.4 Planning.

Contractor shall formally plan the Work, and implement internal controls, so that:

- (a) requirements are adequately defined to the participants,
- (b) characteristics crucial to safe and proper functioning are identified;
- (c) statutory and safety requirements are identified;
- (d) Work is sub-divided into units and resources needed are defined;

- (e) interface responsibilities are defined;
- (f) a program of work is established; and
- (g) procedures to be followed are specified.

8.5 Design Control.

(a) Contractor shall document feasibility, outline and detailed designs as appropriate to the circumstances. All designs, drawing and calculations shall be checked and shall be traceable to information sources, assumptions choices made, designer and verifier.

(b) Designs shall be reviewed by Contractor and any corrections needed made, before submission to Customer. Such reviews shall include examination of all interfacing features and of testing requirements.

(c) Changes to designs shall be controlled according to the CADM Plan.

(d) Practices in the development of Software shall conform to a recognized code of practice and shall include:

- (1) a software requirements definition;
  - (2) an architectural design document,
  - (3) standardized procedures and practices for detailed design;
  - (4) a test plan;
  - (5) a reporting system for performance and discrepancies;
  - (6) a program of reviews at key points;
  - (7) a history record; and
  - (8) timely preparation of user documentation.
- (e) Records shall be maintained suitably for audit.

8.6 Document Control.

(a) Document procedures shall be supervised by Contractor's Configuration Manager according to the CADM Plan, which is subject to Customer's approval pursuant to Table 4-B.

(b) The CADM Plan shall cover:

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- (1) methods of registration of Data and Documentation, both internally generated and from outside sources;
- (2) method of approval and issuing of Data and Documentation;
- (3) method of revision of Data and Documentation and withdrawal/cancellation of superseded items;
- (4) system for requesting and approving changes to materials, equipment, Software, and the overall program;

(c) The CADM Plan shall also reference:

- (1) Document defining system architecture
- (2) Documents defining the configuration items
- (3) Document schedules; and
- (4) The filing system.

(d) Changes to the Data and Documentation that do not affect any interface with other Customer contractors, the applicable technical, performance or design specifications, including as set forth in Exhibit A, or the Contract Price shall be subject to Contractor's change control system; provided that Customer may have access to the change control system and may ask questions and provide suggestions and comments, all of which shall be reasonably addressed by Contractor. All other Data and Documentation changes shall be referred to Customer for approval.

(e) All submitted Data and Documentation affected by changes are to be re-issued as a subsequent revision number.

(f) Copies of previously issued Data and Documentation shall be retained by Contractor, and available to Customer upon request, for archival and reference purposes, but suitably identified as superseded.

8.7 Purchasing.

Contractor shall be responsible for ensuring that any subcontracted supplies conform to project requirements with particular regard to:

- (a) The Design Specifications (Exhibit A);
- (b) The Delivery Schedule (Exhibit D); and
- (c) The Quality Assurance Plan (Exhibit F).

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

8.8 Traceability.

All equipment, including Repeaters, the NMS and LRUs, shall be bar-coded with serial numbers and shall carry nameplates on which modification numbers can be marked by service engineers when implemented, in order that all such equipment in its current state is traceable to its record documents.

8.9 Compliance with Laws, Regulations and Certificates.

(a) Contractor shall perform the Work in accordance with site safety practices and all applicable Laws.

(b) Measurement and test equipment shall have relevant calibration certificates traceable to applicable standards, including those issued by governmental authorities, and the calibration status of each piece of equipment shall be readily visible when using equipment. Instruments used in tests shall be identified on the test records.

9. TESTING ACTIVITIES

9.1 Test Plans and Procedures.

(a) Contractor shall perform testing of the Prototype and Production Repeaters and the NMS in accordance with Test Plans and Procedures set forth in Exhibit E (Test Plans and Procedures).

(b) Contractor shall deliver to Customer the Prototype Repeater Test Plan and Procedures on or before [\*\*\*\*\*] and such plan and procedures shall address Design Verification, In-Factory, Rooftop, and High-Power Installation Site Testing.

(c) Contractor shall deliver to Customer the Production Repeater Test Plan and Procedures on or before [\*\*\*\*\*] and such plan and procedures shall address Design Verification, In-Factory, Rooftop, and Site Installation Testing.

(d) Contractor shall deliver to Customer the NMS Test Plan and Procedures on or before [\*\*\*\*\*] and such plan and procedures shall address Design Verification, In-Factory, and Site Installation Testing of the NMS.

(e) Finalization of all Test Plans and Procedures shall be subject to Customer approval.

(f) The test plans and procedures for the Rooftop Testing shall be designed to demonstrate successful mating and operation of all LRUs and associated hardware; successful operation of the Repeater controller and its interface with the NMS; and

successful operation of the complete Repeater in accordance with Exhibit A (Design Specifications).

(g) The test plans and procedures for the High-Power Installation Site Testing shall be designed to demonstrate successful mating and operation of the Enclosure Kit and the Klystron Kit and associated hardware; successful operation of the Repeater Controller and its interface with the NMS; and successful operation of the complete Repeater in accordance with Exhibit A (Design Specifications)

(h) The test plans and procedures for the Site Installation Testing for the NMS shall be designed to demonstrate successful integration and operation of the NMS with the Repeater network in accordance with Exhibit A (Design Specifications).

#### 9.2 Test Reports.

Following completion of any required testing, Contractor shall prepare and submit to Customer for approval, reports detailing the tests performed and the results obtained and the related certifications, all in accordance with Exhibit E (Test Plan and Procedures) and the Contract.

#### 9.3 Access to Testing Activities.

Customer may, at its election and expense, have its Associates, Consultants, or other designees attend each test as required to be performed by Contractor pursuant to the Contract, including Design Verification Testing of the Repeaters, each LRU and the NMS and any other testing conducted by Contractor or its Subcontractors with respect to the Work to be performed hereunder. Attendance by Customer shall be for purposes of monitoring and observation and shall be on a non-interference basis; provided, however, Customer may ask questions, make suggestions, or otherwise comment on the proceedings. Contractor shall notify Customer reasonably in advance of the time and place for any such testing activities and Customer shall promptly inform Contractor of its intent to attend the testing. Contractor shall make arrangements for Customer's entrance and access into Contractor Facility(ies) for purposes of attending the testing. Customer attendance at any such test shall in no way be construed or deemed to represent Customer's acceptance of the items being tested or Customer's waiver of any claims or rights hereunder.

#### 10. TRAINING

Contractor will provide training to Customer, Customer Personnel and Customer's designees in accordance with the following:

(a) Contractor shall provide appropriate training on each aspect of the Repeaters and NMS and other deliverables (including installation, operation, maintenance, repair, provisioning, monitoring and control), using the training approach as specified below. Contractor shall provide Customer, at no additional tuition cost or expense (other than Customer's own travel expenses to Contractor's training facility), three (3) one-week training sessions for no more than twelve (12) trainees per session. Additional training desired by Customer will be mutually agreed upon.

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(b) Contractor shall develop all training materials and shall provide such training materials, together with documentary background material and other course notes to each attendee at the beginning of each course.

(c) Contractor agrees to offer training courses during each one-week session which address the following areas:

- (1) overview, installation, administration and operations, testing, maintenance, trouble-shooting, repair and safety procedures with respect to the Repeaters, including assembly of an entire Repeater using a pre-wired rack and applicable LRUs.;
- (2) overview, installation, administration and operations, testing, maintenance, trouble-shooting, repair and safety procedures with respect to the NMS;
- (3) "train the trainer" training, so that individuals reasonably experienced in the electronic telecommunications equipment operations or maintenance industries, or other related industries, will be capable of performing operational and maintenance functions related to the NMS, Repeaters or other deliverables in a safe, efficient, and effective manner.

(d) Such training courses will be available at Contractor or other designated training facilities and will consist of formal and informal classroom instruction and actual hands-on training in laboratory or simulated or actual installation environments. Contractor also reserves the right to subcontract the training to a designated third party vendor, which subcontract shall be deemed a Material Subcontract and shall be subject to the terms of Article 10.2 (Material Subcontracts) of the Terms and Conditions.

(e) Contractor shall provide all remedial training and training on any changes, updates and enhancements to the Repeaters, NMS or other deliverable items as otherwise necessary for Customer, or its designee(s), to be capable of performing all necessary services, including installation, operation, maintenance, repair, provisioning, monitoring and control of the Repeaters and the NMS.

#### 11. WARRANTY SUPPORT

(a) Contractor shall perform warranty activities in accordance with the Contract.

(b) As of the Effective Date of the Contract, the LRUs are those items set forth in Table 11-A below.

(c) In accordance with Article 17.11 (Remedies (Repeaters)) of the Terms and Conditions, Contractor shall submit for Customer's review and comment LRU sparing levels, together with the associated availability calculations. The sparing levels shall be sufficient to cover anticipated failure rates for Repeaters and the individual LRUs, and

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the sparing levels shall be updated in accordance with Article 17.11 (Remedies (Repeaters)) of the Terms and Conditions to reflect actual failure rates.

(d) The preliminary sparing level is as set forth below. In no event shall Contractor's proposed inventory plan provide for sparing levels of less than the quantities set forth in this preliminary sparing level.

[\*\*\*\*\*]

\*All Racks provided by Contractor to Customer pursuant to each Inventory Plan shall be pre-wired and ready for LRU installation (in the event Customer elects to assemble a replacement Repeater pursuant to Article 17.11 (Remedies (Repeaters)) of the Terms and Conditions).

#### 12. NMS MAINTENANCE

On or before [\*\*\*\*\*], Contractor shall provide Customer with a proposal for annual maintenance of the NMS in accordance with Article 26 of the Terms and Conditions.

\* END OF DOCUMENT \*

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\*\*\*\* Confidential treatment has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONTRACT

FOR

THE DESIGN, DEVELOPMENT AND PURCHASE OF

TERRESTRIAL REPEATER EQUIPMENT

By and Between

XM SATELLITE RADIO INC.

and

HUGHES ELECTRONICS CORPORATION

EXHIBIT C

PRICING, MILESTONES AND PAYMENT PLAN

CONFIDENTIALITY NOTICE

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This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

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Exhibit C - Pricing, Milestones and Payment Plan

Page 1

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EXHIBIT C  
PRICING, MILESTONES AND PAYMENT PLAN

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EXHIBIT C

PRICING, MILESTONES AND PAYMENT PLAN

1. GENERAL

(a) This Exhibit C (Pricing, Milestones and Payment Plan) describes the applicable charges for the Work. The Contract Price (as defined below) and other charges indicated in this Exhibit C shall compensate Contractor for the Work to be performed and provided pursuant to the Contract, including the resources used therefor.

(b) The Contract Price will be paid for in accordance with Section 3 (Milestone Payment Plan and Milestone Achievement Criteria) below. All invoicing and payment terms shall be in accordance with Article 6 (Invoicing and Payment) of the Terms and Conditions.

(c) Contractor acknowledges that, except as may be otherwise provided in the Contract, expenses and costs that Contractor incurs in the performance of the Work (including expenses related to travel and lodging, document production, and long-distance telephone) are included in the Contract Price. Accordingly, such Contractor expenses are not separately reimbursable by Customer.

(d) All charges set forth herein are in United States Dollars and shall be paid by Customer in the same currency.

(e) All capitalized terms used and not defined in this Exhibit C shall have the same meanings given them in the Terms and Conditions or its other Exhibits.

2. CONTRACT PRICE

2.1 Contract Price.

(a) For the Work to be performed pursuant to the Contract, Customer shall pay Contractor the firm fixed prices as set forth in, and in accordance with, this Exhibit C (such firm fixed prices to be referred to collectively as the "Contract Price").

(b) The Contract Price may be amended from time to time only in accordance with the Terms and Conditions and this Exhibit C, including as a result of Customer's exercise of the options specified herein.

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2.2 Repeater Unit Pricing.

(a) Repeaters to be purchased pursuant to the Contract are priced on a per unit basis in accordance with Table 2.2 below:

Repeater Category	Firm Fixed Price per Repeater \$/Repeater
Standard Non-Redundant Repeater	[*****]
Standard Sectored Non-Redundant Repeater	[*****]
High-Power Redundant Repeater	[*****]
High-Power Sectored Redundant Repeater	[*****]

(b) The firm fixed prices set forth in Table 2.2 above include charges for the following services and deliverables:

- (1) costs for performance of all design, development, engineering and manufacturing work, including non-recurring engineering costs;
- (2) development, manufacture and delivery of all Repeaters (including Prototype Repeaters) and Rooftop Assembly of Standard Repeaters and assembly of High-Power Repeaters at the Installation Sites;
- (3) custom ASIC chip development or, alternatively, development and implementation of Field Programmable Gate Array (FPGA) for the digital signal processing;
- (4) taxes and duties (including all import duties and related assessments, but excluding sales and use taxes, which Contractor will invoice to Customer and collect and remit on behalf of Customer without mark-up in accordance with Article 5.4(b) of the Terms and Conditions);
- (5) all testing required in accordance with the Terms and Conditions and Exhibit E (Test Plans and Procedures);
- (6) delivery of Enclosure Kits to the Staging Areas (including packing, crating, shipping, handling, and insurance therefor) and delivery of PA Kits to the Installation Sites and delivery of High-Power Repeaters to

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- the Installation Sites (including packing, crating, shipping, handling, and insurance therefor);
- (7) training as set forth in Exhibit B (Statement of Work);
  - (8) Data and Documentation;
  - (9) warranty coverage during the applicable Warranty Periods (including sparring and Field Support) as set forth in the Terms and Conditions;
  - (10) insurance coverage as required in accordance with Article 20 (Insurance) of the Terms and Conditions; and
  - (11) other services, responsibilities, equipment, products and materials not specifically described in Exhibit B (Statement of Work) that are incidental to and reasonably required for the proper provision and performance of the Work.

(c) As set forth in paragraph (b) above, the Contract Price includes charges related to the shipping of the Repeaters. Such charges are based upon the following estimation: approximately [\*\*\*\*] of the Repeaters will be delivered to the Eastern region of the United States, [\*\*\*\*] of the Repeaters will be delivered to the Central region of the United States, and the remaining [\*\*\*\*] of the Repeaters will be delivered to the Western region of the United States. Customer may, at its option, elect to alter this allocation of delivery of the Repeaters among the Eastern, Central and Western regions of the United States without any impact to the per unit Repeater pricing set forth in Table 2.2 above; provided, however, if Customer requires a substantial change to these delivery projections (i.e., [\*\*\*\*] or more change in the allocation of Repeaters within the Eastern, Central and Western regions), Contractor and Customer shall negotiate in good faith an equitable adjustment (either up or down) to the component of the Contract Price allocable to shipping charges, depending upon the net impact of the directed change. In order to validate any adjustment to the portion of the Contract Price allocable to shipping, Contractor shall provide Customer with access to all pertinent shipping documentation and invoices, including such information utilized by Contractor in formulating the initial charge for shipping expenses, and Customer may review and audit such documentation.

(d) In the event the Nominal Order is decreased or increased by Customer in accordance with the Terms and Conditions, then the firm fixed prices for each category of Repeater set forth in Table 2.2 shall be adjusted as follows:

- (1) the amount of [\*\*\*\*] shall be deducted from the per unit prices for each category of Repeater (such sum represents the amount of [\*\*\*\*] Milestone Payment No. 1 (i.e., [\*\*\*\*] of [\*\*\*\*]) amortized over the Nominal Order of Repeaters (i.e., 1578 Repeaters); and
- (2) the amount of Milestone Payment No. 1 (i.e., [\*\*\*\*]) shall then be amortized over the revised Nominal Order proportionately (i.e., [\*\*\*\*] divided by the number of Repeaters in the revised Nominal

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Order), which amount will then be added to the per unit price for each Repeater (as reduced per paragraph (d) (1) above) and Table 2.2 shall be updated accordingly.

(e) In the event Customer requires Field Support following completion of the Work or Field Support that is materially unrelated to the Work, Contractor shall, upon Customer's request, provide such additional Field Support at the rate of [\*\*\*\*\*] per day for each Contractor or Subcontractor technical support personnel assigned to perform the Field Support. Customer shall pay such daily rate and shall reimburse Contractor, at cost and without a mark-up, for the direct reasonable expenses incurred by such personnel in performing additional Field Support. Charges for additional Field Support shall be invoiced by Contractor in accordance with the Terms and Conditions and shall be accompanied by supporting documentation concerning the direct expenses (i.e., receipts).

#### 2.3 Network Management System.

Customer shall pay Contractor a not to exceed price of [\*\*\*\*\*] for the Work related to the design, development, construction, delivery and installation of the Network Management System, including the provision of the NMS servers/computers and other equipment, and operator training, as such Work is more fully described in the Contract. Contractor shall propose a firm fixed price for the NMS on or before [\*\*\*\*\*].

### 3. Milestone Payment Plan and Milestone Achievement Criteria

#### 3.1 [\*\*\*\*\*] Milestones.

(a) The Contract Price with respect to the [\*\*\*\*\*] for Repeaters shall be earned by Contractor in installments based upon Contractor's satisfactory completion of the [\*\*\*\*\*] Milestones set forth in Table 3.1 below in accordance with the corresponding Milestone Achievement Criteria. Completed [\*\*\*\*\*] Milestones shall be invoiced by Contractor and paid by Customer in accordance with Article 6 (Invoicing and Payment) of the Terms and Conditions.

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Table 3.1  
[\*\*\*\*\*] Milestone Payment Plan and Milestone Achievement Criteria  
-----

[*****] Milestone	Milestone Achievement Date	Milestone Achievement Criteria	Milestone Payment
1	On or before 5 Business Days following Execution Date	Not Applicable	[*****]
2	[*****]	[*****]	[*****]
3	[*****]	[*****]	[*****]
4	[*****]	[*****]	[*****]

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Table 3.1  
[\*\*\*\*\*] Milestone Payment Plan and Milestone Achievement Criteria  
-----

[*****] Milestone	Milestone Achievement Date	Milestone Achievement Criteria	Milestone Payment
5	[*****]	[*****]	[*****]

-----

(b) With respect to [\*\*\*\*\*] Milestone Nos. 2, 3 and 5, the Milestone Achievement Criteria shall be deemed to be achieved by Contractor upon Contractor's delivery to Customer of Contractor's written certification that the Milestone has been achieved, such certification to be accompanied by copies of Contractor's purchase orders issued with respect to such Milestones (with financial information redacted). The certification shall show the applicable purchase order numbers, supplier names, quantity of material released in such purchase orders, and quantity of Repeater units that such ordered materials represent. Upon Customer's reasonable request, Contractor shall provide Customer with additional related information.

(c) Subject to paragraph (d) below, [\*\*\*\*\*] Milestone Payment Nos. 1-5 (totaling [\*\*\*\*\*]) are included in the firm fixed unit price for each category of Repeaters, as such prices are set out in Table 2.2 above. Accordingly, for each of the 1,578 Repeaters included in the Nominal Order, a credit in the amount of [\*\*\*\*\*] shall be given toward the price of each Repeater. The credit shall appear on the applicable invoices as follows: [\*\*\*\*\*] for each shipped Enclosure Kit and [\*\*\*\*\*] for each Accepted Repeater.

(d) In the event the Nominal Order is increased or decreased by Customer in accordance with the Terms and Conditions, the Parties shall calculate a revised credit amount with respect to each Repeater, such credit equal to the quotient of the total amount of [\*\*\*\*\*] Milestone Payment Nos. 1-5 (i.e., [\*\*\*\*\*]) divided by the number of Repeaters in the revised Nominal Order. Such revised credit shall be applied to the applicable invoices as follows: [\*\*\*\*\*] for each shipped Enclosure Kit and [\*\*\*\*\*] for each Accepted Repeater.

### 3.2 Production Milestones.

(a) The Contract Price with respect to production and Acceptance of Repeaters shall be earned by Contractor in installments based upon Contractor's satisfactory completion of the [\*\*\*\*\*] Milestones set forth in Table 3.2 below in accordance with the corresponding Milestone Achievement Criteria. Completed [\*\*\*\*\*] Milestones shall be invoiced by Contractor and paid by Customer in accordance with Article 6 (Invoicing and Payment) of the Terms and Conditions.

(b) Invoices for [\*\*\*\*\*] Milestones shall be subject to the credit and revised credit described in paragraphs (c) and (d) of Section 3.1 ([\*\*\*\*\*] Milestones) above.

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 Table 3.2  
 [\*\*\*\*\*] Milestone Payment Plan and Milestone Achievement Criteria  
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[*****] Milestone	Milestone Achievement Date	Milestone Achievement Criteria	Milestone Payment
[*****]	[*****]	[*****]	[*****]

-----

3.3 [\*\*\*\*\*] Milestones.

(a) The Contract Price with respect to the [\*\*\*\*\*] shall be earned by Contractor in installments based upon Contractor's satisfactory completion of the [\*\*\*\*\*] Milestones set forth in Table 3.3 below in accordance with the corresponding Milestone Achievement Criteria. Completed Milestones shall be invoiced by Contractor in accordance with Article 6 (Invoicing and Payment) of the Terms and Conditions.

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 Table 3.3  
 [\*\*\*\*\*] Milestone Payment Plan and  
 Milestone Achievement Criteria  
 -----

Milestone	Milestone Achievement Date	Milestone Achievement Criteria	Milestone Payment
[*****]	[*****]	[*****]	[*****]

-----

3.4 Escrow Account and Payment.

(a) Set forth below is a schedule of payments to be made by Customer into the Payment Escrow Account to be established, maintained and terminated pursuant to Article 6.2 (Escrow Account and Payment) of the Terms and Conditions. With respect to Escrow Payment Nos. 1-6 in Table 3.4, Customer shall make the applicable payment into such account on or before ten (10) Business Days following the date upon which Contractor furnishes Customer with an aged materials report showing that Contractor has ordered the supplies required by the applicable event in Table 3.4, but in no event earlier than the earliest date of payment identified in Table 3.4. In the event the aged materials report shows that Contractor has ordered less than the amount required for that event, the amount Customer is required to pay into the Payment Escrow Account shall be proportionately reduced. With respect to Escrow Payment Nos. 7-11 in Table 3.4, Customer shall make the applicable payment into the Payment Escrow Account on or before ten (10) Business Days following the date upon which Contractor furnishes Customer with a report showing the cumulative number of Enclosure Kits shipped by Contractor and received at the Staging Areas in the case of Standard Repeaters and Installation Sites in the case of High-Power Repeaters, but in no event earlier than the earliest date of payment identified in Table 3.4. In the event the report shows that fewer Enclosure Kits have been received at the Staging Areas/Installation Sites than the amount required for that event, the amount Customer is required to pay into the Payment Escrow

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Account shall be proportionately reduced. Contractor may withdraw funds from such account in accordance with Article 6.2 of the Terms and Conditions.

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 Table 3.4  
 Schedule of Escrow Payments  
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Escrow Payment No.	Event	Earliest Date of Payment	Amount to be Paid into Escrow
[*****]	[*****]	[*****]	[*****]

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(b) In the event the per unit price of Repeaters set forth in Section 2.2 (Repeater Unit Pricing) above is increased, then the schedule of escrow payments set forth in Table 3.4 above shall be increased as follows: the increase in the Contract Price resulting from the increase in the per unit price of Repeaters shall be spread proportionately over those payments of Escrow Payment Nos. 7-11 remaining to be paid by Customer and the amount of such payments shall be increased by the applicable proportion of the increase in the Contract Price. Likewise, in the event the per unit price of Repeaters set forth in Section 2.2 (Repeater Unit Pricing) above is decreased, then the schedule of escrow payments set forth in Table 3.4 above shall be decreased as follows: the decrease in the Contract Price resulting from the decrease in the per unit price of Repeaters shall be spread proportionately over those payments of Escrow Payment Nos. 7-11 remaining to be paid by Customer and the amount of such payments shall be decreased by the applicable proportion of the decrease in the Contract Price.

(c) The Parties agree that the schedule of payments set forth in Table 3.4 above shall be adjusted on account of sales taxes as follows. Within ten (10) Business Days following the end of each month, Contractor will furnish Customer with a report setting forth the sales taxes applicable for Repeaters shipped during the month just ended. Customer will deposit an amount equal to such sales taxes into the Payment Escrow Account with the next Escrow Payment due, except in the case of Escrow Payment No. 10, within fifteen (15) Business Days of receipt of Contractor's report. Customer will assist Contractor in identifying the ultimate destination of the Repeaters on a weekly basis.

4. OPTION PRICING

4.1 Pricing for Optional Repeaters.

In the event Customer exercises its option to purchase additional Repeaters in accordance with Article 26 (Options) of the Terms and Conditions, the following pricing terms shall apply to such optional Repeaters:

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

(a) Subject to paragraphs (b) and (e) below, the firm fixed price per Repeater as set forth in Section 2.1(b) (Repeater Unit Pricing) above shall apply with respect to any Customer order for optional Repeaters, provided such order complies with the following requirements:

- (1) Customer orders such optional Repeaters prior to [\*\*\*\*\*] (the "Initial Option Period"); and
- (2) each order for optional Repeaters is for at least [\*\*\*\*\*] Repeaters.

(b) Contractor requires an adequate minimum Repeater production order for each month following the Project Completion Date to assure a continuous supply from Subcontractors of LRUs and other Repeater components, parts and subparts. Accordingly, on a monthly basis beginning March 2000, Contractor will advise Customer as to the minimum monthly Repeater production rates required to maintain the Repeater manufacturing facilities on-line to accommodate Customer's future orders of optional additional Repeaters (if any) without incurring additional production costs. The minimum monthly production requirement will be subject to mutual agreement by the Parties (which agreement shall not be unreasonably withheld), but in no event will the minimum monthly production requirement exceed [\*\*\*\*\*] Standard Repeaters per month. If a follow-on order falls below the minimum monthly production requirement, Contractor will provide Customer with proof of additional production costs (if any) relating to such smaller order and the Parties will negotiate an equitable adjustment to the per unit prices set forth in Table 2.2 to account for such additional costs.

(c) Contractor will use best commercial efforts to minimize any price increase for Customer orders of less than [\*\*\*\*\*] optional Repeaters.

(d) In the event Customer orders optional Repeaters before the expiration of the Repeater Option Period, but after the last day of the Initial Option Period, Contractor shall use its best commercial efforts to propose the lowest price possible for such optional additional Repeaters.

(e) As part of the initial procurement of LRUs and other Repeater components, parts or sub-parts to be used with respect to the Nominal Order, Contractor shall use commercially reasonable efforts to negotiate competitive pricing terms and price protection on LRUs, components, parts and sub-parts with its suppliers and Subcontractors, such competitive pricing terms or price protections to apply, to the degree commercially reasonable, to subsequent orders of optional Repeaters. Such competitive pricing terms shall include a mechanism to limit the amount of any price increases in such LRUs, components, parts or sub-parts from year to year following the Project Completion Date, such mechanism to apply a commercially reasonable and appropriate economic index or cost-of-living adjustment index to be determined by

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Contractor and its suppliers and Subcontractors. In any event, if a cost increase occurs with respect to any order for optional Repeaters, the option price for such optional Repeaters will be adjusted on a dollar-for-dollar basis to account for increases in the costs of the LRUs, components, parts and sub-parts. Customer will have the right to review all supplier and Subcontractor documentation connected with any change to the Repeater unit prices set forth herein with respect to any Customer order for optional Repeaters.

#### 4.2 NMS Video Wall.

If Customer elects, at its sole discretion, to exercise the option set forth in Article 26 (Options) of the Terms and Conditions to purchase the full-motion "video wall" for use in conjunction with the Network Management System, Contractor agrees to provide the optional "video wall" to Customer for a not to exceed price of [\*\*\*\*\*], which firm fixed price includes design, development, manufacture, delivery, installation, insurance and warranty coverage for such optional video wall. Contractor shall propose to Customer a firm fixed price on or before [\*\*\*\*\*].

#### 4.3 Extended Warranty on Repeaters.

In the event Customer elects to exercise its option, pursuant to Article 17.10(b) of the Terms and Conditions, to extend the applicable Warranty Period for any Repeater, Customer shall pay Contractor the amount of [\*\*\*\*\*] Dollars for each Repeater for the [\*\*\*\*\*] month optional extended Warranty Period.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

4.4 Annual Maintenance of NMS.

In the event Customer elects to exercise its option, pursuant to Article 26.4 (Annual Maintenance of NMS) of the Terms and Conditions, to purchase annual maintenance of the NMS, Customer shall pay Contractor an annual amount not to exceed [\*\*\*\*\*].

-----  
Exhibit C - Pricing, Milestones and Payment Plan

Page 12

CONFIDENTIAL

\*\*\*\* Confidential treatment has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONTRACT

FOR

THE DESIGN, DEVELOPMENT AND PURCHASE OF  
TERRESTRIAL REPEATER EQUIPMENT

By and Between

XM SATELLITE RADIO INC.

and

HUGHES ELECTRONICS CORPORATION

EXHIBIT D

DELIVERY REQUIREMENTS AND SCHEDULE

CONFIDENTIALITY NOTICE

-----  
This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

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Exhibit D

Delivery Requirements and Schedule

Delivery Requirements

Deliverable Item/Event	Delivery Requirement
[*****]	[*****]

\* To be completed in accordance with the applicable Milestone Achievement Criteria set forth in Article 3.1 of Exhibit C (Pricing, Milestones and Payment Plan) on or before the applicable Delivery Requirement date set forth in the table above.

\*\* To be completed in accordance with the requirements of Article 2.3 (Weight and Size of Standard Repeaters) and Article 7 (Delivery and Time for Performance) of the Terms and Conditions.

\*\*\* To be completed in accordance with the requirements of Article 2.3 (Weight and Size of Standard Repeaters), Article 7 (Delivery and Time for Performance) and Article 8 (Testing Criteria and Acceptance) of the Terms and Conditions.

\*\*\*\* To be completed in accordance with the requirements of Article 7 (Delivery and Time for Performance) and Article 8 (Testing Criteria and Acceptance) of the Terms and Conditions.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

FORM OF DELIVERY SCHEDULE

Contractor shall use its best commercial efforts to deliver the Work to Customer in accordance with the requirements of the Contract. This Delivery Schedule shall be updated from time to time in accordance with Article 7 (Delivery and Time for Performance) of the Contract.

The delivery schedule for deliverable items pursuant to this Contract are listed in the table below. Such items shall be delivered by Contractor to the destinations indicated, during the range of dates specified in such table (each a "Delivery Period"), as such Delivery Periods or other terms of delivery may be adjusted in accordance with the Contract.

Contractor understands and agrees that, with respect to the applicable Delivery Period for each deliverable item, whether such item is set out in this Contract or subsequent Amendments to this Contract, time is of the essence. Nothing in the foregoing sentence shall in any way modify either the specific remedies for default specified elsewhere in this Contract, including Article 7.3 (Liquidated Damages for Late Delivery of Repeaters) and Article 25.2 (Termination for Contractor's Default).

Deliverable Item	Delivery Period	Place of Delivery
1. [*****]	[*****]	[*****]
2. ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectorred Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorred Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___* Installation Site: _____*

Deliverable Item	Delivery Period	Place of Delivery
3. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectorized Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorized Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
4. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectorized Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorized Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
5. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
6. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
7. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
8. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
9. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
10. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
11. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
12. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
13. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
14. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
15. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectorized Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorized Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
16. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits ___ Standard Sectorized Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorized Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
17. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
18. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2001 and no later than _____ 2001	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
19. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
20. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____

Deliverable Item	Delivery Period	Place of Delivery
21. ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectorred Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorred Redundant Repeater)	No earlier than _____ 2000 and no later than _____ 2000	Staging Area ___ Installation Site: _____
22. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits ___ Standard Sectorred Non-Redundant Repeaters) Enclosure Kits ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectorred Redundant Repeater)	No earlier than _____ 2001 and no later than _____ 2001	Staging Area ___ Installation Site: _____

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 \*\*\*\*\* Certain information on this page has been withheld from the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.  
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Deliverable Item	Delivery Period	Place of Delivery
23. Enclosure Kits for ___ Standard Repeaters (Enclosure Kits for ___ Standard Non-Redundant Repeaters; Enclosure Kits for ___ Standard Sectored Non-Redundant Repeaters) Enclosure Kits for ___ High-Power Repeaters (Enclosure Kits for ___ High-Power Redundant Repeater; Enclosure Kits for ___ High-Power Sectored Redundant Repeater)	No earlier than _____ 2001 and no later than _____ 2001	Staging Area ___ Installation Site: _____
24. Additional entries for subsequent deliveries shall be added as needed and as this Delivery Schedule is updated from time to time in accordance with the Contract.		
25. [*****]	[*****]	[*****]
26. [*****]	[*****]	[*****]
27. [*****]	[*****]	[*****]
28. [*****]	[*****]	[*****]
29. [*****]	[*****]	[*****]

\* Enclosure Kits for Standard Repeaters are to be delivered to Staging Areas and Enclosure Kits with Klystron Kits for High-Power Repeaters to Installation Sites.

The Staging Areas noted in the table above correspond to the Staging Area to be located in the following cities:

Staging Area	Location (by City)
[*****]	[*****]

CONFIDENTIAL

CONTRACT  
FOR  
THE DESIGN, DEVELOPMENT AND PURCHASE OF  
TERRESTRIAL REPEATER EQUIPMENT  
BY AND BETWEEN  
XM SATELLITE RADIO INC.  
AND  
HUGHES ELECTRONICS CORPORATION

EXHIBIT E  
TEST PLANS AND PROCEDURES

CONFIDENTIALITY NOTICE  
-----

This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

CONFIDENTIAL

EXHIBIT E

TEST PLANS AND PROCEDURES

\*\*\*\* Confidential treatment has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONFIDENTIAL

CONTRACT

FOR

THE DESIGN, DEVELOPMENT AND PURCHASE OF

TERRESTRIAL REPEATER EQUIPMENT

By and Between

XM Satellite Radio Inc.

and

HUGHES ELECTRONICS CORPORATION

EXHIBIT F

QUALITY ASSURANCE PLAN

CONFIDENTIALITY NOTICE

-----  
This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

[\*\*\*\*\*] This entire Exhibit F has been redacted for confidentiality reasons.

CONFIDENTIAL

[LOGO]

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\*\*\*\* Confidential treatment has been requested for portions of this agreement. The copy filed herewith omits the information subject to the confidentiality request. Omissions are designated as [\*\*\*\*]. A complete version of this agreement has been filed separately with the Securities and Exchange Commission.

CONTRACT  
FOR  
THE DESIGN, DEVELOPMENT AND PURCHASE OF  
TERRESTRIAL REPEATER EQUIPMENT  
BY AND BETWEEN  
XM SATELLITE RADIO INC.  
AND  
HUGHES ELECTRONICS CORPORATION

EXHIBIT G  
KEY CONTRACTOR PERSONNEL

CONFIDENTIALITY NOTICE  
-----

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CONFIDENTIAL

\*\*\*\*\* Certain information on this page has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

EXHIBIT G

KEY CONTRACTOR PERSONNEL

Position  
[\*\*\*\*\*]

Individual  
[\*\*\*\*\*]

CONFIDENTIAL

CONTRACT  
FOR  
THE DESIGN, DEVELOPMENT AND PURCHASE OF  
TERRESTRIAL REPEATER EQUIPMENT

By and Between  
XM SATELLITE RADIO INC.  
and  
HUGHES ELECTRONICS CORPORATION

EXHIBIT H  
TECHICAL MATERIALS ESCROW AGREEMENT

CONFIDENTIALITY NOTICE  
-----

This attached Contract and the information contained herein is confidential to XM Satellite Radio Inc. and Hughes Electronics Corporation, and shall not be published or disclosed to any third party without the express written consent of a duly authorized representative of XM Satellite Radio Inc. and Hughes Electronics Corporation.

TECHNICAL MATERIALS ESCROW AGREEMENT

Account Number: \_\_\_\_\_

Recitals

This Technical Materials Escrow Agreement including any Schedules ("Escrow Agreement") is effective this \_\_\_\_\_ day of \_\_\_\_\_, 1999 ("Effective Date"), by and among DSI Technology Escrow Services, Inc. ("DSI"), a Delaware corporation, XM Satellite Radio Inc., ("XM"), a Delaware corporation, and Hughes Electronics Corporation ("Contractor"), a Delaware corporation, by and through its division, Hughes Network Systems.

WHEREAS, Contractor and XM have entered into a Contract for the Design, Development and Purchase of Terrestrial Repeater Equipment, dated \_\_\_\_\_, 1999 (the "Contract"); and

WHEREAS, pursuant to said Contract, Contractor has agreed to deposit in escrow the Technical Materials, as defined and more specifically set forth in the Contract, which are proprietary to Contractor (except as otherwise expressly set forth in the Contract); and

The parties hereto agree as follows:

1. Definitions. Other than those terms defined herein, the defined terms \_\_\_\_\_ (initial caps) used herein have the same meanings as set forth in the Contract
2. Deposit Account. Following the execution and delivery of this Escrow \_\_\_\_\_ Agreement and the payment of the set-up and deposit account fees to DSI, Contractor, XM and DSI shall open a deposit account ("Deposit Account"). The opening of the Deposit Account means that DSI shall establish an account ledger in the name of Contractor and XM, calendar Contractor and XM to receive renewal notices from DSI as provided in Section 9 below, and request the Initial Deposit, as defined in Section 3 below ("Initial Deposit") from Contractor unless and until an Initial Deposit has already been delivered to DSI. Unless and until DSI receives such Initial Deposit, DSI shall have no further obligation to Contractor and XM.
3. Initial Deposit. The Initial Deposit will consist of the Technical \_\_\_\_\_ Materials as such term is defined in the Contract as specified by an accompanying document called a "Description of Deposit Materials" hereinafter referred to as "Exhibit B". DSI shall issue a completed copy of a signed and dated "Description of Deposit Materials" in the form of Exhibit B of the foregoing items, to Contractor and XM within ten (10) days of receipt of the Initial Deposit by DSI.
4. Deposit Changes. "Deposit" as used in this Escrow Agreement means and \_\_\_\_\_ includes the Initial Deposit and any Supplemental Deposit. "Supplemental Deposit" means and includes the following items: any and all updates to the Technical Materials as required to ensure that the Deposit contains the Technical Materials that are applicable to the Prototype Repeaters, Standard Repeaters, High-Power Repeaters, each Module, and the

Network Management System then-being utilized by XM. Contractor will submit the Supplemental Deposit accompanied by an Exhibit B. DSI shall issue a completed copy of a signed and dated "Description of Deposit Materials" in the form of Exhibit B of the foregoing items to Contractor and XM within ten (10) days of receipt of any Supplemental Deposit by DSI.

5. Deposit Inspection. Upon receipt of the Initial Deposit and each  
-----  
Supplemental Deposit, if any, DSI will visually match the listed items to the labeling of the material delivered by Contractor ("Deposit Inspection"). DSI will not be responsible for the contents of any Deposit or for validating the accuracy of Contractor's labeling of a Deposit.
  
6. Registration Account. Following the execution and delivery of this Escrow  
-----  
Agreement and the payment of the registration fee to DSI, DSI shall open a registration account ("Registration Account") for Contractor and XM. The opening of the Registration Account means that DSI shall establish an account ledger in the name of Contractor and XM, calendar Contractor and XM to receive renewal notices as provided in Section 9, and request payment of the DSI escrow fee. Unless and until DSI receives the initial registration fee payment, DSI shall have no obligation under this Escrow Agreement to Contractor or XM.
  
7. Deposit Obligations of Confidentiality. DSI agrees to establish a  
-----  
receptacle in which it shall place the Deposit and shall put the receptacle under the control of one or more of its officers, selected by DSI, whose identity shall be available to Contractor and XM at all times. DSI shall exercise a professional level of care in carrying out the terms of this Escrow Agreement.  
  
DSI acknowledges that Contractor and XM have advised DSI that the Deposit contains valuable confidential and proprietary information, data, material and technology and that DSI has an obligation to preserve and protect the confidentiality of the materials in the Deposit.  
  
DSI shall, and shall cause its officers, employees, agents and representatives to, maintain all data, material, information and technology forming the Deposit in confidence and shall not disclose any of the same nor make use of any of the Deposit for its own benefit or gain or for any purpose or in any manner other than as contemplated by this Escrow Agreement. Upon termination of this Escrow Agreement in accordance with the terms hereof, the Deposit shall be disposed of in accordance with Contractor's instructions or if instructions are not received by DSI within thirty (30) days of termination, then DSI may destroy the Deposit and confirm in writing to Contractor that it has destroyed the Deposit and the date and method of destruction.  
  
No right or license is granted to DSI to duplicate any item in the Deposit for any reason whatsoever without the consent and agreement of Contractor.
  
8. Verification Rights. Contractor grants to DSI the right to inventory the  
-----  
Initial Deposit and each Supplementary Deposit, if any, for accuracy, completeness and sufficiency. No other rights or licenses are granted to DSI. XM shall have the right to cause a verification

of any Deposit Materials. If a verification is elected after the Deposit Materials have been delivered to DSI, then only DSI, or at DSI's election an independent person or company selected and supervised by DSI, may perform the verification.

Either or both Contractor or XM may be present at DSI's facility to observe any DSI inventory or audit of the Initial Deposit and each Supplementary Deposit by DSI.

9. Term of Agreement. This Escrow Agreement shall have an initial term of one -----  
(1) year, commencing on the Effective Date and shall be continuously renewable as long as the fees are paid. In the event of the non-payment of fees owed to DSI, DSI shall provide written notice of delinquency to all parties to this Escrow Agreement thirty (30) days prior to expiration of the Contract. Any party to this Escrow Agreement shall have the right to make the payment to DSI to cure the default. If the past due payment is not received in full by DSI within thirty (30) days of the date of such notice, then DSI shall have the right to terminate this Escrow Agreement at any time thereafter by sending written notice of termination to all parties. DSI shall have no obligation to take any action under this Escrow Agreement so long as any payment due to DSI remains unpaid. Notwithstanding anything to the contrary herein, this Escrow Agreement may not be terminated so long as XM or Contractor pays the fees owed to DSI hereunder.
10. Expiry. If this Escrow Agreement expires or is otherwise terminated, all -----  
duties and obligations of DSI to Contractor and XM, except DSI's obligations of confidentiality pursuant to Section 7 hereof, will terminate upon expiration or termination of this Escrow Agreement. DSI shall request instructions from Contractor with respect to return or disposal of the items in Escrow, and if DSI does not receive any instructions from Contractor, DSI may dispose of (destroy) the Deposit in accordance with Section 7.
11. Release of Deposit to XM. Upon written notice or request to DSI by XM to -----  
audit, access or inventory or require any reporting/information regarding the Escrow, DSI shall promptly advise Contractor in writing, by telecopier and by over-night courier.

With respect to the Release Conditions specified in Article 13(a)(1)-(4) of the Contract only, XM may notify DSI that one or more of the Release Conditions (as such term is defined in the Contract) has occurred, and DSI shall notify Contractor of the XM notice, by no later than three (3) Business Days after receipt of such notification from XM. Ten (10) Business Days after notification to Contractor, DSI shall deliver the Deposit to XM, unless, in the interim, XM or a court order directs DSI not to deliver the Deposit.

With respect to the Release Condition specified in Article 13(a)(5) of the Contract only, XM may notify DSI that this Release Condition has occurred, and DSI shall notify Contractor of the XM notice by no later than three (3) Business Days after receipt of such notification from XM. Ten (10) Business Days after notification to Contractor, DSI shall deliver the Deposit to XM, unless, in the interim, XM or a court order directs DSI not to deliver the Deposit or Contractor delivers a written notice of its objection to DSI concerning the release of the Deposit within such ten (10) Business Day period.

In the event that a written notice of objection is received by DSI from Contractor within

the ten (10) Business Days following the delivery of XM's notice that a Release Condition as set forth in Article 13(a)(5) of the Contract has occurred, DSI shall not release the Deposit to XM unless and until any dispute relating to whether or not such Release Condition has occurred has been resolved (either by written agreement of the parties or arbitral award) such that it is determined that the Release Condition set forth in Article 13(a)(5) has occurred. Any such dispute shall not be subject to Article 13 (Disputes) of this Escrow Agreement, but shall instead be governed by the escrow arbitration provisions set forth in Article 13 (Technical Materials Escrow) of the Contract, and DSI shall be bound by any resulting award as evidenced by a copy of the certificate of the arbitrator.

Following delivery of the Deposit to XM, in the event it is determined by XM or by court order or arbitral award that the Release Condition did not occur as stated by XM, XM will return the Deposit to DSI as long as DSI's fees are received pursuant to Section 19.

DSI shall not deliver any items in Escrow to any person other than XM, without the prior written consent and agreement of Contractor.

12. Return to Escrow. Following release from Escrow, and pursuant to Section -----  
19, XM shall return the Deposit to Escrow in accordance with the terms of the Contract.

13. Disputes. Except as otherwise provided in Section 11 above, any and all -----  
disputes arising at any time under this Escrow Agreement or relating to this Escrow Agreement, or the interpretation or performance (or non-performance) of the terms of this Escrow Agreement, shall be finally resolved and settled by arbitration in accordance with the [International Arbitration Rules of the American Arbitration Association ("AAA")]. Contractor and XM shall each select one impartial arbitrator, and a third impartial arbitrator will be selected unanimously by said two (2) arbitrators. If there are three (3) arbitrators selected in accordance with the foregoing, the arbitration shall proceed. If said two (2) arbitrators are unable to select the third arbitrator within ten (10) Business Days of their selection by the parties, the third impartial arbitrator shall be selected by the AAA. Unless otherwise agreed to by Contractor and XM, arbitration will take place in Washington, DC. The decision of a majority of the arbitrators shall be final and binding and may be enforced by any court having proper jurisdiction. Pending the final determination of the arbitrators, either Party shall have the right to obtain such equitable relief to preserve the status quo and to protect its proprietary matter, including obtaining injunctive relief.

The arbitrators may, subject to their signing a non-disclosure of Confidential Information Agreement agreeing not to disclose the contents of the Escrow, review the items Deposited in Escrow as is reasonably necessary for the arbitrators to reach a decision regarding the matter in dispute and submitted to arbitration by the parties. The arbitrators shall not have the right, power, or authority to grant any rights or licenses with respect to the Deposit to any persons whomsoever or to require that the same be delivered or made available to any person other than XM. The arbitrators shall determine who shall bear (and in what proportions) the cost of the proceedings including reasonable attorneys fees and costs.

14. Indemnification. DSI shall be responsible to perform its obligations under -----  
this Escrow Agreement and to act in a reasonable and prudent manner with regard to this escrow arrangement. Provided DSI has acted in the manner stated in the preceding sentence, Contractor and XM each agree to defend and indemnify DSI and hold DSI harmless from and against all claims, actions and suits, whether in contract or in tort, and from and against any and all liabilities, losses, damages, costs, charges, penalties, counsel fees, and other expenses of any nature (including, without limitation, settlement costs) incurred by DSI as a result of performance of this Escrow Agreement except in the event of a judgment or award which specifies that DSI breached this Escrow Agreement.
15. Audit Rights. DSI agrees to keep records of the activities undertaken and -----  
materials prepared pursuant to this Escrow Agreement. Contractor will be entitled upon reasonable notice and during normal business hours during the term of this Escrow Agreement through independent outside auditors, or in-house auditors, to inspect and audit the records of DSI with respect to this Escrow Agreement.
16. Designated Representative. Contractor and XM each agree to designate one -----  
individual to communicate with DSI respectively in relation to the performance of their obligations as set forth in this Escrow Agreement and to notify DSI in writing immediately in the event of any change:

The XM representative is:

XM Satellite Radio Inc.  
1250 23rd Street, NW  
Suite 57  
Washington, DC 20037  
Tel. No.: 202-969-7074  
Fax No.: 202-969-7124  
Attention: Joseph M. Titlebaum, Esq.

The Contractor representative is:

Hughes Electronics Corporation  
c/o Hughes Network Systems  
10450 Pacific Center Ct.  
San Diego, CA 92121  
  
Tel. No.: 858-452-4717  
Fax No.: 858-457-4994  
Attention: Neil Wilson

Copy to:  
Site Counsel  
10450 Pacific Center Ct.  
San Diego, CA 92121

Or to such other addresses as may be indicated by the respective party by notice given in the same manner.

18. General.  
-----

- (a) DSI may act in reliance upon any written instruction, instrument, or signature believed to be genuine and unless otherwise notified, may assume that any employee or attorney representing either Contractor or XM giving any written notice, request, advice or instruction in connection with or relating to this Escrow Agreement has been duly authorized by its respective employer (or client) to do so. DSI is not responsible for failure to fulfill its obligations under this Escrow Agreement due to causes beyond DSI's control.
- (b) This Escrow Agreement is to be governed by and construed in accordance with the substantive and procedural laws of the State of New York.
- (c) This Escrow Agreement, including any Schedules, constitutes the entire agreement between the parties concerning the subject matter hereof, and supersedes all previous communications, representations, understandings, and agreements (other than the Contract) either oral or written, between the parties.
- (d) Contractor and XM acknowledge that DSI has no knowledge of the terms and conditions contained in the Contract and that DSI's only obligations shall be as set forth herein or in any other writing signed by DSI, Contractor and XM.
- (e) If any provision of this Escrow Agreement is held by any court to be invalid or unenforceable, that provision will be severed from this Escrow Agreement and any remaining provisions will continue in full force.
- (f) All notices under this Escrow Agreement shall be in writing and shall be sent by telefax (with a copy deposited at the same time in the mail or sent by express courier postage or courier fees prepaid), or by registered or certified mail (postage prepaid), or by express courier service (courier fees prepaid) to:

If to Contractor:

Hughes Electronics Corporation  
10450 Pacific Center Ct.  
San Diego, CA 92121  
Attention: Neil Wilson  
Telephone: 858-452-4717  
Facsimile: 858-457-4994

Copy to: Site Counsel  
10450 Pacific Center Ct.  
San Diego, CA 92121

If to Customer:

XM Satellite Radio Inc.  
1250 23rd Street, NW, Suite 57  
Washington, DC 20037  
Attention: Joseph M. Titlebaum, Esq.  
Telephone: 202-969-7074  
Facsimile: 202-969-7124

If to DSI:

DSI Technology Escrow Services, Inc.  
Attn: Contract Administration  
9265 Sky Park Court, Suite 202  
San Diego, CA 92123  
Telephone: 858-499-1600  
Facsimile: 858-694-1919

or to such other address as may be specified in accordance with this section. Notice shall be deemed to have been given at the expiration of two (2) Business Days after it is sent by telefax and confirmed, and/or five (5) Business Days from the date it is deposited postage prepaid with the postal service or given to an express courier service.

- 19. Fees. All service fees, including annual renewal fees, will be due in full ----- within thirty (30) days after receipt of the invoice therefor. If invoiced fees are not paid within thirty (30) days of the receipt of the invoice, DSI may terminate this Escrow Agreement following sending notices in accordance with Section 9 above. If a payment is not timely received by DSI, DSI shall have the right to accrue and collect interest thereon at the rate of one and one-half percent per month (18% per annum) from the 31st day on which payment is due, for all late payments.

Attached hereto, is the current Fee Schedule of DSI (Exhibit C).

All service fees and annual renewal fees shall be those specified in DSI's Fee and Service Schedule in effect at the time of renewal or request for service, except as otherwise agreed. For any increase in DSI's standard fees, DSI shall notify Contractor at least ninety (90) days prior to the anniversary date of this Escrow Agreement. For any service not listed on the Fee and Service Schedule, DSI shall provide a quote prior to rendering such service.

Date:	Date:	Date:
Hughes Electronics Corporation	XM Satellite Radio Inc.	DSI Technology Escrow Services, Inc.
By: _____	By: _____	By: _____
_____	_____	_____

(Print Name)

(Print Name)

(Print Name)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

CONFIDENTIAL

EXHIBIT A

DESIGNATED CONTACT

Account Number \_\_\_\_\_

Notices, deposit material returns and communications to Depositor should be addressed to:

Invoices to Depositor should be addressed to:

Company Name: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Designated Contact: \_\_\_\_\_

Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Facsimile: \_\_\_\_\_

P O.#, if required: \_\_\_\_\_

Notices and communications to Preferred Beneficiary should be addressed to:

Invoices to Preferred Beneficiary should be addressed to:

Company Name: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Designated Contact: \_\_\_\_\_

Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Facsimile: \_\_\_\_\_

P.O.#, if required: \_\_\_\_\_

Requests from Depositor or Preferred Beneficiary to change the designated contact should be given in writing by the designated contact or an authorized employee of Depositor or Preferred Beneficiary.

Contracts, deposit materials and notices to DSI should be addressed to:

Invoice inquiries and fee remittances to DSI should be addressed to:

DSI  
Contract Administration  
Suite 202  
9265 Sky Park Court  
San Diego, CA 92123

DSI  
Accounts Receivable  
Suite 1450  
425 California Street  
San Francisco, CA 94104

Telephone: (858) 499-1600  
Facsimile: (858) 694-1919

(415) 398-7900  
(415) 398-7914

Date: \_\_\_\_\_

DESCRIPTION OF DEPOSIT MATERIALS

Depositor Company Name \_\_\_\_\_

Account Number \_\_\_\_\_

Product Name \_\_\_\_\_ Version \_\_\_\_\_  
(Product Name will appear on Account History report)

DEPOSIT MATERIAL DESCRIPTION:

Quantity Media Type & Size Label Description of Each Separate Item  
(Please use other side if additional space is needed)

- \_\_\_\_\_ Disk 3.5" or \_\_\_\_\_
- \_\_\_\_\_ DAT tape \_\_\_\_\_ mm
- \_\_\_\_\_ CD-ROM
- \_\_\_\_\_ Data cartridge tape \_\_\_\_\_
- \_\_\_\_\_ TK 70 or \_\_\_\_\_ tape
- \_\_\_\_\_ Magnetic tape \_\_\_\_\_
- \_\_\_\_\_ Documentation
- \_\_\_\_\_ Other \_\_\_\_\_

PRODUCT DESCRIPTION:

Operating System \_\_\_\_\_  
Hardware Platform \_\_\_\_\_

DEPOSIT COPYING INFORMATION:

Is the media encrypted? Yes/No If yes, please include any passwords and the decryption tools.

Encryption tool name \_\_\_\_\_ Version \_\_\_\_\_

Hardware required \_\_\_\_\_  
Software required \_\_\_\_\_

I certify for Depositor that the above described Deposit Materials have been transmitted to DSI: DSI has inspected and accepted the above materials (any exceptions are noted above):

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Date \_\_\_\_\_

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Date Accepted \_\_\_\_\_  
Exhibit B# \_\_\_\_\_

Send materials to: DSI, 9265 Sky Park Ct., Suite 202, San Diego, CA 92123  
(858) 499-1600

## Fee &amp; Services Schedule

	NEW ESCROW AGREEMENT	ANNUAL FEE	SETUP FEE
Preferred		\$1,350	\$1,050
	ADDITIONAL BENEFICIARY (if desired)		
Preferred		\$650/ea.	\$1,000

SERVICE OPTIONS	FEE
Unlimited deposit or replacement plus one additional storage unit	\$300/yr./1/
Individual deposit updates or replacements	\$200/ea.
Depositrack updates	\$300/ea./1/
Remote vaulting	\$500/yr.
Release filing fee	No Fee/2/
Custom contracts	No Fee/3/
Additional storage units	\$100/ea.
Technical verification (estimates based on \$200/hr.)	
Verification Level I	\$800/1/
Verification Level II	\$1,200 - \$1,600
Verification Level III	\$3,200 - \$6,400

/1/ Included in the Comprehensive Preferred annual fee.

/2/ Copying expenses in excess of \$300 will be chargeable.

/3/ A one-time fee of \$500 may be assessed for contract modifications that change DSI's standard processes.

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INDEPENDENT AUDITORS' CONSENT

The Board of Directors  
XM Satellite Radio Holdings Inc. and Subsidiaries:

We consent to the incorporation by reference in the registration statement No. 333-92049 on Form S-8 of XM Satellite Radio Holdings Inc. and Subsidiaries of our report dated February 16, 2000, except for Note 14 which is as of March 15, 2000, with respect to the consolidated balance sheets of XM Satellite Radio Holdings Inc. and Subsidiaries (a development stage company) as of December 31, 1998 and 1999 and the related consolidated statements of operations, stockholders' equity (deficit) and cash flows for each of the years in the three-year period ended December 31, 1999 and for the period from December 15, 1992 (date of inception) to December 31, 1999, and related schedule, which report appears in the December 31, 1999 annual report on Form 10-K of XM Satellite Radio Holdings Inc. and subsidiaries.

Our report, dated February 16, 2000, except for Note 14 which is as of March 15, 2000, contains an explanatory paragraph that states that the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of that uncertainty.

/s/ KPMG LLP

McLean, Virginia  
March 15, 2000

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This schedule contains summary financial information extracted from the Company's Consolidated Balance Sheet, Consolidated Statement of Loss, and Consolidated Statement of Cash Flows, in each case for the year ended December 31, 1999, and is qualified in its entirety by reference to such consolidated financial statements.

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# FORM 10-K

## XM SATELLITE RADIO HOLDINGS INC – XMSR

Filed: March 15, 2001 (period: December 31, 2000)

Annual report which provides a comprehensive overview of the company for the past year

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-----  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
-----

FORM 10-K  
ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934

For The Fiscal Year Ended December 31, 2000

XM SATELLITE RADIO HOLDINGS INC.

(Exact name of registrant as specified in its charter)

Commission file number 000-27441

DELAWARE 54-1878819

(State or other jurisdiction of (I.R.S. Employer Identification No.)  
incorporation or organization)

1500 ECKINGTON PLACE NE,  
WASHINGTON, DC 20002-2194

(Address of principal executive offices)

(Zip code)

202-380-4000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Not Applicable

Securities registered pursuant to Section 12(g) of the Act:

Class A Common Stock, par value \$.01 per share

8.25% Series B Convertible Redeemable Preferred Stock, par value \$.01 per share

(Title of Classes)

-----  
Indicate by check mark whether the registrant (1) has filed all reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of  
1934 during the preceding 12 months (or for such shorter period that the  
registrant was required to file such reports), and (2) has been subject to such  
filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item  
405 of Regulation S-K is not contained herein, and will not be contained, to  
the best of registrant's knowledge, in definitive proxy or information  
statements incorporated by reference in Part III of this Form 10-K or any  
amendment to this Form 10-K.

The aggregate market value of common stock held by non-affiliates of the  
registrant, based upon the closing price of the registrant's Class A common  
stock as of March 6, 2001, is \$254,917,830.

XM SATELLITE RADIO INC.

(Exact name of registrant as specified in its charter)

Commission file number 333-39178

DELAWARE 52-1805102

(State or other jurisdiction of (I.R.S. Employer Identification  
incorporation or organization) No.)

1500 ECKINGTON PLACE NE,  
WASHINGTON, DC 20002-2194

(Address of principal executive offices)

(Zip code)

202-380-4000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act

Not Applicable

Securities registered pursuant to Section 12(g) of the Act

Not Applicable

Indicate by check mark whether the registrant (1) has filed all reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of  
1934 during the preceding 12 months (or for such shorter period that the  
registrant was required to file such reports), and (2) has been subject to such  
filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item  
405 of Regulation S-K is not contained herein, and will not be contained, to  
the best of registrant's knowledge, in definitive proxy or information  
statements incorporated by reference in Part III of this Form 10-K or any  
amendment to this Form 10-K.

The aggregate market value of common stock held by non-affiliates of the  
registrant as of March 6, 2001 is \$0.

Indicate the number of shares outstanding of each of the issuer's classes of  
common stock, as of the latest practicable date.

(Class)

(Outstanding as of March 6, 2001)  
XM SATELLITE RADIO HOLDINGS INC.

CLASS A COMMON STOCK, \$0.01 PAR VALUE..... 44,285,938 SHARES  
CLASS B COMMON STOCK, \$0.01 PAR VALUE..... 13,905,019 SHARES

XM SATELLITE RADIO INC.

COMMON STOCK, \$0.10 PAR  
VALUE..... 125 SHARES  
(all of which are issued to XM Satellite Radio Holdings Inc.)

DOCUMENTS INCORPORATED BY REFERENCE

List hereunder the following documents incorporated by reference and the Part of the Form 10-K into which the document is incorporated: Portions of the definitive proxy statement for the Annual Meeting of Stockholders of XM Satellite Radio Holdings Inc. to be held on May 24, 2001, to be filed within 120 days after the end of XM Satellite Radio Holdings Inc.'s year, are incorporated by reference into Part III, Items 10-13 of this Form 10-K.

-----  
-----

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A DEVELOPMENT STAGE COMPANY)

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A DEVELOPMENT STAGE COMPANY)

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Except for any historical information, the matters we discuss in this Form 10-K contain forward-looking statements. Any statements in this Form 10-K that are not statements of historical fact, are intended to be, and are, "forward-looking statements" under the safe harbor provided by Section 27(a) of the Securities Act of 1933. Without limitation, the words "anticipates," "believes," "estimates," "expects," "intends," "plans" and similar expressions are intended to identify forward-looking statements. The important factors we discuss below and under the caption "Management's Discussion and Analysis of Financial Condition and Results of Operations," as well as other factors identified in our filings with the SEC and those presented elsewhere by its management from time to time, could cause actual results to differ materially from those indicated by the forward-looking statements made in this Form 10-K.

#### EXPLANATORY NOTE

This annual report is filed jointly by XM Satellite Radio Holdings Inc. ("Holdings") and XM Satellite Radio Inc. ("XM"). XM is a wholly-owned subsidiary of Holdings. Unless the context requires otherwise, the terms "we," "our" and "us" refer to Holdings and its subsidiaries. This report on Form 10-K contains separate financial statements for each of Holdings and XM. The management's discussion and analysis section has been combined, focusing on the financial condition and results of operations of Holdings but including an explanation of any differences between the companies.

## PART I

### ITEM 1. BUSINESS

#### Overview

We seek to become a premier nationwide provider of audio entertainment and information programming. We will transmit our XM Radio service by satellites to vehicle, home and portable radios. We own one of two FCC licenses to provide a satellite digital radio service in the United States. We will offer a wide variety of music, news, talk, sports and other specialty programming on up to 100 distinct channels. We believe that customers will be attracted to our service because of its wide variety of formats, digital quality sound and coast-to-coast coverage.

We are preparing to launch our satellites and have contracts with third party programmers, vendors and other partners. Key milestones achieved include the following:

- . \$1.3 billion of equity and debt net proceeds raised to date; we are funded through our planned commencement of commercial operations in the summer of 2001 and into 2002; our strategic and financial investors include General Motors, Clear Channel Communications, DIRECTV, Telcom Ventures, Columbia Capital, Madison Dearborn Partners, American Honda and AEA Investors;
- . Long-term agreement with the OnStar division of General Motors covering the installation and exclusive marketing and distribution of XM Radio service in General Motors vehicles; Agreement with Freightliner Corporation to install XM radios in Freightliner trucks;
- . Boeing Satellite Systems completed construction of two high-powered satellites ("Rock" and "Roll") which are scheduled to be launched in March and May of this year;
- . Opening of our new headquarters and Broadcast Center in Washington, D.C. featuring over 80 interconnected all-digital studios;
- . Contracts with Delphi-Delco Electronics, Sony, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox, Clarion, SHARP, Blaupunkt, Fujitsu Ten, Hyundai Autonet, Bontec, Visteon, Panasonic and Sanyo to manufacture and distribute XM radios;
- . Completion of our production chipset design and commencement by ST Microelectronics, our chipset manufacturer, of fabrication to make the components available to radio manufacturers starting the end of March 2001;
- . At the Consumer Electronics Show (CES) in January 2001, six manufacturers, including Pioneer, Alpine, and Sony, unveiled 24 different models of XM-ready radios, we won the "Best of CES" award for the automotive category and the XM Sony "plug and play" device won the "CES Innovation 2001 Award" and the Popular Mechanics "Top 15 CES Products Award;"
- . Circuit City, Best Buy, Radio Shack, Sears & Roebuck Co., Tweeter, Ultimate, Al and Ed's, CarToys, Sound Advice, Mobile-One, Crutchfield, Cowboy Maloney's Electronic City and Magnolia Hi-Fi have announced that they intend to distribute and promote XM Radio products and services; and
- . Agreements with leading specialty programmers, for many of which we will be the exclusive satellite radio platform, covering at least 25 channels, including AsiaOne, Associated Press, Black Entertainment Television (BET), BBC World Service, Bloomberg News Radio, Clear Channel, CNBC, CNN en Espanol, CNNfn, CNN Sports Illustrated, Country Music Hall of Fame, C-SPAN, DIRECTV, Discovery, Firesign Theatre, Hispanic Broadcasting Corporation (formerly Heftel), NASCAR, One-on-One Sports, Radio One, Salem Communications, Sesame Workshop, Sporting News, Weather Channel and USA Today.

## Market Opportunity

We believe that there is a significant market for our satellite radio service. Market studies show strong demand for radio service, as evidenced by radio listening trends, data relating to sales and distribution of radios and the general growth in radio advertising. In addition, we note that in many markets audio programming choices are limited to mass appeal formats. We believe our national subscription service will complement traditional local radio. Moreover, the success of subscription entertainment services in other media such as cable television and satellite television further indicate potential for significant consumer demand for satellite radio services.

### Radio Listening

On average, adults listen to the radio 3.1 hours a day, with the amount of radio listening fairly evenly distributed across gender and age groups. The percentage of people listening to radio is also high. Market data show that over 75% of the entire United States population age 12 and older listen to the radio daily, and over 95% listen on a weekly basis (Radio Marketing Guide and Factbook for Advertisers, Radio Advertising Bureau, 2000-2001).

In addition, more people listen to radio than to other comparable audio entertainment formats. The popularity of radio versus these other formats appears particularly strong in the car, where we will be targeting our service initially. An estimated 69% of consumers chose radio as their most listened to format in the car as compared to 15% for cassettes and 9% for CDs (Radio Listening Habits, CEMA 1999).

### Radio Sales and Distribution

A large number of radios are sold in the United States on an annual basis. In 1999, radio manufacturers sold over 29 million car radios, including 17 million original equipment automobile radios and 11 million aftermarket automobile radios, as well as 1.2 million aftermarket automobile CD changers. Original equipment radios are installed in new cars; aftermarket radios are installed in the automobile after purchase. Based on these statistics, each additional one million subscribers would represent less than 3.5% of the new original equipment manufacturer and aftermarket car radios brought to market annually and would generate incremental subscription revenues, at \$9.95 per month, of approximately \$120 million.

### Radio Advertising

The continued popularity of radio is also reflected in the growth of radio advertising. The Radio Advertising Bureau estimates that radio advertising revenue in 2000 climbed to \$19 billion, an increase of 12% over 1999. Veronis, Suhler & Associates projects a compound annual increase of 9.5% through 2004. This growth rate exceeds the projected increase in advertising spending for television, newspapers, magazines, yellow pages and outdoor advertising (Communications Industry Forecast, 2000).

### Current Limitations on Programming Choice

Many consumers have access to a limited number of stations and programming formats offered by traditional AM/FM radio. Our service is expected to be attractive to underserved radio listeners who want expanded radio choices.

**Limited Number of Radio Stations.** The number of radio stations available to many consumers in their local market is limited in comparison to the up to 100 channels we expect to offer on a nationwide basis. In 2000, there were only 47 AM/FM radio stations as listed by Arbitron broadcasting in New York City, the largest radio market in the United States. In fact, many metropolitan areas outside the largest 50 markets, such as Jacksonville, FL, Louisville, KY, and Oklahoma City, OK, have 30 or fewer AM/FM radio stations as listed by Arbitron (American Radio, Spring 2000 Ratings Report, Duncan's American Radio, 2000).

We estimate that our coast-to-coast service will reach over 98 million listeners age 12 and over who are beyond the range of the largest 50 markets as measured by Arbitron. Of these listeners, 36 million live beyond the largest 276 markets (Census data and Fall 1999 Market Rankings, The Arbitron Company). In addition, there are 22 million people age 12 and above who receive five or fewer stations (The Satellite Report 1999, C. E. Unterberg, Towbin).

**Limited Programming Formats.** We believe that there is significant demand for a satellite radio service that expands the current programming choices available to these potential listeners. Over 49% of all commercial radio stations use one of only three general programming formats--country, adult contemporary and news/talk/sports (Veronis, Suhler & Associates Communications Industry Forecast 2000). Over 71% of all commercial radio stations use one of only five general formats--the same three, plus oldies and religion. The small number of available programming choices means that artists representing niche music formats likely receive little or no airtime in many markets. Radio stations prefer featuring artists they believe appeal to the broadest market. However, according to the Recording Industry Association of America, recorded music sales of niche music formats such as classical, jazz, movie and Broadway soundtracks, new age, children's programming and others comprised up to 21% of total recorded music sales in 1998 (1998 Consumer Profile).

#### Demand for Subscription Services and Products

Penetration data relating to cable, satellite television, and premium movie channels suggest that consumers are willing to pay for services that dramatically expand programming choice or enhance quality. As of 1999, over 67% of TV households subscribe to basic cable television at an average monthly cost of \$29, and over 11% of TV households subscribe to satellite television at an average monthly cost of \$51 (National Cable Television Association website and DBSDish.com website). Also in 1999, according to Paul Kagan Associates, subscribers to cable and satellite services purchased more than 75 million premium channel units, such as HBO, Showtime and Cinemax, for which they paid an extra monthly charge on top of the basic monthly fee.

#### Demand for Satellite Radio Services

Several studies have been conducted demonstrating the demand for satellite radio service.

In June 1999, we commissioned Strategic Marketing And Research Techniques (SMART), a leading market research company and Dr. Frank M. Bass, a leading authority on the diffusion of new products and inventor of the Bass curve, to estimate the demand for satellite radio based on survey data and historical information. SMART surveyed 1,800 people ages 16 and over. The study concluded that as many as 49 million people may subscribe to satellite radio by 2012, assuming a \$9.95 monthly subscription fee and a radio price point of \$150-\$399 depending upon the type of car or home unit chosen. The study also anticipates that satellite radio will grow even faster than DBS.

In December 1998, we commissioned SMART to conduct a study based on one-on-one interviews with over 1,000 licensed drivers ages 16 to 64 in ten geographically dispersed markets. The study concluded that approximately 50% of aftermarket radio purchases would be for AM/FM/satellite radio units with a single-disc CD player. This assumed a radio price point of \$399, a \$75 installation fee and a \$10 monthly subscription fee for the service. The same study also found that consumers are more likely to buy satellite radio units that offer at least 80 channels.

In November 1998, we commissioned Yankelovich Partners to gauge consumer interest in satellite radio. This involved surveying 1,000 people via telephone and correlating the results with the Yankelovich MONITOR study, which is the longest standing tracking study of consumer values and attitudes in the United States. The study indicated that 18% of people age 16 and older were "definitely" or "probably" willing to pay \$9.99 per month to receive satellite radio and an additional \$150 for a satellite radio when buying a new car.

## The XM Radio Service

We are designing the XM Radio service to address the tastes of each of our targeted market segments through a combination of niche and broad appeal programming. We believe that our distinctive approach to programming, combined with digital quality sound and virtually seamless signal coverage throughout the continental United States, will position us to become the leading provider of the next generation in radio.

### We Will Differentiate XM Radio from Traditional AM/FM Radio

Local radio stations, even those which are part of national networks, focus on maximizing listener share within local markets. This limits the types of programming they can profitably provide to mass appeal formats. In contrast, our nationwide reach and ability to provide up to 100 channels in each radio market will allow us to aggregate listeners from markets across the country, expanding the types of programming we can provide. The following chart indicates differences between XM Radio and traditional AM/FM radio.

	XM Radio	Traditional AM/FM Radio
Convenience: go anywhere capability	Virtually seamless signal coverage in the United States	Local area coverage
Choice: wide variety/number of stations	Up to 100 channels with a wide variety of programming	Limited formats in many markets
Improved audio quality	Digital quality sound	Analog AM/FM quality sound
Fewer commercials	Average 6-7 minutes per hour; some channels commercial free	Average 13-17 minutes per hour
More information about music	Text display with title/name of song/artist	No visual display

We plan to further differentiate XM Radio from traditional AM/FM radio in the following ways.

Provide music formats unavailable in many markets. XM Radio will offer many music formats that are popular but currently unavailable in many markets. More than 49% of all commercial radio stations in markets measured by Arbitron use one of only three programming formats: country; adult contemporary; or news/talk/sports. There are many types of music with significant popularity, as measured by recorded music sales and concert revenues, that are unavailable in many traditional AM/FM radio markets. Such music could include classical recordings or popular blues and rap music that have retail appeal but are not commonly played on traditional AM/FM radio. This music also includes special recordings such as the Irish dance soundtrack "Riverdance" and the "Three Tenors" concerts which generate millions of CD sales, yet are not typically played on today's AM/FM stations. Additionally, heavy metal and dance are two of the more popular musical styles not currently broadcast in many small and medium sized markets. Even major markets do not always offer a full complement of formats.

Superserve popular music formats. We will be able to offer more specific programming choices than traditional AM/FM radio generally offers for even the most popular listening formats. For example, on traditional AM/FM radio oldies music is often generalized on a single format. We will be able to segment this category by offering several dedicated, era-specific formats. We also plan to offer up to six dedicated channels with urban formats and four distinct country music formats.

Use more extensive playlists. Traditional AM/FM radio stations frequently use limited playlists that focus on artists and specific music that target the largest audience. With our large channel capacity and focus on specific formats, we have the ability to provide more variety to attract listeners dissatisfied with repetitive and/or limited playlist selection offered by traditional radio.

Deliver a wide range of ethnic and informational programming. We will provide a variety of formats that target specific ethnic and special interest groups who are rarely served by traditional AM/FM radio. We

believe by using our national platform to aggregate geographically disparate groups through affinity programming, we will provide advertisers a valuable way to market products and services to these groups by advertising on our affinity channels.

Develop promotional opportunities with record companies, recording artists and radio personalities. Because of our nationwide coverage and resulting economies of scale, we will be able to deliver a variety of national promotions and events that would not be cost effective or efficient on a market-by-market basis through traditional AM/FM radio distribution. Also, we will seek to hire and develop high profile talk and disc jockey talent capable of becoming the next generation of national radio stars with an influence on radio similar to the impact that the new breed of cable TV talk hosts have had on the television industry.

Respond quickly when major music and cultural events occur. XM Radio programmers will respond quickly to changing musical tastes, seasonal music and emerging popular cultural events, such as Bruce Springsteen and Ricky Martin tours, by providing listeners with extensive coverage utilizing our large channel capacity.

Take advantage of digital's higher quality signal. There are several music formats that have strong demand but have been relegated to AM stations with weaker signals due to lack of available FM frequencies. Such AM formats include traditional country music, big band/nostalgia and gospel formats that we will be able to deliver with superior sound quality.

Focus on special demands of mobile listeners. A significant percentage of radio listeners, such as truckers, routinely travel through two or more radio markets on a frequent basis. According to the U.S. Department of Transportation, there were over three million truckers in the United States in 1997. We believe these listeners will be attracted to a radio service with national coast-to-coast coverage. We are seeking to specifically identify and target the listening demands of this audience.

Availability of commercial-free and limited-advertising channels. We believe that a significant portion of the listening market would pay to subscribe to a radio service that provided commercial-free channels and channels with reduced advertising, as demonstrated by the appeal of limited periods of non-stop music used by some traditional AM/FM stations. Therefore, we plan to target this audience with a number of commercial-free music channels covering popular music formats. In addition, we expect that our limited-advertising channels will carry less than half the advertising spots of typical AM/FM stations.

Use cross-promotion capability to market XM Radio. We will dedicate a percentage of our advertising inventory across our channels to promote specific programming and brand loyalty. AM/FM radio stations traditionally promote on a single channel basis to build awareness.

Representative XM Radio Channel List

The following table is a list of representative channels we may offer. Channels in italics represent contractual commitments with content providers.

Representative Channels of XM Radio

ROCK MUSIC	INFORMATION	HISPANIC
Classic Rock	All News (USA Today)	Tejano (Hispanic Broadcasting Corp.)
Classic Hard Rock	All News (Bloomberg)	Caribbean (Hispanic Broadcasting Corp.)
New Hard Rock	Public Affairs (C-SPAN)	Regional Mexican (Hispanic Broadcasting Corp.)
New Alternative	Financial News (CNN fn)	Rock en Espanol (Hispanic Broadcasting Corp.)
Classic Alternative	News/Information (BBC World Service)	Hispanic Ballads (Hispanic Broadcasting Corp.)
Soft Rock	Travel, Home, Science, Animals (Discovery)	Hispanic News (CNN en Espanol)
ECLECTIC MUSIC	Love/Relationship Line	OLDIES MUSIC
Contemporary Christian (Salem)	Farm/Rural	40's Oldies
Traditional Christian (Salem)	Health/Fitness	50's Oldies
Blues	Comedy	60's Oldies
Traditional Jazz	Audio Book	70's Oldies
Reggae/Island		80's Oldies
World Music		90's Oldies
American Folk	Consumer Classified	Love Songs
Pop Classical	Soap Operas	TALK
Traditional Classical	For Truckers Only	----
Modern Jazz	Movie Soundtrack Channel	African American Talk (BET/Radio One)
Progressive/Fusion	Lifestyles	Asian/Indian Talk (AsiaOne)
POP MUSIC	Celebrity Gossip	Christian/Family Talk (Salem)
Top 20 Contemporary Hits	Entertainment News	Mandarin Talk (AsiaOne)
Disco/Dance	Game Show/Contest	Conservative Talk
Broadway Show Tunes	URBAN MUSIC	Liberal Talk
Modern Adult Contemporary	Hip Hop/Rap (BET/Radio One)	Senior Citizen Talk
Classic Vocalists	Urban Dance Mix (Radio One)	Rock Talk
All Request Contemporary Hits	Classic Soul (BET/Radio One)	Hispanic Talk
SPORTS	Gospel (BET/Radio One)	Teen Talk
Sports Headlines (CNN/Sports)	Adult Urban (BET/Radio One)	CHILDREN'S MUSIC
Sports Talk (One-On-One)	Top 20 Urban	-----
Sports,	ENVIRONMENTAL MUSIC	Pre-School
Sporting News)	Soft Jazz	Grade School/pre-teen
Sportsman Channel	New Age	SPECIAL/EVENTS
Automotive (NASCAR)	Electronic	-----
COUNTRY MUSIC	Environmental (Earth Sounds)	Reserved Channels
Mainstream Country	Beautiful Instrumentals	
Classic Country		
Bluegrass/Traditional Country		
All Request Country		

Key Elements of Our Business

We have developed a business strategy to become a premier nationwide provider of audio entertainment and information programming in the vehicle, home and portable markets. Our strategy includes the following elements.

## Programming

We believe that the quality and diversity of our programming will be a key driver of consumer interest in our service. To that end, we have developed a unique programming strategy that offers consumers

- . Original music and information channels created by XM Originals, our in-house programming unit;
- . Channels created by well-known providers of brand name programming; and
- . The availability of commercial-free and advertiser-supported channels.

XM Originals. Through a programming unit in XM Radio called "XM Originals," we will create a significant number of original channel formats with content focusing on popular music such as oldies, rock and country, and on new and innovative formats, including jazz, blues, reggae and pop classical. These formats will include artists with strong music sales and concert revenue who do not get significant airplay on traditional AM/FM radio stations. We also intend to brand individual channels creating a specific station personality and image using compelling on-air talent and other techniques to attract listeners in our target market segments. We have hired a team of programming professionals with a proven track record of introducing new radio formats and building local and national listenership.

Brand Name Programming Partners. We intend to complement our original programming with a variety of unique and diverse content provided to us by brand name programming providers. We have signed contracts representing at least 25 channels with numerous well-known specialty and niche programmers that will provide brand name content for XM Radio. These companies include:

Media -----	Radio -----
-- Bloomberg News Radio	-- Hispanic Broadcasting Corporation (formerly Heftel)
-- USA Today	-- Clear Channel Communications
-- CNNfn	-- Radio One
-- CNN en Espanol	-- Salem Communications
-- CNN Sports Illustrated	-- AsiaOne
-- C-SPAN Radio	-- One-On-One Sports
-- Black Entertainment Television	-- BBC World Service
-- DIRECTV	-- NASCAR
-- Weather Channel	-- Associated Press
-- Sporting News	-- BBC Concerts
-- National Lampoon	
-- Sesame Workshop	
-- Discovery	
-- Country Music Hall of Fame	

Availability of Commercial-Free and Limited-Advertising Channels. We will provide a number of commercial-free music channels covering popular music formats. In addition, our limited-advertising channels will carry less than half the advertising of a typical AM/FM radio station. We expect the diversity of our programming line-up will appeal to a large audience, including urban and rural listeners of all ages, ethnicities, economic groups and specialty interests. We expect to tailor our programming and marketing to appeal to specific groups within those audiences that research has shown are most likely to subscribe to our satellite radio service. Initially, we plan to concentrate our programming efforts on listeners who are most receptive to innovative entertainment services, so-called early adopters, and new car buyers. According to our research, 16-34 years old adults will compose a high percentage of our early adopters; we will therefore focus a significant portion of our programming and marketing efforts to appeal to them. In addition, we will develop programming and marketing specifically to appeal to other market segments such as baby boomers who are 35-53 years old, seniors who are 54 years old and older, African-Americans, Asian-Americans and Hispanics.

Future Content Arrangements. Under our agreement with Sirius Radio, all new arrangements with providers of programming or content, including celebrity talent, must be non-exclusive and may not reward any provider for not providing content to the other party.

#### Marketing and Distribution

Our marketing strategy will be designed to build awareness and demand among potential subscribers in our target markets and the advertising community. In addition, we expect to work closely with radio and automotive manufacturers and retail distributors to promote rapid market penetration.

##### Establish Broad Distribution Channels for XM Radios

We plan to market our satellite radio service through several distribution channels including national electronics retailers, car audio dealers, mass retailers and automotive manufacturers. In addition, we will support our distribution channels by building awareness of XM Radio with a substantial introductory launch campaign, including national and local advertising.

Exclusive Distribution Agreement with General Motors. We have an agreement with the OnStar division of General Motors whereby, for a 12-year period, General Motors will exclusively distribute and market the XM Radio service and install XM radios in General Motors vehicles beginning in 2001. General Motors sold over 4.9 million automobiles in 1999, which represented more than 29% of the United States automobile market. Under the agreement, we have substantial payment obligations to General Motors, including among others, certain guaranteed, annual, fixed payment obligations. While we have discussed with General Motors certain installation projections, General Motors is not required to meet any minimum targets for installing XM radios in General Motors vehicles. In addition, certain of the payments to be made by us under this agreement will not be directly related to the number of XM radios installed in General Motors vehicles.

Other Automobile Manufacturers. We are currently in discussions with other car manufacturers regarding additional distribution agreements. We also plan to meet with automobile dealers to educate them about XM Radio and develop sales and promotional campaigns to promote XM radios to new car buyers.

In addition, we have signed an agreement with Freightliner Corporation to install XM radios in Freightliner trucks.

Distribution through Radio Manufacturers. We have signed contracts with Delphi-Delco, Motorola, Pioneer, Alpine, Mitsubishi, Clarion, Blaupunkt, Fujitsu Ten, Hyundai Autonet, Bontec, Visteon, Panasonic and Sanyo for the development, manufacture and distribution of XM radios for use in cars and a contract with Sony Electronics to design, manufacture and market XM radios for the portable, home, aftermarket and original equipment manufacture car stereo markets. One of these manufacturers, Delco Electronics Corporation, a subsidiary of Delphi Automotive Systems, is the leading original equipment manufacturer of radios for the automobile industry, producing more than 31% of car radios manufactured for installation in new automobiles in the United States in 2000 (J.D. Power and Associates Audio Quality Report). Delphi-Delco is also the leading manufacturer of car radios sold in General Motors vehicles and has signed a contract to build our radios for General Motors. Sony is the leader in sales of portable CD players by a large margin and one of the top three sellers of shelf systems. Sony has agreed to assist with marketing XM Radios and has agreed to incentive arrangements that condition its compensation on use of XM Radios manufactured by Sony or containing Sony hardware. Motorola is a leading supplier of integrated electronics systems to automobile manufacturers. Mitsubishi Electric Automotive America, together with its parent corporation, Mitsubishi Electric Corp., is the largest Japanese manufacturer of factory-installed car radios in the United States. Clarion is a leader in the car audio and mobile electronics industry. Two of our other manufacturers, Pioneer Electronics Corporation and Alpine Electronics, together sold over 29% of aftermarket car radios sold in the United States in first eleven months of 2000 (NPD Intellect, January-November 2000). We have also signed a

contract with SHARP to manufacture and distribute XM radios for home and portable use. We are pursuing additional agreements for the manufacture and distribution of XM radios.

These leading radio manufacturers have strong retail and dealer distribution networks in the United States. We expect to have access to the distribution channels and direct sales relationships of these distributors, including national electronics retailers, car audio dealers and mass retailers.

We do not intend to manufacture or hold inventory of XM radios. Radio distribution likely would be handled by fulfillment centers, which hold inventory for the radio manufacturers and ship products directly to listeners at the manufacturers' request.

**Retail Electronics Distributors.** We anticipate that XM radios and the XM Radio service will be marketed and distributed through major consumer electronics retail channels, including Circuit City, Best Buy, Radio Shack, Sears, Tweeter, Ultimate, Al and Ed's, CarToys, Sound Advice, Mobile-One, Crutchfield, Cowboy Maloney's Electronic City and Magnolia Hi-Fi.

**Rural Market Distribution/Alternative Distribution.** We intend to market our satellite radio service in rural counties, using distribution channels similar to satellite television, to penetrate rural households not served by traditional electronic retailers. In addition, we plan to pursue alternative distribution opportunities such as catalog/direct marketing, the Internet and marketing through affinity groups.

**Future Interoperability Distribution Arrangements.** We have signed an agreement with Sirius Radio to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both our and Sirius Radio's services. Both companies expect to work with their automobile and radio manufacturing partners to integrate the new standard. Future agreements with automakers and radio manufacturers will specify the unified satellite radio standard. Furthermore, future agreements with retail and automotive distribution partners and content providers will be on a non-exclusive basis and may not reward any distribution partner for not distributing the satellite radio system of the other party.

#### Maximize Revenue Through Dual Sources

As with other subscription-based entertainment media such as cable television, we expect to generate revenue by charging a monthly subscription fee and selling limited advertising time. We will earn all of the revenue from advertising on our own programming and a portion of the revenues from advertising on third party programming. XM Radio offers a new national radio platform for advertisers that solves many of the problems associated with buying radio advertising nationally on a spot or syndicated basis. We believe the attractiveness of one-stop national radio advertising buys will provide a significant source of income as our subscriber base grows.

#### Subscriber Development and Expansion

We expect to promote XM Radio as a national brand name with an exciting image. We have signed TBWA/Chiat Day (Los Angeles) as our advertising agency of record. Several months prior to service commencement, we will launch an advertising campaign in several United States markets to test and generate early feedback on the product offerings and stimulate early demand. Promotional activities currently under consideration include distributing sample programming at retail outlets, concert venues and on the Internet to generate initial interest. For instance, we have entered into an agreement with SFX Entertainment to be the exclusive satellite radio advertiser at live concerts and sporting events presented by, and live entertainment venues managed by, SFX.

Although XM Radio will be available nationwide upon commencement of operations, we will initially concentrate promotional activities in several key markets and rapidly expand to other large markets. This phased roll-out strategy, similar to that employed by consumer electronics manufacturers and special services

such as DIRECTV and Web TV, will enable us to refine our launch implementation throughout the roll-out period. The advertising will consist of both branding and promotion efforts for XM Radio, as well as separate campaigns to promote and brand individual channels. Initially, we will focus marketing efforts on the various channels targeting young adults, who we believe are more likely to drive early penetration. We also expect to benefit from free local media coverage as XM Radio is first offered in each new market.

XM Radio will promote subscriber acquisition activities with both original equipment and aftermarket radio manufacturers. This might include

- . promotional campaigns directed towards automobile manufacturers and dealers;
- . promotional campaigns for free months of service with purchase of an XM radio or free installations for aftermarket car radios;
- . incentive programs for retailer sales forces;
- . in-store promotional campaigns, including displays located in electronics, music and other retail stores, rental car agencies and automobile dealerships; and
- . jointly funded local advertising campaigns with retailers.

#### Advertiser Development and Acquisition

Our ability to aggregate various local niche market segments into national audiences will be attractive to national advertisers and agencies. We have held extensive meetings with media directors, planners and buyers at advertising and media buying agencies to develop advertiser awareness of the benefits of satellite radio. We expect to have advertising sales offices in seven major media markets to sell directly to advertising agencies and media buying groups and have engaged Premiere Radio Networks to be our advertising sales representative. We will also work with ratings agencies in our advertising-supported business. Statistical Research, Inc., which produces Radar reports, has agreed to work with us to develop other ratings methodologies for satellite radio.

During our early years of service, we do not expect to have a listener base sufficient to attract substantial national advertising dollars on individual channels at competitive rates. Thus, we plan initially to attract national advertisers and agencies with the following kinds of incentives.

Charter Advertising Agreements. We have contracts with several advertisers, advertising agencies and media buying companies offering charter advertising packages at reduced rates for a limited time. Among the advertisers and agencies we have sold advertising packages to are AT&T, Allstate, Sears, Goodyear, Bayer and J. Walter Thompson.

Foreign Language Advertising. We and our programmers plan to offer foreign language advertising on specific foreign language-based channels. Several major national advertisers have expressed strong interest in the ability to advertise to these hard-to-reach customer segments.

#### The XM Radio System

We have designed our system to provide satellite radio to the continental United States and coastal waters using radio frequencies allocated by the FCC for satellite radio. These radio frequencies are within a range of frequencies called the S-Band. The XM Radio system will be capable of providing high quality satellite services to XM radios in automobiles, trucks, recreation vehicles and pleasure craft, as well as to fixed or portable XM radios in the home, office or other fixed locations. The XM Radio system design uses a network consisting of an uplink facility, two high-power satellites and, where necessary, ground-based repeaters to provide digital audio service to XM radios.

## Space Segment

**Satellite Construction.** Boeing Satellite Systems, formerly Hughes Space and Communications, has built and will launch two Boeing 702 high-power satellites for the XM Radio system. Boeing is also building one ground spare satellite, expected to be completed in the next few months, to be available in the event of a failed launch of any satellite or to accommodate our satellite system growth. Boeing will also provide us with launch and operations support services, equipment and software.

The Boeing 702 is the highest powered commercial communications satellite currently available. The first Boeing 702 satellite was successfully launched in the fourth quarter of 1999 and a total of three Boeing 702 satellites were currently scheduled for launch before the launch of our satellites. Our first satellite is scheduled to be launched by the end of the first quarter of 2001, and the second satellite shortly thereafter. Both communications payloads, provided by Alcatel, have been completed and integrated into the spacecraft bus. The communications payload electronics are designed to make best use of technologies that have already been developed or used in previous satellite programs. The design includes significant redundancy and protective measures to prevent loss of service.

**Satellite Transmission.** Our two satellites will be deployed at 85 West Longitude and 115 West Longitude. After reaching their designated orbital location, the satellites will receive audio signals from our programming center and retransmit the signals across the continental United States. The satellites will be 30(degrees) apart in longitude in order to enhance the probability of clear line-of-sight communication between the satellites and XM mobile radios.

The transmission coverage areas, or footprints, of our satellites encompass the 48 contiguous states and nearby coastal waters. We have tailored these footprints to provide nearly uniform availability over the United States and to minimize transmission spillage across the United States borders into Canada and Mexico. However, because coverage does extend to the Gulf of Mexico, the California coast and the Atlantic coast, we also expect to be able to provide XM Radio to the cruise ships, cargo vessels and leisure boats which frequent these waters.

Our satellites will transmit audio programming within a 12.5 MHz range of S-Band radio frequencies that have been allocated by the FCC for our exclusive use. Megahertz is a unit of measurement of frequency. This 12.5 MHz bandwidth will be subdivided to carry the transmission of six signals, two signals to be transmitted from each of our two satellites and two signals to be transmitted by the terrestrial repeater network. The audio programming for XM Radio will be carried on two satellite signals, and the remaining two satellite signals and the terrestrial repeater signals will repeat the audio programming to enhance overall signal reception. The transmission of higher quality sound requires the use of more kilobits per second than the transmission of lesser quality sound. In order to provide high-quality digital sound, we expect that music channels will require approximately 56 to 64 kilobits per second, depending on the type of compression technology used, whereas talk channels will require significantly less bandwidth. We expect to use our allocated bandwidth in such a way as to provide up to 100 channels of programming, with our music channels having a high bandwidth allocation so as to provide high-quality digital sound.

**Launch Services.** Hughes Space and Communications, now Boeing Satellite Systems, contracted with Sea Launch Limited Partnership, a joint venture in which Boeing Commercial Space Company has a controlling 40% interest, to provide the launch services for our satellites. The Sea Launch vehicle uses a new rocket called the Zenit-3SL, which is based on a two-stage rocket called the Zenit-2, plus a stage which is the upper stage of a Russian-developed rocket called the Proton rocket.

The Sea Launch system launches rockets from an ocean-based platform. Sea Launch will perform all rocket and satellite processing at the Sea Launch home port in Long Beach, California. Sea Launch will move the platform to its launch position in the South Pacific Ocean near the equator, where the satellites can be launched more efficiently by avoiding the requirement to conduct an orbital plane change. In March 1999, Sea

Launch successfully launched a rocket carrying an inert payload into geostationary orbit. Sea Launch also successfully launched its first commercial satellite, DIRECTV-1R, in October 1999. Four of the five launches from the Sea Launch platform have been successful. Our satellites are scheduled for launch in March and May, 2001. As of February, 2001, Sea Launch had contracts for an additional 11 launches.

**Insurance.** We bear the risk of loss for each of the satellites from the time of launch, subject to exceptions set forth in our agreement with Boeing Satellite Systems, and we have obtained insurance to cover that risk. We have purchased launch and in-orbit insurance policies from global space insurance underwriters. The launch insurance premiums for both satellites are approximately \$50 million. These policies indemnify us for a total, constructive total or partial loss of either of the satellites that occurs from the time of launch through each satellite's expected lifetime. Coverage exceeds all hardware, insurance and launch service costs related to the in-orbit replacement of a lost satellite. However, our insurance will not protect us from the adverse effect on our business operations due to the loss of a satellite. Our policies contain standard commercial satellite insurance provisions, including standard coverage exclusions.

#### Ground Segment

**Satellite Control.** Each of our satellites will be monitored by a telemetry, tracking and control station, and both satellites will be controlled by a satellite control station. Each of the stations will have a backup station. We have a contract with an experienced satellite operator to perform the telemetry, tracking and control functions.

**Programming and Business Center.** Programming from both our studios and external sources will be sent to our programming center, which will package and retransmit signals to our satellites through the uplink station. Financial services and certain administrative support will be carried on at our business center. Communications traffic between the various XM Radio facilities will be controlled by the network monitoring center. The network monitoring center will monitor satellite signals and the terrestrial repeater network to ensure that the XM Radio system is operating properly. We have designed and installed fault detection systems to detect various system failures before they cause significant damage.

**Terrestrial Repeaters.** We are installing a terrestrial repeater system to supplement the coverage of our satellites. In some areas, satellite signals may be subject to blockages from tall buildings and other obstructions. Due to the satellites' longitudinal separation, in most circumstances where reception is obscured from one satellite, XM Radio will still be available from the other satellite. In some urban areas with a high concentration of tall buildings, however, line-of-sight obstructions to both satellites may be more frequent. In such areas, we will install terrestrial repeaters to facilitate signal reception. Terrestrial repeaters are ground-based electronics equipment which receive and re-transmit the satellite signals. We have signed a contract with LCC International, a wireless service site planner, for the design and deployment of our terrestrial repeater network. LCC International has completed initial site planning and started construction on many of the repeater sites. We have entered into a contract with Hughes Electronics Corporation for the design, development and manufacture of the terrestrial repeaters.

We have contracted to purchase 1,550 terrestrial repeaters to cover urban areas in approximately 70 markets. We expect that this system will commence operation by the summer of 2001. We estimate that the largest urban markets may require in excess of 100 repeaters, while smaller cities with fewer tall buildings may require as few as one to three repeaters. We also intend to use additional small repeaters in areas such as tunnels, where reception would otherwise be severely restricted. Our placement of terrestrial repeaters will be guided by a newly developed radio frequency analysis technique which, employing technology similar to that used in certain cellular telephone systems, analyzes the satellite footprint to discover areas likely to have impaired reception of XM Radio.

We will install terrestrial repeaters on rooftops and existing tower structures where they will receive the satellite signals, amplify them and retransmit them at a significantly higher signal strength than is possible

directly from the satellites. Before we may install many of our planned terrestrial repeaters, we must obtain roof rights in suitable locations and on acceptable terms. We do not expect this to present a serious problem to our construction of a terrestrial repeater network.

The high power levels and proprietary signal design of the terrestrial signals may allow XM radios to receive signals when a terrestrial repeater is not in view, including within buildings and other structures which can be penetrated by the terrestrial repeater signal. In some indoor locations which cannot receive the repeater signal, users will need to use small externally mounted antennas that will receive the signal from one of the two satellites.

We expect to benefit from the expertise gained by Motient with its ARDIS terrestrial two-way data network consisting of approximately 1,700 base stations sites serving cities throughout the United States. We may use a portion of these sites in our system.

**XM Radios.** We will transmit XM Radio throughout the continental United States to vehicle, portable, home and plug and play radios. Our radios will be capable of receiving both XM Radio and traditional AM/FM stations. Six manufacturers, including Pioneer, Alpine and Sony, have introduced 24 different models of XM-ready radios at the January 2001 Consumer Electronics Show (CES) in Las Vegas, Nevada.

We have signed a contract with ST Microelectronics to design and produce chips that will decode the XM Radio signal. We have completed the production chipset design and ST Microelectronics has commenced fabrication to make the components available to radio manufacturers starting the end of March 2001.

Delphi-Delco, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox, Panasonic, Visteon, Blaupunkt and Clarion have signed contracts with us to develop, manufacture and distribute XM radios which can be used in the car, and we have signed a contract with Sony Electronics to design, manufacture and market XM radios for the portable, home, aftermarket and original equipment manufacture car stereo markets. We have also signed a contract with SHARP to manufacture XM radios for home and portable use.

**Unified Standard for Satellite Radio.** On February 16, 2000, we signed an agreement with Sirius Radio to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both our and Sirius Radio's services. The technology relating to this unified standard will be jointly developed, funded and owned by the two companies. In addition, we will work together with Sirius Radio to proliferate the new standard by creating a service mark for satellite radio. This unified standard is intended to meet FCC rules that require interoperability with both licensed satellite radio systems.

As part of the agreements, each company has licensed to the other its intellectual property relating to its system; the value of this license will be considered part of each company's contribution toward the joint development. In addition, each company has agreed to license its non-core technology, including non-essential features of its system, to the other at commercially reasonable rates. In connection with this agreement, the pending patent litigation against XM Radio has been resolved.

We anticipate that it will take several years to develop radios capable of receiving both services. At the commercial launch of our service, we anticipate that our consumers will be able to purchase radios only capable of receiving our service.

Both companies expect to work with their automobile and radio manufacturing partners to integrate the new standard. Future agreements with automakers and radio manufacturers will specify the unified satellite radio standard. Furthermore, future agreements with retail and automotive distribution partners and content providers will be on a non-exclusive basis.

We and Sirius Radio have also agreed to negotiate in good faith to provide service to each other's subscribers in the event of a catastrophic failure of the XM Radio system or the Sirius Radio system.

## Competition

We expect to face competition for both listeners and advertising dollars.

### Sirius Satellite Radio

Our direct competitor in satellite radio service is likely to be Sirius Radio, the only other FCC licensee for satellite radio service in the United States. Since October 1997, Sirius Radio's common stock has traded on the Nasdaq National Market. Sirius Radio has deployed three satellites in a North American elliptical orbit and a network of terrestrial repeaters. Sirius Satellite Radio has announced in recent SEC filings that it has arrangements for the construction, implementation and distribution of its service and that it expects to have radios compatible with its system available to consumers later this year.

### Traditional AM/FM Radio

Our competition will also include traditional AM/FM radio. Unlike XM Radio, traditional AM/FM radio already has a well established market for its services and generally offers free broadcast reception paid for by commercial advertising rather than by a subscription fee. Also, many radio stations offer information programming of a local nature, such as traffic and weather reports, which XM Radio initially will be unable to offer as effectively as local radio, or at all. The AM/FM radio broadcasting industry is highly competitive. Radio stations compete for listeners and advertising revenues directly with other radio stations within their markets on the basis of a variety of factors, including

- . program content;
- . on-air talent;
- . transmitter power;
- . source frequency;
- . audience characteristics;
- . local program acceptance; and
- . the number and characteristics of other radio stations in the market.

Currently, traditional AM/FM radio stations broadcast by means of analog signals, not digital transmission. We believe, however, that in the future traditional AM/FM radio broadcasters may be able to transmit digitally into the bandwidth occupied by current AM/FM stations.

### Internet Radio

There are a growing number of Internet radio broadcasts which provide listeners with radio programming from around the country and the world. Internet radio can be heard through a personal computer equipped with a modem, sound card and speakers. Announcements have been made about plans by one or more companies to deliver Internet radio to cars or portable radios using satellites. Although we believe that the current sound quality of Internet radio is below standard and may vary depending on factors such as network traffic, which can distort or interrupt the broadcast, we expect that improvements from higher bandwidths, faster modems and wider programming selection may make Internet radio a more significant competitor in the future.

There are a number of Internet-based audio formats in existence or in development which could compete directly with XM Radio. For example, Internet users with the appropriate hardware and software can download sound files for free or for a nominal charge and play them from their personal computers or from specialized portable players. In addition, prominent members of the music and computer industry have supported an initiative known as the Secure Digital Music Initiative to become a standard for fee-based electronic

distribution of copyrighted sound recordings. Although presently available formats have drawbacks such as hardware requirements and download bandwidth constraints, which we believe would make XM Radio a more attractive option to consumers, Internet-based audio formats may become increasingly competitive as quality improves and costs are reduced.

#### Direct Broadcast Satellite and Cable Audio

A number of companies provide specialized audio service through either direct broadcast satellite and cable audio systems. These services are targeted to fixed locations, mostly in-home. The radio service offered by direct broadcast satellite and cable audio is generally an add-on service to the higher priced video service.

#### Regulatory Matters

XM Radio and Sirius Radio received licenses from the FCC in October 1997 to construct and operate satellite radio service. The FCC has allocated 25 MHz for the new service in a range of radio frequencies known as the S-Band.

As an owner of one of two FCC licenses to operate a commercial satellite radio service in the United States, we will continue to be subject to regulatory oversight by the FCC. Our development, implementation and eventual operation of our system will be subject to significant regulation by the FCC under authority granted under the Communications Act and related federal law. Non-compliance by us with FCC rules and regulations could result in fines, additional license conditions, license revocation or other detrimental FCC actions. Any of these FCC actions may harm our business. There is no guarantee that the rules and regulations of the FCC will continue to support our business plan.

One of the two losing bidders in the satellite radio license auction filed a petition to deny our application for an FCC license, but the petition was denied. The losing bidder is seeking review by the FCC. The losing bidder has argued that WorldSpace had effectively taken control of us without FCC approval and that WorldSpace has circumvented the FCC's application cut-off procedures. WorldSpace is no longer a stockholder in us. We have opposed this appeal and have denied the allegations contained in the challenge. The FCC's order granting our license remains in effect during the pendency of the application for review. In December 2000, the FCC approved a transfer of control of our FCC license from Motient Corporation to a diffuse group of owners, none of whom will have a controlling interest in us. The FCC has conditioned this approval on the outcome of the application for review. Although we believe that the award of the license to us will continue to be upheld, we cannot predict the ultimate outcome of this challenge. If this challenge is successful, the FCC could take a range of actions, any of which could harm our ability to proceed with our planned satellite radio service.

Our license, which is held by a subsidiary wholly owned by XM, has a term of eight years from commencement of XM's operations and may be renewed. The FCC requires the satellite radio licensees, including us, to adhere to certain milestones in the development of their systems, including a requirement that the licensees begin full operation by October 2003.

Our FCC license requires us to meet the following milestones:

Deadline	Milestone	Status
-----	-----	-----
October 1998	Complete contracting for first satellite	Completed March 1998
October 1999	Complete contracting for second satellite	Completed March 1998
October 2001	Begin in-orbit operation of at least one satellite	Expected First Quarter 2001
October 2003	Begin full operation of the XM Radio system	Expected Summer 2001

While we have already fulfilled the first two milestones, we may not meet the remaining two milestones, in part because we depend on third parties to build and launch our satellites. If we fail to meet these milestones, the FCC could take a range of actions, any of which may harm our business.

For business and technical reasons, we have decided to modify certain aspects of the satellite radio system described in our May 1997 amended application to the FCC. Specifically, we intend to

- . increase the satellites' transmission power;
- . eliminate coverage of Alaska and Hawaii; and
- . change the total number of signals carried by the satellites and terrestrial repeaters.

We will subdivide our 12.5 MHz of allocated bandwidth to carry six signals instead of five as previously stated in our FCC application. Two signals will be transmitted by each of the two satellites, and two signals will be transmitted by our terrestrial repeaters. In January 2000 we requested that the FCC allow us to modify the XM Radio system to incorporate these changes. While the FCC regularly approves modifications to commercial licenses, it may not approve our request.

The FCC has indicated that it may in the future impose public service obligations, such as channel set-asides for educational programming, on satellite radio licensees.

The FCC's rules require interoperability with all licensed satellite radio systems that are operational or under construction. The FCC conditioned our license on certification by us that our final receiver design is interoperable with the final receiver design of the other licensee, Sirius Radio, which plans to use a different transmission technology than we plan to use. Because of uncertainty regarding the design of Sirius Radio's systems, we may face difficulties initially in meeting this interoperability requirement. We have signed an agreement with Sirius Radio to develop a unified standard for satellite radios, but we anticipate that it will take several years to develop the technologies necessary for radios that will be capable of receiving both our service and Sirius Radio's service. Accordingly, we may not be able to meet the FCC's interoperability requirements by the time we launch our commercial operations. Together with Sirius Radio, we have informed the FCC of the progress that has been made to date in meeting the interoperability requirement. We may need to obtain an extension of time or modification of the interoperability requirement from the FCC. Furthermore, complying with the interoperability requirement could make the radios more difficult and costly to manufacture.

The FCC is currently conducting a rulemaking proceeding to establish rules for terrestrial repeater transmitters, which we plan to deploy to fill in gaps in satellite coverage. The FCC has proposed to permit us to deploy these facilities. Specifically, the FCC has proposed a form of blanket licensing for terrestrial repeaters and service rules which would prohibit satellite radio licensees from using terrestrial repeating transmitters to originate local programming or transmit signals other than those received from the satellite radio satellites. Various parties, including the National Association of Broadcasters, Wireless Communications Service (WCS) licensees, Multipoint Distribution Service (MDS) licensees, and Instructional Television Fixed Service (ITFS) licensees have asked the FCC to

- . limit the number of repeaters operating at greater than 2 kW EIRP that may be deployed;
- . limit the power level of the repeaters operating at greater than 2 kW EIRP that are deployed;
- . delay consideration of terrestrial repeater rules until XM Radio and Sirius Radio provide additional information regarding planned terrestrial repeaters;
- . require individual licensing of each terrestrial repeater; and
- . impose a waiting period on the use of repeaters in order to determine if signal reception problems can be resolved through other means.

Our plans to deploy terrestrial repeaters in our system may be impacted, possibly materially, by whatever rules the FCC issues in this regard. Furthermore, we may need special temporary authority from the FCC to operate our terrestrial repeaters if the FCC delays the issuance of these rules.

The FCC may also require us to compensate certain MDS and ITFS customers and licensees to remedy interference caused to some of their receivers by the operation of our terrestrial repeaters.

The FCC also may adopt limits on emissions of terrestrial repeaters to protect other services using nearby frequencies. While we believe that we will meet any reasonable non-interference standard for terrestrial repeaters, the FCC has no specific standard at this time, and the application of such limits might increase our cost of using repeaters. Although we are optimistic that we will be able to construct and use terrestrial repeaters as needed, the development and implementation of the FCC's ultimate rules might delay this process or restrict our ability to do so.

We will need to coordinate the XM Radio system with systems operating in the same frequency bands in adjacent countries. Canada and Mexico are the countries whose radio systems are most likely to be affected by satellite radio. The United States government, which conducts the coordination process, has resolved the issue with the Canadian government and has reached an agreement with the Mexican government that has not yet been fully approved by that government.

We will operate the communication uplinks between our own earth station and our satellites in a band of radio frequencies that are used for several other services. These services are known under FCC rules as fixed services, broadcast auxiliary services, electronic news gathering services, and mobile satellite services for uplink station networks. Although we are optimistic that we will succeed in coordinating domestic uplink station networks, we may not be able to coordinate use of this spectrum in a timely manner, or at all. We have filed an application with the FCC for approval of a satellite earth station to be located in Washington, D.C. This application has not yet been granted.

We also need to protect our system from out-of-band emissions from licensees operating in adjacent frequency bands. Wireless Communication Service licensees operating in frequency bands adjacent to the satellite radio's S-Band allocation must comply with certain out-of-band emission limits imposed by the FCC to protect satellite radio systems. These limits, however, are less stringent than those we proposed. In addition, in April 1998, the FCC proposed to amend its rules to allow for new radio frequency lighting devices that would operate in an adjacent radio frequency band. We opposed the proposal on the grounds that the proliferation of this new kind of lighting and its proposed emission limits, particularly if used for street lighting, may interfere with XM Radio. However, the FCC may not rule in our favor, a decision which could adversely affect our signal quality. In addition, in May 2000, the FCC proposed to amend its rules to allow for the operation of devices incorporating ultra-wideband (UWB) technology on an unlicensed basis. The FCC has proposed to impose less stringent emissions limits for UWB devices operating above 2 GHz, where XM operates, than for such devices operating below 2 GHz. We have opposed this proposal on the basis that the operation of these devices may interfere with XM Radio. Interference from other unlicensed frequency devices may also adversely affect the Company's signal.

The FCC order granting our license determined that because we are a private satellite system providing a subscription service on a non-common carrier basis, we would not be subject to the FCC's foreign ownership restrictions. However, such restrictions would apply to us if we were to offer non subscription services, which may appear more lucrative to potential advertisers than subscription services. The FCC also stated in its order that it may reconsider its decision not to subject satellite radio licensees to its foreign ownership restrictions.

Sea Launch, Alcatel and other vendors are subject to United States export regulations. Our vendors need (and have obtained) approval from the State Department under technology export statutes and regulations for the launch of our satellites. Although these are not new requirements, the export of technology has received considerable attention in response to concerns about the export of technology to China by the United States defense contractors. The negative publicity may lead the United States Congress to alter the relevant laws or regulations, or may change the State Department's policy in enforcing the regulations. Any change in applicable law or policy may result in delay of our satellite launch.

## Intellectual Property

### System Technology

We have contracted with several technology companies to implement portions of the XM Radio system. These technology companies include Boeing Satellite Systems and Alcatel (satellites); Delphi-Delco, Sony, Motorola, Pioneer, Alpine, Mitsubishi, Audiovox, Clarion, SHARP, Blaupunkt, Fujitsu Ten, Hyundai Autonet, Bontec, Visteon, Panasonic and Sanyo (car and home radios); STMicroelectronics (chipsets); Lucent Digital Radio (audio coding technology); Fraunhofer Institute (various technologies) and LCC International (design of repeater network). We will not acquire any intellectual property rights in the satellites. We will have joint ownership of or a license to use the technology developed by the radio and chipset manufacturers. We will own the design of our system, including aspects of the technology used in communicating from the satellites and the design of the repeater network.

Our system design, our repeater system design and the specifications we supplied to our radio and chipset manufacturers incorporates or may in the future incorporate some intellectual property licensed to us on a non-exclusive basis by WorldSpace Management. WorldSpace Management has used this technology in its own non-United States satellite radio system. We also have the right to sublicense the licensed technology to any third party, including chipset manufacturers, terrestrial repeater manufacturers and receiver manufacturers in connection with the XM Radio system. Under our agreement with WorldSpace Management we must pay one time, annual or percentage royalty fees or reimburse WorldSpace Management for various costs for various elements of the licensed technology that we decide to use in the XM Radio system. We have incurred costs of \$6.7 million to WorldSpace Management under this agreement through December 31, 2000. We will not be required to pay royalties to WorldSpace Management for licensed technology that we do not use in our system. We anticipate the Fraunhofer Institute will continue to provide various development services for us in connection with the design of our system.

Motient has granted us a royalty-free license with respect to certain ground segment communications technology and antenna technology.

Motient and WorldSpace Management have also granted us royalty-free, non-exclusive and irrevocable licenses to use and sublicense all improvements to their technology. The technology licenses from Motient and WorldSpace Management renew automatically on an annual basis unless terminated for a breach which has not been or cannot be remedied.

We believe that the intellectual property rights we have licensed under our technology license were independently developed or duly licensed by Motient or WorldSpace International, as the case may be. We cannot assure you, however, that third parties will not bring suit against us for patent or other infringement of intellectual property rights.

We have signed an agreement with Sirius Radio to develop a unified standard for satellite radios to facilitate the ability of consumers to purchase one radio capable of receiving both our and Sirius Radio's services. The technology relating to this unified standard will be jointly developed, funded and owned by the two companies. As part of the agreement, each company has licensed to the other its intellectual property relating to the unified standard and to its system; the value of this license will be considered part of its contribution toward the joint project. In addition, each company has agreed to license its non-core technology, including non-essential features of its system, to the other at commercially reasonable rates. Each party will be entitled to license fees or a credit towards its obligation to fund one half of the development cost of the technologies used to develop a unified standard for satellite radios. The amount of the fees or credit will be based upon the validity, value, use, importance and available alternatives of the technology each contributes. In our discussions we have yet to agree on the validity, value, use, importance and available alternatives of our respective technologies. If we fail to reach agreement, the fees or credits may be determined through binding arbitration. We cannot predict at this time the amount of license fees, if any, payable by or to XM or Sirius Radio or the size of the credits to XM and Sirius Radio from the use of their technology. This may require additional capital, which could be significant.

#### Prior Litigation with Sirius Radio; Technology License

On January 12, 1999, Sirius Radio, the other holder of an FCC satellite radio license, commenced an action against us in the United States District Court for the Southern District of New York, alleging that we were infringing or would infringe three patents assigned to Sirius Radio. In its complaint, Sirius Radio sought money damages to the extent we manufactured, used or sold any product or method claimed in their patents and injunctive relief. This suit was resolved in February 2000 in accordance with the terms of a joint development agreement between us and Sirius Radio in which both companies agreed to develop a unified standard for satellite radios and license our respective intellectual property, including the patents that were the subject of the suit, for use in this joint development. If this agreement is terminated before the value of the licenses has been determined due to our failure to perform a material covenant or obligation, then this suit could be refiled.

If this litigation were recommenced, we believe based on the planned design of our system, our knowledge of the differences between our system and the claims of the Sirius Radio patents and on advice we have previously received from our patent counsel, that a court would find that we have not and will not infringe any Sirius Radio patents. However, the litigation could harm us, even if we were successful. It would divert our management's attention and might make it more difficult for us to raise financing or enter into other agreements with third parties. In addition, even if we prevailed, the Sirius Radio litigation might prevent us from moving forward with the development of the XM Radio system in a timely manner. The Sirius Radio patents involved in the litigation relate to certain aspects of signal and reception methodologies that may be employed by a satellite radio system. If this suit were refiled and we lost all or part of this litigation, we could become liable to Sirius Radio for money damages and subject to an injunction preventing us from using certain technology in the XM Radio system. Any such injunction could force us to engineer technology which would not be subject to the injunction, license or develop alternative technology, or seek a license from, and pay royalties to, Sirius Radio. If any of these strategies becomes necessary, it could be costly and time-consuming and would likely delay any implementation of our system. If we could not accomplish any strategy, or could not do so in a timely manner at an acceptable cost, our business would be harmed.

#### Copyrights to Programming

We must negotiate and enter into music programming royalty arrangements with performing rights societies such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc. These organizations collect royalties and distribute them to songwriters and music publishers and negotiate fees with copyright users based on a percentage of revenues. Radio broadcasters currently pay a combined total of approximately 4% of their revenues to these performing rights societies. We expect to negotiate or establish license fees through a rate court proceeding in the U.S. District Court for the Southern District of New York but such royalty arrangements may be more costly than anticipated.

Under the Digital Performance Right in Sound Recordings Act of 1995 and the Digital Millennium Copyright Act of 1998, we also have to negotiate royalty arrangements with the owners of the sound recordings. The Recording Industry Association of America will negotiate licenses and collect royalties on behalf of copyright owners for this performance right in sound recordings. Cable audio services currently pay a royalty rate of 6.5% of gross subscriber revenue. This rate was set by the Librarian of Congress, which has statutory authority to decide rates through arbitration, and was affirmed on May 21, 1999 by the United States Court of Appeals for the District of Columbia. Although we believe we can distinguish XM Radio sufficiently from the cable audio services in order to negotiate a lower statutory rate, we may not be able to do so.

#### The XM Trademark

We believe that XM Radio will be seen as the complement to AM and FM radio. We have an application pending in the United States Patent and Trademark Office for the registration of the trademark "XM" in connection with the transmission services offered by our company and expect that our brand name and logo

will be prominently displayed on the surface of XM radios together with the radio manufacturer's brand name. This will identify the equipment as being XM Radio-compatible and build awareness of XM Radio. We intend to maintain our trademark and the anticipated registration. We are not aware of any material claims of infringement or other challenges to our right to use the "XM" trademark in the United States.

#### Personnel

As of January 31, 2001, we had 250 employees. In addition, we rely upon a number of consultants and other advisors. The extent and timing of any increase in staffing will depend on the availability of qualified personnel and other developments in our business. None of our employees is represented by a labor union, and we believe that our relationship with our employees is good.

#### ITEM 2. PROPERTY

Our executive offices, studio and production facilities are located at 1500 Eckington Place, N.E., Washington, D.C. 20002, under a ten year lease of approximately 150,000 square feet. We have also entered into license or lease agreements with regard to our terrestrial repeater system throughout the United States

#### ITEM 3. LEGAL PROCEEDINGS

Except for the FCC proceeding described under the caption "Business--Regulatory Matters," we are not a party to any material litigation or other proceedings.

#### ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of 2000.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

PRICE RANGE OF COMMON STOCK

Holdings' Class A common stock has been quoted on the Nasdaq National Market under the symbol "XMSR" since its initial public offering on October 5, 1999. The following table presents, for the period indicated, the high and low sales prices per share of the Class A common stock as reported on the Nasdaq National Market.

	High	Low
1999:		
Fourth Quarter (beginning October 5, 1999).....	\$44.750	\$11.625
2000:		
First Quarter.....	\$50.000	\$27.000
Second Quarter.....	\$39.250	\$18.125
Third Quarter.....	\$46.938	\$30.125
Fourth Quarter.....	\$43.750	\$12.063
2001:		
First Quarter (through March 6, 2001).....	\$21.063	\$ 9.000

On March 6, 2001, the last reported sale price of Holdings' Class A common stock on the Nasdaq National Market was \$10.000. As of March 6, 2001, there were 214 holders of record of Holdings' Class A common stock.

DIVIDEND POLICY

Holdings has not declared or paid any dividends on its common stock since its date of inception. Currently, Holdings' Series B Convertible Redeemable preferred stock restricts Holdings from paying dividends on its common stock unless full cumulative dividends have been paid or set aside for payment on all shares of the Series B preferred stock. The terms of Holdings' Series C Convertible Redeemable preferred stock contain similar restrictions. In accordance with its terms, Holdings has paid dividends on the Series B preferred stock in common stock. Dividends on the Series C preferred stock will accrue. The indenture governing XM's senior secured notes restricts XM from paying dividends to Holdings which, in turn, will significantly limit the ability of Holdings to pay dividends. Holdings does not intend to pay cash dividends on its common stock in the foreseeable future. Holdings anticipates that it will retain any earnings for use in operations and the expansion of its business.

RECENT SALES OF UNREGISTERED SECURITIES

None.

ITEM 6. SELECTED CONSOLIDATED FINANCIAL DATA

XM Satellite Radio Holdings Inc.

In considering the following selected consolidated financial data, you should also read Holdings' consolidated financial statements and notes and the section captioned "Management's Discussion and Analysis of Financial Condition and Results of Operations." The consolidated statements of operations data for the four-year period ended December 31, 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000, and the consolidated balance sheets data as of December 31, 1997, 1998, 1999 and 2000 are derived from Holdings' consolidated financial statements. These statements have been audited by KPMG LLP, independent certified public accountants. KPMG's report contains a paragraph stating that Holdings has not begun operations and is dependent upon additional debt or equity financing, and that these factors raise substantial doubt about Holdings' ability to continue as a going concern. The selected consolidated financial data do not include any adjustments that might result from the outcome of that uncertainty.

	Years Ended December 31,				December 15, 1992 (Date of Inception) to December 31, 2000(1)
	1997	1998	1999	2000	
(In thousands, except share data)					
Consolidated Statements of Operations Data:					
Revenue.....	\$ --	\$ --	\$ --	\$ --	\$ --
Operating expenses:					
Research and development.....	--	6,941	4,274	7,397	18,612
Professional fees.....	1,090	5,242	9,969	22,836	39,137
General and administrative.....	20	4,010	16,448	49,246	69,724
Total operating expenses.....	1,110	16,193	30,691	79,479	127,473
Operating loss.....	(1,110)	(16,193)	(30,691)	(79,479)	(127,473)
Other income (expense) interest income (expense), net.....	(549)	26	(6,205)	27,606	20,878
Net loss.....	\$ (1,659)	\$ (16,167)	\$ (36,896)	\$ (51,873)	\$ (106,595)
Series C preferred stock beneficial conversion charge.....	--	--	--	(123,042)	
Series B preferred stock incentivized charge....	--	--	--	(11,211)	
Preferred dividends.....	--	--	--	(15,212)	
Net loss applicable to common stockholders....	\$ (1,659)	\$ (16,167)	\$ (36,896)	\$ (201,338)	
Net loss per share-- basic and diluted.....	\$ (0.26)	\$ (2.42)	\$ (2.40)	\$ (4.15)	
Weighted average shares used in computing net loss per share--basic and diluted.....	6,368,166	6,689,250	15,344,102	48,508,042	

December 31,			
1997	1998	1999	2000
(In thousands)			

Consolidated Balance Sheets Data:

Cash, cash equivalents and short-term investments.....	\$ 1	\$ 310	\$120,170	\$ 224,903
Restricted investments.....	--	--	--	161,166
System under construction.....	91,932	169,029	362,358	805,563
Total assets.....	91,933	170,485	515,189	1,293,218
Total debt.....	82,504	140,332	212	262,665
Total liabilities.....	82,949	177,668	30,172	337,266
Stockholders' equity (deficit).....	8,984	(7,183)	485,017	955,952

(1) Business activity for the period from December 15, 1992, which was our date of inception, through December 31, 1996 was insignificant.

XM Satellite Radio Inc.

In considering the following selected consolidated financial data, you should also read XM's consolidated financial statements and notes and the section captioned "Management's Discussion and Analysis of Financial Condition and Results of Operations." The consolidated statements of operations data for the four-year period ended December 31, 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000, and the consolidated balance sheets data as of December 31, 1997, 1998, 1999 and 2000 are derived from XM's consolidated financial statements. These statements have been audited by KPMG LLP, independent certified public accountants. KPMG's report contains a paragraph stating that XM has not begun operations and is dependent upon additional debt or equity financing, and that these factors raise substantial doubt about XM's ability to continue as a going concern. The selected consolidated financial data do not include any adjustments that might result from the outcome of that uncertainty.

	Years Ended December 31,				December 15,
	1997	1998	1999	2000	1992 (Date of Inception) to December 31, 2000 (1)
(In thousands, except share data)					
Consolidated Statements of Operations Data:					
Revenue.....	\$ --	\$ --	\$ --	\$ --	\$ --
Operating expenses:					
Research and development.....	--	6,941	4,274	7,397	18,612
Professional fees.....	1,090	5,242	9,948	22,751	39,031
General and administrative.....	20	4,010	16,448	48,979	69,457
Total operating expenses.....	1,110	16,193	30,670	79,127	127,100
Operating loss.....	(1,110)	(16,193)	(30,670)	(79,127)	(127,100)
Other income (expense)-- interest income (expense), net.....	(85)	26	490	27,200	27,631
Net loss.....	\$ (1,195)	\$ (16,167)	\$ (30,180)	\$ (51,927)	\$ (99,469)

December 31,			
1997	1998	1999	2000
(In thousands)			

Consolidated Balance Sheets Data:

Cash, cash equivalents and short-term investments.....	\$ 1	\$ 310	\$119,902	\$ 203,191
Restricted investments.....	--	--	--	161,166
System under construction.....	90,031	155,334	333,500	776,706
Total assets.....	90,032	156,397	485,134	1,242,517
Total debt.....	--	87	212	262,665
Total liabilities.....	--	28,941	30,030	337,107
Stockholder's equity.....	90,032	127,456	455,104	905,410

(1) Business activity for the period from December 15, 1992, which was our date of inception, through December 31, 1996 was insignificant.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis provides information that we believe is relevant to an assessment and understanding of our financial condition and consolidated results of operations. This discussion should be read together with our consolidated financial statements and related notes beginning on page F-1 of this report.

Introduction

This annual report on Form 10-K is filed jointly by XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. XM is a wholly-owned subsidiary of Holdings. Accordingly, the management's discussion and analysis section of this report focuses on the financial condition and results of operations of Holdings but contains an explanation of any differences, if applicable, between the two companies.

Overview

XM Satellite Radio Inc. was incorporated in Delaware in 1992 as a wholly-owned subsidiary of Motient Corporation, formerly American Mobile Satellite Corporation. XM Satellite Radio Holdings Inc. became a holding company for XM Satellite Radio Inc. in early 1997.

We are in the development stage. Since our inception in December 1992, we have devoted our efforts to establishing and commercializing the XM Radio system. Our activities were fairly limited until 1997, when we pursued and obtained regulatory approval from the FCC to provide satellite radio service. Our principal activities to date have included

- . designing and developing the XM Radio system;
- . negotiating contracts with satellite and launch vehicle operators, specialty programmers, radio manufacturers and car manufacturers;
- . developing technical standards and specifications;
- . conducting market research; and
- . securing financing for working capital and capital expenditures.

We have raised \$1.3 billion to date, which is described under the heading "Liquidity and Capital Resources--Funds Raised for Period Through Commencement of Commercial Operations." We have incurred substantial losses to date and expect to continue to incur significant losses for the foreseeable future as we continue to design, develop and deploy the XM Radio system and for some period following our commencement of commercial operations.

We intend to capitalize all costs related to our satellite contract and our FCC license, including all applicable interest. These capitalized costs will be depreciated over the estimated useful lives of the satellites and ground control stations. Depreciation of our satellites will commence upon in-orbit delivery. Depreciation of our satellite control facilities and terrestrial repeaters and the amortization of our FCC license will commence upon commercial operations.

After we begin commercial operations, which we are targeting for the summer of 2001, we anticipate that our revenues will consist primarily of customers' subscription fees and advertising revenues.

#### Results of Operations

Year Ended December 31, 2000 Compared to Year Ended December 31, 1999

##### XM Satellite Radio Holdings Inc. and Subsidiaries

**Research and Development.** Research and development expenses increased to approximately \$7.4 million in 2000, compared with approximately \$4.3 million in 1999. The increase in the research and development expenses primarily resulted from increased activity relating to our system technology development, including chipset design and uplink technology, in 2000.

**Professional Fees.** Professional fees increased to approximately \$22.8 million in 2000, compared with \$10.0 million in 1999. The increase primarily reflects additional services of consultants, including incurring \$11.3 million for software selection and workflow process development. We expect the professional fees to trend upward as we continue to develop marketing strategies.

**General and Administrative.** General and administrative expenses increased to \$49.2 million in 2000, compared with \$16.4 million in 1999. The increase reflects increased headcount, facilities and sales and marketing expenses. We have granted certain key executives stock options and incurred a non-cash compensation charge of approximately \$1.5 million in 2000 primarily for performance-based stock options. We also recorded non-cash compensation charges of approximately \$1.2 million during 2000 relating to options repriced in 1999. We also continued the amortization of goodwill and other intangibles during 2000. We anticipate general and administrative expenses to continue to increase through commercial operations.

**Interest Income.** Interest income increased to \$27.6 million in 2000, compared with \$2.9 million in 1999. The increase was the result of higher average balances of cash and cash equivalents in 2000, due to the proceeds from the private placement of 14% senior secured notes and warrants, the public offerings of Class A common stock and Series B convertible redeemable preferred stock and the private placement of Series C convertible redeemable preferred stock, all in the first nine months of 2000, which exceeded expenditures for satellite and launch vehicle construction, other capital expenditures and operating expenses.

**Interest Expense.** We incurred interest costs of \$39.1 and \$24.4 million in 2000 and 1999, respectively. We capitalized interest costs of \$39.1 million and \$15.3 million associated with our FCC license and the XM Radio system in 2000 and 1999, respectively. The increase in interest costs was the result of the incurrence of new debt during the first quarter of 2000, which exceeded the reduction in interest due to the conversion of all debt into equity in the fourth quarter of 1999. Further, the interest capitalization threshold was exceeded in 1999.

**Net Loss.** The net loss for 2000 and 1999 was \$51.9 million and \$36.9 million, respectively. The increase in net losses in 2000 compared with 1999 reflects increases in research and development and professional fees expenses, and additional general and administration expenses, primarily due to increased headcount, facility, and sales and marketing expenses in preparation for commercial operations and the amortization of goodwill and intangibles.

#### XM Satellite Radio Inc. and Subsidiaries

The results of operations for XM and its subsidiaries were substantially the same as the results for Holdings and its subsidiaries discussed above for 2000. In 1999, XM recognized \$2.4 million less interest income due to the timing of capital contributions from Holdings and substantially less interest expense as Holdings' \$5.5 million charge to interest for the beneficial conversion feature of the new Motient note and Holdings' exceeding its capitalization threshold by \$3.6 million were not allocated to XM.

Year Ended December 31, 1999 Compared to Year Ended December 31, 1998

#### XM Satellite Radio Holdings Inc and Subsidiaries

**Research and Development.** Research and development expenses decreased to \$4.3 million in 1999, compared with \$6.9 million in 1998. The decrease in research and development expenses resulted from the completion of the development of some of our system technology during 1998.

**Professional Fees.** Professional fees increased to approximately \$10.0 million in 1999, compared with \$5.2 million in 1998. The increase primarily reflects additional legal, regulatory and marketing expenses.

**General and Administrative.** General and administrative expenses increased to \$16.4 million in 1999, compared with \$4.0 million in 1998. The increase primarily reflects increased headcount and facility expenses to begin program management and operations. We also commenced the amortization of our goodwill and intangibles resulting from Motient's acquisition of a former investor's interest in us during 1999. We have granted certain key executives stock options and incurred a non-cash compensation charge of approximately \$4.1 million in the fourth quarter of 1999 primarily for performance-based stock options. We will continue to incur quarterly non-cash compensation charges over the vesting period depending on the market value of our Class A common stock.

**Interest Income.** Interest income increased to \$2.9 million in 1999, compared with 1998, which was insignificant. The increase was the result of higher average balances of cash and short-term investments during 1999 due to the proceeds from the issuance of Series A convertible notes in the third quarter of 1999 exceeding the amounts of expenditures for satellite and launch vehicle construction, other capital expenditures and operating expenses.

**Interest Expense.** As of December 31, 1999 and 1998, we owed \$0 and \$140.2 million, respectively, including accrued interest, under various debt agreements which we entered into for the purpose of financing the XM Radio system. Our capitalized interest costs were \$15.3 million and \$11.8 million associated with our FCC license and the XM Radio system during 1999 and 1998, respectively. We expensed interest costs of \$9.1 million and \$0 during 1999 and 1998, respectively. We incurred a one-time \$5.5 million charge to interest due to the beneficial conversion feature of the new Motient note. We also exceeded our interest capitalization threshold by \$3.6 million.

**Net Loss.** The net loss for 1999 and 1998 was \$36.9 million and \$16.2 million, respectively. The increase in net losses for 1999, compared with 1998, primarily reflects an increase in net interest expense as discussed above and additional general and administration expenses, primarily due to increased headcount and facility expenses, in preparation for commercial operations and the commencement of amortization of goodwill and intangibles.

#### XM Satellite Radio Inc. and Subsidiaries

The results of operations for XM and its subsidiaries were substantially the same as the results for Holdings and its subsidiaries discussed above; except that in 1999, XM recognized \$2.4 million less interest income due to the timing of capital contributions from Holdings and substantially less interest expense as Holdings' \$5.5 million charge to interest for the beneficial conversion feature of the new Motient note and Holdings' exceeding its capitalization threshold by \$3.6 million were not allocated to XM.

## Liquidity and Capital Resources

At December 31, 2000, we had a total of cash and cash equivalents of \$224.9 million, which excludes \$95.3 million of current restricted investments, and working capital of \$261.2 million. Giving effect to the concurrent offerings detailed below, as of March 6, 2001, we had cash and cash equivalents of \$417.6 million, which excludes \$95.3 million of current restricted investments, and working capital of \$453.9 million on a pro forma basis. By comparison, cash, cash equivalents and short-term investments were \$120.2 million and working capital equaled \$94.7 million at December 31, 1999. The increases in the respective balances are due primarily to the proceeds from the financings described below.

### Funds Raised for Period Through Commencement of Commercial Operations

Since inception, we have raised an aggregate of \$1.3 billion, net of expenses, interest reserve and repayment of debt. These funds are expected to be sufficient, in the absence of additional financing, to cover funding needs through commencement of commercial operations in the summer of 2001 and into 2002. These funds have been used to acquire our FCC license, make required payments for our system, including the satellites, terrestrial repeater system, and ground networks, and for working capital and operating expenses.

**Sources of Funds.** Of the \$1.3 billion raised to date, approximately \$167.0 million, excluding the Class A common stock acquired by Motient Corporation as part of our initial public offering, has been raised through the issuance of equity to, and receipt of loans from, Motient Corporation and a former stockholder. Of this amount, approximately \$90.7 million and \$46.0 million was raised in 1997 and 1998, respectively, and \$30.3 million was raised in January 1999.

In July 1999, we issued \$250.0 million of Series A subordinated convertible notes to six strategic and financial investors--General Motors, \$50.0 million; Clear Channel Communications, \$75.0 million; DIRECTV, \$50.0 million; and Columbia Capital, Telcom Ventures, L.L.C. and Madison Dearborn Partners, \$75.0 million in the aggregate. Using part of the proceeds from the issuance of the Series A subordinated convertible notes, we paid a former stockholder \$75.0 million in July 1999 to redeem an outstanding loan. We incurred fees and expenses totaling \$11.3 million in connection with these transactions.

In October 1999, we completed an initial public offering which yielded net proceeds of \$114.1 million. Concurrent with the closing of our initial public offering, \$250.0 million of our Series A subordinated convertible notes, together with associated accrued interest, converted into shares of our Series A convertible preferred stock and shares of our Class A common stock. Additionally, \$103.3 million of convertible notes issued to Motient by us, together with associated accrued interest, converted into shares of our Class B common stock.

During the fiscal year ended December 31, 2000:

- . We completed a follow-on offering of 4,370,000 shares of Class A common stock, yielding net proceeds of \$132.1 million;
- . We completed a concurrent offering of 2,000,000 shares of our Series B convertible redeemable preferred stock, which yielded net proceeds of \$96.5 million;
- . We completed a private placement of 325,000 units, each consisting of \$1,000 principal amount of 14% senior secured notes due 2010 of XM, and one warrant to purchase 8.024815 shares of our Class A common stock at \$49.50 per share that provided net proceeds of \$191.5 million excluding \$123.0 million for an interest reserve; and
- . We closed a private offering of 235,000 shares of our Series C convertible redeemable preferred stock, which yielded net proceeds of approximately \$226.8 million. We recorded a \$123.0 million beneficial conversion charge that reduced earnings available to common stockholders. The issuance of the Series C preferred stock also caused the exercise price of the warrants sold in March 2000 to be adjusted to \$47.94 and the number of warrant shares to be increased to 8.285948 per warrant.

Following the end of the fiscal year ended December 31, 2000, in March 2001, we completed a follow-on offering of 7,500,000 shares of Class A common stock, which yielded net proceeds of \$72.0 million, and a concurrent offering of 7.75% convertible subordinated notes due 2006, convertible into shares of our Class A common stock at \$12.23 per share, which yielded net proceeds of \$120.7 million. These issuances caused the conversion price of the Series C preferred stock to be adjusted from \$26.50 to \$22.93 and the exercise price of the warrants sold in March 2000 to be adjusted to \$45.27 and the number of warrant shares to be increased to 8.776003 per warrant.

Through December 31, 2000, the proceeds from these offerings were contributed by Holdings to XM except for \$21,712,000 which remains at Holdings.

Uses of Funds. Of the approximately \$1.3 billion of funds raised to date, as of December 31, 2000, we have paid \$765.1 million in capital expenditures, including approximately \$90.0 million for our FCC licence which has been paid for in full, and incurred \$127.5 million in operating expenses.

Satellite Contract. Under our satellite contract, Boeing Satellite Systems International, Inc. (formerly Hughes Space and Communications, Inc.) will deliver two satellites in orbit and is to complete construction of a ground spare satellite. Boeing will also provide ground equipment and software to be used in the XM Radio system and certain launch and operations support services. We expect that by commencement of commercial operations in the summer of 2001, we will have had to pay an aggregate amount of approximately \$472.6 million for these items. This amount does not include incentive payments, which will depend in part on projected satellite performance at the acceptance date. Such payments could total up to an additional \$68.7 million over the useful lives of the satellites. As of December 31, 2000, we had paid approximately \$466.0 million under our satellite contract and have recognized an additional \$1.6 million in accrued milestone payments.

Launch Insurance. We expect that launch insurance for both satellites will cost approximately \$50.0 million. As of December 31, 2000, we had paid \$24.2 million with respect to launch insurance.

Terrestrial Repeater System. Based on the current design of the XM Radio system and existing contracts, we estimate that through our expected commencement of operations in the summer of 2001 we will incur aggregate costs of approximately \$258.0 million for a terrestrial repeater system. We expect these costs to cover the capital cost of the design, development and installation of a system of terrestrial repeaters to cover approximately 70 cities and metropolitan areas. As of December 31, 2000, we had incurred costs with respect to the terrestrial repeater buildout of \$84.7 million. In August 1999, we signed a contract with LCC International, Inc., a related party, that presently calls for payments of approximately \$107.5 million for engineering and site preparation. As of December 31, 2000, we had paid \$50.2 million under this contract and accrued an additional \$15.1 million. We have also engaged other companies to perform site preparation services. We also entered into a contract effective October 22, 1999, with Hughes Electronics Corporation for the design, development and manufacture of the terrestrial repeaters. Payments under this contract are expected to be approximately \$128.0 million. As of December 31, 2000, we had paid \$15.4 million under this contract.

Ground Segment. Based on the design of the XM Radio system, available research and existing contracts, we expect to incur aggregate ground segment costs through the expected commencement of operations in the summer of 2001 of approximately \$65.9 million. We expect these costs will cover the satellite control facilities, programming production studios and various other equipment and facilities. As of December 31, 2000, we had incurred \$47.5 million with respect to the ground segment.

FCC License. In October 1997, we received one of two satellite radio licenses issued by the FCC. We have paid approximately \$90.0 million for this license, including the initial bid right. There are no further payments required relating to the license.

Operating Expenses. From inception through December 31, 2000, we have incurred total operating expenses of \$127.5 million.

Joint Development Agreement Funding Requirements. We may require additional funds to pay license fees or make contributions towards the development of the technologies used to develop a unified standard for satellite radios under our joint development agreement with Sirius Radio. Each party is obligated to fund one half of the development cost for such technologies. Each party will be entitled to license fees or a credit towards its one half of the cost based upon the validity, value, use, importance and available alternatives of the technology it contributes. In our discussions we have yet to agree on the validity, value, use, importance and available alternatives of our respective technologies. If we fail to reach agreement, the fees or credits may be determined through binding arbitration. We cannot predict at this time the amount of license fees or contribution payable by us or Sirius Radio or the size of the credits to us and Sirius Radio from the use of the other's technology. This may require significant additional capital.

#### Funds Required Following Commencement of Commercial Operations

We expect to need significant additional funds following commencement of commercial operations to cover our cash requirements before we generate sufficient cash flow from operations to cover our expenses. We estimate that our existing resources, including proceeds of offerings concluded in March 2001, would be sufficient in the absence of additional financing to cover our estimated funding needs into 2002, including funding needs of \$150-\$175 million required through the end of 2001 to be used for marketing, system operating expenses and general corporate purposes. After 2001, we anticipate that we will need an additional \$250-\$300 million through 2002, and we will require additional funding thereafter. These amounts are estimates, and may change, and we may need additional financing in excess of these estimates. Funds will be needed to cover operating expenses, marketing and promotional expenses including an extensive marketing campaign in connection with the launch of our service, distribution expenses, programming costs and any further development of the XM Radio system that we may undertake after operations commence. Marketing and distribution expenses are expected to include joint advertising and joint development with and manufacturing subsidies of certain costs of some of our manufacturers and distribution partners. We cannot estimate the total amount of these operational, promotional, subscriber acquisition, joint development and manufacturing costs and expenses, since they vary depending upon different criteria, but they are expected to be substantial.

We will have significant payment obligations after commencement of operations under our distribution agreement with General Motors. We will pay an aggregate of approximately \$35 million in the first four years following commencement of commercial service. After that, through 2009, we will have additional fixed annual payments ranging from less than \$35 million to approximately \$130 million, aggregating approximately \$400 million. In order to encourage the broad installation of XM radios, we have agreed to subsidize a portion of the cost of XM radios and to make incentive payments to General Motors when the owners of General Motors vehicles with installed XM radios become subscribers for the XM Radio service. We must also share with General Motors a percentage of the subscription revenue attributable to General Motors vehicles with installed XM radios. This percentage increases until there are more than eight million General Motors vehicles with installed XM radios. This agreement is subject to renegotiation if General Motors does not achieve and maintain specified installation levels, starting with 1.24 million units after four years and thereafter increasing by the lesser of 600,000 units per year and amounts proportionate to our share of the satellite digital radio market.

We currently expect to satisfy our funding requirements for the period following commencement of commercial operations by selling debt or equity securities and by obtaining loans or other credit lines from banks or other financial institutions. If we are successful in raising additional financing, we anticipate that a significant portion of the financing will consist of debt. We are actively considering possible financings, and because of our substantial capital needs we may consummate one or more financings at any time.

We may not be able to raise any funds or obtain loans on favorable terms or at all. Our ability to obtain the required financing depends on several factors, including future market conditions; our success or lack of

success in developing, implementing and marketing our satellite radio service; our future creditworthiness; and restrictions contained in agreements with our investors or lenders. If we fail to obtain any necessary financing on a timely basis, a number of adverse effects could occur. We could default on our commitments to creditors or others and may have to discontinue operations or seek a purchaser for our business or assets.

#### Recent Accounting Pronouncements

In March 2000, the Financial Accounting Standards Board issued FASB Interpretation No. 44, Accounting for Certain Transactions Involving Stock Compensation ("FIN 44"). FIN 44 further defines the accounting consequences of various modifications to the terms of a previously fixed stock option or award under APB Opinion No. 25, Accounting for Stock Issued to Employees. FIN 44 became effective on July 1, 2000, but certain conclusions in FIN 44 cover specific events that occur after either December 15, 1998 or January 12, 2000. In July 1999, we repriced 818,339 options and FIN 44 requires that these options be accounted for as variable from July 1, 2000 until the date the award is exercised, is forfeited, or expires unexercised. For those options that have vested as of July 1, 2000, compensation cost is recognized only to the extent that the exercise price exceeds the stock price on July 1, 2000. For those options that have not vested as of July 1, 2000, the portion of the award's intrinsic value measured at July 1, 2000 is recognized over the remaining vesting period. Additional compensation cost is measured for the full amount of any increases in stock price after the effective date and is recognized over the remaining vesting period. Any adjustment to compensation cost for further changes in the stock price after the award vests is recognized immediately. The effects of implementing FIN 44 required us to recognize additional non-cash compensation of \$1.2 million during the fiscal year ended December 31, 2000.

In June 1998, the FASB issued SFAS No. 133, Accounting for Derivative Instruments and Hedging Activities. In June 2000, the FASB issued SFAS No. 138, Accounting for Certain Derivative Instruments and Certain Hedging Activity, An Amendment of SFAS 133. SFAS No. 133 and SFAS No. 138 require that all derivative instruments be recorded on the balance sheet at their respective fair values. SFAS No. 133 and SFAS No. 138 are effective for all fiscal quarters of all fiscal years beginning after 2000; we adopted SFAS No. 133 and SFAS No. 138 on January 1, 2001. We have reviewed our contracts and determined that we have no derivative instruments and do not engage in hedging activities.

#### ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As of December 31, 2000, we do not have any derivative financial instruments and do not intend to use derivatives. We invest our cash in short-term commercial paper and investment-grade corporate and government obligations and money market funds. Our long-term debt includes a fixed interest rate and the fair market value of the debt is sensitive to changes to interest rates. We run the risk that market rates will decline and the required payments will exceed those based on current market rates. Under our current policies, we do not use interest rate derivative instruments to manage our exposure to interest rate fluctuations. Additionally, we believe that our exposure to interest rate risk is not material to our results of operations.

#### ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The consolidated financial statements of XM Satellite Radio Holdings Inc., including consolidated balance sheets as of December 31, 1999 and 2000, and consolidated statements of operations, consolidated statements of stockholders' equity (deficit) and consolidated statements of cash flows for the three-year period ended December 31, 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000 and notes to the consolidated financial statements, together with a report thereon of KPMG LLP, dated February 9, 2001, are attached hereto as pages F-1 through F-26.

The consolidated financial statements of XM Satellite Radio Inc., including consolidated balance sheets as of December 31, 1999 and 2000, and consolidated statements of operations, consolidated statements of

stockholder's equity and consolidated statements of cash flows for the three-year period ended December 31, 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000 and notes to the consolidated financial statements, together with a report thereon of KPMG LLP, dated February 9, 2001, are attached hereto as pages F-27 through F-47.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANTS

The information is incorporated herein by reference to Holdings' definitive 2001 Proxy Statement. Holdings and XM have the same directors and executive officers.

ITEM 11. EXECUTIVE COMPENSATION

The information is incorporated herein by reference to Holdings' definitive 2001 Proxy Statement.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The information is incorporated herein by reference to Holdings' definitive 2001 Proxy Statement.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information is incorporated herein by reference to Holdings' definitive 2001 Proxy Statement.

PART IV

ITEM 14. EXHIBITS, CONSOLIDATED FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K

(a) (1) The following Consolidated Financial Statements of and report of independent public accountants for XM Satellite Radio Holdings Inc. are included in Item 8 of this Form 10-K:

Report of Independent Auditors.

Consolidated Balance Sheets as of December 31, 1999 and 2000.

Consolidated Statements of Operations for the years ended December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000.

Consolidated Statements of Stockholders' Equity (Deficit) for the years ended December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000.

Consolidated Statements of Cash Flows for the years ended December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000.

Notes to Consolidated Financial Statements.

The following Consolidated Financial Statements of and report of independent public accountants for XM Satellite Radio Inc. are included in Item 8 of this Form 10-K:

Report of Independent Auditors.

Consolidated Balance Sheets as of December 31, 1999 and 2000.

Consolidated Statements of Operations for the years ended December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000.

Consolidated Statements of Stockholder's Equity for the years ended December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000.

Consolidated Statements of Cash Flows for the years ended December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000.

Notes to Consolidated Financial Statements.

(a) (2) The following consolidated financial statement schedules are filed as part of this report and attached hereto on pages S-1 through S-4:

Schedule I--Valuation and Qualifying Accounts.

All other schedules for which provision is made in the applicable accounting regulations of the Commission either have been included in the Consolidated Financial Statements of XM Satellite Radio Holdings Inc. or the notes thereto, the Consolidated Financial Statements of XM Satellite Radio Inc. or the notes thereto, are not required under the related instructions or are inapplicable, and therefore have been omitted.

(a) (3) The following exhibits are either provided with this Form 10-K or are incorporated herein by reference:

EXHIBIT INDEX

Exhibit No. -----	Description -----
3.1+	Restated Certificate of Incorporation of XM Satellite Radio Holdings Inc.
3.2+	Restated Bylaws of XM Satellite Radio Holdings Inc.
3.3	Restated Certificate of Incorporation of XM Satellite Radio Inc. (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).
3.4	Amended and Restated Bylaws of XM Satellite Radio Inc. (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).
4.1	Form of Certificate for Holdings' Class A common stock (incorporated by reference to Exhibit 3 to Holdings' Registration Statement on Form 8-A, filed with the SEC on September 23, 1999).
4.2	Form of Certificate for Holdings' 8.25% Series B Convertible Redeemable Preferred Stock (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-93529).
4.3	Certificate of Designation Establishing the Voting Powers, Designations, Preferences, Limitations, Restrictions and Relative Rights of 8.25% Series B Convertible Redeemable Preferred Stock due 2012 (incorporated by reference to Holdings' Annual Report on Form 10-K for the fiscal year ended December 31, 1999, filed with the SEC on March 16, 2000).
4.4	Warrant to purchase shares of Holdings' Class A common stock, dated February 9, 2000, issued to Sony Electronics, Inc. (incorporated by reference to Holdings' quarterly report on Form 10-Q for the quarter ended March 31, 2000, filed with the SEC on May 12, 2000).
4.5	Warrant Agreement, dated March 15, 2000, between XM Satellite Radio Holdings Inc. as Issuer and United States Trust Company of New York as Warrant Agent (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-39176).
4.6	Warrant Registration Rights Agreement, dated March 15, 2000, between XM Satellite Radio Holdings Inc. and Bear, Stearns & Co., Inc., Donaldson, Lufkin and Jenrette Securities Corporation, Salomon Smith Barney Inc. and Lehman Brothers Inc. (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-39176).
4.7	Form of Warrant (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-39176).
4.8	Certificate of Designation Establishing the Powers, Preferences, Rights, Qualifications, Limitations and Restrictions of the 8.25% Series C Convertible Redeemable Preferred Stock due 2012 (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-39176).
4.9	Form of Certificate for Holdings' 8.25% Series C Convertible Redeemable Preferred Stock (incorporated by reference to the Registrant's Registration Statement on Form S-1, File No. 333-39176).
4.10	Indenture, dated as of March 15, 2000, between XM Satellite Radio Inc. and United States Trust Company of New York (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).
4.11	Registration Rights Agreement, dated March 15, 2000, between XM Satellite Radio Inc. and Bear, Stearns & Co. Inc., Donaldson, Lufkin and Jenrette Securities Corporation, Salomon Smith Barney Inc. and Lehman Brothers Inc. (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).

Exhibit No. -----	Description -----
4.12	Form of 14% Senior Secured Note of XM Satellite Radio Inc. (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).
4.13	Security Agreement, dated March 15, 2000, between XM Satellite Radio Inc. and United States Trust Company of New York (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).
4.14	Pledge Agreement, dated March 15, 2000, between XM Satellite Radio Inc. and United States Trust Company of New York (incorporated by reference to XM's Registration Statement on Form S-4, File No. 333-39178).
4.15	Indenture, dated March 6, 2001, between XM Satellite Radio Holdings Inc. and United States Trust Company of New York.
4.16	Form of 7.75% convertible subordinated note of Holdings.
10.1	Amended and Restated Shareholders' Agreement, dated as of August 8, 2000, by and among XM Satellite Radio Holdings Inc., Motient Corporation, Baron Asset Fund, Baron iOpportunity Fund, Baron Capital Asset Fund, Clear Channel Investments, Inc., Columbia XM Radio Partners, LLC, Columbia Capital Equity Partners III (QP), L.P., Columbia XM Satellite Partners III, LLC, DIRECTV Enterprises, Inc., General Motors Corporation, Madison Dearborn Capital Partners III, L.P., Special Advisors Fund I, LLC, Madison Dearborn Special Equity III, L.P., American Honda Motor Co., Inc. and Telcom-XM Investors, L.L.C. (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-39176).
10.2	Amended and Restated Registration Rights Agreement, dated as of August 8, 2000, by and among XM Satellite Radio Holdings Inc., Motient Corporation, Baron Asset Fund, Baron iOpportunity Fund, Baron Capital Asset Fund, Clear Channel Investments, Inc., Columbia XM Radio Partners, LLC, Columbia Capital Equity Partners III (QP), L.P., Columbia XM Satellite Partners III, LLC, DIRECTV Enterprises, Inc., General Motors Corporation, Madison Dearborn Capital Partners III, L.P., Special Advisors Fund I, LLC, Madison Dearborn Special Equity III, L.P., American Honda Motor Co., Inc. and Telcom-XM Investors, L.L.C. (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-39176).
10.3+	Note Purchase Agreement, dated June 7, 1999, by and between XM Satellite Radio Holdings Inc., XM Satellite Radio Inc., Clear Channel Communications, Inc., DIRECTV Enterprises, Inc., General Motors Corporation, Telcom-XM Investors, L.L.C., Columbia XM Radio Partners, LLC, Madison Dearborn Capital Partners III, L.P., Madison Dearborn Special Equity III, L.P., and Special Advisors Fund I, LLC (including form of Series A subordinated convertible note of XM Satellite Radio Holdings Inc. attached as Exhibit A thereto).
10.4+*	Technology Licensing Agreement by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., WorldSpace Management Corporation and American Mobile Satellite Corporation, dated as of January 1, 1998, amended by Amendment No 1 to Technology Licensing Agreement, dated June 7, 1999.
10.5+*	Technical Services Agreement between XM Satellite Radio Holdings Inc. and American Mobile Satellite Corporation, dated as of January 1, 1998, as amended by Amendment No. 1 to Technical Services Agreement, dated June 7, 1998.
10.6+*	Satellite Purchase Contract for In-Orbit Delivery, by and between XM Satellite Radio Inc. and Hughes Space and Communications International Inc., dated July 21, 1999.
10.7+*	Amended and Restated Agreement by and between XM Satellite Radio Inc. and STMicroelectronics Srl, dated September 27, 1999.

Exhibit No. -----	Description -----
10.8+*	Distribution Agreement, dated June 7, 1999, between OnStar, a division of General Motors Corporation, and XM Satellite Radio Inc.
10.9+*	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and DIRECTV, INC.
10.10+*	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and Clear Channel Communication, Inc.
10.11+*	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and TCM, LLC.
10.12+	Agreement, dated as of July 16, 1999, between XM Satellite Radio Holdings Inc. and Gary Parsons.
10.13+	Employment Agreement, dated as of June 1, 1998, between XM Satellite Radio Holdings Inc and Hugh Panero.
10.14+	Intentionally Omitted.
10.15+	Form of Letter Agreement with Senior Vice Presidents.
10.16+	Intentionally Omitted.
10.17+	Form of Indemnification Agreement between XM Satellite Radio Holdings Inc. and each of its directors and executive officers.
10.18	1998 Shares Award Plan (incorporated by reference to Holdings' Registration Statement on Form S-8, File No. 333-42590).
10.19+	Form of Employee Non-Qualified Stock Option Agreement.
10.20+*	Firm Fixed Price Contract #001 between XM Satellite Radio Inc. and the Fraunhofer Gesellschaft zur Foderung Der angewandten Forschung e.V., dated July 16, 1999.
10.21+*	Contract for Engineering and Construction of Terrestrial Repeater Network System by and between XM Satellite Radio Inc. and LCC International, Inc., dated August 18, 1999.
10.22	Employee Stock Purchase Plan (incorporated by reference to Holdings' Registration Statement on Form S-8, File No. 333-92049).
10.23+	Non-Qualified Stock Option Agreement between Gary Parsons and XM Satellite Radio Holdings Inc., dated July 16, 1999.
10.24+	Non-Qualified Stock Option Agreement between Hugh Panero and XM Satellite Radio Holdings Inc., dated July 1, 1998, as amended.
10.25+	Form of Director Non-Qualified Stock Option Agreement.
10.26+	Lease between Consortium One Eckington, L.L.C. and XM Satellite Radio Inc., dated September 29, 1999.
10.27	Letter Agreement with Stephen Cook dated January 12, 1999 (incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-93529).
10.28*	Contract for the Design, Development and Purchase of Terrestrial Repeater Equipment by and between XM Satellite Radio Inc and Hughes Electronics Corporation, dated February 14, 2000 (incorporated by reference to Holdings' Annual Report on Form 10-K for the fiscal year ended December 31, 1999, filed with the SEC on March 16, 2000).
10.29*	Joint Development Agreement, dated February 16, 2000, between XM Satellite Radio Inc. and Sirius Satellite Radio Inc. (incorporated by reference to the Holdings' quarterly report on Form 10-Q for the quarter ended March 31, 2000, filed with the SEC on May 12, 2000)



Exhibit No.	Description
----------------	-------------

21.1 Subsidiaries of XM Satellite Radio Holdings Inc.

23.1 Consent of KPMG LLP.

- 
- + Incorporated by reference to Holdings' Registration Statement on Form S-1, File No. 333-83619.
  - \* Pursuant to the Commission's Orders Granting Confidential Treatment under Rule 406 of the Securities Act of 1933 or Rule 24(b)-2 under the Securities Exchange Act of 1934, certain confidential portions of this Exhibit were omitted by means of redacting a portion of the text.

(b) Reports on Form 8-K.

On January 16, 2001, Holdings filed a Current Report on Form 8-K that reported the issuance of a press release announcing a satellite launch delay. Holdings filed the press release as an exhibit.

On February 22, 2001, Holdings filed a Current Report on Form 8-K that contained audited, consolidated financial statements substantially the same as those contained herein. Holdings also filed certain other information that it deemed of importance to its stockholders.

On March 1, 2001, Holdings filed a Current Report on Form 8-K that contained certain exhibits in connection with its offerings of Class A common stock and convertible subordinated notes.

(c) Exhibits.

XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. hereby file as part of this Form 10-K the Exhibits listed in the Index to Exhibits.

(d) Consolidated Financial Statement Schedule.

The following consolidated financial statement schedule is filed herewith for each of Holdings and XM:

Schedule I--Valuation and Qualifying Accounts.

Schedules not listed above have been omitted because they are inapplicable or the information required to be set forth therein is provided in the Consolidated Financial Statements of XM Satellite Radio Holdings Inc. or notes thereto and XM Satellite Radio Inc. or notes thereto.



## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

XM SATELLITE RADIO INC.

/s/ Hugh Panero

By: \_\_\_\_\_  
 Hugh Panero  
 President and Chief Executive  
 Officer

Date: March 14, 2001

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons in the capacities and on the dates indicated:

Signature -----	Title -----	Date ----
/s/ Hugh Panero _____ Hugh Panero	President, Chief Executive Officer and Director (Principal Executive Officer)	March 14, 2001
/s/ Heinz Stubblefield _____ Heinz Stubblefield	Senior Vice President, Chief Financial Officer (Principal Financial and Accounting Officer)	March 14, 2001
/s/ Gary M. Parsons _____ Gary M. Parsons	Chairman of the Board of Directors	March 14, 2001
/s/ Nathaniel A. Davis _____ Nathaniel A. Davis	Director	March 14, 2001
_____ Thomas J. Donohue	Director	, 2001
/s/ Randall T. Mays _____ Randall T. Mays	Director	March 14, 2001
/s/ Pierce J. Roberts, Jr. _____ Pierce J. Roberts, Jr.	Director	March 14, 2001
/s/ Randy S. Segal _____ Randy S. Segal	Director	March 14, 2001
/s/ Jack Shaw _____ Jack Shaw	Director	March 14, 2001
/s/ Dr. Rajendra Singh _____ Dr. Rajendra Singh	Director	March 14, 2001
/s/ Ronald L. Zarrella _____ Ronald L. Zarrella	Director	March 14, 2001

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

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XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

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INDEPENDENT AUDITORS' REPORT

To the Board of Directors and Stockholders  
XM Satellite Radio Holdings Inc. and Subsidiaries:

We have audited the accompanying consolidated balance sheets of XM Satellite Radio Holdings Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000, and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of XM Satellite Radio Holdings Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2000 and for the period from December 15, 1992 (date of inception) to December 31, 2000, in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in note 10 to the consolidated financial statements, the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. Management's plan in regard to these matters is also described in note 10. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

McLean, VA  
February 9, 2001

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED BALANCE SHEETS  
December 31, 1999 and 2000

ASSETS

	1999	2000
	(in thousands, except share data)	
<b>Current assets:</b>		
Cash and cash equivalents.....	\$ 50,698	\$ 224,903
Short-term investments.....	69,472	--
Restricted investments.....	--	95,277
Prepaid and other current assets.....	1,077	8,815
<b>Total current assets.....</b>	<b>121,247</b>	<b>328,995</b>
<b>Other assets:</b>		
Restricted investments, net of current portion.....	--	65,889
System under construction.....	362,358	805,563
Property and equipment, net of accumulated depreciation and amortization of \$347 and \$2,337.....	2,551	59,505
Goodwill and intangibles, net of accumulated amortization of \$1,220 and \$2,599.....	25,380	24,001
Other assets, net of accumulated amortization of \$0 and \$672.....	3,653	9,265
<b>Total assets.....</b>	<b>\$515,189</b>	<b>\$1,293,218</b>

LIABILITIES AND STOCKHOLDERS' EQUITY

<b>Current liabilities:</b>		
Accounts payable.....	\$ 23,338	\$ 47,159
Accrued expenses.....	1,514	4,645
Due to related party.....	62	63
Accrued interest on senior secured notes.....	--	13,397
Royalty payable.....	1,646	2,565
<b>Total current liabilities.....</b>	<b>26,560</b>	<b>67,829</b>
Senior secured notes, net of discount amortization of \$0 and \$2,044.....	--	261,298
Royalty payable, net of current portion.....	3,400	2,600
Capital lease, net of current portion.....	212	1,367
Other non-current liabilities.....	--	4,172
<b>Total liabilities.....</b>	<b>30,172</b>	<b>337,266</b>
<b>Stockholders' equity:</b>		
Series A convertible preferred stock, par value \$0.01 (liquidation preference of \$102,688,000); 15,000,000 shares authorized, 10,786,504 shares issued and outstanding at December 31, 1999 and 2000.....	108	108
Series B convertible redeemable preferred stock, par value \$0.01 (liquidation preference of \$43,364,000); 3,000,000 shares authorized, no shares and 867,289 shares issued and outstanding at December 31, 1999 and 2000, respectively.....	--	9
Series C convertible redeemable preferred stock, par value \$0.01 (liquidation preference of \$244,277,000); 250,000 shares authorized, no shares and 235,000 shares issued and outstanding at December 31, 1999 and 2000, respectively.....	--	2
Class A common stock, par value \$0.01; 180,000,000 shares authorized, 26,465,333 and 34,073,994 shares issued and outstanding at December 31, 1999 and 2000, respectively.....	265	341
Class B common stock, par value \$0.01; 30,000,000 shares authorized, 17,872,176 and 16,557,262 shares issued and outstanding at December 31, 1999 and 2000, respectively.....	179	166
Class C common stock, par value \$0.01; 30,000,000 shares authorized, no shares issued and outstanding at December 31, 1999 and 2000.....	--	--
Additional paid-in capital.....	539,187	1,061,921
Deficit accumulated during development stage.....	(54,722)	(106,595)
<b>Total stockholders' equity.....</b>	<b>485,017</b>	<b>955,952</b>
Commitments and contingencies (notes 3, 10 and 11)		
<b>Total liabilities and stockholders' equity.....</b>	<b>\$515,189</b>	<b>\$1,293,218</b>

Source: XM SATELLITE RADIO H, 10-K, March 15, 2001

See accompanying notes to consolidated financial statements.

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XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF OPERATIONS  
Years Ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	1998	1999	2000	December 15, 1992 (date of inception) to December 31, 2000
(in thousands, except share data)				
Revenue.....	\$ --	\$ --	\$ --	\$ --
Operating expenses:				
Research and development.....	6,941	4,274	7,397	18,612
Professional fees.....	5,242	9,969	22,836	39,137
General and administrative.....	4,010	16,448	49,246	69,724
Total operating expenses.....	16,193	30,691	79,479	127,473
Operating loss.....	(16,193)	(30,691)	(79,479)	(127,473)
Other income (expense):				
Interest income.....	26	2,916	27,606	30,548
Interest expense.....	--	(9,121)	--	(9,670)
Net loss.....	\$ (16,167)	\$ (36,896)	\$ (51,873)	\$ (106,595)
8.25% Series B preferred stock dividend requirement.....	--	--	(5,935)	
8.25% Series C preferred stock dividend requirement.....	--	--	(9,277)	
Series B preferred stock deemed dividend.....	--	--	(11,211)	
Series C preferred stock beneficial conversion feature.....	--	--	(123,042)	
Net loss attributable to common stockholders.....	\$ (16,167)	\$ (36,896)	\$ (201,338)	
Net loss per share:				
Basic and diluted.....	\$ (2.42)	\$ (2.40)	\$ (4.15)	
Weighted average shares used in computing net loss per share-basic and diluted.....	6,689,250	15,344,102	48,508,042	

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)  
Years Ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	Series A Convertible Preferred Stock		Series B Convertible Redeemable Preferred Stock		Series C Convertible Redeemable Preferred Stock		Class A Common Stock		Class B Common Stock		Class C Common Stock		Additional Paid-in Capital
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	
	(in thousands, except share data)												
Issuance of common stock (December 15, 1992) . . . . .	--	\$ --	--	\$--	--	\$--	--	\$ --	100	\$ --	--	\$--	\$ --
Balance at December 31, 1992 . . . . .	--	--	--	--	--	--	--	--	100	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1993 . . . . .	--	--	--	--	--	--	--	--	100	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1994 . . . . .	--	--	--	--	--	--	--	--	100	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1995 . . . . .	--	--	--	--	--	--	--	--	100	--	--	--	--
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1996 . . . . .	--	--	--	--	--	--	--	--	100	--	--	--	--
Contributions to paid-in capital . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	143
Issuance of common stock and capital contributions Issuance of options . . . . .	--	--	--	--	--	--	--	--	25	--	--	--	9,000
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	1,500
Balance at December 31, 1997 . . . . .	--	--	--	--	--	--	--	--	125	--	--	--	10,643
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1998 . . . . .	--	--	--	--	--	--	--	--	125	--	--	--	10,643
53,514-for-one stock split . . . . .	--	--	--	--	--	--	--	--	6,689,125	67	--	--	(67)
Initial public offering . . . . .	--	--	--	--	--	--	10,241,000	102	--	--	--	--	114,032
Conversion of Series A convertible debt . . . . .	10,786,504	108	--	--	--	--	16,179,755	162	--	--	--	--	246,079
Conversion of subordinated convertible notes payable to related party . . . . .	--	--	--	--	--	--	--	--	11,182,926	112	--	--	106,843
Increase in FCC license, goodwill and intangibles . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	51,624
Charge for beneficial conversion feature of note issued to Parent . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	5,520
Issuance of shares to employees through stock option and purchase plans . . . . .	--	--	--	--	--	--	29,862	1	--	--	--	--	303
Non-cash stock compensation . . . . .	--	--	--	--	--	--	14,716	--	--	--	--	--	4,210
Net loss . . . . .	--	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 1999 . . . . .	10,786,504	108	--	--	--	--	26,465,333	265	17,872,176	179	--	--	539,187

	Deficit Accumulated	
	During Development Stage	Total Stockholders' Equity (Deficit)
Issuance of common stock (December 15, 1992) .. . . .	\$ --	\$ --
Balance at December 31, 1992 . . . . .	--	--
Net loss . . . . .	--	--
Balance at December 31, 1993... ..	--	--
Net loss . . . . .	--	--
Balance at December 31, 1994 .... .	--	--
Net loss..... .	--	--
Balance at December 31, 1995 .. . . .	--	--
Net loss..... .	--	--
Balance at December 31, 1996 .. . . .	--	--
Contributions to paid-in capital . . . . .	--	143
Issuance of common stock and capital contributions .. . . .	--	9,000
Issuance of options... ..	--	1,500
Net loss... ..	(1,659)	(1,659)
Balance at December 31, 1997..... .	(1,659)	8,984
Net loss. . . . .	(16,167)	(16,167)
Balance at December 31, 1998. . . . .	(17,826)	(7,183)
53,514-for-one stock split . . . . .	--	--
Initial public offering .. . . .	--	114,134
Conversion of Series A convertible debt... .. .	--	246,349
Conversion of subordinated convertible notes payable to related party.. . . .	--	106,955
Increase in FCC license, goodwill and intangibles. . . . .	--	51,624
Charge for beneficial conversion feature of note issued to Parent.. . . .	--	5,520
Issuance of shares to employees through stock option and purchase plans.. . . .	--	304
Non-cash stock compensation .. . . .	--	4,210
Net loss .... .	(36,896)	(36,896)
Balance at December 31, 1999. . . . .	(54,722)	485,017

(continued)

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT) (cont.)  
Years Ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	Series A Convertible Preferred Stock		Series B Convertible Redeemable Preferred Stock		Series C Convertible Redeemable Preferred Stock		Class A Common Stock		Class B Common Stock		Class C Common Stock	
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount
	(in thousands, except share data)											
Secondary public offering.....	--	\$ --	--	\$ --	--	\$--	4,370,000	\$ 44	--	\$ --	--	\$--
Sale of Series B convertible redeemable preferred stock.....	--	--	2,000,000	20	--	--	--	--	--	--	--	--
Sale of Series C convertible redeemable preferred stock.....	--	--	--	--	235,000	2	--	--	--	--	--	--
Incentivized conversion of Series B convertible redeemable preferred stock.....	--	--	(1,132,711)	(11)	--	--	1,700,016	17	--	--	--	--
Sale of warrants to purchase Class A common stock.....	--	--	--	--	--	--	--	--	--	--	--	--
Conversion of Class B common stock.....	--	--	--	--	--	--	1,314,914	13	(1,314,914)	(13)	--	--
Series B convertible redeemable preferred stock dividends.....	--	--	--	--	--	--	145,166	1	--	--	--	--
Issuance of shares to employees through stock option and purchase plans..	--	--	--	--	--	--	73,565	1	--	--	--	--
Non-cash stock compensation....	--	--	--	--	--	--	5,000	--	--	--	--	--
Net loss.....	--	--	--	--	--	--	--	--	--	--	--	--
Balance at December 31, 2000.....	10,786,504	\$108	867,289	\$ 9	235,000	\$ 2	34,073,994	\$341	16,557,262	\$166	--	\$--

Deficit Accumulated

	Additional Paid-in Capital	During Development Stage	Total Stockholders' Equity (Deficit)
Secondary public offering.....	\$ 132,026	\$ --	\$132,070
Sale of Series B convertible redeemable preferred stock.....	96,452	--	96,472
Sale of Series C convertible redeemable preferred stock.....	226,820	--	226,822
Incentivized conversion of Series B convertible redeemable preferred stock.....	(6)	--	--

Sale of warrants to purchase Class A common stock.....	63,536	--	63,536
Conversion of Class B common stock.....	--	--	--
Series B convertible redeemable preferred stock dividends.....	(1)	--	--
Issuance of shares to employees through stock option and purchase plans	1,164	--	1,165
Non-cash stock compensation....	2,743	--	2,743
Net loss..	--	(51,873)	(51,873)
	-----	-----	-----
Balance at December 31, 2000.....	\$1,061,921	\$(106,595)	\$955,952
	=====	=====	=====

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
Years Ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	1998	1999	2000	December 15, 1992 (date of inception) to December 31, 2000
(in thousands)				
<b>Cash flows from operating activities:</b>				
Net loss.....	\$(16,167)	\$(36,896)	\$(51,873)	\$(106,595)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization.....	57	1,478	3,369	4,936
Amortization of deferred financing fees.....	--	509	--	509
Non-cash stock compensation...	--	4,210	2,743	6,953
Non-cash charge for beneficial conversion feature of note issued to Parent.....	--	5,520	--	5,520
Changes in operating assets and liabilities:				
Increase in prepaid and other current assets.....	(212)	(905)	(7,738)	(8,815)
Increase (decrease) in other assets.....	--	43	--	(641)
Increase in accounts payable and accrued expenses.....	1,701	7,519	16,051	32,733
Increase (decrease) in amounts due to related parties.....	13,322	(1,316)	1	63
Increase (decrease) in accrued interest.....	(2)	3,053	--	--
<b>Net cash used in operating activities.....</b>	<b>(1,301)</b>	<b>(16,785)</b>	<b>(37,447)</b>	<b>(65,337)</b>
<b>Cash flows from investing activities:</b>				
Purchase of property and equipment.....	(506)	(2,008)	(51,378)	(53,974)
Additions to system under construction.....	(43,406)	(159,510)	(414,889)	(711,173)
Net purchase/maturity of short-term investments.....	--	(69,472)	69,472	--
Net purchase/maturity of restricted investments.....	--	--	(106,338)	(106,338)
Other investing activities....	--	(3,422)	(56,268)	(56,268)
<b>Net cash used in investing activities.....</b>	<b>(43,912)</b>	<b>(234,412)</b>	<b>(559,401)</b>	<b>(927,753)</b>
<b>Cash flows from financing activities:</b>				
Proceeds from sale of common stock and capital contribution.....	--	114,428	133,235	256,816
Proceeds from issuance of Series B convertible redeemable preferred stock...	--	--	96,472	96,472
Proceeds from issuance of senior secured notes and warrants.....	--	--	322,889	322,889
Proceeds from issuance of Series C convertible redeemable preferred stock...	--	--	226,822	226,822
Proceeds from issuance of subordinated convertible notes to related parties.....	45,920	22,966	--	157,866
Proceeds from the issuance of options.....	--	--	--	1,500
Proceeds from issuance of convertible notes.....	--	250,000	--	250,000
Repayment of loan payable....	--	(75,000)	--	(75,000)
Payments for deferred financing costs.....	(393)	(10,725)	(8,365)	(19,372)
Other net financing				

Source: XM SATELLITE RADIO H, 10-K, March 15, 2001

activities.....	(5)	(84)	--	--
Net cash provided by financing activities.....	45,522	301,585	771,053	1,217,993
Net increase in cash and cash equivalents.....	309	50,388	174,205	224,903
Cash and cash equivalents at beginning of period.....	1	310	50,698	--
Cash and cash equivalents at end of period.....	\$ 310	\$ 50,698	\$224,903	\$ 224,903
Supplemental cash flow disclosure:				
Increase in FCC license, goodwill and intangibles.....	\$ --	\$ 51,624	\$ --	\$ 51,624
Liabilities exchanged for new convertible note to related parties.....	--	81,676	--	81,676
Non-cash interest capitalized.....	11,824	15,162	16,302	45,274
Interest converted into principal note balance.....	9,157	4,601	--	--
Accrued expenses transferred to loan balance.....	--	7,405	--	--
Accrued system milestone payments.....	21,867	15,500	30,192	30,192
Property acquired through capital leases.....	--	470	1,688	2,075
Conversion of debt to equity..	--	353,315	--	353,315
Use of deposit for terrestrial repeater contract.....	--	--	3,422	--

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS

For the period from December 15, 1992 (date of inception)  
through December 31, 2000

(1) Summary of Significant Accounting Policies and Practices

(a) Nature of Business

XM Satellite Radio Inc. ("XMSR"), formerly American Mobile Radio Corporation, was incorporated on December 15, 1992 in the State of Delaware as a wholly owned subsidiary of Motient Corporation, formerly American Mobile Satellite Corporation ("Motient" or "Parent"), for the purpose of procuring a digital audio radio service ("DARS") license. Business activity for the period from December 15, 1992 through December 31, 1996 was insignificant. Pursuant to various financing agreements entered into in 1997 between Motient, XMSR and WorldSpace, Inc. ("WSI"), WSI acquired a 20 percent interest in XMSR.

On May 16, 1997, Motient and WSI formed XM Satellite Radio Holdings Inc. (the "Company"), formerly AMRC Holdings Inc., as a holding company for XMSR in connection with the construction, launch and operation of a domestic communications satellite system for the provision of DARS. Motient and WSI exchanged their respective interests in XMSR for equivalent interests in the Company, which had no assets, liabilities or operations prior to the transaction.

On July 7, 1999, Motient acquired WSI's 20 percent interest in the Company, which is discussed in note 3.

(b) Principles of Consolidation and Basis of Presentation

The consolidated financial statements include the accounts of XM Satellite Radio Holdings Inc. and its subsidiaries, XM Satellite Radio Inc., XM Radio Inc. and XM Equipment Leasing, LLC. All significant intercompany transactions and accounts have been eliminated. The Company's management has devoted its time to the planning and organization of the Company, obtaining its DARS license, conducting research and development programs, conducting market research, constructing its satellite and terrestrial repeater systems, securing content providers, securing manufacturers for its radios and obtaining retail distribution channels, securing adequate debt and equity capital for anticipated operations and growth, and addressing regulatory matters. The Company has not generated any revenues and planned principal operations have not commenced. Accordingly, the Company's financial statements are presented as those of a development stage enterprise, as prescribed by Statement of Financial Accounting Standards ("SFAS") No. 7, Accounting and Reporting by Development Stage Enterprises.

As discussed in Note 5, on September 9, 1999, the Company effected a 53,514-for-1 stock split. The effect of the stock split has been reflected as of December 31, 1999 in the consolidated balance sheet and consolidated statement of stockholders' equity (deficit); however, the activity in prior periods was not restated in those statements. All references to the number of common shares and per share amounts in the consolidated financial statements and notes thereto have been restated to reflect the effect of the split for all periods presented.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

(c) Cash and Cash Equivalents

The Company considers short-term, highly liquid investments with an original maturity of three months or less to be cash equivalents. The Company had the following cash and cash equivalents balances (in thousands):

	December 31,	
	1999	2000
Cash on deposit.....	\$ 66	\$ 97
Money market funds.....	10,620	224,806
Commercial paper.....	40,012	--
	\$50,698	\$224,903
	=====	=====

(d) Short-term Investments

At December 31, 1999, the Company held commercial paper with maturity dates of less than one year that were stated at amortized cost, which approximated fair value.

(e) Restricted Investments

Restricted investments consist of fixed income securities and are stated at amortized cost plus accrued interest income. The securities included in restricted investments are \$106.3 million of US Treasury strips restricted to provide for the remaining five scheduled interest payments on the Company's 14 percent Senior Secured Notes due 2010, which are classified as held-to-maturity securities under the provision of SFAS No. 115, Accounting for Certain Investments in Debt and Equity Securities, \$49.6 million in money market funds for scheduled milestone payments under the Hughes Electronics Corporation contract and \$5.1 million in certificates of deposit to collateralize letters of credit required by facility leases and other secured credits. The carrying value and fair value of the held-to-maturity securities at December 31, 2000 were (in thousands):

	Carrying Value	Unrealized Gain	Fair Value
Held-to-Maturity securities.....	\$106,338	\$1,060	\$107,398

(f) Property and Equipment

Property and equipment are carried at cost less accumulated depreciation and amortization. Depreciation and amortization is calculated using the straight-line method over the following estimated useful lives:

Computer equipment.....	3-5 years
Computer software.....	3-5 years
Furniture and fixtures.....	3-7 years
Machinery and equipment.....	3-7 years
Leasehold improvements.....	Remaining lease term

(g) System Under Construction

The Company is currently developing its satellite system. Costs related to the project are being capitalized to the extent that they have future benefits. As of December 31, 2000, amounts recorded as system under construction relate to costs incurred in obtaining a Federal Communications Commission ("FCC") license and approval as well as the system development. The FCC license will be amortized using the straight line method over an estimated useful life of fifteen years. Amortization of the license will begin on commercial launch. Depreciation of the Company's satellites will commence upon in-orbit delivery. Depreciation of the Company's ground stations will commence upon commercial launch. The satellites and the ground stations will be depreciated over their estimated useful lives.



XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

On October 16, 1997, the FCC granted XMSR a license to launch and operate two geostationary satellites for the purpose of providing DARS in the United States in the 2332.5-2345 Mhz (space-to-earth) frequency band, subject to achieving certain technical milestones and international regulatory requirements. The license is valid for eight years upon successful launch and orbital insertion of the satellites and can be extended by the Company. The Company's license requires that it comply with a construction and launch schedule specified by the FCC for each of the two authorized satellites. The FCC has the authority to revoke the authorizations and in connection with such revocation could exercise its authority to rescind the Company's license. The Company believes that the exercise of such authority to rescind the license is unlikely.

System under construction consists of the following (in thousands):

	December 31,	
	1999	2000
License.....	\$132,418	\$140,220
Satellite system.....	214,471	533,154
Terrestrial system.....	11,396	84,715
Spacecraft control facilities.....	2,000	13,046
Broadcast facilities.....	2,073	27,970
System development... ..	--	6,458
	\$362,358	\$805,563
	=====	=====

The balances at December 31, 1999 and 2000 include capitalized interest of \$29,068,000 and \$68,120,000, respectively.

The Company's policy is to review its long-lived assets and certain identifiable intangibles for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

The Company had scheduled the launch of its satellite, "XM Roll", on January 8, 2001. This launch was halted just before lift off. As a result, the Company has determined that it will launch its other satellite, "XM Rock", first, which is scheduled for March 18, 2001. The Company anticipates that XM Roll will be launched in early May 2001 and will commence commercial operations in the summer of 2001.

(h) Goodwill and Intangible Assets

Goodwill and intangible assets, which represents the excess of purchase price over fair value of net assets acquired, is amortized on a straight-line basis over the expected periods to be benefited, generally 15 years. The Company assesses the recoverability of its intangible assets by determining whether the amortization of the goodwill and intangible assets balance over its remaining life can be recovered through undiscounted future operating cash flows. The amount of goodwill and intangible assets impairment, if any, is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets. The assessment of the recoverability of goodwill will be impacted if estimated future operating cash flows are not achieved.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(i) Stock-Based Compensation

The Company accounts for stock-based compensation arrangements in accordance with the provisions of Accounting Principle Board ("APB") Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25"), and related interpretations including FASB Interpretation ("FIN") No. 44, Accounting for Certain Transactions Involving Stock Compensation, an interpretation of APB opinion No. 25 issued in March 2000, and complies with the disclosure provisions of SFAS No. 123, Accounting for Stock-Based Compensation. Under APB 25, compensation expense is based upon the difference, if any, on the date of grant, between the fair value of the Company's stock and the exercise price. All stock-based awards to non-employees are accounted for at their fair value in accordance with SFAS No. 123.

The Company adopted FIN No. 44 in July 2000 to account for stock options that had been repriced during the period covered by FIN No. 44. The application resulted in additional compensation of \$1,213,000 during the year ended December 31, 2000. Additional compensation charges may result depending upon the market value of the common stock at each balance sheet date.

(j) Research and Development

Research and development costs are expensed as incurred.

(k) Net Income (Loss) Per Share

The Company computes net income (loss) per share in accordance with SFAS No. 128, Earnings Per Share and SEC Staff Accounting Bulletin No. 98 ("SAB 98"). Under the provisions of SFAS No. 128 and SAB 98, basic net income (loss) per share is computed by dividing the net income (loss) available to common stockholders (after deducting preferred dividend requirements) for the period by the weighted average number of common shares outstanding during the period. Diluted net income (loss) available per share is computed by dividing the net income (loss) available to common stockholders for the period by the weighted average number of common and dilutive common equivalent shares outstanding during the period. The Company has presented historical basic and diluted net income (loss) per share in accordance with SFAS No. 128. As the Company had a net loss in each of the periods presented, basic and diluted net income (loss) per share is the same.

(l) Income Taxes

The Company accounts for income taxes in accordance with SFAS No. 109, Accounting for Income Taxes. Deferred income taxes are recognized for the tax consequences in future years of differences between the tax bases of assets and liabilities and the financial reporting amounts at each year-end, based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the sum of taxes payable for the period and the change during the period in deferred tax assets and liabilities.

(m) Comprehensive Income

In December 1998, the Company adopted SFAS No. 130, Reporting Comprehensive Income (SFAS 130). This statement establishes standards for reporting and displaying comprehensive income and its components in

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

the financial statements. This statement is effective for all interim and annual periods within the year ended December 31, 1999. The Company has evaluated the provisions of SFAS 130 and has determined that there were no transactions that have taken place during the years ended December 31, 1998, 1999 and 2000 that would be classified as other comprehensive income.

(n) Accounting Estimates

The preparation of the Company's financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. The estimates involve judgments with respect to, among other things, various future factors which are difficult to predict and are beyond the control of the Company. Significant estimates include valuation of the Company's investment in the DARS license, goodwill and intangible assets, and the valuation allowances against deferred tax assets. Accordingly, actual amounts could differ from these estimates.

(o) Reclassifications

Certain fiscal year 1998 and 1999 amounts have been reclassified to conform to the current presentation.

(p) Derivative Instruments and Hedging Activities

In June 1998, the Financial Accounting Standards Board ("FASB") issued SFAS No. 133, Accounting for Derivative Instruments and Hedging Activities. In June 2000 the FASB issued SFAS No. 138, Accounting for Certain Derivative Instruments and Certain Hedging Activity, an amendment of SFAS 133. SFAS No. 133 and SFAS No. 138 require that all derivative instruments be recorded on the balance sheet at their respective fair values. SFAS No. 133 and SFAS No. 138 are effective for all fiscal quarters of all fiscal years beginning after 2000. The Company will adopt SFAS No. 133 and SFAS No. 138 on January 1, 2001. The Company has reviewed its contracts and has determined that it has no derivative instruments and does not engage in hedging activities.

(2) Related Party Transactions

The Company had related party transactions with the following shareholders:

(a) Motient

In 1997, Motient contributed \$143,000 to the Company to establish the original application for the FCC license. On March 28, 1997, the Company received \$1,500,000 as a capital contribution from Motient. During 1999 and 2000, Motient incurred general and administrative costs and professional fees for the Company and established an intercompany balance of \$62,000 and \$63,000, respectively. Effective January 15, 1999, the Company issued a convertible note maturing on September 30, 2006 to Motient for \$21,419,000. (See note 3).

(b) WSI

On March 28, 1997, the Company received \$1,500,000 as a capital contribution from WSI. The Company issued WSI 25 (6,689,250 post split) shares of common stock for this consideration.

During 1997, 1998, and 1999, the Company borrowed \$87,911,000, \$45,583,000, and \$8,953,000, respectively, under various debt agreements with WSI.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

As discussed in note 3, all amounts due to WSI under the debt agreements were acquired by Motient or repaid on July 7, 1999.

(c) Related Party Services

In addition to financing, the Company has relied upon certain related parties for legal and technical services. Total expenses incurred in transactions with related parties are as follows (in thousands):

	Year ended December 31, 1998		
	WSI	Motient	Total
Research and development.....	\$ 6,624	\$ --	\$ 6,624
Professional fees.....	2,529	353	2,882
General and administrative.....	903	60	963
	-----	-----	-----
Total.....	\$10,056	\$413	\$10,469
	=====	=====	=====

	Year ended December 31, 1999		
	WSI	Motient	Total
Research and development.....	\$ 50	\$ --	\$ 50
Professional fees.....	--	219	219
General and administrative.....	--	5	5
	-----	-----	-----
Total.....	\$ 50	\$224	\$ 274
	=====	=====	=====

	Year ended December 31, 2000	
	Motient	
	-----	
Research and development.....	\$ --	
Professional fees.....	252	
General and administrative.....	--	
	-----	
Total.....	\$252	
	=====	

With the WorldSpace Transaction, which is discussed in note 3, on July 7, 1999, WSI ceased to be a related party; therefore, the expenses reflected for WSI are representative of the period from January 1, 1999 through July 7, 1999.

(3) Debt

(a) Loans Payable Due to Related Parties

In March 1997, XMSR entered into a series of agreements (the "Participation Agreement") with Motient and WSI in which both companies provided various equity and debt funding commitments to XMSR for the purpose of financing the activities of XMSR in connection with the establishment of a DARS satellite system in the United States. The Participation Agreement, as well as other agreements subsequently reached between the Company, Motient and WSI, served as the basis for several rounds of financing in the form of loans and notes with either conversion features or options for the Company's common stock through July 7, 1999. The Company had raised \$142,447,000 in the form of loans and convertible notes from WSI and \$21,419,000 in convertible notes from Motient through July 7, 1999.

On July 7, 1999, Motient acquired WSI's remaining debt and equity interests in the Company in exchange for approximately 8.6 million shares of Motient's common stock (termed the "Worldspace Transaction").

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

Additionally, the Company issued an aggregate \$250.0 million of Series A subordinated convertible notes (see note 3(b)) to several new investors and used \$75.0 million of the proceeds it received from the issuance of these notes to redeem certain outstanding loan obligations owed to WSI. As a result of these transactions, as of July 7, 1999, Motient owned all of the issued and outstanding stock of the Company. Concurrent with Motient's acquisition of the remaining interest in the Company, the Company recognized goodwill and intangibles of \$51,624,000, which has been allocated as follows (in thousands):

FCC License.....	\$25,024
Goodwill.....	13,738
Programming agreements.....	8,000
Receiver agreements.....	4,600
Other intangibles.....	262
	-----
	\$51,624
	=====

On January 15, 1999, the Company issued a convertible note to Motient for \$21,419,000. This convertible note bore interest at LIBOR plus five percent per annum and was due on December 31, 2004. The principal and interest balances were convertible at prices of \$16.35 and \$9.52, respectively, per Class B common share.

Following the WorldSpace Transaction, the Company issued a convertible note maturing December 31, 2004 to Motient for \$81,676,000 in exchange for the \$54,536,000 subordinated convertible notes payable, \$6,889,000 in demand notes, \$20,251,000 in accrued interest and all of WSI's outstanding options to acquire the Company's common stock. This note bore interest at LIBOR plus five percent per annum. The note was convertible at Motient's option at \$8.65 per Class B common share. The Company took a one-time \$5,520,000 charge to interest due to the beneficial conversion feature of this note.

These Motient convertible notes, along with \$3,870,000 of accrued interest, were converted into 11,182,926 shares of Class B common stock upon the initial public offering.

(b) Issuance of Series A Subordinated Convertible Notes of the Company to New Investors

At the closing of the WorldSpace Transaction, the Company issued an aggregate \$250.0 million of Series A subordinated convertible notes to six new investors--General Motors Corporation, \$50.0 million; Clear Channel Investments, Inc., \$75.0 million; DIRECTV Enterprises, Inc., \$50.0 million; and Columbia Capital, Telcom Ventures, L.L.C. and Madison Dearborn Partners, \$75.0 million. The Series A subordinated convertible notes issued by the Company were convertible into shares of the Company's Series A convertible preferred stock (in the case of notes held by General Motors Corporation and DIRECTV) or Class A common stock (in the case of notes held by the other investors) at the election of the holders or upon the occurrence of certain events, including an initial public offering of a prescribed size. The conversion price was \$9.52 aggregate principal amount of notes for each share of the Company's stock. These notes, along with \$6,849,000 of accrued interest, were converted into 16,179,755 shares of Class A common stock and 10,786,504 shares of Series A preferred stock upon the initial public offering.

(c) Private Units Offering

On March 15, 2000 the Company closed a private placement of 325,000 units, each unit consisting of \$1,000 principal amount of 14 percent Senior Secured Notes due 2010 of its subsidiary XM Satellite Radio Inc. and one warrant to purchase 8.024815 shares of the Company's Class A common stock at a price of \$49.50 per share. The Company realized net proceeds of \$191.5 million, excluding \$123.0 million used to acquire securities which will be used to pay interest payments due under the notes for the first three years. The \$325,000,000 face value of the notes was offset by a discount of \$65,746,000 associated with the fair value of the warrants sold. The Company had amortized \$2,044,000 of the discount through December 31, 2000. See note 5(e) for further discussion regarding adjustments to the warrants sold.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

(4) Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents, short-term investments, accounts payable, accrued expenses and royalty payable approximate their fair market value because of the relatively short duration of these instruments as of December 31, 1999 and 2000, in accordance with SFAS No. 107, Disclosures about Fair Value of Financial Instruments. At December 31, 2000, the carrying amount and fair value of the 14 percent Senior Secured Notes due 2010 were \$261,298,000 and \$179,563,000, respectively, based on the quoted market price.

(5) Equity

(a) Recapitalization

Concurrent with the WorldSpace Transaction discussed in note 3, the Company's capital structure was reorganized. The Company's common stock was converted into the newly authorized Class B common stock, which has three votes per share. The Company also has authorized Class A common stock, which is entitled to one vote per share and non-voting Class C common stock. The Class B common stock is convertible into Class A common stock on a one for one basis, as follows: (1) at any time at the discretion of Motient, (2) following the Company's initial public offering, at the direction of the holders of a majority of the then outstanding shares of Class A common stock (which majority must include at least 20 percent of the public holders of Class A common stock), and (3) on or after January 1, 2002, at the direction of the holders of a majority of the then outstanding shares of the Company's Class A common stock. Such conversion will be effected only upon receipt of FCC approval of Motient's transfer of control of the Company to a diffuse group of shareholders.

The Company also authorized 60,000,000 shares of preferred stock, of which 15,000,000 shares are designated Series A convertible preferred stock, par value \$0.01 per share. The Series A convertible preferred stock is convertible into Class A common stock at the option of the holder. The Series A preferred stock is non-voting and receives dividends, if declared, ratably with the common stock.

On September 9, 1999, the board of directors of the Company effected a stock split providing 53,514 shares of stock for each share owned.

(b) Initial Public Offering

On October 8, 1999, the Company completed an initial public offering of 10,000,000 shares of Class A common stock at \$12.00 per share. The offering yielded net proceeds of \$111,437,000.

On October 17, 1999, the underwriters of the Company's initial public offering exercised the over-allotment option for an additional 241,000 shares of Class A common stock at \$12.00 per share. This exercise yielded net proceeds of \$2,697,000.

(c) Conversion of Class B Common Stock to Class A Common Stock

On March 8, 2000, at the request of the Company, one of the Class B common stockholders converted 1,314,914 shares of the Company's Class B common stock into Class A common stock on a one-for-one basis. As of March 31, 2000, Motient held all of the Company's outstanding Class B common stock.

On January 12, 2001, Motient converted 2,652,243 shares of the Company's Class B common stock into Class A common stock on a one-for-one basis. See note 11(j) for further discussion of the Company's filing of an application for change of control with the FCC.

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CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(d) Secondary Offering and Sale of Series B Convertible Redeemable Preferred Stock

On January 31, 2000, the Company closed on a secondary offering of its Class A common stock and newly designated Series B convertible redeemable preferred stock. The Company sold 4,000,000 shares of its Class A common stock for \$32.00 per share, which yielded net proceeds of \$120,837,000. The Company concurrently sold 2,000,000 shares of its Series B convertible redeemable preferred stock for \$50.00 per share, which yielded net proceeds of \$96,472,000. The Series B convertible redeemable preferred stock provides for 8.25 percent cumulative dividends that may be paid in Class A common stock or cash. The Series B convertible redeemable preferred stock is convertible into Class A common stock at a conversion price of \$40 per share and is redeemable in Class A common stock on February 3, 2003.

On February 9, 2000, the underwriters exercised a portion of the over-allotment option for 370,000 shares of Class A common stock, which yielded net proceeds of approximately \$11,233,000.

On August 1, 2000, the Company entered into agreements with certain holders of its 8.25 percent Series B convertible redeemable preferred stock to exchange their shares of 8.25 percent Series B convertible redeemable preferred stock for shares of the Company's Class A common stock. By August 31, 2000, Holdings had issued 1,700,016 shares of its Class A common stock in exchange for 1,132,711 shares of its 8.25 percent Series B convertible redeemable preferred stock. Holdings recorded an \$11.2 million charge to earnings attributable to common stockholders in the third quarter related to this transaction. This charge represents the difference in the fair value of the stock issued upon this conversion in excess of the stock that the holders were entitled to upon a voluntary conversion.

The Company paid the quarterly dividends on the 8.25 percent Series B convertible redeemable preferred stock on May 1, 2000, August 1, 2000 and November 1, 2000 by issuing 62,318, 57,114 and 25,734, respectively, shares of Class A common stock to the respective holders of record.

(e) Series C Convertible Redeemable Preferred Stock

On July 7, 2000, the Company reached an agreement for a private offering of 235,000 shares of its Series C convertible redeemable preferred stock for \$1,000 per share, which closed on August 8, 2000 and yielded net proceeds of \$206,379,000 and a stock subscription of \$20,000,000 that earned interest at 7 percent per annum until it was paid on November 30, 2000. The stock subscription was received in November 2000 and provided an additional \$20,443,000. The Series C convertible redeemable preferred stock provides for 8.25 percent cumulative dividends payable in cash. The Series C convertible redeemable preferred stock is convertible, at the holders' option, into Class A common stock at the conversion price then in effect. Currently, the conversion price is \$26.50, but may change upon the occurrence of certain dilutive events. The Company must redeem the Series C convertible redeemable preferred stock in Class A common stock on February 1, 2012. At its option, the Company may redeem the Series C convertible redeemable preferred stock beginning on February 8, 2005 in cash or, at the holder's option, in Class A common stock.

As a result of the current conversion price of \$26.50 being less than the market value of Holdings' Class A common stock of \$40.375 on the commitment date, the Company recorded a \$123.0 million beneficial conversion charge that reduced earnings available to common stockholders. The issuance of the Series C preferred stock also caused the exercise price of the warrants sold in March 2000 to be adjusted to \$47.94 and the number of warrant shares to be increased to 8.285948 per warrant.

(f) Stock-Based Compensation

The Company operates three separate stock option plans, the details of which are described below.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

1998 Shares Award Plan

On June 1, 1998, the Company adopted the 1998 Shares Award Plan (the "Plan") under which employees, consultants, and non-employee directors may be granted options to purchase shares of Class A common stock of the Company. The Company initially authorized 1,337,850 shares of Class A common stock under the Plan, which was increased to 2,675,700 in July 1999 and 5,000,000 in May 2000. The options are exercisable in installments determined by the compensation committee of the Company's board of directors. The options expire as determined by the committee, but no later than ten years from the date of grant. On July 8, 1999, the Company's board of directors voted to reduce the exercise price of the options outstanding in the shares award plan from \$16.35 to \$9.52 per share, which represented the fair value of the stock on the date of repricing. Transactions and other information relating to the Plan for the year ended December 31, 1999 and 2000 are summarized below:

	Outstanding Options	
	Number of Shares	Weighted- Average Exercise Price
Balance, December 31, 1997.....	--	\$ --
Options granted.....	787,297	16.35
Options canceled or expired.....	--	--
Options exercised.....	--	--
	787,297	\$16.35
Balance, December 31, 1998... ..	787,297	\$16.35
Options granted.....	2,188,988	10.50
Option repricing.....	(818,339)	16.35
Options canceled or expired.....	(57,786)	13.91
Options exercised.....	(1,071)	9.52
	2,099,089	\$10.32
Balance, December 31, 1999... ..	2,099,089	\$10.32
Options granted.....	1,176,683	30.21
Options canceled or expired.....	(131,267)	17.01
Options exercised.....	(48,817)	9.52
	3,095,688	\$17.61
Balance, December 31, 2000.....	3,095,688	\$17.61

	Options Outstanding			Options Exercisable		
	Exercise Price	Number Outstanding	Weighted- Average Contractual Life	Weighted- Average Exercise Price	Number Exercisable	Weighted- Average Exercise Price
1998.....	\$ 16.35	787,297	9.5 years	\$16.35	--	\$16.35
1999.....	\$ 9.52-\$12.00	2,099,089	9.24 years	\$10.32	416,294	\$ 9.52
2000.....	\$ 9.52-\$12.00	2,120,400	8.26 years	\$10.39	1,110,756	\$10.06
	\$13.13-\$30.50	297,685	9.03 years	\$23.13	5,334	\$13.13
	\$30.63-\$45.44	677,603	9.54 years	\$37.92	20,000	\$43.69

There were no, 416,294 and 1,136,090 stock options exercisable at December 31, 1998, 1999 and 2000, respectively. There were 1,615,483 shares available under the plan for future grants at December 31, 2000. At December 31, 2000, all options have been issued to employees, officers and directors.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

The per share weighted-average fair value of employee options granted during the year ended December 31, 1998, 1999 and 2000 was \$10.54, \$6.21 and \$22.06, respectively, on the date of grant using the Black-Scholes Option Pricing Model with the following weighted-average assumptions:

	December 31,		
	1998	1999	2000
Expected dividend yield....	0%	0%	0%
Volatility.....	56.23%	63.92%	68.21%
Risk-free interest rate range.....	4.53% to 5.57%	5.47% to 5.97%	4.99% to 6.71%
Expected life.....	7.5 years	5 years	5 years

Employee Stock Purchase Plan

In 1999, the Company established an employee stock purchase plan that provides for the issuance of 300,000 shares of Class A common stock. All employees whose customary employment is more than 20 hours per week and for more than five months in any calendar year are eligible to participate in the stock purchase plan, provided that any employee who would own five percent or more of the Company's total combined voting power immediately after an offering date under the plan is not eligible to participate. Eligible employees must authorize the Company to deduct an amount from their pay during offering periods established by the compensation committee. The purchase price for shares under the plan will be determined by the compensation committee but may not be less than 85 percent of the lesser of the market price of the common stock on the first or last business day of each offering period. As of December 31, 2000, 53,539 shares had been issued by the Company under this plan.

The per share weighted-average fair value of purchase rights granted during the year was \$3.30 and \$11.28 for the years ended December 31, 1999 and 2000, respectively. The estimates were calculated at the grant date using the Black-Scholes Option Pricing Model with the following assumptions at December 31, 1999 and 2000:

	December 31,	
	1999	2000
Expected dividend yield...	0%	0%
Volatility.....	62.92%	68.21%
Risk-free interest rate range.....	4.73%	5.33%-6.23%
Expected life.....	0.23 years	0.24 years

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

The Company applies APB 25 in accounting for stock-based compensation for both plans and, accordingly, no compensation cost has been recognized for its stock options in the financial statements other than for performance based stock options, for options granted with exercise prices below fair value on the date of grant and for repriced options under FIN No. 44. During 1999 and 2000, the Company incurred \$4,070,000 and \$2,557,000, respectively, in compensation cost for these options. Had the Company determined compensation cost based on the fair value at the grant date for its stock options under SFAS 123, the Company's net loss and net loss per share would have been increased to the pro forma amounts indicated below (in thousands):

	Year ended December 31,		
	1998	1999	2000
Net loss:			
As reported.....	\$16,167	\$36,896	\$201,338
Pro forma.....	17,508	37,706	209,582
As reported--net loss per share--basic and diluted.....	(2.42)	(2.40)	(4.15)
Pro forma--net loss per share--basic and diluted.....	(2.62)	(2.62)	(4.32)
	=====	=====	=====

Talent Option Plan

In May 2000, the Company adopted the XM Talent Option Plan ("Talent Plan") under which non-employee service providers to the Company may be granted options to purchase shares of Class A common stock of the Company. The Company authorized 500,000 shares of Class A common stock under the Talent Plan. The options are exercisable in installments determined by the talent committee of the Company's board of directors. The options expire as determined by the talent committee, but no later than ten years from the date of the grant. As of December 31, 2000, no options had been granted under the Talent Plan.

(6) WSI Options

In 1997, the Company issued WSI three options in accordance with the terms of loans issued to WSI. Under the first option, WSI could have purchased 5,202,748 shares of common stock at \$4.52 per share to acquire common stock. The option could have been exercised in whole or in incremental amounts between April 16, 1998 and October 16, 2002. Under certain circumstances, Motient could have required WSI to exercise the option in whole. The Company allocated \$1,250,000 to the option. Under the second option, WSI could have purchased 6,897,291 shares at \$8.91 per share. The option could have been exercised between October 16, 1997 and October 16, 2003. The Company allocated \$170,000 to the option. Under the third option, WSI could have purchased 187,893 shares of common stock at \$5.32 per share. The option could have been exercised between October 16, 1997 and October 17, 2002. The Company allocated \$80,000 to the option.

The options were acquired by Motient and exchanged for the \$81,676,000 note to Motient as part of the WorldSpace Transaction (see note 3(a)).

(7) Profit Sharing and Employee Savings Plan

On July 1, 1998, the Company adopted a profit sharing and employee savings plan under Section 401(k) of the Internal Revenue Code. This plan allows eligible employees to defer up to 15 percent of their compensation on a pre-tax basis through contributions to the savings plan. The Company contributed \$0.50 in 1998, 1999 and 2000 for every dollar the employees contributed up to 6 percent of compensation, which amounted to \$14,000, \$164,000 and \$229,000, respectively.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(8) Interest Cost

The Company capitalizes a portion of interest cost as a component of the cost of the FCC license and satellite system under construction. The following is a summary of interest cost incurred during December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 1999 (in thousands):

	1998	1999	2000	December 15, 1992 (date of inception) to December 31, 2000
Interest cost capitalized.....	\$11,824	\$15,343	\$39,052	\$68,120
Interest cost charged to expense.....	--	9,120	--	9,669
<b>Total interest cost incurred.....</b>	<b>\$11,824</b>	<b>\$24,463</b>	<b>\$39,052</b>	<b>\$77,789</b>
	=====	=====	=====	=====

Interest costs incurred prior to the award of the license were expensed in 1998. During 1999, the Company exceeded its capitalization threshold by \$3,600,000 and incurred a charge to interest of \$5,520,000 for the beneficial conversion feature of a related party note.

(9) Income Taxes

For the period from December 15, 1992 (date of inception) to October 8, 1999, the Company filed consolidated federal and state tax returns with its majority stockholder Motient. The Company generated net operating losses and other deferred tax benefits that were not utilized by Motient. As no formal tax sharing agreement has been finalized, the Company was not compensated for the net operating losses. Had the Company filed on a stand-alone basis for the three-year period ending December 31, 2000, the Company's tax provision would be as follows:

Taxes on income included in the statements of operations consists of the following (in thousands):

	December 31,		
	1998	1999	2000
<b>Current taxes:</b>			
Federal.....	\$ --	\$ --	\$ --
State.....	--	--	--
<b>Total current taxes.....</b>	<b>--</b>	<b>--</b>	<b>--</b>
	-----	-----	-----
<b>Deferred taxes:</b>			
Federal.....	\$ --	\$ --	\$ --
State.....	--	--	--
<b>Total deferred taxes.....</b>	<b>--</b>	<b>--</b>	<b>--</b>
	-----	-----	-----
<b>Total tax expense (benefit).....</b>	<b>\$ --</b>	<b>\$ --</b>	<b>\$ --</b>
	=====	=====	=====

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

A reconciliation of the statutory tax expense, assuming all income is taxed at the statutory rate applicable to the income and the actual tax expense is as follows (in thousands):

	December 31,		
	1998	1999	2000
Income (loss) before taxes on income, as reported in the statements of income.....	\$(16,167)	\$(36,896)	\$(51,873)
Theoretical tax benefit on the above amount at 35%.....	(5,497)	(12,545)	(18,156)
State tax, net of federal benefit.....	(1,059)	462	(2,588)
Increase in taxes resulting from permanent differences, net.....	30	2,060	562
Adjustments arising from differences in the basis of measurement for tax purposes and financial reporting purposes and other.....	(706)	13,182	9
Change in valuation allowance.....	7,232	(3,159)	20,173
Taxes on income for the reported year.....	\$ --	\$ --	\$ --

At December 31, 1998, 1999 and 2000, deferred income tax consists of future tax assets/(liabilities) attributable to the following (in thousands):

	December 31,		
	1998	1999	2000
<b>Deferred tax assets:</b>			
Net operating loss/other tax attribute carryovers.....	\$ 518	\$ 2,490	\$ 14,716
Start-up costs.....	7,460	17,765	40,033
Gross total deferred tax assets.....	7,978	20,255	54,749
Valuation allowance for deferred tax assets...	(7,978)	(4,819)	(24,992)
Net deferred assets.....	--	15,436	29,757
<b>Deferred tax liabilities:</b>			
Fixed assets.....	--	(51)	(15,500)
FCC license.....	--	(10,160)	(9,735)
Other intangible assets.....	--	(5,225)	(4,522)
Net deferred tax liabilities.....	--	(15,436)	(29,757)
Deferred income tax, net.....	\$ --	\$ --	\$ --

At December 31, 2000, the Company had accumulated net operating losses of \$35,892,000 for Federal income tax purposes that are available to offset future regular taxable income. These operating loss carryforwards expire between the years 2012 and 2020. Utilization of these net operating losses may be subject to limitations in the event of significant changes in the stock ownership of the Company.

(10) Accumulated Deficit

The Company is devoting its efforts to develop, construct and expand a digital audio radio network. This effort involves substantial risk and future operating results will be subject to significant business, economic, regulatory, technical, and competitive uncertainties and contingencies. These factors individually or in the aggregate could have an adverse effect on the Company's financial condition and future operating results and create an uncertainty as to the Company's ability to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the Company be unable to continue as a going concern.

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

At the Company's current stage of development, economic uncertainties exist regarding the successful acquisition of additional debt or equity financings and the attainment of positive cash flows from the Company's proposed service. The Company is currently constructing its satellite and terrestrial systems and will require substantial additional financing to market and distribute the satellite-based radio service. Failure to obtain the required long-term financing will prevent the Company from realizing its objective of providing satellite-based radio programming. Management's plan to fund operations and capital expansion includes the additional sale of debt and equity securities through public and private sources. There are no assurances, however, that such financing will be obtained.

(11) Commitments and Contingencies

(a) FCC License

The FCC has established certain system development milestones that must be met for the Company to maintain its license to operate the system. The Company believes that it is proceeding into the system development as planned and in accordance with the FCC milestones.

(b) Application for Review of FCC License

One of the losing bidders for the DARS licenses filed an Application for Review by the full FCC of the Licensing Order which granted the Company its FCC license. The Application for Review alleges that WSI had effectively taken control of the Company without FCC approval. The FCC or the U.S. Court of Appeals has the authority to overturn the award of the FCC license should they rule in favor of the losing bidder. Although the Company believes that its right to the FCC license will withstand the challenge as WSI is no longer a stockholder in the Company, no prediction of the outcome of this challenge can be made with any certainty.

(c) Technical Services

Effective January 1, 1998, the Company entered into agreements with Motient and WorldSpace Management Corporation ("WorldSpace MC"), an affiliate of WSI, in which Motient and WorldSpace MC would provide technical support in areas related to the development of a DARS system. Payments for services provided under these agreements are made based on negotiated hourly rates. These agreements may be terminated by the parties on or after the date of the commencement of commercial operation following the launch of the Holdings' first satellite. There are no minimum services purchase requirements. The Company incurred costs of \$413,000, \$224,000 and \$252,000 under its agreement with Motient and \$4,357,000, \$0 and \$0 costs were incurred under its agreement with WorldSpace MC during the years ended December 31, 1998, 1999 and 2000, respectively. The Company incurred costs of \$1,039,000 under its agreement with Motient and \$5,317,000 in costs were incurred under its agreement with WorldSpace MC from December 15, 1992 (date of inception) through December 31, 2000.

(d) Technology Licenses

Effective January 1, 1998, XMSR entered into a technology licensing agreement with Motient and WorldSpace MC by which as compensation for certain licensed technology then under development to be used in the XM Radio system, XMSR will pay up to \$14,300,000 to WorldSpace MC over a ten-year period. As of December 31, 2000 XMSR incurred costs of \$6,696,000 payable to WorldSpace MC. Any additional amounts to be incurred under this agreement are dependent upon further development of the technology, which is at XMSR's option. No liability exists to Motient or WorldSpace MC should such developments prove unsuccessful. XMSR maintains an accrual of \$5,165,000 payable to WorldSpace MC, for quarterly royalty

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

payments to be made. In addition, XMSR agreed to pay 1.2 percent of quarterly net revenues to WorldSpace MC and a royalty of \$0.30 per chipset, payable to WorldSpace MC, for equipment manufactured using certain source encoding and decoding signals technology.

(e) Satellite Contract

During the first half of 1999, the Company and Boeing Satellite Systems International, Inc. ("BSS"--formerly Hughes Space and Communications, Inc.) amended the satellite contract to construct and launch the Company's satellites to implement a revised work timetable, payment schedule to reflect the timing of the receipt of additional funding, and technical modifications. Holdings expects to incur total payment obligations under this contract of approximately \$541,300,000, which includes amounts the Company expects to pay pursuant to the exercise of the option to build the ground spare satellite and certain financing costs and in-orbit incentive payments. On June 27, 2000, the Company exercised the option to build the ground spare. As of December 31, 2000, the Company had paid \$466,017,000 under the Satellite contract with BSS and had accrued \$1,585,000.

(f) Terrestrial Repeater System Contracts

In August 1999, the Company signed a contract with LCC International, Inc., a related party, calling for the payments of approximately \$115,000,000 for engineering and site preparation. In January 2001, the scope of the contract was amended and the estimated contract value was reduced to \$107,500,000. As of December 31, 2000, the Company had paid \$50,168,000 under this contract, and accrued an additional \$15,141,000. The Company has entered into tower construction agreements with various companies, which will provide certain services which LCC International, Inc. was to provide. The Company also entered into a contract effective October 22, 1999, with Hughes Electronics Corporation for the design, development and manufacture of the terrestrial repeaters. Payments under the contract are expected to be approximately \$128,000,000, which could be modified based on the number of terrestrial repeaters that are required for the system. As of December 31, 2000, the Company had paid \$15,358,000 under this contract.

(g) General Motors Distribution Agreement

The Company has signed a long-term distribution agreement with the OnStar division of General Motors providing for the installation of XM radios in General Motors vehicles. During the term of the agreement, which expires 12 years from the commencement date of the Company's commercial operations, General Motors has agreed to distribute the service to the exclusion of other S-band satellite digital radio services. The Company will also have a non-exclusive right to arrange for the installation of XM radios included in OnStar systems in non-General Motors vehicles that are sold for use in the United States. The Company has significant annual, fixed payment obligations to General Motors for four years following commencement of commercial service. These payments approximate \$35,000,000 in the aggregate during this period. Additional annual fixed payment obligations beyond the initial four years of the contract term range from less than \$35,000,000 to approximately \$130,000,000 through 2009, aggregating approximately \$400,000,000. In order to encourage the broad installation of XM radios in General Motors vehicles, the Company has agreed to subsidize a portion of the cost of XM radios, and to make incentive payments to General Motors when the owners of General Motors vehicles with installed XM radios become subscribers for the Company's service. The Company must also share with General Motors a percentage of the subscription revenue attributable to General Motors vehicles with installed XM radios, which percentage increases until there are more than 8 million General Motors vehicles with installed XM radios. The Company will also make available to General Motors bandwidth on the Company's systems. The agreement is subject to renegotiations at any time based upon the installation of

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
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CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

radios that are compatible with a unified standard or capable of receiving Sirius Satellite Radio's (formerly known as CD Radio) service. The agreement is subject to renegotiations if, four years after the commencement of XM Radio's commercial operations and at two-year intervals thereafter GM does not achieve and maintain specified installation levels of General Motors vehicles capable of receiving the Company's service, starting with 1,240,000 units after four years, and thereafter increasing by the lesser of 600,000 units per year and amounts proportionate to target market shares in the satellite digital radio service market. There can be no assurances as to the outcome of any such renegotiations. General Motors' exclusivity obligations will discontinue if, four years after the Company commences commercial operations and at two-year intervals thereafter, the Company fails to achieve and maintain specified minimum market share levels in the satellite digital radio service market.

(h) Joint Development Agreement

On January 12, 1999, Sirius Radio the other holder of an FCC satellite radio license, commenced an action against the Company in the United States District Court for the Southern District of New York, alleging that the Company was infringing or would infringe three patents assigned to Sirius Radio. In its complaint, Sirius Radio sought money damages to the extent the Company manufactured, used or sold any product or method claimed in their patents and injunctive relief. On February 16, 2000, this suit was resolved in accordance with the terms of a joint development agreement between the Company and Sirius Radio and both companies agreed to cross-license their respective property. Each party is obligated to fund one half of the development cost for a unified standard for satellite radios. Each party will be entitled to license fees or a credit towards its one half of the cost based upon the validity, value, use, importance and available alternatives of the technology it contributes. The amounts for these fees or credits will be determined over time by agreement of the parties or by arbitration. The parties have yet to agree on the validity, value, use, importance and available alternatives of their respective technologies. If the parties fail to reach agreement, the fees or credits may be determined through binding arbitration. However, if this agreement is terminated before the value of the license has been determined due to the Company's failure to perform a material covenant or obligation, then this suit could be refiled.

(i) Sony Warrant

In February 2000, the Company issued a warrant to Sony exercisable for shares of the Company's Class A common stock. The warrant will vest at the time that it attains its millionth customer, and the number of shares underlying the warrant will be determined by the percentage of XM Radios that have a Sony brand name as of the vesting date. If Sony achieves its maximum performance target, it will receive 2 percent of the total number of shares of the Company's Class A common stock on a fully-diluted basis upon exercise of the warrant. The exercise price of the Sony warrant will equal 105 percent of fair market value of the Class A common stock on the vesting date, determined based upon the 20-day trailing average.

(j) Approval of Change of Control

On July 14, 2000, Holdings filed an application with the FCC to allow Holdings to transfer its control from Motient to a diffuse group of owners, none of whom will have controlling interest. On December 22, 2000, the application was approved by the FCC. As discussed in note 5(c), Motient converted 2,652,243 shares of the Company's Class B common stock to Class A common stock on January 12, 2001. Through February 9, 2001, Motient has sold 2,000,000 shares of Class A common stock, which reduced its voting interest to 48.7 percent of the shares outstanding.

(k) Sales, Marketing and Distribution Agreements

The Company has entered into various joint sales, marketing and distribution agreements. Under the terms of these agreements, the Company is obligated to provide incentives, subsidies and commissions to other

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

companies that may include fixed payments, per-unit subscriber amounts and revenue sharing arrangements. The amount of these operational, promotional, subscriber acquisition, joint development, and manufacturing costs related to these agreements cannot be estimated, but are expected to be substantial future costs.

(1) Leases

The Company has noncancelable operating leases for office space and terrestrial repeater sites and noncancelable capital leases for equipment that expire over the next ten years. The future minimum lease payments under noncancelable leases as of December 31, 2000 are (in thousands):

	Operating leases	Capital leases
	-----	-----
Year ending December 31:		
2001.....	\$13,261	\$ 847
2002.....	13,665	761
2003.....	13,986	474
2004.....	14,230	--
2005.....	11,041	--
Thereafter.....	22,513	--
	-----	-----
Total.....	\$88,696	2,082
	=====	
Less amount representing interest.....		(159)
		-----
Present value of net minimum lease payments.....		1,923
Less current maturities.....		(556)
		-----
Long-term obligations.....		\$1,367
		=====

Rent expense for 1998, 1999 and 2000 was \$231,000, \$649,000 and \$6,082,000 respectively.

(12) Quarterly Data (Unaudited)

	1998			
	1st	2nd	3rd	4th
	Quarter	Quarter	Quarter	Quarter
	-----	-----	-----	-----
Revenues.....	\$ --	\$ --	\$ --	\$ --
Operating loss.....	3,100	5,032	3,865	4,196
Loss before income taxes.....	3,100	5,032	3,857	4,178
Net loss attributable to common stockholders.....	3,100	5,032	3,857	4,178
	-----	-----	-----	-----
Net loss per share--basic and diluted...	\$ (0.46)	\$ (0.75)	\$ (0.58)	\$ (0.62)
	=====	=====	=====	=====

	1999			
	1st	2nd	3rd	4th
	Quarter	Quarter	Quarter	Quarter
	-----	-----	-----	-----
Revenues.....	\$ --	\$ --	\$ --	\$ --
Operating loss.....	4,421	4,020	9,374	12,876
Loss before income taxes.....	4,367	3,999	17,402	11,128
Net loss attributable to common stockholders.....	4,367	3,999	17,402	11,128
	-----	-----	-----	-----
Net loss per share--basic and diluted...	\$ (0.65)	\$ (0.60)	\$ (2.60)	\$ (0.27)
	=====	=====	=====	=====

XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS-- (Continued)

	2000			
	1st	2nd	3rd	4th
	Quarter	Quarter	Quarter	Quarter
Revenues.....	\$ --	\$ --	\$ --	\$ --
Operating loss.....	16,888	13,937	28,109	20,544
Loss before income taxes .....	12,740	5,088	20,060	13,985
Net loss attributable to common stockholders.....	14,212	7,259	160,095	19,773
Net loss per share--basic and diluted...	\$ (0.30)	\$ (0.15)	\$ (3.26)	\$ (0.40)
	=====	=====	=====	=====

The sum of quarterly per share net losses do not necessarily agree to the net loss per share for the year due to the timing of stock issuances.

(13) Subsequent Financing (unaudited)

In March 2001, the Company completed a follow-on offering of 7,500,000 shares of Class A common stock, which yielded net proceeds of \$72.0 million, and a concurrent offering of 7.75% convertible subordinated notes due 2006, convertible into shares of Class A common stock at a conversion price of \$12.23 per share, which yielded net proceeds of \$120.7 million.

Independent Auditors' Report

To the Board of Directors and Stockholder  
XM Satellite Radio Inc. and Subsidiaries:

We have audited the accompanying consolidated balance sheets of XM Satellite Radio Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000, and the related consolidated statements of operations, stockholder's equity, and cash flows for each of the years in the three-year period ended December 31, 2000, and for the period from December 15, 1992 (date of inception) to December 31, 2000. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of XM Satellite Radio Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2000 and for the period from December 15, 1992 (date of inception) to December 31, 2000, in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in note 10 to the consolidated financial statements, the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. Management's plan in regard to these matters is also described in note 10. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

McLean, VA  
February 9, 2001

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XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED BALANCE SHEETS  
December 31, 1999 and 2000

ASSETS

	1999	2000
	(in thousands, except share data)	
<b>Current assets:</b>		
Cash and cash equivalents.....	\$ 49,630	\$ 203,191
Short-term investments.....	69,472	--
Restricted investments.....	--	95,277
Prepaid and other current assets.....	1,077	8,815
	-----	-----
<b>Total current assets.....</b>	<b>120,179</b>	<b>307,283</b>
<b>Other assets:</b>		
Restricted investments, net of current portion.....	--	65,889
System under construction.....	333,500	776,706
Property and equipment, net of accumulated depreciation and amortization of \$347 and \$2,337.....	2,551	59,505
Goodwill and intangibles, net of accumulated amortization of \$1,220 and \$2,599.....	25,380	24,001
Other assets, net of accumulated amortization of \$0 and \$672.....	3,524	9,133
	-----	-----
<b>Total assets.....</b>	<b>\$485,134</b>	<b>\$1,242,517</b>
	=====	=====

LIABILITIES AND STOCKHOLDER'S EQUITY

<b>Current liabilities:</b>		
Accounts payable.....	\$ 23,258	\$ 47,072
Accrued expenses.....	1,514	4,636
Accrued interest on senior secured notes.....	--	13,397
Royalty payable.....	1,646	2,565
	-----	-----
<b>Total current liabilities.....</b>	<b>26,418</b>	<b>67,670</b>
<b>Senior secured notes, net of discount amortization of \$0 and \$2,044.....</b>		
	--	261,298
Royalty payable, net of current portion.....	3,400	2,600
Capital lease, net of current portion.....	212	1,367
Other non-current liabilities.....	--	4,172
	-----	-----
<b>Total liabilities.....</b>	<b>30,030</b>	<b>337,107</b>
<b>Stockholder's equity:</b>		
Common stock, par value \$0.10; 3,000 shares authorized, 125 shares issued and outstanding.....	--	--
Additional paid-in capital.....	502,646	1,004,879
Deficit accumulated during development stage.....	(47,542)	(99,469)
	-----	-----
<b>Total stockholder's equity.....</b>	<b>455,104</b>	<b>905,410</b>
<b>Commitments and contingencies (notes 3, 10 and 11)</b>		
<b>Total liabilities and stockholder's equity.....</b>	<b>\$485,134</b>	<b>\$1,242,517</b>
	=====	=====

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED STATEMENTS OF OPERATIONS  
Years Ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	1998	1999	2000	December 15, 1992 (date of inception) to December 31, 2000
(in thousand)				
Revenue.....	\$ --	\$ --	\$ --	\$ --
Operating expenses:				
Research and development.....	6,941	4,274	7,397	18,612
Professional fees.....	5,242	9,948	22,751	39,031
General and administrative....	4,010	16,448	48,979	69,457
Total operating expenses....	16,193	30,670	79,127	127,100
Operating loss.....	(16,193)	(30,670)	(79,127)	(127,100)
Other income (expense):				
Interest income.....	26	533	27,200	27,759
Interest expense.....	--	(43)	--	(128)
Net loss.....	\$(16,167)	\$(30,180)	\$(51,927)	\$ (99,469)
	=====	=====	=====	=====

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

Consolidated Statements of Stockholder's Equity  
Years ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	Common Stock ----- Shares Amount	Additional Paid-in Capital	Deficit Accumulated During Development Stage	Total Stockholder's Equity
	----- (in thousands) -----			
Issuance of common stock (December 15, 1992).....	100	\$ --	\$ --	\$ --
Balance at December 31, 1992.....	100	--	--	--
Net loss.....	--	--	--	--
Balance at December 31, 1993.....	100	--	--	--
Net loss.....	--	--	--	--
Balance at December 31, 1994.....	100	--	--	--
Net loss.....	--	--	--	--
Balance at December 31, 1995.....	100	--	--	--
Net loss.....	--	--	--	--
Balance at December 31, 1996.....	100	--	--	--
Contributions to paid-in capital.....	--	73,107	--	73,107
Issuance of common stock and capital contributions.....	25	9,143	--	9,143
Loan converted into capital.....	--	8,477	--	8,477
Issuance of options.....	--	500	--	500
Net loss.....	--	--	(1,195)	(1,195)
Balance at December 31, 1997.....	125	91,227	(1,195)	90,032
Contributions to paid-in capital.....	--	53,591	--	53,591
Net loss.....	--	--	(16,167)	(16,167)
Balance at December 31, 1998.....	125	144,818	(17,362)	127,456
Contributions to paid-in capital.....	--	301,994	--	301,994
Increase in FCC license, goodwill and intangibles from WorldSpace transaction.....	--	51,624	--	51,624
Non-cash stock compensation.....	--	4,210	--	4,210
Net loss.....	--	--	(30,180)	(30,180)
Balance at December 31, 1999.....	125	502,646	(47,542)	455,104
Contributions to paid-in capital.....	--	499,490	--	499,490
Non-cash stock compensation.....	--	2,743	--	2,743
Net loss.....	--	--	(51,927)	(51,927)
Balance at December 31, 2000.....	125	\$ --	\$1,004,879	\$ (99,469)
	=====	=====	=====	=====

See accompanying notes to consolidated financial statements.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
Years Ended December 31, 1998, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) to December 31, 2000

	1998	1999	2000	December 15, 1992 (date of inception) to December 31, 2000
	----- (in thousands) -----			
Cash flows from operating activities:				
Net loss.....	\$(16,167)	\$(30,180)	\$(51,927)	\$ (99,469)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization.....	57	1,478	3,369	4,936
Non-cash stock compensation..	--	4,210	2,743	6,953
Changes in operating assets and liabilities:				
Increase in prepaid and other current assets.....	(212)	(905)	(7,738)	(8,815)
Increase (decrease) in other assets.....	--	62	--	(132)
Increase in accounts payable and accrued expenses....	1,700	7,149	16,037	30,280
Increase in amounts due to related party.....	5,257	--	--	--
Net cash used in operating activities.....	(9,365)	(18,186)	(37,516)	(66,247)
Cash flows from investing activities:				
Purchase of property and equipment.....	(506)	(2,008)	(51,378)	(53,974)
Additions to system under construction.....	(43,406)	(159,510)	(414,889)	(711,173)
Net purchase/maturity of restricted investments.....	--	--	(106,338)	(106,338)
Net purchase/maturity of short-term investments.....	--	(69,472)	69,472	--
Other investing activities....	--	(3,422)	(56,268)	(56,268)
Net cash used in investing activities.....	(43,912)	(234,412)	(559,401)	(927,753)
Cash flows from financing activities:				
Proceeds from sale of common stock and capital contribution.....	--	--	499,589	559,667
Capital contribution from parent through transfer of liabilities.....	53,591	302,002	--	386,135
Proceeds from issuance of senior secured notes.....	--	--	259,254	259,254
Proceeds from the issuance of options.....	--	--	--	500
Payments for deferred financing fees.....	--	--	(8,365)	(8,365)
Other net financing activities.....	(5)	(84)	--	--
Net cash provided by financing activities.....	53,586	301,918	750,478	1,197,191
Net increase in cash and cash equivalents.....	309	49,320	153,561	203,191
Cash and cash equivalents at beginning of period.....	1	310	49,630	--
Cash and cash equivalents at end of period... ..	\$ 310	\$ 49,630	\$203,191	\$ 203,191
	=====	=====	=====	=====
Supplemental cash flow disclosure:				
Increase in FCC license, goodwill and intangibles.....	\$ --	\$ 51,624	\$ --	\$ 51,624
Property acquired through capital leases .....	--	470	1,688	2,075

Source: XM SATELLITE RADIO H, 10-K, March 15, 2001

Non-cash interest				
capitalized.....	29	--	16,302	16,416
Accrued system milestone				
payments.....	21,867	15,500	30,192	30,192
Use of deposit for terrestrial				
repeater contract.....	--	--	3,422	--

See accompanying notes to consolidated financial statements.

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XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

CONSOLIDATED FINANCIAL STATEMENTS

December 31, 1999 and 2000, and for the period from  
December 15, 1992 (date of inception) through December 31, 2000

(1) Summary of Significant Accounting Policies and Practices

(a) Nature of Business

XM Satellite Radio Inc. ("XMSR" or the "Company"), formerly American Mobile Radio Corporation, was incorporated on December 15, 1992 in the State of Delaware as a wholly owned subsidiary of Motient Corporation, formerly American Mobile Satellite Corporation ("Motient") for the purpose of procuring a digital audio radio service ("DARS") license. Business activity for the period from December 15, 1992 through December 31, 1996 was insignificant. Pursuant to various financing agreements entered into in 1997 between Motient, XMSR and WorldSpace, Inc. ("WSI"), WSI acquired a 20 percent interest in XMSR.

On May 16, 1997, Motient and WSI formed XM Satellite Radio Holdings Inc. (the "Parent"), formerly AMRC Holdings Inc., as a holding company for XMSR in connection with the construction, launch and operation of a domestic communications satellite system for the provision of DARS. Motient and WSI exchanged their respective interests in XMSR for equivalent interests in the Company, which had no assets, liabilities or operations prior to the transaction.

(b) Principles of Consolidation and Basis of Presentation

The consolidated financial statements include the accounts of XM Satellite Radio Inc. and its subsidiaries, XM Radio Inc. and XM Equipment Leasing LLC. All significant intercompany transactions and accounts have been eliminated. The Company's management has devoted its time to the planning and organization of the Company, obtaining its DARS license, conducting research and development programs, conducting market research, constructing its satellite and terrestrial repeater systems, securing content providers, securing manufacturers for its radios and obtaining retail distribution channels, securing adequate debt and equity capital for anticipated operations and growth, and addressing regulatory matters. The Company has not generated any revenues and planned principal operations have not commenced. Accordingly, the Company's financial statements are presented as those of a development stage enterprise, as prescribed by Statement of Financial Accounting Standards ("SFAS") No. 7, Accounting and Reporting by Development Stage Enterprises.

(c) Cash and Cash Equivalents

The Company considers short-term, highly liquid investments with an original maturity of three months or less to be cash equivalents. The Company had the following cash and cash equivalents balances (in thousands):

	December 31,	
	1999	2000
Cash on deposit.....	\$ 63	\$ 92
Money market funds.....	9,555	203,099
Commercial paper.....	40,012	--
	\$49,630	\$203,191
	*****	*****

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(d) Short-term Investments

At December 31, 1999, the Company held commercial paper with maturity dates of less than one year that were stated at amortized cost, which approximates fair value.

(e) Restricted Investments

Restricted investments consist of fixed income securities and are stated at amortized cost plus accrued interest income. The securities included in restricted investments are \$106.3 million of US Treasury strips restricted to provide for the remaining five scheduled interest payments on the Company's 14 percent Senior Secured Notes due 2010, which are classified as held-to-maturity securities under the provision of SFAS No. 115, Accounting for Certain Investments in Debt and Equity Securities, \$49.6 million in money market funds for scheduled milestone payments under the Hughes Electronics Corporation contract and \$5.1 million in certificates of deposit to collateralize letters of credit required by facility leases and other secured credits. The carrying value and fair value of the held-to-maturity securities at December 31, 2000 were (in thousands):

	Carrying Value	Unrealized Gain	Fair Value
Held-to-Maturity securities.....	\$106,338	\$1,060	\$107,398

(f) Property and Equipment

Property and equipment are carried at cost less accumulated depreciation and amortization. Depreciation and amortization is calculated using the straight-line method over the following estimated useful lives:

Computer equipment.....	3-5 years
Computer software.....	3-5 years
Furniture and fixtures.....	3-7 years
Machinery and equipment.....	3-7 years
Leasehold improvements.....	Remaining lease term

(g) System Under Construction

The Company is currently developing its satellite system. Costs related to the project are being capitalized to the extent that they have future benefits. As of December 31, 2000, all amounts recorded as system under construction relate to costs incurred in obtaining a Federal Communications Commission ("FCC") license and approval as well as the system development. The FCC license will be amortized using the straight line method over an estimated useful life of fifteen years. Amortization of the license will begin on commercial launch. Depreciation of the Company's satellites will commence upon in-orbit delivery. Depreciation of the Company's ground stations will commence upon commercial launch. The satellites and the ground stations will be depreciated over their estimated useful lives.

On October 16, 1997, the FCC granted XMSR a license to launch and operate two geostationary satellites for the purpose of providing DARS in the United States in the 2332.5-2345 Mhz (space-to-earth) frequency band, subject to achieving certain technical milestones and international regulatory requirements. The license is valid for eight years upon successful launch and orbital insertion of the satellites. The Company's license requires that it comply with a construction and launch schedule specified by the FCC for each of the two authorized satellites. The FCC has the authority to revoke the authorizations and in connection with such revocation could exercise its authority to rescind the Company's license. The Company believes that the exercise of such authority to rescind the license is unlikely.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

System under construction consists of the following (in thousands):

	December 31,	
	1999	2000
License.....	\$115,142	\$122,944
Satellite system.....	204,198	521,573
Terrestrial system.....	10,087	84,715
Spacecraft control facilities.....	2,000	13,046
Broadcast facilities.....	2,073	27,970
System development.....	--	6,458
	\$333,500	\$776,706
	=====	=====

The balances at December 31, 1999 and 2000 include capitalized interest of \$210,000 and \$39,262,000, respectively.

The Company's policy is to review its long-lived assets and certain identifiable intangibles for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

The Company had scheduled the launch of its satellite, "XM Roll", on January 8, 2001. This launch was halted just before lift off. As a result, the Company has determined that it will launch its other satellite, "XM Rock", first, which is scheduled for March 18, 2001. The Company anticipates that XM Roll will be launched in early May 2001 and will commence commercial operations in the summer of 2001.

(h) Goodwill and Intangible Assets

Goodwill and intangible assets, which represents the excess of purchase price over fair value of net assets acquired, is amortized on a straight-line basis over the expected periods to be benefited, generally 15 years. The Company assesses the recoverability of its intangible assets by determining whether the amortization of the goodwill and intangible assets balance over its remaining life can be recovered through undiscounted future operating cash flows. The amount of goodwill and intangible assets impairment, if any, is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets. The assessment of the recoverability of goodwill will be impacted if estimated future operating cash flows are not achieved.

(i) Stock-Based Compensation

The Company accounts for stock-based compensation arrangements in accordance with the provisions of Accounting Principle Board ("APB") Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25"), and related interpretations including FASB Interpretation ("FIN") No. 44, Accounting for Certain Transactions Involving Stock Compensation, an interpretation of APB opinion No. 25 issued in March 2000, and complies with the disclosure provisions of SFAS No. 123, Accounting for Stock-Based Compensation. Under APB 25, compensation expense is based upon the difference, if any, on the date of grant, between the fair value of the Company's stock and the exercise price. All stock-based awards to non-employees are accounted for at their fair value in accordance with SFAS No. 123.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

The Company adopted FIN No. 44 in July 2000 to account for stock options that had been repriced during the period covered by FIN No. 44. The application resulted in additional compensation of \$1,213,000 during the year ended December 31, 2000. Additional compensation charges may result depending upon the market value of the common stock at each balance sheet date.

(j) Research and Development

Research and development costs are expensed as incurred.

(k) Income Taxes

The Company accounts for income taxes in accordance with SFAS No. 109, Accounting for Income Taxes. Deferred income taxes are recognized for the tax consequences in future years of differences between the tax bases of assets and liabilities and the financial reporting amounts at each year-end, based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the sum of taxes payable for the period and the change during the period in deferred tax assets and liabilities.

(l) Comprehensive Income

In December 1998, the Company adopted SFAS No. 130, Reporting Comprehensive Income (SFAS 130). This statement establishes standards for reporting and displaying comprehensive income and its components in the financial statements. This statement is effective for all interim and annual periods within the year ended December 31, 1999. The Company has evaluated the provisions of SFAS 130 and has determined that there were no transactions that have taken place during the years ended December 31, 1998, 1999 and 2000 that would be classified as other comprehensive income.

(m) Accounting Estimates

The preparation of the Company's financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. The estimates involve judgments with respect to, among other things, various future factors which are difficult to predict and are beyond the control of the Company. Significant estimates include valuation of the Company's investment in the DARS license, goodwill and intangible assets, and the valuation allowances against deferred tax assets. Accordingly, actual amounts could differ from these estimates.

(n) Reclassifications

Certain fiscal year 1998 and 1999 amounts have been reclassified to conform to the current presentation.

(o) Derivative Instruments and Hedging Activities

In June 1998, the Financial Accounting Standards Board ("FASB") issued SFAS No. 133, Accounting for Derivative Instruments and Hedging Activities. In June 2000 the FASB issued SFAS No. 138, Accounting for Certain Derivative Instruments and Certain Hedging Activity, an amendment of SFAS 133. SFAS No. 133 and SFAS No. 138 require that all derivative instruments be recorded on the balance sheet at their respective fair values. SFAS No. 133 and SFAS No. 138 are effective for all fiscal quarters of all fiscal years beginning after 2000. The Company will adopt SFAS No. 133 and SFAS No. 138 on January 1, 2001. The Company has reviewed its contracts and has determined that it has no derivative instruments and does not engage in hedging activities.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(2) Related Party Transactions

The Company had related party transactions with the following shareholders:

(a) Motient

In 1997, Motient contributed \$143,000 to the Company to establish the original application for the FCC license. On March 28, 1997, the Company received \$1,500,000 as a capital contribution from Motient. Effective January 15, 1999, the Parent issued a convertible note maturing on September 30, 2006 to Motient for \$21,419,000. (See note 3(d)). The proceeds from the convertible note were contributed to the Company as additional paid-in capital.

(b) WSI

On March 28, 1997, the Company received \$1,500,000 as a capital contribution from WSI. The Company issued WSI 25 shares of common stock for this consideration.

On April 16, 1997, the Company received \$15,000,000 from WSI, which represented \$6,000,000 as an additional capital contribution and \$9,000,000 as a six-month bridge loan (see note 3). The liability for the draw against the bridge loan was assumed by the Parent on May 16, 1997.

In addition to financing, the Company has relied upon certain related parties for legal and technical services. Total expenses incurred in transactions with related parties are as follows (in thousands):

	Year ended December 31, 1998		
	WSI	Motient	Total
Research and development.....	\$ 6,624	\$ --	\$ 6,624
Professional fees.....	2,529	353	2,882
General and administrative.....	903	60	963
Total.....	\$10,056	\$413	\$10,469

	Year ended December 31, 1999		
	WSI	Motient	Total
Research and development.....	\$ 50	\$ --	\$ 50
Professional fees.....	--	219	219
General and administrative.....	--	5	5
Total.....	\$ 50	\$224	\$ 274

	Year ended December 31, 2000	
	Motient	
Research and development.....	\$ --	
Professional fees.....	252	
General and administrative.....	--	
Total.....	\$252	

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

With the WorldSpace Transaction, which is discussed in note 3, on July 7, 1999, WSI ceased to be a related party; therefore, the expenses reflected for WSI are representative of the period from January 1, 1999 through July 7, 1999.

(c) Parent

On May 16, 1997, the Parent obtained a \$1,000,000 working capital loan facility from WSI. During 1997, the Company drew down \$663,000 against the facility with the remaining \$337,000 drawn in 1998 (see note 3). The proceeds from these draws were contributed to the Company as additional paid-in capital.

On October 16, 1997, the Parent received \$71,911,000 from WSI, which represented an additional \$13,522,000 under the bridge loan and \$58,389,000 under the additional amounts loan (see note 3). The proceeds from these draws were contributed to the Company as additional paid-in capital.

On April 1, 1998, the Parent entered into an agreement with WSI to issue \$54,536,000 in subordinated convertible notes. During 1999, the Parent drew down \$8,953,000, respectively, under the agreement (see note 3). The proceeds from these draws were contributed to the Company as additional paid-in capital.

In July 1998, the Parent contributed furniture and equipment with a book value of \$104,000 to the Company.

On October 8, 1999, the Parent completed an initial public offering of 10,000,000 shares of Class A common stock at \$12.00 per share. The offering yielded net proceeds of \$111,437,000, which was contributed to the Company as additional paid-in capital.

On October 17, 1999, the underwriters of the Parent's initial public offering exercised the over-allotment option for an additional 241,000 shares of Class A common stock at \$12.00 per share. This exercise yielded net proceeds of \$2,697,000, which was contributed to the Company as additional paid-in capital.

On January 31, 2000, the Parent closed on a secondary offering of its Class A common stock and newly designated Series B convertible redeemable preferred stock. The Parent sold 4,000,000 shares of its Class A common stock for \$32.00 per share, which yielded net proceeds of \$120,837,000. The Parent concurrently sold 2,000,000 shares of its Series B convertible redeemable preferred stock for \$50.00 per share, which yielded net proceeds of \$96,472,000. On February 9, 2000, the underwriters exercised a portion of the over-allotment option for 370,000 shares of Class A common stock, which yielded net proceeds of approximately \$11,233,000. All proceeds were contributed to the Company by the Parent.

On March 15, 2000 the Parent and the Company closed a private placement of 325,000 units, each unit consisting of \$1,000 principal amount of 14 percent Senior Secured Notes due 2010 of XMSR and one warrant to purchase 8.024815 shares of the Parent's Class A common stock at a price of \$49.50 per share. The Company realized net proceeds of \$191.5 million, excluding \$123.0 million used to acquire securities which will be used to pay interest payments due under the notes for the first three years. The \$325,000,000 face value of the notes was offset by a discount of \$65,746,000 associated with the fair value of the warrants sold, which was contributed to the Company. The Company had amortized \$2,044,000 of the discount through December 31, 2000.

On July 7, 2000, the Parent reached an agreement for a private offering of 235,000 shares of its Series C convertible redeemable preferred stock for \$1,000 per share, which closed on August 8, 2000 and yielded net proceeds of \$206,379,000 and a stock subscription of \$20,000,000 that earned interest at 7 percent per annum until it was paid on November 30, 2000. The stock subscription was received by the Parent in November 2000 and provided an additional \$20,443,000. All proceeds, except the receipt of the stock subscription were contributed to the Company by the Parent.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(3) Debt

(a) Loans Payable Due to Related Parties

In March 1997, XMSR entered into a series of agreements (the "Participation Agreement") with Motient and WSI in which both companies provided various equity and debt funding commitments to XMSR for the purpose of financing the activities of XMSR in connection with the establishment of a DARS satellite system in the United States. The Participation Agreement, as well as other agreements subsequently reached between the Company, Motient and WSI, served as the basis for several rounds of financing in the form of loans and notes with either conversion features or options for the Parent's common stock through July 7, 1999. The Parent had raised \$142,447,000 in the form of loans and convertible notes from WSI and \$21,419,000 in convertible notes from Motient through July 7, 1999.

On July 7, 1999, Motient acquired WSI's remaining debt and equity interests in the Parent in exchange for approximately 8.6 million shares of Motient's common stock (termed the "Worldspace Transaction"). Additionally, the Parent issued an aggregate \$250.0 million of Series A subordinated convertible notes (see note 3(b)) to several new investors and used \$75.0 million of the proceeds it received from the issuance of these notes to redeem certain outstanding loan obligations owed to WSI. As a result of these transactions, as of July 7, 1999, Motient owned all of the issued and outstanding stock of the Parent. Concurrent with Motient's acquisition of the remaining interest in the Parent, the Company recognized goodwill and intangibles of \$51,624,000, which has been allocated as follows (in thousands):

FCC License.....	\$25,024
Goodwill.....	13,738
Programming agreements.....	8,000
Receiver agreements.....	4,600
Other intangibles.....	262
	-----
	\$51,624
	=====

(b) Issuance of Series A Subordinated Convertible Notes of the Parent to New Investors

At the closing of the WorldSpace Transaction, the Parent issued an aggregate \$250.0 million of Series A subordinated convertible notes to six new investors--General Motors Corporation, \$50.0 million; Clear Channel Investments, Inc., \$75.0 million; DIRECTV Enterprises, Inc., \$50.0 million, and Columbia Capital, Telcom Ventures, L.L.C. and Madison Dearborn Partners, \$75.0 million. The Parent contributed the net proceeds from the sale of these notes to the Company.

(c) Private Units Offering

On March 15, 2000 the Parent and the Company closed a private placement of 325,000 units, each unit consisting of \$1,000 principal amount of 14 percent senior secured notes due 2010 of XM Satellite Radio Inc. and one warrant to purchase 0.024815 shares of the Parent's Class A common stock at a price of \$49.50 per share. The Company realized net proceeds of \$191.0 million, excluding \$123.0 million used to acquire securities which will be used to pay interest payments due under the notes for the first three years.

(d) Notes to Related Party

On January 15, 1999, the Parent issued a convertible note to Motient for \$21,419,000. The proceeds from the note were contributed to the Company as additional paid-in capital.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(4) Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents, short-term investments, accounts payable, accrued expenses and royalty payable approximate their fair market value because of the relatively short duration of these instruments as of December 31, 1999 and 2000, in accordance with SFAS No. 107, Disclosures about Fair Value of Financial Instruments. At December 31, 2000, the carrying amount and fair value of the 14 percent Senior Secured Notes due 2010 were \$261,298,000 and \$179,563,000, respectively, based on the quoted market price.

(5) Stock-Based Compensation

The Company operates three separate stock option plans, the details of which are described below.

(a) 1998 Shares Award Plan

On June 1, 1998, the Parent adopted the 1998 Shares Award Plan (the "Plan") under which XMSR employees, consultants, and non-employee directors may be granted options to purchase shares of Class A common stock of the Parent. The Parent initially authorized 1,337,850 shares of Class A common stock under the Plan, which was increased to 2,675,700 in July 1999 and 5,000,000 in May 2000. The options are exercisable in installments determined by the compensation committee of the Company's board of directors. The options expire as determined by the committee, but no later than ten years from the date of grant. On July 8, 1999, the Company's board of directors voted to reduce the exercise price of the options outstanding in the shares award plan from \$16.35 to \$9.52 per share, which represented the fair value of the stock on the date of repricing. Transactions and other information relating to the Plan for the year ended December 31, 1999 and 2000 are summarized below:

	Outstanding Options	
	Number of Shares	Weighted- Average Exercise Price
Balance, December 31, 1997.. .. .	--	\$ --
Options granted.....	787,297	16.35
Options canceled or expired.. .. .	--	--
Options exercised.....	--	--
	-----	-----
Balance, December 31, 1998.. .. .	787,297	\$16.35
Options granted.....	2,188,988	10.50
Option repricing.....	(818,339)	16.35
Options canceled or expired.....	(57,786)	13.91
Options exercised.....	(1,071)	9.52
	-----	-----
Balance, December 31, 1999.....	2,099,089	\$10.32
Options granted.....	1,176,683	30.21
Options canceled or expired.....	(131,267)	17.01
Options exercised.....	(48,817)	9.52
	-----	-----
Balance, December 31, 2000.....	3,095,688	\$17.61
	=====	=====

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

The following table summarizes information about stock options outstanding at December 31, 1998, 1999 and 2000:

	Exercise Price	Options Outstanding			Options Exercisable	
		Number Outstanding	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number Exercisable	Weighted-Average Exercise Price
1998....	\$ 16.35	787,297	9.5 years	\$16.35	--	\$16.35
1999....	\$ 9.52-\$12.00	2,099,089	9.24 years	\$10.32	416,294	\$ 9.52
2000....	\$ 9.52-\$12.00	2,120,400	8.26 years	\$10.39	1,110,756	\$10.06
	\$ 13.13-\$30.50	297,685	9.03 years	\$23.13	5,334	\$13.13
	\$ 30.63-\$45.44	677,603	9.54 years	\$37.92	20,000	\$43.69

There were no, 416,294 and 1,136,090 stock options exercisable at December 31, 1998, 1999 and 2000, respectively. There were 1,615,483 shares available under the plan for future grants at December 31, 2000. At December 31, 2000, all options have been issued to employees, officers and directors.

The per share weighted-average fair value of employee options granted during the year ended December 31, 1998, 1999 and 2000 was \$10.54, \$6.21 and \$22.06, respectively, on the date of grant using the Black-Scholes Option Pricing Model with the following weighted-average assumptions:

	December 31,		
	1998	1999	2000
Expected dividend yield....	0%	0%	0%
Volatility.....	56.23%	63.92%	68.21%
Risk-free interest rate range.....	4.53% to 5.57%	5.47% to 5.97%	4.99% to 6.71%
Expected life.....	7.5 years	5 years	5 years

(b) Employee Stock Purchase Plan

In 1999, the Parent established an employee stock purchase plan that provides for the issuance of 300,000 shares of the Parent's Class A common stock. All XMSR employees whose customary employment is more than 20 hours per week and for more than five months in any calendar year are eligible to participate in the stock purchase plan, provided that any employee who would own five percent or more of the Company's total combined voting power immediately after an offering date under the plan is not eligible to participate. Eligible employees must authorize the Company to deduct an amount from their pay during offering periods established by the compensation committee. The purchase price for shares under the plan will be determined by the compensation committee but may not be less than 85 percent of the lesser of the market price of the common stock on the first or last business day of each offering period. As of December 31, 2000, 53,539 shares had been issued to XMSR employees under this plan.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

The per share weighted-average fair value of purchase rights granted during the year was \$3.30 and \$11.28 for the years ended December 31, 1999 and 2000, respectively. The estimates were calculated at the grant date using the Black-Scholes Option Pricing Model with the following assumptions at December 31, 1999 and 2000:

	December 31,	
	1999	2000
Expected dividend yield...	0%	0%
Volatility.....	62.92%	68.21%
Risk-free interest rate range.....	4.73%	5.33%-6.23%
Expected life.....	0.23 years	0.24 years
	=====	=====

The Company applies APB 25 in accounting for stock-based compensation for both plans and, accordingly, no compensation cost has been recognized for its stock options in the financial statements other than for performance based stock options, for options granted with exercise prices below fair value on the date of grant and for repriced options under FIN No. 44. During 1999 and 2000, the Company incurred \$4,070,000 and \$2,557,000, respectively, in compensation cost for these options. Had the Company determined compensation cost based on the fair value at the grant date for its stock options under SFAS 123, the Company's net loss and net loss per share would have been increased to the pro forma amounts indicated below (in thousands):

	Year ended December 31,		
	1998	1999	2000
Net Loss:			
As reported.....	\$16,167	\$30,180	\$51,927
Pro forma.....	17,508	30,990	60,171
	=====	=====	=====

(c) Talent Option Plan

In May 2000, the Parent adopted the XM Talent Option Plan ("Talent Plan") under which non-employee service providers to the Company may be granted options to purchase shares of Class A common stock of the Parent. The Parent authorized 500,000 shares of Class A common stock under the Talent Plan. The options are exercisable in installments determined by the talent committee of the Company's board of directors. The options expire as determined by the talent committee, but no later than ten years from the date of the grant. As of December 31, 2000, no options had been granted under the Talent Plan.

(6) Assumptions of Liabilities

On May 16, 1997, the Parent assumed the bridge loan and the option liability held by XMSR. After May 16, 1997, the Parent initiated all future debt with lenders and contributed the proceeds to XMSR as a contribution of capital and maintained the debt. The Parent also assumed other liabilities relating to the technical support agreement.

(7) Profit Sharing and Employee Savings Plan

On July 1, 1998, the Company adopted a profit sharing and employee savings plan under Section 401(k) of the Internal Revenue Code. This plan allows eligible employees to defer up to 15 percent of their compensation on a pre-tax basis through contributions to the savings plan. The Company contributed \$0.50 in 1998, 1999 and 2000 for every dollar the employees contributed up to 6 percent of compensation, which amounted to \$14,000, \$164,000 and \$229,000, respectively.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(8) Interest Cost

The Company capitalizes a portion of interest cost as a component of the cost of the FCC license and satellite system under construction. The following is a summary of interest cost incurred during December 31, 1998, 1999 and 2000, and for the period from December 15, 1992 (date of inception) to December 31, 1999 (in thousands):

	1998	1999	2000	December 15, 1992 (date of inception) to December 31, 2000
	-----	-----	-----	-----
Interest cost capitalized.....	\$30	\$210	\$39,022	\$39,262
Interest cost charged to expense.....	--	43	--	128
	-----	-----	-----	-----
Total interest cost incurred.....	\$30	\$253	\$39,022	\$39,390
	===	====	=====	=====

Interest costs incurred prior to the award of the license were expensed in 1998.

(9) Income Taxes

For the period from December 15, 1992 (date of inception) to October 8, 1999, the Parent and the Company filed consolidated federal and state tax returns where permitted with its majority stockholder Motient. The Company generated net operating losses and other deferred tax benefits that were not utilized by Motient. As no formal tax sharing agreement has been finalized, the Company was not compensated for the net operating losses. Had the Company filed on a stand-alone basis for the three-year period ending December 31, 2000, the Company's tax provision would be as follows:

Taxes on income included in the statements of operations consists of the following (in thousands).

	December 31,		
	1998	1999	2000
	-----	-----	-----
Current taxes:			
Federal.....	\$ --	\$ --	\$ --
State.....	--	--	--
	-----	-----	-----
Total current taxes.....	--	--	--
	-----	-----	-----
Deferred taxes:			
Federal.....	\$ --	\$ --	\$ --
State.....	--	--	--
	-----	-----	-----
Total deferred taxes.....	--	--	--
	-----	-----	-----
Total tax expense (benefit).....	\$ --	\$ --	\$ --
	=====	=====	=====

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

A reconciliation of the statutory tax expense, assuming all income is taxed at the statutory rate applicable to the income and the actual tax expense is as follows (in thousands):

	December 31,		
	1998	1999	2000
Income (loss) before taxes on income, as reported in the statements of income.....	\$(16,167)	\$(30,181)	\$(51,972)
Theoretical tax benefit on the above amount at 35%.....	(5,658)	(10,563)	(18,174)
State tax, net of federal benefit.....	(1,604)	1,370	(2,877)
Increase in taxes resulting from permanent differences, net.....	31	2,120	562
Adjustments arising from differences in the basis of measurement for tax purposes and financial reporting purposes and other.....	--	13,252	7
Change in valuation allowance.....	7,231	(6,179)	20,482
Taxes on income for the reported year.....	\$ --	\$ --	\$ --

At December 31, 1998, 1999 and 2000, deferred income tax consists of future tax assets/(liabilities) attributable to the following (in thousands):

	December 31,		
	1998	1999	2000
<b>Deferred tax assets.</b>			
Net operating loss/other tax attribute carryovers.....	\$ 518	\$ 2,054	\$ 12,396
Start-up costs.....	7,251	14,972	42,252
Gross total deferred tax assets.....	7,769	17,026	54,648
Valuation allowance for deferred tax assets...	(7,769)	(1,590)	(22,072)
Net deferred assets.....	--	15,436	32,576
<b>Deferred tax liabilities:</b>			
Fixed assets.....	--	(51)	(16,532)
FCC license.....	--	(10,160)	(9,821)
Other intangible assets.....	--	(5,225)	(6,223)
Net deferred tax liabilities.....	--	(15,436)	(32,576)
Deferred income tax, net.....	\$ --	\$ --	\$ --

At December 31, 2000, the Company had accumulated net operating losses of \$31,047,000 for Federal income tax purposes that are available to offset future regular taxable income. These operating loss carryforwards expire between the years 2012 and 2020. Utilization of these net operating losses may be subject to limitations in the event of significant changes in the stock ownership of the Company.

(10) Accumulated Deficit

The Company is devoting its efforts to develop, construct and expand a digital audio radio network. This effort involves substantial risk and future operating results will be subject to significant business, economic, regulatory, technical, and competitive uncertainties and contingencies. These factors individually or in the aggregate could have an adverse effect on the Company's financial condition and future operating results and create an uncertainty as to the Company's ability to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the Company be unable to continue as a going concern.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

At the Company's current stage of development, economic uncertainties exist regarding the successful acquisition of additional debt or equity financings and the attainment of positive cash flows from the Company's proposed service. The Company is currently constructing its satellite and terrestrial systems and will require substantial additional financing to market and distribute the satellite-based radio service. Failure to obtain the required long-term financing will prevent the Company from realizing its objective of providing satellite-based radio programming. Management's plan to fund operations and capital expansion includes the additional sale of debt and equity securities through public and private sources. There are no assurances, however, that such financing will be obtained.

(11) Commitments and Contingencies

(a) FCC License

The FCC has established certain system development milestones that must be met for the Company to maintain its license to operate the system. The Company believes that it is proceeding into the system development as planned and in accordance with the FCC milestones.

(b) Application for Review of FCC License

One of the losing bidders for the DARS licenses filed an Application for Review by the full FCC of the Licensing Order which granted the Company its FCC license. The Application for Review alleges that WSI had effectively taken control of the Company without FCC approval. The FCC or the U.S. Court of Appeals has the authority to overturn the award of the FCC license should they rule in favor of the losing bidder. Although the Company believes that its right to the FCC license will withstand the challenge as WSI is no longer a stockholder in the Company, no prediction of the outcome of this challenge can be made with any certainty.

(c) Technical Services

Effective January 1, 1998, the Company entered into agreements with Motient and WorldSpace Management Corporation ("WorldSpace MC"), an affiliate of WSI, in which Motient and WorldSpace MC would provide technical support in areas related to the development of a DARS system. Payments for services provided under these agreements are made based on negotiated hourly rates. These agreements may be terminated by the parties on or after the date of the commencement of commercial operation following the launch of the Holdings' first satellite. There are no minimum services purchase requirements. The Company incurred costs of \$413,000, \$224,000 and \$252,000 under its agreement with Motient and \$4,357,000, \$0 and \$0 costs were incurred under its agreement with WorldSpace MC during the years ended December 31, 1998, 1999 and 2000, respectively. The Company incurred costs of \$1,039,000 under its agreement with Motient and \$5,317,000 in costs were incurred under its agreement with WorldSpace MC from December 15, 1992 (date of inception) through December 31, 2000.

(d) Technology Licenses

Effective January 1, 1998, XMSR entered into a technology licensing agreement with Motient and WorldSpace MC by which as compensation for certain licensed technology then under development to be used in the XM Radio system, XMSR will pay up to \$14,300,000 to WorldSpace MC over a ten-year period. As of December 31, 2000 XMSR incurred costs of \$6,696,000 payable to WorldSpace MC. Any additional amounts to be incurred under this agreement are dependent upon further development of the technology, which is at XMSR's option. No liability exists to Motient or WorldSpace MC should such developments prove

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

unsuccessful. XMSR maintains an accrual of \$5,165,000 payable to WorldSpace MC, for quarterly royalty payments to be made. In addition, XMSR agreed to pay 1.2 percent of quarterly net revenues to WorldSpace MC and a royalty of \$0.30 per chipset, payable to WorldSpace MC, for equipment manufactured using certain source encoding and decoding signals technology.

(e) Satellite Contract

During the first half of 1999, the Company and Boeing Satellite Systems International, Inc. ("BSS"--formerly Hughes Space and Communications, Inc.) amended the satellite contract to construct and launch the Company's satellites to implement a revised work timetable, payment schedule to reflect the timing of the receipt of additional funding, and technical modifications. Holdings expects to incur total payment obligations under this contract of approximately \$541,300,000, which includes amounts the Company expects to pay pursuant to the exercise of the option to build the ground spare satellite and certain financing costs and in-orbit incentive payments. On June 27, 2000, the Company exercised the option to build the ground spare. As of December 31, 2000, the Company had paid \$466,017,000 under the Satellite contract with BSS and had accrued \$1,585,000.

(f) Terrestrial Repeater System Contracts

In August 1999, the Company signed a contract with LCC International, Inc., a related party, calling for the payments of approximately \$115,000,000 for engineering and site preparation. In January 2001, the scope of the contract was amended and the estimated contract value was reduced to \$107,500,000. As of December 31, 2000, the Company had paid \$50,168,000 under this contract, and accrued an additional \$15,141,000. The Company has entered into tower construction agreements with various companies, which will provide certain services which LCC International, Inc. was to provide. The Company also entered into a contract effective October 22, 1999, with Hughes Electronics Corporation for the design, development and manufacture of the terrestrial repeaters. Payments under the contract are expected to be approximately \$128,000,000, which could be modified based on the number of terrestrial repeaters that are required for the system. As of December 31, 2000, the Company had paid \$15,358,000 under this contract.

(g) General Motors Distribution Agreement

The Company has signed a long-term distribution agreement with the OnStar division of General Motors providing for the installation of XM radios in General Motors vehicles. During the term of the agreement, which expires 12 years from the commencement date of the Company's commercial operations, General Motors has agreed to distribute the service to the exclusion of other S-band satellite digital radio services. The Company will also have a non-exclusive right to arrange for the installation of XM radios included in OnStar systems in non-General Motors vehicles that are sold for use in the United States. The Company has significant annual, fixed payment obligations to General Motors for four years following commencement of commercial service. These payments approximate \$35,000,000 in the aggregate during this period. Additional annual fixed payment obligations beyond the initial four years of the contract term range from less than \$35,000,000 to approximately \$130,000,000 through 2009, aggregating approximately \$400,000,000. In order to encourage the broad installation of XM radios in General Motors vehicles, the Company has agreed to subsidize a portion of the cost of XM radios, and to make incentive payments to General Motors when the owners of General Motors vehicles with installed XM radios become subscribers for the Company's service. The Company must also share with General Motors a percentage of the subscription revenue attributable to General Motors vehicles with installed XM radios, which percentage increases until there are more than 8 million General Motors

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

vehicles with installed XM radios. The Company will also make available to General Motors bandwidth on the Company's systems. The agreement is subject to renegotiations at any time based upon the installation of radios that are compatible with a unified standard or capable of receiving Sirius Satellite Radio's (formerly known as CD Radio) service. The agreement is subject to renegotiations if, four years after the commencement of XM Radio's commercial operations and at two-year intervals thereafter GM does not achieve and maintain specified installation levels of General Motors vehicles capable of receiving the Company's service, starting with 1,240,000 units after four years, and thereafter increasing by the lesser of 600,000 units per year and amounts proportionate to target market shares in the satellite digital radio service market. There can be no assurances as to the outcome of any such renegotiations. General Motors' exclusivity obligations will discontinue if, four years after the Company commences commercial operations and at two-year intervals thereafter, the Company fails to achieve and maintain specified minimum market share levels in the satellite digital radio service market.

(h) Joint Development Agreement

On January 12, 1999, Sirius Radio the other holder of an FCC satellite radio license, commenced an action against the Company in the United States District Court for the Southern District of New York, alleging that the Company was infringing or would infringe three patents assigned to Sirius Radio. In its complaint, Sirius Radio sought money damages to the extent the Company manufactured, used or sold any product or method claimed in their patents and injunctive relief. On February 16, 2000, this suit was resolved in accordance with the terms of a joint development agreement between the Company and Sirius Radio and both companies agreed to cross-license their respective property. Each party is obligated to fund one half of the development cost for a unified standard for satellite radios. Each party will be entitled to license fees or a credit towards its one half of the cost based upon the validity, value, use, importance and available alternatives of the technology it contributes. The amounts for these fees or credits will be determined over time by agreement of the parties or by arbitration. The parties have yet to agree on the validity, value, use, importance and available alternatives of their respective technologies. If the parties fail to reach agreement, the fees or credits may be determined through binding arbitration. However, if this agreement is terminated before the value of the license has been determined due to the Company's failure to perform a material covenant or obligation, then this suit could be refiled.

(i) Sony Warrants

In February 2000, the Parent issued a warrant to Sony exercisable for shares of the Parent's Class A common stock. The warrant will vest at the time that it attains its millionth customer, and the number of shares underlying the warrant will be determined by the percentage of XM Radios that have a Sony brand name as of the vesting date. If Sony achieves its maximum performance target, it will receive 2 percent of the total number of shares of the Parent's Class A common stock on a fully-diluted basis upon exercise of the warrant. The exercise price of the Sony warrant will equal 105 percent of fair market value of the Class A common stock on the vesting date, determined based upon the 20-day trailing average.

(j) Sales, Marketing and Distribution Agreements

The Company has entered into various joint sales, marketing and distribution agreements. Under the terms of these agreements, the Company is obligated to provide incentives, subsidies and commissions to other companies that may include fixed payments, per-unit subscriber amounts and revenue sharing arrangements. The amount of these operational, promotional, subscriber acquisition, joint development, and manufacturing costs related to these agreements cannot be estimated, but are expected to be substantial future costs.

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS--(Continued)

(k) Leases

The Company has noncancelable operating leases for office space and terrestrial repeater sites and noncancelable capital leases for equipment that expire over the next ten years. The future minimum lease payments under noncancelable leases as of December 31, 2000 are (in thousands):

	Operating leases	Capital leases
	-----	-----
Year ending December 31:		
2001.....	\$13,261	\$ 847
2002.....	13,665	761
2003.....	13,986	474
2004.....	14,230	--
2005.....	11,041	--
Thereafter.....	22,513	--
	-----	-----
Total.....	\$88,696	2,082
	=====	
Less amount representing interest.....		(159)
		-----
Present value of net minimum lease payments.....		1,923
Less current maturities.....		(556)
		-----
Long-term obligations.....		\$1,367
		=====

Rent expense for 1998, 1999 and 2000 was \$231,000, \$649,000 and \$6,082,000 respectively.

(12) Subsequent Financing (unaudited)

In March 2001, the Parent completed a follow-on offering of 7,500,000 shares of Class A common stock, which yielded net proceeds of \$72.0 million, and a concurrent offering of 7.75% convertible subordinated notes due 2006, convertible into shares of Class A common stock at a conversion price of \$12.23 per share, which yielded net proceeds of \$120.7 million.

Independent Auditors' Report on Consolidated Financial Statement Schedule

The Board of Directors  
XM Satellite Radio Holdings Inc. and Subsidiaries:

Under date of February 9, 2001, we reported on the consolidated balance sheets of XM Satellite Radio Holdings Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000, and the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the years in the three-year period ended December 31, 2000 and for the period from December 15, 1992 (date of inception) to December 31, 2000, which are included in the XM Satellite Radio Holdings Inc. and subsidiaries annual report on Form 10-K for the year 2000. In connection with our audits of the aforementioned consolidated financial statements, we also audited the related consolidated financial statement schedule. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this consolidated financial statement schedule based on our audits.

In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

The audit report on the consolidated financial statements of XM Satellite Radio Holdings Inc. and subsidiaries referred to above contains an explanatory paragraph that states that the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statement schedule included in the registration statement does not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

McLean, VA  
February 9, 2001

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XM SATELLITE RADIO HOLDINGS INC. AND SUBSIDIARIES  
(A Development Stage Company)

Schedule I--Valuation And Qualifying Accounts  
(in thousands)

Description	Balance January 1	Charged to Costs and Expenses	Charged to Other Accounts-- Describe	Write-Offs/ Payments/ Other	Balance December 31
Year Ended December 31, 1998					
Deferred Tax Assets-- Valuation Allowance..	\$ 746	7,232	--	--	\$ 7,978
Year Ended December 31, 1999					
Deferred Tax Assets-- Valuation Allowance..	\$7,978	(3,159)	--	--	\$ 4,819
Year Ended December 31, 2000					
Deferred Tax Assets-- Valuation Allowance..	\$4,819	20,173	--	--	\$24,992

Independent Auditors' Report on Consolidated Financial Statement Schedule

The Board of Directors  
XM Satellite Radio Inc. and Subsidiaries:

Under date of February 9, 2001, we reported on the consolidated balance sheets of XM Satellite Radio Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000, and the related consolidated statements of operations, stockholder's equity, and cash flows for each of the years in the three-year period ended December 31, 2000 and for the period from December 15, 1992 (date of inception) to December 31, 2000, which are included in the XM Satellite Radio Inc. and subsidiaries annual report on Form 10-K for the year 2000. In connection with our audits of the aforementioned consolidated financial statements, we also audited the related consolidated financial statement schedule. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this consolidated financial statement schedule based on our audits.

In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

The audit report on the consolidated financial statements of XM Satellite Radio Inc. and subsidiaries referred to above contains an explanatory paragraph that states that the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statement schedule included in the registration statement does not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

McLean, VA  
February 9, 2001

XM SATELLITE RADIO INC. AND SUBSIDIARIES  
(A Development Stage Company)

Valuation And Qualifying Accounts  
(in thousands)

Description	Balance January 1	Charged to Costs and Expenses	Charged to Other Accounts-- Describe	Write-Offs/ Payments/ Other	Balance December 31
Year Ended December 31, 1998					
Deferred Tax Assets-- Valuation Allowance..	\$ 538	7,231	--	--	\$ 7,769
Year Ended December 31, 1999					
Deferred Tax Assets-- Valuation Allowance..	\$7,769	(6,179)	--	--	\$ 1,590
Year Ended December 31, 2000					
Deferred Tax Assets-- Valuation Allowance..	\$1,590	20,482	--	--	\$22,072

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XM Satellite Radio Holdings Inc.

\$125,000,000

7.75% CONVERTIBLE SUBORDINATED NOTES DUE 2006

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INDENTURE

Dated as of March 6, 2001

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UNITED STATES TRUST COMPANY OF New York,

as Trustee

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CROSS-REFERENCE TABLE\*

Trust Indenture Act Section	Indenture Section
310 (a) (1)	7.10
(a) (2)	7.10
(a) (3)	N.A.
(a) (4)	N.A.
(a) (5)	7.10
(b)	7.10
(c)	N.A.
311 (a)	7.11
(b)	7.11
(c)	N.A.
312 (a)	2.05
(b)	12.03
(c)	12.03
313 (a)	7.06
(b) (1)	10.03
(b) (2)	7.07
(c)	7.06;12.02
(d)	7.06
314 (a)	4.03;12.02
(b)	10.02
(c) (1)	12.04
(c) (2)	12.04
(c) (3)	N.A.
(d)	10.03, 10.04, 10.05
(e)	12.05
(f)	N.A.
315 (a)	7.01
(b)	7.05,12.02
(c)	7.01
(d)	7.01
(e)	6.11
316 (a) (last sentence)	2.09
(a) (1) (A)	6.05
(a) (1) (B)	6.04
(a) (2)	N.A.
(b)	6.07
(c)	2.12
317 (a) (1)	6.08
(a) (2)	6.09
(b)	2.04
318 (a)	12.01

Trust Indenture  
Act Section

Indenture Section

(b) .....	N.A.
(c) .....	12.01

N.A. means not applicable.

\* This Cross Reference Table is not part of the Indenture.

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INDENTURE, dated as of March 6, 2001, between XM Satellite Radio Holdings Inc., a Delaware corporation (the "Company"), and United States Trust Company of New York, as trustee (the "Trustee").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined in Section 1.01 hereof) of the Company's 7.75% Convertible Subordinated Notes due 2006 (the "Notes"):

ARTICLE I.  
DEFINITIONS; TRUST INDENTURE ACT

Section 1.01 Definitions.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control", as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise, provided that beneficial ownership of 10% of more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition the terms "controlling," "controlled by," and "under common control with" shall have correlative meanings.

"Agent" means any Registrar, Paying Agent or Conversion Agent.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository that apply to such transfer or exchange.

"Board of Directors" means:

- (1) with respect to a corporation, the board of directors of the corporation;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership; and
- (3) with respect to any other Person, the board or committee of such Person serving a similar function.

"Board Resolution" means a duly authorized resolution of the Board of Directors.

"Business Day" means any day that is not a Legal Holiday.

"Capital Stock" means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Change in Control" means the occurrence of one or more of the following events: (i) any person or group, other than a Permitted Owner, acquires direct or indirect beneficial ownership of shares of the Company's capital stock (by means of an exchange offer, liquidation, tender offer, consolidation, merger, combination, reclassification, recapitalization or otherwise) sufficient to entitle such person to exercise more than 50% of the total voting power of all classes of the Company's capital stock entitled to vote generally in elections of directors, unless the closing price per share of the Company's Class A Common Stock for any five trading days within the period of ten consecutive trading days ending immediately after the announcement of such change in control equals or exceeds 105% of the Conversion Price of Notes in effect on each such trading day, or (ii) the Company sells, leases, exchanges or otherwise transfers, in one transaction or a series of related transactions, all or substantially all of its assets to any person or group, other than to a Permitted Owner.

"Class A Common Stock" means the Class A common stock, par value \$0.01 per share, of the Company as the same exists at the date of the execution of this Indenture or as such stock may be constituted from time to time.

"Company" means XM Satellite Radio Holdings Inc. and any and all successors thereto.

"Current Market Price" means the average of the daily closing prices for the five consecutive trading days selected by the Company's Board of Directors beginning not more than 20 trading days before, and ending not later than the relevant date of the applicable event and the date immediately preceding the record date fixed in connection with that event.

"Daily Market Price" means the price of a share of Class A Common Stock on the relevant date, determined (a) on the basis of the daily closing or last reported sale price regular way of the Class A Common Stock as reported on the Nasdaq National Market, or if the Class A Common Stock is not then listed on the Nasdaq National Market, as reported on such national securities exchange upon which the Class A Common Stock is listed, or (b) if there is no such reported sale on the day in question, on the basis of the average of the closing bid and asked quotations regular way as so reported, or (c) if the Class A Common Stock is not listed on the Nasdaq National Market or on any national securities exchange, on the basis of the average of the high bid and low asked quotations regular way on the day in question in the over-the-counter market as reported by the National Association of Securities Dealers Automated Quotation System, or if not so quoted, as reported by National Quotation Bureau, Incorporated, or a similar organization.

"Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fundamental Change" means any transaction or event, including any merger, consolidation, sale of assets, tender or exchange offer, reclassification, compulsory share exchange or liquidation in which all or substantially all outstanding shares of the Company's Class A Common Stock are converted into or exchanged for stock, other securities, cash or assets.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"Guarantee" means a guarantee, other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner, including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Holder" means a Person in whose name a Note is registered in the register referred to in Section 2.03.

"Indebtedness" means (i) all of the Company's indebtedness, obligations and other liabilities, contingent or otherwise, including (a) for borrowed money, (b) overdrafts, foreign exchange contracts, currency exchange agreements, interest rate protection agreements and any loans or advances from banks or other lenders, whether or not evidenced by notes or similar instruments, or (c) evidenced by bonds, debentures, notes or similar instruments, whether or not the recourse of the lender is to all of the Company's assets or to only a portion thereof, other than any account payable or other accrued current liability or obligation incurred in the ordinary course of business in connection with the obtaining of materials or services; (ii) all of the Company's reimbursement obligations and other liabilities, contingent or otherwise, with respect to letters of credit, bank guarantees, banker's acceptances or similar facilities; (iii) all of the Company's obligations and liabilities, contingent or otherwise, in respect of leases required, in conformity with GAAP, to be accounted for as capitalized lease obligations on the Company's balance sheet, or under other leases for facilities equipment or related assets, whether or not capitalized, entered into or leased for financing purposes, as determined by the Company; (iv) all of the Company's obligations and other liabilities, contingent or otherwise, under any lease or related document, including a purchase agreement, in connection with the lease of real property or improvements (or any personal property included as part of any such lease) which provides that the Company be contractually obligated to purchase or cause a third party to purchase the leased property and thereby Guarantee a residual value of leased property to the lessor and all of the Company's obligations under such lease or related document to purchase or to cause a third party to purchase the leased property (whether or not such lease transaction is characterized as an operating lease or a capitalized lease in accordance with GAAP); (v) all of the Company's obligations, contingent or otherwise, with respect to an interest rate, currency or other swap, cap, floor or collar agreement, hedge agreement, forward contract or other similar instrument or agreement or foreign currency hedge, exchange, purchase or similar instrument or agreement; (vi) all of the Company's direct or indirect Guarantees or similar

agreements to purchase or otherwise acquire or otherwise assure a creditor against loss in respect of indebtedness, obligations or liabilities of another person of the kind described in clauses (i) through (v); (vii) any indebtedness or other obligations described in clauses (i) through (vi) secured by any mortgage, pledge, lien or other encumbrance existing on property which is owned or held by the Company, regardless of whether the indebtedness or other obligation secured thereby has been assumed by the Company; and (viii) renewals, extensions, modifications, replacements, restatements and refundings of, or any indebtedness or obligation issued in exchange for, any such indebtedness or obligation described in clauses (i) through (vii) of this definition.

"Indenture" means this Indenture, as amended from time to time.

"Interest Payment Date" means each semiannual interest payment date on March 1 and September 1 of each year commencing on September 1, 2001.

"Issuance Date" means the date on which the Notes are first authenticated and issued.

"Nasdaq National Market" means the National Association of Securities Dealers, Inc. Automated Quotation System National Market.

"Notes" means any of the securities as defined in the second paragraph of the preamble hereto.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, that meets the requirements of Section 12.05 hereof..

"Opinion of Counsel" means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Trustee.

"Permitted Owner" means Motient Corporation, General Motors Corporation, DIRECTV and Clear Channel Communications, Inc. and their respective Affiliates

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, limited liability company or government or any agency or political subdivision thereof.

"Record Date" means each semiannual record date on February 15 and August 15 of each year commencing on August 15, 2001.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Senior Debt" means the principal of, premium, if any, interest, including all interest accruing subsequent to the commencement of any bankruptcy or similar proceeding, whether or not a claim for post-petition interest is allowable as a claim in any such proceeding, and rent payable on or in connection with, and all fees, costs, expenses and other amounts accrued or due on or in connection with, Indebtedness of the Company, whether outstanding on the date of this Indenture or thereafter created, incurred, assumed, Guaranteed or in effect Guaranteed by the Company. Notwithstanding anything to the contrary in the foregoing, Senior Debt shall not include (a) Indebtedness of or amounts owed by the Company for compensation to employees, or for goods or materials purchased or for services obtained in the ordinary course of business; (b) the Company's Indebtedness to any of its Subsidiaries or (c) the Company's Indebtedness that expressly provides that it shall not be senior in right of payment to the Notes or expressly provides that it is pari passu with or junior to the Notes.

"Significant Subsidiary" means any Subsidiary of the Company that is a "significant subsidiary" as defined in Rule 1-02(w) of Regulation S-X under the Securities Act and the Exchange Act.

"Subsidiary" means with respect to any specified Person, (i) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled, without regard to the occurrence of any contingency, to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof and (ii) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).

"TIA" means the Trust Indenture Act of 1939 (15 U.S. Code (S)(S) 77aaa-77bbb), as amended.

"Trustee" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"Trust Officer" means any officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

Section 1.02 Other Definitions.

Term ----	Defined in Section -----
"Agent Member".....	2.01
"Bankruptcy Law".....	8.01
"Change in Control Offer".....	3.09
"Change in Control Payment".....	4.06
"Commencement Date".....	3.09
"Conversion Agent".....	2.03
"Conversion Date".....	5.02
"Conversion Price".....	5.01
"Custodian".....	8.01
"Event of Default".....	8.01
"Global Note".....	2.01

Term -----	Defined in Section -----
"Legal Holiday".....	12.07
"Non-Payment Default".....	6.02
"Offer Amount".....	3.09
"Paying Agent".....	2.03
"Payment Blockage Notice".....	6.02
"Payment Blockage Period".....	6.02
"Payment Default".....	6.02
"Purchase Date".....	3.09
"Redemption Date".....	3 01
"Registrar".....	2.03
"Tender Period".....	3.09

Section 1.03 Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes;

"indenture security Holder" means a Holder of a Note;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Notes means the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04 Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP consistently applied;

(c) "or" is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular;

(e) provisions apply to successive events and transactions;

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time; and

(g) a reference to "\$" or U.S. Dollars is to United States dollars.

ARTICLE II.  
THE NOTES

Section 2.01 Form and Dating.

(a) General.

The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto, which is hereby incorporated by reference and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). The Company shall furnish any such legend not contained in Exhibit A to the Trustee in writing. Each Note shall be dated the date of its authentication. The Notes shall be issued in registered form without coupons in denominations of \$1,000 and integral multiples thereof. The terms and provisions contained in the Notes constitute, and are hereby expressly made, a part of this Indenture and to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Global Notes.

Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto) (the "Global Note"). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Book-Entry Provisions.

The Company shall execute and the Trustee shall, in accordance with this Section 2.01(c), authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository for such Global Note or Global Notes or the nominee of such Depository and (b) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions or held by the Trustee as custodian for the Depository.

Members of, or participants in, the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the custodian of the Depository or under such Global Note, and the Depository may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of an owner of a beneficial interest in any Global Note.

Section 2.02 Execution and Authentication.

Two Officers shall sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual or facsimile signature of an authorized officer of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall, upon a written order of the Company signed by two Officers (an "Authentication Order"), authenticate (1) Notes for original issue up to an aggregate principal amount stated in Section 5 of the Notes. The aggregate principal amount of Notes outstanding at any time may not exceed \$125,000,000 except as provided in Section 2.07.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders, the Company or an Affiliate.

Section 2.03 Registrar and Paying Agent.

The Company shall maintain (i) an office or agency where the Notes may be presented for registration of transfer or for exchange ("Registrar"), (ii) an office or agency where the Notes may be presented for payment ("Paying Agent") and (iii) an office or agency where the Notes may be presented for conversion ("Conversion Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars, one or more additional paying agents and one or more additional Conversion Agents in such other locations as it shall determine. The term "Registrar" includes any co-registrar, the term "Paying Agent" includes any additional paying agent and the term "Conversion Agent" includes any additional conversion agent. The Company may change any Paying Agent, Registrar or Conversion Agent without prior notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent, Registrar or Conversion Agent.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depository with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar, Paying Agent and Conversion Agent and to act as Custodian with respect to the Global Notes.

Section 2.04 Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee and to account for any money disbursed by it. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or Subsidiary of the Company) shall have no further liability for the money. If the Company or Subsidiary of the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05 Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA (S)312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of all Holders and the Company shall otherwise comply with TIA (S)312(a).

Section 2.06 Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary or (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in a Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes. If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests. A Holder of an Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing.

(f) Legends. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.01 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY."

(g) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 4.06, hereof).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

#### Section 2.07 Replacement Notes.

If the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken or if such Note is mutilated and is surrendered to the Trustee, the Company shall issue and the Trustee shall authenticate a replacement Note if the Trustee's and the Company's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.08 Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a Redemption Date or maturity date, money sufficient to pay Notes, including accrued and unpaid interest, payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09 Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or an Affiliate of the Company shall be considered as though they are not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned shall be so disregarded.

Section 2.10 Temporary Notes.

Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate Definitive Notes in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

Section 2.11 Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar, Paying Agent and Conversion Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall promptly cancel all Notes surrendered for registration of transfer, exchange, payment, conversion, replacement or cancellation and shall destroy canceled Notes (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all canceled Notes shall be delivered to the Company.

The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

#### Section 2.12 Defaulted Interest

If the Company fails to make a payment of interest on the Notes, it shall pay such defaulted interest plus any interest payable on the defaulted interest, in any lawful manner. It may pay such defaulted interest, plus any such interest payable on it, to the Persons who are Holders on a subsequent special record date. The Company shall fix any such record date and payment date, provided that no such record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before any such record date, the Company shall mail to Holders a notice that states the special record date, the related payment date and amount of such interest to be paid.

#### Section 2.13 CUSIP Numbers.

The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption and other notices as a convenience to Holders of Notes; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption or notice of a Change in Control Offer and that reliance may be placed only on the other identification numbers printed on the Notes, and any redemption or Change in Control Offer shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the "CUSIP" numbers.

### ARTICLE III.

#### REDEMPTION

#### Section 3.01 Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of the Notes and Section 3.07 hereof, it shall notify the Trustee of the redemption date (a "Redemption Date") and the principal amount of Notes to be redeemed. The Company shall give the notice provided for in this Section 3.01 at least 30 days but no more than 60 days before the Redemption Date, unless a shorter notice period shall be satisfactory to the Trustee. The Company may not give notice of any redemption if the Company has defaulted in payment of interest and the default is continuing.

#### Section 3.02 Selection of Notes to Be Redeemed.

If less than all of the Notes are to be redeemed at any time, selection of Notes shall be made by the Trustee on a pro rata basis or by lot or by a method that complies with the requirements of any exchange on which the Notes are listed and that the Trustee considers fair and appropriate, provided that no Notes of \$1,000 or less shall be redeemed in part. The Trustee shall make the selection not more than 60 days and not less than 30 days before the Redemption Date from Notes outstanding not previously called for redemption. Notes and portions of Notes selected shall be in amounts of \$1,000 or integral multiples of \$1,000. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Company promptly of the Notes or portions of Notes to be called for redemption.

If any Note selected for partial redemption is converted in part after such selection, the converted portion of such Note shall be deemed (so far as may be) to be the portion to be selected for redemption. The Notes (or portions thereof) so selected shall be deemed duly selected for redemption for all purposes hereunder, notwithstanding that any such Note is converted in whole or in part before the mailing of the notice of redemption. Upon any redemption of less than all the Notes, the Company and the Trustee may treat as outstanding any Notes surrendered for conversion during the period 15 days next preceding the mailing of a notice of redemption and need not treat as outstanding any Note authenticated and delivered during such period in exchange for the unconverted portion of any Note converted in part during such period.

Section 3.03 Notice of Redemption.

At least 30 days but not more than 60 days before a Redemption Date, the Company shall mail, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address. The notice shall identify the Notes to be redeemed and shall state:

- (a) the Redemption Date;
- (b) the redemption price;
- (c) if any Note is to be redeemed in part only, the portion of the principal amount thereof redeemed, and that, after the Redemption Date, upon surrender of such Note, a new Note in principal amount equal to the unredeemed portion thereof shall be issued in the name of the Holder thereof upon cancellation of the original Note;
- (d) the name and address of the Paying Agent;
- (e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price plus accrued interest, if any;
- (f) that interest on Notes called for redemption ceases to accrue on and after the Redemption Date;
- (g) the paragraph of the Notes pursuant to which the Notes called for redemption are being redeemed; and
- (h) the "CUSIP" number of the Notes to be redeemed.

Such notice shall also state the current Conversion Price and the date on which the right to convert such Notes or portions thereof into Class A Common Stock of the Company will expire.

At the Company's request, the Trustee shall give notice of redemption in the Company's name and at the Company's expense; provided that the Company shall have delivered to the Trustee, at least 60 days prior to the Redemption Date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice, as provided in the preceding paragraph.

Section 3.04 Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become due and payable on the Redemption Date at the price set forth in the Note. A notice of redemption may not be conditional.

Section 3.05 Deposit of Redemption Price.

On or before the Redemption Date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date unless theretofore converted into Class A Common Stock pursuant to the provisions hereof. The Trustee or the Paying Agent shall return to the Company any money not required for that purpose.

If the Company complies with the provisions of the preceding paragraph, on and after the Redemption Date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes.

Section 3.06 Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07 Optional Redemption.

The Company may redeem all or any portion of the Notes, upon the terms and at the redemption prices set forth in the Notes. Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Section 3.01 through 3.06 hereof.

Section 3.08 Mandatory Redemption

The Company shall not be required to make mandatory redemption payments or sinking fund payments with respect to the Notes.

Section 3.09 Change in Control Offer.

(a) In the event that, pursuant to Section 4.06 hereof, the Company shall commence an offer to all Holders of the Notes to purchase Notes (the "Change in Control Offer"), the Company shall follow the procedures in this Section 3.09.

(b) The Change in Control Offer shall remain open for a period specified by the Company which shall be no less than 30 calendar days and no more than 60 calendar days following its commencement (the "Commencement Date") (as determined in accordance with

Section 4.06 hereof), except to the extent that a longer period is required by applicable law (the "Tender Period"). Upon the expiration of the Tender Period (the "Purchase Date"), the Company shall purchase the principal amount of all of the Notes required to be purchased pursuant to Section 4.06 hereof (the "Offer Amount").

(c) If the Purchase Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued interest shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest will be payable to Holders who tender Notes pursuant to the Change in Control Offer.

(d) The Company shall provide the Trustee with notice of the Change in Control Offer at least 10 days before the Commencement Date.

(e) On or before the 30th day after the Change in Control, the Company or the Trustee (at the expense of the Company) shall send, by first class mail, a notice to each of the Holders, which shall govern the terms of the Change in Control Offer and shall state:

(i) that the Change in Control Offer is being made pursuant to this Section 3.09 and Section 4.06 hereof, that all Notes validly tendered will be accepted for payment and the length of time the Change in Control Offer will remain open;

(ii) the purchase price (as determined in accordance with Section 4.06 hereof) and the Purchase Date, and that all Notes tendered will be accepted for payment;

(iii) that any Note or portion thereof not tendered or accepted for payment will continue to accrue interest;

(iv) that, unless the Company defaults in the payment of the purchase price, any Note or portion thereof accepted for payment pursuant to the Change in Control Offer will cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note or portion thereof purchased pursuant to any Change in Control Offer will be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase upon a Change in Control" on the reverse of the Note completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Purchase Date;

(vi) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the Business Day preceding the Purchase Date, or such longer period as may be required by law, a letter or facsimile transmission (receipt of which is confirmed and promptly followed by a letter) setting forth the name of the Holder, the principal amount of the Note or portion thereof the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have the Note or portion thereof purchased;

(vii) that Holders whose Notes were purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes

surrendered, which unpurchased portion shall be equal to \$1,000 or an integral multiple thereof in principal amount; and

(viii) the "CUSIP" number of the Notes to be purchased.

(f) On or prior to the Purchase Date, the Company shall irrevocably deposit with the Trustee or a Paying Agent in immediately available funds an amount equal to the Offer Amount to be held for payment in accordance with the terms of this Section 3.09. On the Purchase Date, the Company shall, to the extent lawful, accept for payment the Notes or portions thereof properly tendered pursuant to the Change in Control Offer and deliver to the Trustee an Officers' Certificate stating such Notes or portions thereof have been accepted for payment by the Company in accordance with the terms of this Section 3.09. The Paying Agent shall promptly (but in any case not later than ten (10) calendar days after the Purchase Date) mail or deliver to each tendering Holder, or, if any Holder requests in writing, wire transfer immediately available funds to an account previously specified in writing by such Holder to the Company and the Paying Agent, an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Trustee shall promptly authenticate and mail or deliver to such Holders a new Note equal in principal amount to any unpurchased portion of the Note surrendered. Any Notes not so accepted shall be promptly mailed or delivered by or on behalf of the Company to the Holder thereof. The Company will publicly announce in a newspaper of general circulation the results of the Change in Control Offer on or as soon as practicable after the Purchase Date.

(g) The Change in Control Offer shall be made by the Company in compliance with all applicable provisions of the Exchange Act, and all applicable tender offer rules promulgated thereunder, and shall include all instructions and materials necessary to enable such Holders to tender their Notes. To the extent that the provisions of any securities laws or regulations conflict with the Change in Control provisions of this Section 3.09, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change in Control provisions of the Indenture by virtue of such conflict.

#### ARTICLE IV. COVENANTS

##### Section 4.01 Payment of Notes.

The Company shall pay the principal of, and premium, if any, and interest on, the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent (other than the Company or an Affiliate of the Company) holds on that date money designated for and sufficient to pay all principal, premium, if any, and interest then due. To the extent lawful, the Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on (i) overdue principal and premium, if any, at the rate borne by the Notes, compounded semiannually; and (ii) overdue installments of interest (without regard to any applicable grace period) at the same rate, compounded semiannually.

##### Section 4.02 Compliance Certificate.

The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year of the Company, an Officers' Certificate stating that a review of the activities of the Company and its

subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under, and complied with the covenants and conditions contained in, this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his knowledge the Company has kept, observed, performed and fulfilled each and every covenant, and complied with the covenants and conditions contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he may have knowledge) and that to the best of his knowledge no event has occurred and remains in existence by reason of which payments on account of the principal or of interest, if any, on the Notes are prohibited.

One of the Officers signing such Officers' Certificate shall be either the Company's principal executive officer, principal financial officer or principal accounting officer.

The Company will, so long as any of the Notes are outstanding, deliver to the Trustee forthwith upon becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default.

#### Section 4.03 Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

#### Section 4.04 Corporate Existence.

Subject to Article VII hereof, to the extent permitted by law the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and the corporate, partnership or other existence of each subsidiary of the Company in accordance with the respective organizational documents of each subsidiary and the rights (charter and statutory), licenses and franchises of the Company; provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any subsidiary, if the preservation thereof is no longer desirable in the conduct of the business of the Company and its subsidiaries taken as a whole.

#### Section 4.05 Taxes.

The Company shall, and shall cause each of its subsidiaries to, pay prior to delinquency all material taxes, assessments and governmental levies, except as contested in good faith and by appropriate proceedings or where the failure to effect such payment would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

#### Section 4.06 Change in Control.

Upon the occurrence of a Change in Control, each Holder shall have the right to require the Company to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of such Holder's

Notes on a date fixed by the Company that is no earlier than 30 nor later than 60 days from the date the Company gives notice of the Change in Control. The Company shall be required to make a Change in Control Offer for an amount of cash equal to 100% of the principal amount of the Notes on the Purchase Date, plus accrued and unpaid interest, if any to the Purchase Date (the "Change in Control Payment").

Notwithstanding the foregoing, the Company shall not be required to make a Change in Control Offer if a third party makes an offer to purchase the Notes in the manner, at the times and otherwise in compliance with the requirements of Section 3.09 that the Company would otherwise be required to make and that third party purchases all of the Notes validly tendered and not withdrawn in such offer.

ARTICLE V.  
CONVERSION

Section 5.01 Conversion Privilege.

A Holder of a Note may convert it into fully paid and nonassessable shares of Class A Common Stock at any time after 90 days following the Issuance Date and prior to maturity at the Conversion Price then in effect, except that, with respect to any Note called for redemption, such conversion right shall terminate at the close of business on the Business Day immediately preceding the Redemption Date (unless the Company shall default in making the redemption payment when it becomes due, in which case the conversion right shall terminate on the date such default is cured). The number of shares of Class A Common Stock issuable upon conversion of a Note is determined by dividing the principal amount of such Note by the conversion price in effect on the Conversion Date (the "Conversion Price").

The initial Conversion Price is stated in Section 12 of the Notes and is subject to adjustment as provided in this Article V.

A Holder may convert a portion of a Note equal to any integral multiple of \$1,000. Provisions of this Indenture that apply to conversion of all of a Note also apply to conversion of a portion of it.

Section 5.02 Conversion Procedure.

To convert a Note, a Holder must satisfy the requirements in Section 11 of the Notes. The date on which the Holder satisfies all of those requirements is the conversion date (the "Conversion Date"). As soon as practicable after the Conversion Date, the Company shall deliver to the Holder through the Conversion Agent a certificate for the number of whole shares of Class A Common Stock issuable upon the conversion and a check for any fractional share determined pursuant to Section 5.03 hereof. The Person in whose name the certificate is registered shall become the stockholder of record on the Conversion Date and, as of such date, such Person's rights as a Holder shall cease; provided, however, that no surrender of a Note on any date when the stock transfer books of the Company shall be closed shall be effective to constitute the Person entitled to receive the shares of Class A Common Stock upon such conversion as the stockholder of record of such shares of Class A Common Stock on such date, but such surrender shall be effective to constitute the Person entitled to receive such shares of Class A Common Stock as the stockholder of record thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open; provided further, however, that such conversion shall be at the Conversion Price in effect on the date that such Note shall have been surrendered for conversion, as if the stock transfer books of the Company had not been closed.

No payment or other adjustment shall be made for accrued interest or dividends on any Class A Common Stock issued upon conversion of the Notes. If any Notes are converted during any period after any Record Date for the payment of an installment of interest but before the next Interest Payment Date, interest for such notes will be paid on the next Interest Payment Date, notwithstanding such conversion, to the Holders of such Notes. Any Notes that are, however, delivered to the Company for conversion after any Record Date but before the next Interest Payment Date must, except as described in the next sentence, be accompanied by a payment equal to the interest payable on such Interest Payment Date on the principal amount of Notes being converted. The payment to the Company described in the preceding sentence shall not be required if, during that period between a Record Date and the next Interest Payment Date, a conversion occurs on or after the date that the Company has issued a redemption notice and prior to the date of redemption stated in such notice. No fractional shares will be issued upon conversion, but a cash adjustment will be made for any fractional shares.

If a Holder converts more than one Note at the same time, the number of whole shares of Class A Common Stock issuable upon the conversion shall be based on the total principal amount of Notes converted.

Upon surrender of a Note that is converted in part, the Trustee shall authenticate for the Holder a new Note equal in principal amount to the unconverted portion of the Note surrendered.

#### Section 5.03 Fractional Shares.

The Company will not issue fractional shares of Class A Common Stock upon conversion of a Note. In lieu thereof, the Company will pay an amount in cash based upon the Daily Market Price of the Class A Common Stock on the trading day prior to the date of conversion.

#### Section 5.04 Taxes on Conversion.

The issuance of certificates for shares of Class A Common Stock upon the conversion of any Note shall be made without charge to the converting Holder for such certificates or for any tax in respect of the issuance of such certificates, and such certificates shall be issued in the respective names of, or in such names as may be directed by, the Holder or Holders of the converted Note; provided, however, that in the event that certificates for shares of Class A Common Stock are to be issued in a name other than the name of the Holder of the Note converted, such Note, when surrendered for conversion, shall be accompanied by an instrument of transfer, in form satisfactory to the Company, duly executed by the registered holder thereof or his duly authorized attorney; and provided further, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificates in a name other than that of the Holder of the converted Note, and the Company shall not be required to issue or deliver such certificates unless or until the Person or Persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid or is not applicable.

#### Section 5.05 Company to Provide Stock.

The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Class A Common Stock, solely for the purpose of issuance upon conversion of Notes as herein provided, a sufficient number of shares of Class A Common Stock to permit the conversion of all outstanding Notes for shares of Class A

Common Stock. All shares of Class A Common Stock which may be issued upon conversion of the Notes shall be duly authorized, validly issued, fully paid and nonassessable when so issued .

Section 5.06 Adjustment of Conversion Price.

The Conversion Price shall be subject to adjustment from time to time as follows:

(a) Stock split and combinations. In case the Company, at any time or from time to time after the issuance date of the Notes (a) subdivides or splits the outstanding shares of its Class A Common Stock, (b) combines or reclassifies the outstanding shares of its Class A Common Stock into a smaller number of shares or (c) issues by reclassification of the shares of its Class A Common Stock any shares of its capital stock, then the Conversion Price in effect immediately prior to that event or the record date for that event, whichever is earlier, will be adjusted so that the holder of any Notes thereafter surrendered for conversion will be entitled to receive the number of shares of the Company's Class A Common Stock or of its other securities which the Holder would have owned or have been entitled to receive after the occurrence of any of the events described above, had those Notes been surrendered for conversion immediately before the occurrence of that event or the record date for that event, whichever is earlier;

(b) Stock Dividends in Class A Common Stock. In case the Company, at any time or from time to time after the issuance date of the Notes, pays a dividend or make a distribution in shares of its Class A Common Stock on any class of its capital stock other than dividends or distributions of shares of Class A Common Stock or other securities with respect to which adjustments are provided in paragraph (1) above or with respect to payments of interest or dividend obligations with respect to a particular series of capital stock in accordance with the terms of such capital stock, the Conversion Price will be adjusted so that the Holder of each Note will be entitled to receive, upon conversion of that Note, the number of shares of the Company's Class A Common Stock determined by multiplying (a) the Conversion Price by (b) a fraction, the numerator of which will be the number of shares of Class A Common Stock outstanding and the denominator of which will be the sum of that number of shares and the total number of shares issued in that dividend or distribution;

(c) Issuance of rights or warrants. In case the Company issues to all holders of its Class A Common Stock rights or warrants entitling those holders to subscribe for or purchase its Class A Common Stock at a price per share less than the current market price, the Conversion Price in effect immediately before the close of business on the record date fixed for determination of shareholders entitled to receive those rights or warrants will be reduced by multiplying the Conversion Price by a fraction, the numerator of which is the sum of the number of shares of the Company's Class A Common Stock outstanding at the close of business on that record date and the number of shares of Class A Common Stock that the aggregate offering price of the total number of shares of the Company's Class A Common Stock so offered for subscription or purchase would purchase at the Current Market Price and the denominator of which is the sum of the number of shares of Class A Common Stock outstanding at the close of business on that record date and the number of additional shares of the Company's Class A Common Stock so offered for subscription or purchase. For purposes of this paragraph (3), the issuance of rights or warrants to subscribe for or purchase securities convertible into shares of the Company's Class A Common Stock will be deemed to be the issuance of rights or warrants to purchase shares of the Company's Class A Common Stock into which those securities are convertible at an aggregate offering price equal to the sum of the aggregate offering price of those securities and the

minimum aggregate amount, if any, payable upon conversion of those securities into shares of the Company's Class A Common Stock. This adjustment will be made successively whenever any such event occurs;

(d) Distribution of indebtedness, securities or assets. In case the Company distributes to all holders of its Class A Common Stock, whether by dividend or in a merger, amalgamation or consolidation or otherwise, evidences of indebtedness, shares of capital stock of any class or series, other securities, cash or assets, other than Class A Common Stock, rights or warrants referred to in paragraph (3) above or an ordinary dividend payable exclusively in cash and other than as a result of a Fundamental Change described in paragraph (5) below, the Conversion Price in effect immediately before the close of business on the record date fixed for determination of shareholders entitled to receive that distribution will be reduced by multiplying the Conversion Price by a fraction, the numerator of which is the Current Market Price on that record date less the fair market value, as determined by the Company's Board of Directors, of the portion of those evidences of indebtedness, shares of capital stock, other securities, cash and assets so distributed applicable to one share of Class A Common Stock and the denominator of which is the Current Market Price. This adjustment will be made successively wherever any such event occurs;

(e) Fundamental changes. If a Fundamental Change occurs, the Holder of each Note outstanding immediately before that Fundamental Change occurred, will have the right upon any subsequent conversion to receive, but only out of legally available funds, to the extent required by applicable law, the kind and amount of stock or other securities, cash and assets that that Holder would have received if that share had been converted immediately prior to the Fundamental Change.

#### Section 5.07 No Adjustment.

No adjustment in the Conversion Price shall be required until cumulative adjustments amount to 1 $\frac{1}{4}$  or more of the Conversion Price as last adjusted; provided, however, that any adjustments which by reason of this Section 5.07 are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Article V shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be. No adjustment need be made for rights to purchase Class A Common Stock pursuant to a Company plan for reinvestment of dividends or interest. No adjustment need be made for a change in the par value or no par value of the Class A Common Stock.

#### Section 5.08 Other Adjustments.

(a) In the event that, as a result of an adjustment made pursuant to Section 5.06 hereof, the Holder of any Note thereafter surrendered for conversion shall become entitled to receive any shares of Capital Stock of the Company other than shares of its Class A Common Stock, thereafter the Conversion Price of such other shares so receivable upon conversion of any Note shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Class A Common Stock contained in this Article V.

(b) In the event that shares of Class A Common Stock are not delivered after the expiration of any of the rights or warrants referred to in Section 5.06(b) and Section 5.06(c) hereof, the Conversion Price shall be readjusted to the Conversion Price which would otherwise be in effect had the adjustment made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Class A Common Stock actually delivered.

Section 5.09 Adjustments for Tax Purposes.

The Company may make such reductions in the Conversion Price, in addition to those required by Section 5.06 hereof, as it determines in its discretion to be advisable in order that any stock dividend, subdivision of shares, distribution or rights to purchase stock or securities or distribution of securities convertible into or exchangeable for stock made by the Company to its stockholders will not be taxable to the recipients thereof.

Section 5.10 Notice of Adjustment.

Whenever the Conversion Price is adjusted, the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books a notice of the adjustment and file with the Trustee an Officers' Certificate briefly stating the facts requiring the adjustment and the manner of computing it. The certificate shall be conclusive evidence of the correctness of such adjustment. Unless and until a Trust Officer of the Trustee shall receive written notice of an adjustment of the Conversion Price, the Trustee may assume without inquiry that the Conversion Price has not been adjusted and that the last Conversion Price of which it has knowledge remains in effect.

Section 5.11 Notice of Certain Transactions.

In the event that:

(1) the Company takes any action which would require an adjustment in the Conversion Price;

(2) the Company takes any action that would require a supplemental indenture pursuant to Section 5.12; or

(3) there is a dissolution or liquidation of the Company;

the Company shall mail to Holders at the addresses appearing on the Registrar's books and the Trustee a notice stating the proposed record or effective date, as the case may be, to permit a Holder of a Note to convert such Note into shares of Class A Common Stock prior to the Record Date for or the effective date of the transaction in order to receive the rights, warrants, securities or assets which a holder of shares of Class A Common Stock on that date may receive. The Company shall mail the notice at least 15 days before such date; however, failure to mail such notice or any defect therein shall not affect the validity of any transaction referred to in clause (1), (2) or (3) of this Section 5.11.

Section 5.12 Effect of Reclassifications, Consolidations, Mergers or Sales on Conversion Privilege.

If any of the following shall occur, namely: (i) any reclassification or change of outstanding shares of Class A Common Stock issuable upon conversion of Notes (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), (ii) any consolidation or merger to which the Company is a party other than a merger in which the Company is the continuing corporation and which does not result in any reclassification of, or change (other than a change in name, or par value, or from par value to no par value, or from no par value to par value or as a result of a subdivision or combination) in, outstanding shares of Class A Common Stock or (iii) any sale or conveyance of all or substantially all of the property or business of the Company as an entirety, then the Company, or such successor or purchasing corporation, as the case may be, shall, as a condition precedent to such reclassification, change, consolidation, merger, sale or conveyance, execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee

providing that the Holder of each Note then outstanding shall have the right to convert such Note into the kind and amount of shares of stock and other securities and property (including cash) receivable upon such reclassification, change, consolidation, merger, sale or conveyance by a Holder of the number of shares of Class A Common Stock deliverable upon conversion of such Note immediately prior to such reclassification, change, consolidation, merger, sale or conveyance. In the event that the shares of Class A Common Stock are exchanged or substituted for other securities in connection with any such reclassification, change, consolidation, merger, sale or conveyance, such supplemental indenture shall provide for adjustments of the Conversion Price which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Price provided for in this Article V. The foregoing, however, shall not in any way affect the right a Holder of a Note may otherwise have, pursuant to subsection (e) of Section 5.06 hereof, to receive stock or other securities, cash or assets upon conversion of a Note. If, in the case of any such consolidation, merger, sale or conveyance, the stock or other securities and property (including cash) receivable thereupon by a Holder of Class A Common Stock includes shares of stock or other securities and property of a corporation other than the successor or purchasing corporation, as the case may be, in such consolidation, merger, sale or conveyance, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Board of Directors of the Company shall reasonably consider necessary by reason of the foregoing. The provision of this Section 5.12 shall similarly apply to successive consolidations, mergers, sales or conveyances.

In the event the Company shall execute a supplemental indenture pursuant to this Section 5.12, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by Holders of the Notes upon the conversion of their Notes after any such reclassification, change, consolidation, merger, sale or conveyance and any adjustment to be made with respect thereto.

#### Section 5.13 Trustee's Disclaimer.

The Trustee has no duty to determine when an adjustment under this Article V should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 5.10 hereof. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Notes, and the Trustee shall not be responsible for the Company's failure to comply with any provisions of this Article V.

The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 5.12, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 5.12 hereof.

#### ARTICLE VI. SUBORDINATION

#### Section 6 01 Agreement to Subordinate and Ranking.

The Company, for itself and its successors, and each Holder, by its acceptance of Notes, agree that the payment of the principal of or interest on or any other amounts due on the Notes is subordinated in right of payment, to the extent and in the manner stated in this Article VI, to the prior payment in full

of all existing and future Senior Debt. The Notes shall rank pari passu with, and shall not be senior in right of payment to, such other Indebtedness of the Company, whether outstanding on the date of this Indenture or hereafter created, incurred, issued or Guaranteed by the Company, where the instrument creating or evidencing such Indebtedness expressly provides that such Indebtedness ranks pari passu with or junior to the Notes.

Section 6.02 No Payment on Notes if Senior Debt in Default.

Anything in this Indenture to the contrary notwithstanding, no payment on account of principal of or redemption of, interest on or other amounts due on the Notes, and no redemption, purchase, or other acquisition of the Notes, shall be made by or on behalf of the Company if (i) a default in the payment of Senior Debt occurs and is continuing beyond any applicable period of grace (a "Payment Default"), or (ii) a default other than a Payment Default on any Senior Debt occurs and is continuing that permits the Holders of Senior Debt to accelerate its maturity, and the trustee receives notice of such default (a "Payment Blockage Notice") from the Company or from any holders of Senior Debt or such holder's representative (a "Non-Payment Default"), but only for the period (the "Payment Blockage Period") commencing on the date of receipt of the Payment Blockage Notice and ending (unless earlier terminated by notice given to the Trustee by the holders of such Senior Debt) (a) in the case of a Payment Default, upon the date on which such Payment Default is cured or waived or ceases to exist, and (b) in the case of a Non-Payment Default, the earliest of the date on which such Non-Payment Default is cured or waived or ceases to exist or 180 days from the date notice is received, if the maturity of the Senior Debt has not been accelerated. Upon termination of the Payment Blockage Period, payments on account of principal of or interest on the Notes (other than, subject to Section 6.03 hereof, amounts due and payable by reason of the acceleration of the maturity of the Notes) and redemptions, purchases or other acquisitions shall be made by or on behalf of the Company. Notwithstanding anything herein to the contrary, (a) only one Payment Blockage Notice with respect to the same Non-Payment Default or any other Non-Payment Default on the same issue of Senior Debt existing or continuing at the time of such Payment Blockage Notice may be given and (b) no new Payment Blockage Period may be commenced by the Holder or holders of Senior Debt or their representative or representatives, unless 360 consecutive days have elapsed since the initial effectiveness of the immediately preceding Payment Blockage Notice.

In the event that, notwithstanding the provisions of this Section 6.02, payments are made by or on behalf of the Company in contravention of the provisions of this Section 6.02, such payments shall be held by the Trustee, any Paying Agent or the Holders, as applicable, in trust for the benefit of, and shall be paid over to and delivered to, the holders of Senior Debt or their representative or the trustee under the indenture or other agreement (if any), pursuant to which any instruments evidencing any Senior Debt may have been issued for application to the payment of all Senior Debt ratably according to the aggregate amounts remaining unpaid to the extent necessary to pay all Senior Debt in full in accordance with the terms of such Senior Debt, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

The Company shall give prompt written notice to the Trustee and any Paying Agent of any default or event of default under any Senior Debt or under any agreement pursuant to which any Senior Debt may have been issued.

Section 6.03 Distribution on Acceleration of Notes; Dissolution and Reorganization; Subrogation of Notes.

(a) If the Notes are declared due and payable because of the occurrence of an Event of Default, the Company or the Trustee shall give prompt written notice to the holders of all Senior Debt or to the trustee(s) for such Senior Debt of such acceleration.

(b) Upon (i) any acceleration of the principal amount due on the Notes because of an Event of Default or (ii) any distribution of assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or any other dissolution, winding up, liquidation or reorganization of the Company):

(1) the holders of all Senior Debt shall first be entitled to receive payment in full of the principal thereof, the interest thereon and any other amounts due thereon before the Holders are entitled to receive payment on account of the principal of or interest on or any other amounts due on the Notes;

(2) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the Holders or the Trustee would be entitled except for the provisions of this Article VI, shall be paid by the liquidating trustee or agent or other Person making such a payment or distribution, directly to the holders of Senior Debt (or their representatives(s) or trustee(s) acting on their behalf), ratably according to the aggregate amounts remaining unpaid on account of the principal of or interest on and other amounts due on the Senior Debt held or represented by each, to the extent necessary to make payment in full of all Senior Debt remaining unpaid, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt; and

In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, shall be received by the Trustee or the Holders before all Senior Debt is paid in full, such payment or distribution shall be held in trust for the benefit of, and be paid over to upon request by a holder of the Senior Debt, the holders of the Senior Debt remaining unpaid (or their representatives) or trustee(s) acting on their behalf, ratably as aforesaid, for application to the payment of such Senior Debt until all such Senior Debt shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt.

After all Senior Debt is paid in full and until the Notes are paid in full, Holders of Notes shall be subrogated (equally and ratably with all other Indebtedness *pari passu* with the Notes) to the rights of holders of Senior Debt to receive distributions applicable to Senior Debt to the extent that distributions otherwise payable to the Holders of Notes have been applied to the payment of Senior Debt. A distribution made under this Article VI to holders of Senior Debt that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company on the Notes.

Nothing contained in this Article VI or elsewhere in this Indenture or in the Notes is intended to or shall (i) impair, as between the Company and its creditors, other than the holders of Senior Debt, the obligation of the Company, which is absolute and unconditional, to pay to the Holders the principal of and interest on the Notes as and when the same shall become due and payable in accordance with the terms of the Notes or (ii) affect the relative rights of the Holders and creditors of the Company other than holders of Senior Debt or, as between the Company and the Trustee, the obligations of the Company to

the Trustee, or (iii) prevent the Trustee or the Holders from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article VI of the holders of Senior Debt in respect of cash, property and securities of the Company received upon the exercise of any such remedy.

Upon distribution of assets of the Company referred to in this Article VI, the Trustee, subject to the provisions of Section 9.01 hereof, and the Holders shall be entitled to rely upon a certificate of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article VI. The Trustee, however, shall not be deemed to owe any fiduciary duty to the holders of Senior Debt. Nothing contained in this Article VI or elsewhere in this Indenture, or in any of the Notes, shall prevent the good faith application by the Trustee of any moneys which were deposited with it hereunder, prior to its receipt of written notice of facts which would prohibit such application, for the purpose of the payment of or on account of the principal of or interest on, the Notes unless, prior to the date on which such application is made by the Trustee, the Trustee shall be charged with notice under Section 6.03(d) hereof of the facts which would prohibit the making of such application.

(c) The provisions of this Article VI shall not be applicable to any cash, properties or securities received by the Trustee or by any Holder when received as a holder of Senior Debt and nothing in Section 9.11 hereof or elsewhere in this Indenture shall deprive the Trustee or such Holder of any of its rights as such holder.

(d) The Company shall give prompt written notice to the Trustee of any fact known to the Company which would prohibit the making of any payment of money to or by the Trustee in respect of the Notes pursuant to the provisions of this Article VI. The Trustee, subject to the provisions of Section 9.01 hereof, shall be entitled to assume that no such fact exists unless the Company or any holder of Senior Debt or any trustee therefor has given such notice to the Trustee. Notwithstanding the provisions of this Article VI or any other provisions of this Indenture, the Trustee shall not be charged with knowledge of the existence of any fact which would prohibit the making of any payment of monies to or by the Trustee in respect of the Notes pursuant to the provisions in this Article VI, unless, and until three Business Days after, the Trustee shall have received written notice thereof from the Company or any Holder or holders of Senior Debt or from any trustee therefor; and, prior to the receipt of any such written notice, the Trustee, subject to the provisions of Section 9.01 hereof, shall be entitled in all respects conclusively to assume that no such facts exist; provided that if on a date not less than three Business Days immediately preceding the date upon which by the terms hereof any such monies may become payable for any purpose (including, without limitation, the principal of or interest on any Note), the Trustee shall not have received with respect to such monies the notice provided for in this Section 6.03(d), than anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it on or after such prior date.

The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Debt (or a trustee on behalf of such holder) to establish that such notice has been given by a holder of Senior Debt (or a trustee on behalf of any such holder or holders). In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt to participate in any payment or distribution

pursuant to this Article VI, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article VI, and, if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment; nor shall the Trustee be charged with knowledge of the curing or waiving of any default of the character specified in Section 6.02 hereof or that any event or any condition preventing any payment in respect of the Notes shall have ceased to exist, unless and until the Trustee shall have received an Officers' Certificate to such effect.

(e) The provisions of this Section 6.03 applicable to the Trustee shall also apply to any Paying Agent for the Company.

**Section 6.04 Reliance by Senior Debt on Subordination Provisions.**

Each Holder of any Note by his acceptance thereof acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration for each holder of any Senior Debt, whether such Senior Debt was created or acquired before or after the issuance of the Notes, to acquire and continue to hold, or to continue to hold, such Senior Debt, and such holder of Senior Debt shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Debt. Notice of any default in the payment of any Senior Debt, except as expressly stated in this Article VI, and notice of acceptance of the provisions hereof are hereby expressly waived. Except as otherwise expressly provided herein, no waiver, forbearance or release by any holder of Senior Debt under such Senior Debt or under this Article VI shall constitute a release of any of the obligations or liabilities of the Trustee or Holders of the Notes provided in this Article VI.

**Section 6.05 No Waiver of Subordination Provisions.**

Except as otherwise expressly provided herein, no right of any present or future holder of any Senior Debt to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof any such holder may have or be otherwise charged with.

Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Debt may, at any time and from time to time, without the consent of, or notice to, the Trustee or the Holders of the Notes, without incurring responsibility to the Holders of the Notes and without impairing or releasing the subordination provided in this Article VI or the obligations hereunder of the Holders of the Notes to the holders of Senior Debt, do any one or more of the following: (i) change the manner, place or terms of payment of, or renew or alter, Senior Debt, or otherwise amend or supplement in any manner Senior Debt or any instrument evidencing the same or any agreement under which Senior Debt is outstanding; (ii) sell, exchange, release or otherwise dispose of any property pledged, mortgaged or otherwise securing Senior Debt; (iii) release any Person liable in any manner for the collection of Senior Debt; and (iv) exercise or refrain from exercising any rights against the Company or any other Person.

Section 6.06 Trustee's Relation to Senior Debt.

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article VI in respect of any Senior Debt at any time held by it, to the same extent as any holder of Senior Debt, and nothing in Section 9.11 hereof or elsewhere in this Indenture shall deprive the Trustee of any of its rights as such holder.

With respect to the holders of Senior Debt, the Trustee undertakes to perform or to observe only such of its covenants and obligation, as are specifically set forth in this Article VI, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not owe any fiduciary duty to the holders of Senior Debt but shall have only such obligations to such holders as are expressly set forth in this Article VI.

Each Holder of a Note by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination provided in this Article VI and appoints the Trustee his attorney-in-fact for any and all such purposes, including, in the event of any dissolution, winding up or liquidation or reorganization under any applicable bankruptcy law of the Company (whether in bankruptcy, insolvency or receivership proceedings or otherwise), the timely filing of a claim for the unpaid balance of such Holder's Notes in the form required in such proceedings and the causing of such claim to be approved. If the Trustee does not file a claim or proof of debt in the form required in such proceedings prior to 30 days before the expiration of the time to file such claims or proofs, then any Holder or holders of Senior Debt or their representative or representatives shall have the right to demand, sue for, collect, receive and receipt for the payments and distributions in respect of the Notes which are required to be paid or delivered to the holders of Senior Debt as provided in this Article VI and to file and prove all claims therefore and to take all such other action in the name of the holders or otherwise, as such holders of Senior Debt or representative thereof may determine to be necessary or appropriate for the enforcement of the provisions of this Article VI.

Section 6.07 Other Provisions Subject Hereto.

Except as expressly stated in this Article VI, notwithstanding anything contained in this Indenture to the contrary, all the provisions of this Indenture and the Notes are subject to the provisions of this Article VI. However, nothing in this Article VI shall apply to or adversely affect the claims of, or payment, to, the Trustee pursuant to Section 9.07 hereof. Notwithstanding the foregoing, the failure to make a payment on account of principal of or interest on the Notes by reason of any provision of this Article VI shall not be construed as preventing the occurrence of an Event of Default under Section 8.01 hereof.

ARTICLE VII.  
SUCCESSORS

Section 7.01 Limitation on Merger, Sale or Consolidation.

The Company may not, directly or indirectly, consolidate with or merge with or into, or sell, lease or otherwise dispose of all or substantially all of its assets, on a consolidated basis, whether in a single transaction or a series of related transactions, to another person or group of affiliated persons, unless:

(a) the Company is the resulting or surviving corporation, or such successor, transferee or lessee, if other than the Company, is a corporation organized under the laws of the United States, any state thereof or the District of Columbia and expressly assumes the Obligations of the Company under this Indenture and the Notes by means of a supplemental indenture entered into with the Trustee; and

(b) after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing.

Upon any permitted consolidation, merger conveyance, transfer or lease of the Company's properties and assets in accordance with the foregoing, the successor corporation formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made, shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Indenture with the same effect as if such successor corporation had been named therein in the same manner as the Company is named, and when a successor corporation duly assumes all of the Obligations of the Company under this Indenture and the Notes (except in the case of a lease), the Company will be released from its Obligations and covenants under the Indenture and the Notes, except as to any Obligations or covenants that arise from or as a result of such transaction.

For purposes of the foregoing, the transfer, by lease, assignment, sale or otherwise, of all or substantially all of the properties and assets of one or more Subsidiaries, which properties and assets, if held by the Company instead of such Subsidiary, would constitute all or substantially all of the Company's properties and assets, shall be deemed to be the transfer of all or substantially all of the Company's properties and assets.

#### ARTICLE VIII. DEFAULTS AND REMEDIES

##### Section 8.01 Events of Default.

An "Event of Default" occurs if:

(a) the Company defaults in the payment of interest on any Note when the same becomes due and payable and the Default continues for a period of 30 days after the date due and payable, whether or not prohibited by the subordination provisions hereof,

(b) the Company defaults in the payment of the principal of any Note when the same becomes due and payable at maturity, upon optional redemption, in connection with a Change in Control Offer, upon declaration or otherwise, whether or not prohibited by the subordination provisions hereof;

(c) the Company fails to observe or perform for a period of 30 days after notice any covenant or agreement contained in Sections 4.06 and 7.01 hereof (other than, in the case of Section 4.06, a failure to purchase Notes in connection with a Change in Control Offer) hereof;

(d) the Company or any of its Subsidiaries fail to observe or perform any other covenant or agreement contained in this Indenture or the Notes, required by it to be performed and the Default continues for a period of 60 days after notice from the Trustee to the Company or from the Holders of 25% in aggregate principal amount of the then outstanding Notes to the Company and the Trustee;

(e) the Company or any of its Subsidiaries fails to pay when due principal or interest on Indebtedness for money borrowed by the Company or its Subsidiaries, the principal amount of which exceeds \$20.0 million, including any applicable grace periods, or the acceleration of such Indebtedness, that is not cured or withdrawn within 15 days after the date of written notice from the Trustee to the Company or from Holders of 25% in the aggregate principal amount of the then outstanding Notes to the Company and the Trustee;

(f) the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(i) commences a voluntary case;

(ii) consents to the entry of an order for relief against it in an involuntary case in which it is the debtor;

(iii) consents to the appointment of a Custodian of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors; or

(v) generally is unable to pay its debts as the same become due;

(g) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary in an involuntary case;

(ii) appoints a Custodian of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary or for all or substantially all of its property;

(iii) orders the liquidation of the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, and the order or decree remains unstayed and in effect for 60 days.

(h) the Company or any of its Subsidiaries fail to pay final judgments aggregating in excess of \$10.0 million (net of any commissions with respect to which a reputable and creditworthy insurance company has acknowledged liability in writing), which judgments are not paid, discharged or stayed for a period of 60 days.

The term "Bankruptcy Law" means Title 11, U.S. Code or any similar Federal, state or foreign law for the relief of debtors or the protection of creditors. The term "Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

Section 8.02 Acceleration.

If an Event of Default (other than an Event of Default specified in clauses (f) or (g) of Section 8.01 hereof) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the then outstanding Notes by notice to the Company and the Trustee, may declare all the Notes to be due and payable. Upon such declaration, the principal of and interest on the Notes shall be due and payable immediately. If an Event of Default specified in clause (f) or (g) of Section 8.01 hereof occurs with respect to the Company, such an amount shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. In addition, if an Event of Default specified in clause (f) or (g) of Section 8.01 hereof occurs with respect to any Significant Subsidiary or Significant Subsidiaries of the Company, the Trustee by notice to the Company, or Holders of at least 25% in principal amount of the then outstanding Notes by notice to the Company and the Trustee, may declare all the Notes due and payable.

Section 8.03 Other Remedies.

Subject to Article VI hereof, if an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 8.04 Waiver of Past Defaults.

The Holders of a majority in principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders of the Notes waive an existing Default or Event of Default and its consequences except a continuing Default or Event of Default in the payment of the principal of or interest on any Note. When a Default or Event of Default is waived, it is cured and ceases; but (except as specifically provided in such written notice) no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 8.05 Control by Majority.

The Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, is unduly prejudicial to the rights of other Holders, or would involve the Trustee in personal liability.

Section 8.06 Limitation on Suits.

A Holder may pursue a remedy with respect to this Indenture or the Notes only if:

- (a) the Holder gives to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(c) such Holder or Holders offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer, and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

#### Section 8.07 Rights of Holders to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of the Holder made pursuant to this Section 8.07.

#### Section 8.08 Collection Suit by Trustee.

If an Event of Default specified in Section 8.01(a) or (b), hereof occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal and interest remaining unpaid on the Notes and interest on overdue principal and interest and such further amount as shall be sufficient to cover the costs and, to the extent lawful, expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

#### Section 8.09 Trustee May File Proofs of Claim.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property. Nothing contained herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

#### Section 8.10 Priorities.

If the Trustee collects any money pursuant to this Article, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 9.07 hereof;

Second: to the holders of Senior Debt to the extent required by Article VI;

Third: to Holders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

Fourth: to the Company.

The Trustee may fix a record date and payment date for any payment to Holders made pursuant to this Section 8.10.

#### Section 8.11 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 8.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 8.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

### ARTICLE IX. TRUSTEE

#### Section 9.01 Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default: (i) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others and (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture and to confirm the correctness of all mathematical computations.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that: (i) this paragraph does not limit the effect of paragraph (b) of this Section 9.01; (ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts and (iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 8.05 hereof.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 9.01.

(e) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(g) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

#### Section 9.02 Rights of Trustee.

(a) The Trustee may rely on any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel, or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers.

(e) The Trustee shall not be charged with knowledge of any Event of Default under subsection (c), (d), (e) or (f) (and subsection (a) or (b) if the Trustee does not act as Paying Agent) of Section 8.01 or of the identity of any Significant Subsidiary or of any group of two or more Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary unless either (1) a Trust Officer of the Trustee assigned to its corporate trust department shall have actual knowledge thereof, or (2) the Trustee shall have received notice thereof in accordance with Section 12.02 hereof from the Company or any Holder.

#### Section 9.03 Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or an Affiliate with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee is subject to Sections 9.10 and 9.11 hereof.

#### Section 9.04 Trustee's Disclaimer.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be

responsible for any statement of the Company in the Indenture or any statement in the Notes other than its authentication.

Section 9.05 Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment on any Note, the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of Holders.

Section 9.06 Reports by Trustee to Holders.

Within 60 days after the reporting date stated in Section 12.10, the Trustee shall mail to Holders a brief report dated as of such reporting date that complies with TIA (S) 313(a) if and to the extent required by such (S) 313(a). The Trustee also shall comply with TIA (S) 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA (S) 313(c).

A copy of each report at the time of its mailing to Holders shall be filed with the SEC and each stock exchange on which the Notes are listed. The Company shall notify the Trustee when the Notes are listed on any stock exchange.

Section 9.07 Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable disbursements, expenses and advances incurred or made by it. Such disbursements and expenses may include the reasonable disbursements, compensation and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee against any claims, demands, expenses (including but not limited to reasonable compensation, fees, disbursements and expenses of the Trustee's agents and counsel), losses, damages or liabilities incurred by it, except as set forth in the next paragraph, arising out of, related to, or in connection with the acceptance or administration of this trust and its rights or duties hereunder, including the reasonable costs and expenses, and the costs and expenses of enforcing this Indenture (including this Section 9.07) against the Company and of defending itself against any claim (whether asserted by the Company, or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees, disbursements and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the Company's payment obligations in this Section 9.07, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee, except money or property held in trust to pay principal and interest on particular Notes.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 8.01(f) or (g) hereof occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

All amounts owing to the Trustee under this Section 9.07 shall be payable by the Company in United States dollars.

Section 9.08 Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 9.08.

The Trustee may resign by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company. The Company may remove the Trustee if:

- (a) the Trustee fails to comply with Section 9.10 hereof, unless the Trustee's duty to resign is stayed as provided in TIA (S) 310(b);
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a Custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 9.10 hereof, unless the Trustee's duty to resign is stayed as provided in TIA (S) 310(b), any Holder who has been a bona fide Holder of a Note for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 9.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 9.08 hereof, the Company's obligations under Section 9.07 hereof shall continue for the benefit of the retiring trustee with respect to expenses and liabilities incurred by it prior to such replacement.

Section 9.09 Successor Trustee by Merger, Etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including the administration of this Indenture) to, another corporation, the successor corporation without any further act shall be the successor Trustee.

Section 9.10 Eligibility; Disqualification.

This Indenture shall always have a Trustee who satisfies the requirements of TIA (S) 310(a) (1) and (5). The Trustee shall always have a combined capital and surplus as stated in Section 12.10 hereof. The Trustee is subject to TIA (S) 310(b).

Section 9.11 Preferential Collection of Claims Against Company.

The Trustee is subject to TIA (S) 311(a), excluding any creditor relationship listed in TIA (S) 311(b). A Trustee who has resigned or been removed shall be subject to TIA (S) 311(a) to the extent indicated therein.

ARTICLE X.  
DISCHARGE OF INDENTURE

Section 10.01 Termination of Company's Obligations.

This Indenture shall cease to be of further effect (except that the Company's obligations under Sections 9.07 and 10.02 hereof shall survive) when all outstanding Notes theretofore authenticated and issued have been delivered to the Trustee for cancellation and the Company has paid all sums payable hereunder.

Section 10.02 Repayment to Company.

The Trustee and the Paying Agent shall promptly pay to the Company upon request any excess money or securities held by them at any time.

The Trustee and the Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years after the date upon which such payment shall have become due; provided, however, that the Company shall have first caused notice of such payment to the Company to be mailed to each Holder entitled thereto no less than 30 days prior to such payment. After payment to the Company, the Trustee and the Paying Agent shall have no further liability with respect to such money and Holders entitled to the money must look to the Company for payment as general creditors unless any applicable abandoned property law designates another Person.

ARTICLE XI.  
AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 11.01 Without Consent of Holders.

The Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder:

- (a) to cure any ambiguity, omission, defect or inconsistency;
- (b) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article II hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;
- (c) to comply with Sections 5.12 and 7.01 hereof;
- (d) to reduce the conversion price;
- (e) to increase the aggregate principal amount of the Notes issuable pursuant to Section 2.02 hereof, in an amount not in excess of \$18,750,000, in the event that the underwriters that are underwriting the Notes exercise the over-allotment option granted to them by the Company;
- (f) to make any other change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights hereunder of any such Holder; or
- (g) to comply with the requirements of the SEC in order to maintain the qualification of this Indenture under the TIA.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 11.02 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 11.02 With Consent of Holders.

Subject to Section 8.07 hereof, the Company and the Trustee may amend or supplement this Indenture or the Notes with the written consent of the Holders of a majority in principal amount of the then outstanding Notes, including consents obtained in connection with a tender offer or exchange offer for the Notes. Subject to Sections 8.04 and 8.07 hereof, the Holders of a majority in principal amount of the Notes then outstanding may also waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 11.02 may not:

- (a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the principal of or change the fixed maturity of any Note or alter the provisions of Section 6 of the Notes, except for repurchases of the Notes pursuant to Section 3.09 of this Indenture and Section 10 of the Notes;
- (c) reduce the rate of or change the time for payment or accrual of interest on any Note;
- (d) waive a default in the payment of the principal of or interest on any Note, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration;

- (e) increase the Conversion Price;
- (f) make any Note payable in money other than that stated in the Notes;
- (g) make any change in Section 8.04 or 8.07 hereof;
- (h) waive a redemption payment with respect to any Note;
- (i) impair the right to convert the Notes into Class A Common Stock;
- (j) modify Article V or VI in a manner adverse to the Holders of Notes;  
and
- (k) make any change in the foregoing amendment and waiver provisions of this Article XI.

To secure a consent of the Holders under this Section 11.02, it shall not be necessary for the Holders to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 11.02 becomes effective, the Company shall mail to Holders a notice briefly describing the amendment or waiver.

#### Section 11.03 Compliance with Trust Indenture Act.

Every amendment to this Indenture or the Notes shall be set forth in a supplemental indenture that complies with the TIA as then in effect.

#### Section 11.04 Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to his Note or portion of a Note if the Trustee receives the notice of revocation before the date on which the Trustee receives an Officers' Certificate certifying that the Holders of the requisite principal amount of Notes have consented to the amendment, supplement or waiver.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date unless consents from Holders of the principal amount of Notes required hereunder for such amendment or waiver to be effective shall have also been given and not revoked within such 90-day period.

After an amendment, supplement or waiver becomes effective it shall bind every Holder, unless it is of the type described in any of clauses (a) through (j) of Section 11.02 hereof. In such case, the

amendment or waiver shall bind each Holder who has consented to it and every subsequent Holder that evidences the same debt as the consenting Holder's Note.

Section 11.05 Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall authenticate new Notes that reflect the amendment or waiver.

Failure to make such notation on a Note or to issue a new Note as aforesaid shall not affect the validity and effect of such amendment or waiver.

Section 11.06 Trustee Protected.

The Trustee shall sign all supplemental indentures, except that the Trustee may, but need not, sign any supplemental indenture that adversely affects its rights.

ARTICLE XII.  
MISCELLANEOUS

Section 12.01 Trust Indenture Act Controls.

This Indenture is subject to the provisions of the TIA that are required to be incorporated into this Indenture (or, prior to the registration of the Notes pursuant to the Registration Rights Agreement, would be required to be incorporated into this Indenture if it were qualified under the TIA), and shall, to the extent applicable, be governed by such provisions. If any provision of this Indenture limits, qualifies, or conflicts with another provision which is required (or would be so required) to be incorporated in this Indenture by the TIA, the incorporated provision shall control.

Section 12.02 Notices.

Any notice or communication by the Company or the Trustee to the other is duly given if in writing and delivered in Person or mailed by first class mail to the other's address stated in Section 12.10 hereof. The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to a Holder shall be mailed by first class mail to his address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

All other notices or communications shall be in writing.

In case by reason of the suspension of regular mail service, or by reason of any other cause, it shall be impossible to mail any notice as required by the Indenture, then such method of notification as shall be made with the approval of the Trustee shall constitute a sufficient mailing of such notice.

Section 12.03 Communication by Holders with Other Holders.

Holders may communicate pursuant to TIA (S) 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA (S) 312(c).

Section 12.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 12.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than pursuant to Section 4.02) shall include:

(a) a statement that the Person signing such certificate or rendering such opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, such Person has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 12.06 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12 07 Legal Holidays.

A "Legal Holiday" is a Saturday, a Sunday or a day on which banking institutions in the State of New York are not required to be open. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no

interest shall accrue for the intervening period. If any other operative date for purposes of this Indenture shall occur on a Legal Holiday then for all purposes the next succeeding day that is not a Legal Holiday shall be such operative date.

Section 12.08 No Recourse Against Others.

A director, officer, employee, agent, incorporator, stockholder or agent of the Company, as such, shall not have any liability for any Obligations of the Company under the Notes or this Indenture or for any claim based on, in respect of or by reason of such Obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

Section 12.09 Governing Law, submission to jurisdiction.

THIS INDENTURE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK. THE COMPANY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK OR ANY FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE AND THE SECURITIES, AND IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, JURISDICTION OF THE AFORESAID COURTS. THE COMPANY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, TRIAL BY JURY AND ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE TRUSTEE OR ANY SECURITYHOLDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE COMPANY IN ANY OTHER JURISDICTION.

Section 12.10 Counterparts and Facsimile Signatures.

This Indenture may be executed by manual or facsimile signature in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

Section 12.11 Variable Provisions.

The first certificate pursuant to Section 4.02 hereof shall be for the fiscal year ended December 31, 2001.

The reporting date for Section 9.06 hereof is February 15, of each year. The first reporting date is February 15, 2002.

The Trustee shall always have a combined capital and surplus of at least \$100,000,000 as set forth in its most recent published annual report of condition.

The Company's address is:

XM Satellite Radio Holdings Inc.  
1500 Eckington Place, NE  
Washington, D.C. 20002  
Telecopy: (202) \_\_\_\_\_  
Attention: Chief Financial Officer

The Trustee's address is:

United States Trust Company of New York  
114 West 47th Street  
New York, N.Y. 10036  
Telecopy: (212) 852-1626  
Attention: Corporate Trust Division

Section 12.12 Governing Law, submission to jurisdiction.

THE INTERNAL LAWS OF THE STATE OF NEW YORK SHALL GOVERN THIS INDENTURE AND THE NOTES, WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS THEREOF.

Section 12.13 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or an Affiliate. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.14 Successors.

All agreements of the Company in this Indenture and the Notes shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor.

Section 12.15 Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.16 Table of Contents, Headings, Etc.

The Table of Contents, Cross-Reference Table, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of the date first written above.

XM SATELLITE RADIO HOLDINGS INC.

By: \_\_\_\_\_  
Name:  
Title:

UNITED STATES TRUST COMPANY OF NEW YORK,  
as Trustee

By: \_\_\_\_\_  
Name:  
Title:

</TEXT>  
</DOCUMENT>

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREOF AS MAY BE REQUIRED PURSUANT TO SECTION 2.01 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

No. 1

\$125,000,000

CUSIP No. 983759AA9

7.75% CONVERTIBLE SUBORDINATED NOTE DUE 2006

XM Satellite Radio Holdings Inc.

XM Satellite Radio Holdings Inc., a Delaware corporation (the "Company"), promises to pay to Cede & Co. or registered assigns, the principal sum of ONE HUNDRED TWENTY FIVE MILLION DOLLARS (\$125,000,000), or such other amount as is indicated on Schedule A hereof, on March 1, 2006, subject to the further provisions of this Note set forth on the reverse hereof which further provisions shall for all purposes have the same effect as if set forth at this place.

Interest Payment Dates: March 1 and September 1, commencing September 1, 2001

Record Dates: February 15 and August 15

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, XM Satellite Radio Holdings Inc. has caused this Note to be signed manually or by facsimile by two of its duly authorized officers.

Dated: \_\_\_\_\_

XM SATELLITE RADIO HOLDINGS INC.

By: \_\_\_\_\_

Name:  
Title:

By: \_\_\_\_\_

Name:  
Title.

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the 7.75% Convertible Subordinated Notes due 2006 described in the within-mentioned Indenture.

United States Trust Company of New York, as Trustee

By: \_\_\_\_\_

Name:  
Title:

REVERSE OF NOTE

XM SATELLITE RADIO HOLDINGS INC.

7.75% Convertible Subordinated Note due 2006

1. Interest. XM SATELLITE RADIO HOLDINGS INC., a Delaware

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corporation (the "Company"), is the issuer of 7.75% Convertible Subordinated Notes due 2006 (the "Notes"). The Notes will accrue interest at a rate of 7.75% per annum. The Company promises to pay interest on the Notes in cash semiannually on each March 1 and September 1, commencing on September 1, 2001, to Holders of record on the immediately preceding February 15 and August 15, respectively. Interest on the Notes will accrue from the most recent date to which interest has been paid, or if no interest has been paid, from March 6, 2001. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest on overdue principal at the interest rate borne by the Notes, compounded semiannually, and it shall pay interest on overdue installments of interest (without regard to any applicable grace period) at the same interest rate compounded semiannually.

2. Payments. All payments made by the Company on this Note shall be

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made without deduction or withholding for or on account of, any and all present or future taxes, duties, assessments, or governmental charges of whatever nature unless the deduction or withholding of such taxes, duties, assessments or governmental charges is then required by law.

3. Method of Payment. The Company will pay interest on the Notes

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(except with respect to defaulted interest, which may be paid at such earlier date as specified in the Indenture) to the Persons who are registered Holders of Notes at the close of business on the Record Date for the next Interest Payment Date even though Notes are canceled after the Record Date and on or before the Interest Payment Date. Holders must surrender Notes to a Paying Agent to collect principal and premium payments. The Company will pay principal and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay principal and interest, if any, by check payable in such money. It may mail an interest check to a Holder's address set forth in the register of Holders. If a Holder who holds at least \$5.0 million aggregate principal amount of the Notes so requests, principal, premium, if any, and interest shall be paid by wire transfer of immediately available funds to an account previously specified in writing by such Holder to the Company and the Trustee.

4. Paying Agent, Conversion Agent and Registrar. The Trustee will

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act as Paying Agent, Conversion Agent and Registrar in the City of New York, New York. The Company may change any Paying Agent, Conversion Agent or Registrar without prior notice. The Company or any of its Subsidiaries may act in any such capacity.

5. Indenture. The Company issued the Notes under an Indenture,

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dated as of March 6, 2001 (the "Indenture"), between the Company and United States Trust Company of New York, as Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by the Trust Indenture Act of 1939 (15 U.S. Code (S)(S) 77aaa-77bbbb) (the "TIA") as in effect on the date of the Indenture. The Notes are subject to, and qualified by, all such terms, certain of which are summarized hereon, and Holders are referred to the Indenture and such Act for a statement of such terms. The Notes are unsecured general obligations of the Company limited to \$125,000,000 in aggregate principal amount and subordinated in right of payment to all existing and future Senior Debt of the Company.

6. Optional Redemption. At any time on or after March 3, 2004, the

Company may redeem any portion of the Notes, in whole or in part, on at least 30 days but no more than 60 days' notice, at the following prices (expressed as a percentage of the principal amount), together with accrued and unpaid interest to, but excluding, the redemption date:

<u>Redemption Period</u>	<u>Redemption Price</u>
March 3, 2004 through March 2, 2005.....	103.100%
March 3, 2005 through February 28, 2006.....	101.550%

and 100% of the principal amount on March 1, 2006.

In the event the Company redeems less than all of the outstanding Notes, the Notes to be redeemed shall be selected by the Trustee in accordance with Section 3.02 of the Indenture. In the event a portion of an outstanding Note is selected for redemption and such Note is converted in part after such selection, the converted portion of such Note shall be deemed (so far as may be) to be the portion to be selected for redemption in accordance with Section 3.02 of the Indenture. The Company may not give notice of any redemption if the Company has defaulted in payment of interest and the default is continuing.

7. Notice of Redemption. Notice of redemption will be mailed at

least 30 days but not more than 60 days before the redemption date to each Holder of the Notes to be redeemed at such Holder's address of record. The Notes in denominations larger than \$1,000 may be redeemed in part but only in integral multiples of \$1,000. In the event of a redemption of less than all of the Notes, the Notes will be chosen for redemption by the Trustee in accordance with the Indenture. On and after the redemption date, interest ceases to accrue on the Notes or portions of them called for redemption.

If this Note is redeemed subsequent to a Record Date with respect to any Interest Payment Date specified above and on or prior to such Interest Payment Date, then any accrued interest will be paid to the Person in whose name this Note is registered at the close of business on such Record Date. The above description of redemption of Notes is qualified by reference to, and is subject in its entirety by, the more complete description thereof contained in the Indenture.

8. Mandatory Redemption. Except as set forth in Section 9 below,

the Company will not be required to make mandatory redemption or repurchase payments with respect to the Notes. There are no sinking fund payments with respect to the Notes.

9. Repurchase at Option of Holder. If there is a Change in Control,

the Company shall be required to offer to purchase on the Purchase Date all outstanding Notes at a purchase price equal to 100% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the Purchase Date. Holders of Notes that are subject to an offer to purchase will receive a Change of Control Offer from the Company in accordance with Section 3.09 of the Indenture and may elect to have such Notes or portions thereof in authorized denominations purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

10. Subordination. The payment of the principal of, interest on or

any other amounts due on the Notes is subordinated in right of payment to all existing and future Senior Debt of the Company, as described in the Indenture. Each Holder, by accepting a Note, agrees to such subordination and authorizes and directs the Trustee on its behalf to take such action as may be necessary or

appropriate to effectuate the subordination so provided and appoints the Trustee as its attorney-in-fact for such purpose.

11. Conversion. The holder of any Note has the right, exercisable at

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any time after 90 days following the Issuance Date and prior to the close of business (New York time) on the date of the Note's maturity, to convert the principal amount thereof (or any portion thereof that is an integral multiple of \$1,000) into shares of Class A Common Stock at the initial Conversion Price of \$12.225 per share, subject to adjustment under certain circumstances as set forth in the Indenture, except that if a Note is called for redemption, the conversion right will terminate at the close of business on the Business Day immediately preceding the date fixed for redemption (unless the Company shall default in making the redemption payment when it becomes due, in which case the conversion right shall terminate on the date such default is cured).

To convert a Note, a holder must (1) complete and sign a conversion notice substantially in the form set forth below, (2) surrender the Note to a Conversion Agent, (3) furnish appropriate endorsements or transfer documents if required by the Registrar or Conversion Agent and (4) pay any transfer or similar tax, if required. No payment or other adjustment shall be made for accrued interest or dividends on any Class A Common Stock issued upon conversion of the Notes. If any Notes are converted during any period after any Record Date for the payment of an installment of interest but before the next Interest Payment Date, interest for such notes will be paid on the next Interest Payment Date, notwithstanding such conversion, to the Holders of such Notes. Any Notes that are, however, delivered to the Company for conversion after any Record Date but before the next Interest Payment Date must, except as described in the next sentence, be accompanied by a payment equal to the interest payable on such Interest Payment Date on the principal amount of Notes being converted. The payment to the Company described in the preceding sentence shall not be required if, during that period between a Record Date and the next Interest Payment Date, a conversion occurs on or after the date that the Company has issued a redemption notice and prior to the date of redemption stated in such notice. No fractional shares will be issued upon conversion, but a cash adjustment will be made for any fractional shares.

A Note in respect of which a Holder has delivered an "Option of Holder to Elect Purchase" form appearing below exercising the option of such Holder to require the Company to purchase such Note may be converted only if the notice of exercise is withdrawn as provided above and in accordance with the terms of the Indenture. The above description of conversion of the Notes is qualified by reference to, and is subject in its entirety by, the more complete description thereof contained in the Indenture.

12. Denominations, Transfer, Exchange. The Notes are in registered

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form, without coupons, in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered, and Notes may be exchanged, as provided in the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar need not exchange or register the transfer of any Note or portion of a Note selected for redemption (except the unredeemed portion of any Note being redeemed in part). Also, it need not exchange or register the transfer of any Note for a period of 15 days before a selection of Notes to be redeemed.

13. Persons Deemed Owners. The registered Holder of a Note shall be

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treated as its owner for all purposes.

14. Unclaimed Money. If money for the payment of principal or

interest remains unclaimed for two years, the Trustee and the Paying Agent shall pay the money back to the Company at its written request. After that, Holders of Notes entitled to the money must look to the Company for payment unless an abandoned property law designates another Person and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

15. Defaults and Remedies. The Notes shall have the Events of

Default set forth in Section 8.01 of the Indenture. Subject to certain limitations in the Indenture, if an Event of Default occurs and is continuing (other than an Event of Default arising from certain events of bankruptcy, insolvency or reorganization set forth in the Indenture), the Trustee by notice to the Company or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes by notice to the Company and the Trustee may declare all the Notes to be due and payable immediately. If an Event of Default arising from certain events of bankruptcy, insolvency or reorganization set forth in the Indenture occurs with respect to the Company, such principal of, premium, if any, and interest on the Notes shall become and be due and payable immediately without further action or notice. If an Event of Default arising from certain events of bankruptcy, insolvency or reorganization set forth in the Indenture occurs with respect to any Significant Subsidiary or Significant Subsidiaries of the Company, the Trustee by notice to the Company or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes by notice to the Company and the Trustee may declare all the Notes to be due and payable immediately. The Holders of a majority in principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all Holders of the Notes waive an existing Default or Event of Default and its consequences except a continuing Default or Event of Default in the payment of the principal or interest on any Note. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations set forth in the Indenture, Holders of a majority in principal amount of the then outstanding Notes issued under the Indenture may direct the Trustee in its exercise of any trust or power. The Company must furnish annually compliance certificates to the Trustee. The above description of Events of Default and remedies is qualified by reference, and subject in its entirety, to the more complete description thereof contained in the Indenture.

16. Amendments, Supplements and Waivers. Subject to certain

exceptions set forth in the Indenture, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for Notes), and any existing default may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes. Without the consent of any Holder, the Indenture or the Notes may be amended among other things, to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for assumption of the Company's obligations to Holders, to reduce the conversion price, to make any change that does not adversely affect the rights of any Holder or to qualify the Indenture under the TIA or to comply with the requirements of the SEC in order to maintain the qualification of the Indenture under the TIA.

17. Trustee Dealings with the Company. The Trustee, in its

individual or any other capacity may become the owner or pledgee of the Notes and may otherwise deal with the Company or an Affiliate with the same rights it would have, as if it were not Trustee, subject to certain limitations set forth in the Indenture and in the TIA. Any Agent may do the same with like rights.

18. No Recourse Against Others. A director, officer, employee,

incorporator, agent or shareholder of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations

or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

19. Governing Law. THIS INDENTURE AND THE SECURITIES SHALL BE

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GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK. THE COMPANY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK OR ANY FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE AND THE SECURITIES, AND IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, JURISDICTION OF THE AFORESAID COURTS. THE COMPANY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, TRIAL BY JURY AND ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE TRUSTEE OR ANY SECURITYHOLDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE COMPANY IN ANY OTHER JURISDICTION.

20. Authentication. The Notes shall not be valid until authenticated

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by the manual signature of an authorized officer of the Trustee or an authenticating agent.

21. Abbreviations. Customary abbreviations may be used in the name

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of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and UGMA (= Uniform Gifts to Minors Act).

The Company will furnish to any Holder of the Notes upon written request and without charge a copy of the Indenture. Request may be made to:

XM Satellite Radio Holdings Inc.  
1500 Eckington Place, NE  
Washington, DC 20002  
Attention: [Investor Relations]

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to

\_\_\_\_\_  
(Insert assignee's social security or tax I.D. no.)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Note)

Date: \_\_\_\_\_

Signature Guarantee: \* \_\_\_\_\_

\* Signature must be guaranteed by a commercial bank, trust company or member firm of the New York Stock Exchange

OPTION OF HOLDER TO ELECT PURCHASE

UPON A CHANGE IN CONTROL

If you want to elect to have this Note or a portion thereof repurchased by the Company upon a Change in Control pursuant to Section 3.09 or 4.06 of the Indenture, check the box: [ ]

If the purchase is in part, indicate the portion (in denominations of \$1,000 or any integral multiple thereof) to be purchased: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Note)

Date: \_\_\_\_\_

Signature Guarantee.\*\*

\_\_\_\_\_  
\*\* Signature must be guaranteed by a commercial bank, trust company or member firm of the New York Stock Exchange.

ELECTION TO CONVERT

To XM Satellite Radio Holdings Inc.:

The undersigned owner of this Note hereby irrevocably exercises the option to convert this Note, or the portion below designated, into Class A Common Stock of XM Satellite Radio Holdings Inc. in accordance with the terms of the Indenture referred to in this Note, and directs that the shares issuable and deliverable upon conversion, together with any check in payment for fractional shares, be issued in the name of and delivered to the undersigned, unless a different name has been indicated in the assignment below. If the shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Date: \_\_\_\_\_

in whole \_\_\_\_

Portions of Note to be converted (\$1,000 or integral multiples thereof): \$ \_\_\_\_\_

\_\_\_\_\_  
Signature

Please Print or Typewrite Name and Address,  
Including Zip Code, and Social Security or Other  
Identifying Number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature Guarantee:\* \_\_\_\_\_

\* Signature must be guaranteed by a commercial bank, trust company or member firm of the New York Stock Exchange.



Subsidiaries of XM Satellite Radio Holdings Inc.  
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XM Satellite Radio Inc.

Subsidiaries of XM Satellite Radio Inc.  
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XM Radio Inc.  
XM Equipment Leasing LLC  
XM Innovations Inc.  
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INDEPENDENT AUDITORS' CONSENT

The Board of Directors  
XM Satellite Radio Holdings Inc. and Subsidiaries:

We consent to the incorporation by reference in the registration statements Nos. 333-47570, 333-93529 and 333-39176 on Forms S-3 and Nos. 333-92049 and 333-42590 on Form S-8 of XM Satellite Radio Holdings Inc. and subsidiaries of our reports dated February 9, 2001 with respect to the consolidated balance sheets of XM Satellite Radio Holdings Inc. and subsidiaries (a development stage company) as of December 31, 1999 and 2000 and the related consolidated statements of operations, stockholders' equity (deficit) and cash flows for each of the years in the three-year period ended December 31, 2000 and for the period from December 15, 1992 (date of inception) to December 31, 2000, and related schedule, which reports appear in the December 31, 2000 annual report on Form 10-K of XM Satellite Radio Holdings Inc. and subsidiaries.

Our reports, dated February 9, 2001, contain an explanatory paragraph that states that the Company has not commenced operations and is dependent upon additional debt or equity financing, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of that uncertainty.

/s/ KPMG LLP

McLean, VA  
March 14, 2001  
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