

ECHOSTAR CORP

FORM 10-Q (Quarterly Report)

Filed 05/10/17 for the Period Ending 03/31/17

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CIK 0001415404
Symbol SATS
SIC Code 3663 - Radio and Television Broadcasting and Communications Equipment
Industry Communications & Networking
Sector Technology
Fiscal Year 12/31

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2017 .

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE TRANSITION PERIOD FROM _____ TO _____

Commission File Number: 001-33807

EchoStar Corporation

(Exact Name of Registrant as Specified in Its Charter)

Nevada

(State or Other Jurisdiction of Incorporation or Organization)

26-1232727

(I.R.S. Employer Identification No.)

100 Inverness Terrace East, Englewood, Colorado

(Address of Principal Executive Offices)

80112-5308

(Zip Code)

(303) 706-4000

(Registrant's Telephone Number, Including Area Code)

Not Applicable

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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 whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Non-accelerated filer

(Do not check if a smaller reporting company)

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of May 1, 2017, the registrant's outstanding common stock consisted of 47,804,925 shares of Class A common stock and 47,687,039 shares of Class B common stock, each \$0.001 par value.

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DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (“Form 10-Q”) contains “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, including but not limited to statements about our estimates, expectations, plans, objectives, strategies, and financial condition, expected impact of regulatory developments and legal proceedings, opportunities in our industries and businesses and other trends and projections for the next fiscal quarter and beyond. All statements, other than statements of historical facts, may be forward-looking statements. Forward-looking statements may also be identified by words such as “anticipate,” “intend,” “plan,” “goal,” “seek,” “believe,” “estimate,” “expect,” “predict,” “continue,” “future,” “will,” “would,” “could,” “can,” “may” and similar terms. These forward-looking statements are based on information available to us as of the date of this Form 10-Q and represent management’s current views and assumptions. Forward-looking statements are not guarantees of future performance, events or results and involve potential known and unknown risks, uncertainties and other factors, many of which may be beyond our control and may pose a risk to our operating and financial condition. Accordingly, actual performance, events or results could differ materially from those expressed or implied in the forward-looking statements due to a number of factors including, but not limited to:

- our reliance on DISH Network Corporation and its subsidiaries (“DISH Network”), for a significant portion of our revenue;
- our ability to implement our strategic initiatives;
- significant risks related to the construction, launch and operation of our satellites, such as the risk of material malfunction on one or more of our satellites, risks resulting from delays or failures of launches of our satellites and potentially missing our regulatory milestones, changes in the space weather environment that could interfere with the operation of our satellites, and our general lack of commercial insurance coverage on our satellites;
- our failure to adequately anticipate the need for satellite capacity or the inability to obtain satellite capacity for our Hughes segment;
- the failure of third-party providers of components, manufacturing, installation services and customer support services to appropriately deliver the contracted goods or services;
- our ability to bring advanced technologies to market to keep pace with our customers and competitors; and
- risk related to our foreign operations and other uncertainties associated with doing business internationally, including changes in foreign exchange rates between foreign currencies and the United States dollar, economic instability and political disturbances.

Other factors that could cause or contribute to such differences include, but are not limited to, those discussed under the caption “Risk Factors” in Part II, Item 1A of this Form 10-Q and in Part I, Item 1A of our most recent Annual Report on Form 10-K (“Form 10-K”) filed with the Securities and Exchange Commission (“SEC”), those discussed in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” herein and in our Form 10-K, and those discussed in other documents we file with the SEC.

All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. Investors should consider the risks and uncertainties described herein and should not place undue reliance on any forward-looking statements. We do not undertake, and specifically disclaim, any obligation to publicly release the results of any revisions that may be made to any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

Although we believe that the expectations reflected in any forward-looking statements are reasonable, we cannot guarantee future results, events, levels of activity, performance or achievements. We do not assume responsibility for the accuracy and completeness of any forward-looking statements. We assume no responsibility for updating forward-looking information contained or incorporated by reference herein or in any documents we file with the SEC, except as required by law.

Should one or more of the risks or uncertainties described herein or in any documents we file with the SEC occur, or should underlying assumptions prove incorrect, our actual results and plans could differ materially from those expressed in any forward-looking statements.

PART I — FINANCIAL INFORMATION
Item 1. FINANCIAL STATEMENTS

ECHOSTAR CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except share amounts)
(Unaudited)

	As of	
	March 31, 2017	December 31, 2016
Assets		
Current Assets:		
Cash and cash equivalents	\$ 2,799,545	\$ 2,570,365
Marketable investment securities, at fair value	383,015	522,516
Trade accounts receivable, net of allowance for doubtful accounts of \$11,371 and \$12,956, respectively	167,860	182,527
Trade accounts receivable - DISH Network, net of allowance for doubtful accounts of zero	50,284	19,417
Inventory	79,422	62,620
Prepays and deposits	45,604	43,456
Other current assets	12,495	10,862
Current assets of discontinued operations	213,191	311,524
Total current assets	3,751,416	3,723,287
Noncurrent Assets:		
Restricted cash and marketable investment securities	8,343	12,926
Property and equipment, net of accumulated depreciation of \$2,724,049 and \$2,598,492, respectively	3,425,548	3,398,195
Regulatory authorizations, net	545,620	544,633
Goodwill	504,173	504,173
Other intangible assets, net	73,006	80,734
Investments in unconsolidated entities	165,992	171,016
Other receivable - DISH Network	91,029	90,586
Other noncurrent assets, net	181,899	166,385
Noncurrent assets of discontinued operations	—	316,924
Total noncurrent assets	4,995,610	5,285,572
Total assets	\$ 8,747,026	\$ 9,008,859
Liabilities and Stockholders' Equity		
Current Liabilities:		
Trade accounts payable	\$ 134,461	\$ 170,297
Trade accounts payable - DISH Network	3,691	1,072
Current portion of long-term debt and capital lease obligations	37,270	32,984
Deferred revenue and prepayments	54,596	59,989
Accrued interest	57,012	46,487
Accrued compensation	30,013	53,454
Accrued expenses and other	106,391	95,726
Current liabilities of discontinued operations	311	71,429
Total current liabilities	423,745	531,438
Noncurrent Liabilities:		
Long-term debt and capital lease obligations, net of unamortized debt issuance costs	3,620,044	3,622,463
Deferred tax liabilities, net	736,186	746,667
Other noncurrent liabilities	121,341	90,785
Noncurrent liabilities of discontinued operations	—	10,701
Total noncurrent liabilities	4,477,571	4,470,616
Total liabilities	4,901,316	5,002,054
Commitments and Contingencies (Note 14)		
Stockholders' Equity:		
Preferred Stock, \$.001 par value, 20,000,000 shares authorized:		

Hughes Retail Preferred Tracking Stock, \$.001 par value, zero authorized, issued and outstanding at March 31, 2017 and 13,000,000 shares authorized and 6,290,499 issued and outstanding at December 31, 2016

	—	6
Common stock, \$.001 par value, 4,000,000,000 shares authorized:		
Class A common stock, \$.001 par value, 1,600,000,000 shares authorized, 53,320,812 shares issued and 47,788,494 shares outstanding at March 31, 2017 and 52,243,465 shares issued and 46,711,147 shares outstanding at December 31, 2016	53	52
Class B common stock, \$.001 par value, 800,000,000 shares authorized, 47,687,039 shares issued and outstanding at each of March 31, 2017 and December 31, 2016	48	48
Class C common stock, \$.001 par value, 800,000,000 shares authorized, none issued and outstanding at each of March 31, 2017 and December 31, 2016	—	—
Class D common stock, \$.001 par value, 800,000,000 shares authorized, none issued and outstanding at each of March 31, 2017 and December 31, 2016	—	—
Additional paid-in capital	3,644,370	3,828,677
Accumulated other comprehensive loss	(80,191)	(124,803)
Accumulated earnings	366,470	314,247
Treasury stock, at cost	(98,162)	(98,162)
Total EchoStar stockholders' equity	3,832,588	3,920,065
Noncontrolling interest in HSS Tracking Stock	—	73,910
Other noncontrolling interests	13,122	12,830
Total stockholders' equity	3,845,710	4,006,805
Total liabilities and stockholders' equity	<u>\$ 8,747,026</u>	<u>\$ 9,008,859</u>

The accompanying notes are an integral part of these condensed consolidated financial statements .

ECHOSTAR CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	For the Three Months Ended March 31,	
	2017	2016
Revenue:		
Services and other revenue - DISH Network	\$ 114,955	\$ 116,449
Services and other revenue - other	269,791	269,897
Equipment revenue - DISH Network	31	2,769
Equipment revenue - other	48,374	42,859
Total revenue	433,151	431,974
Costs and Expenses:		
Cost of sales - services and other (exclusive of depreciation and amortization)	131,783	125,582
Cost of sales - equipment (exclusive of depreciation and amortization)	43,938	43,108
Selling, general and administrative expenses	82,991	80,545
Research and development expenses	7,705	6,932
Depreciation and amortization	115,083	110,077
Total costs and expenses	381,500	366,244
Operating income	51,651	65,730
Other Income (Expense):		
Interest income	8,291	3,965
Interest expense, net of amounts capitalized	(45,396)	(23,171)
Gains on investments, net	12,035	2,462
Other-than-temporary impairment loss on available-for-sale securities	(3,298)	—
Equity in earnings (losses) of unconsolidated affiliates, net	6,408	(808)
Other, net	1,072	7,379
Total other expense, net	(20,888)	(10,173)
Income from continuing operations before income taxes	30,763	55,557
Income tax benefit (provision)	12	(20,172)
Net income from continuing operations	30,775	35,385
Net income from discontinued operations	6,577	13,058
Net income	37,352	48,443
Less: Net loss attributable to noncontrolling interest in HSS Tracking Stock	(655)	(823)
Less: Net income attributable to other noncontrolling interests	292	111
Net income attributable to EchoStar	37,715	49,155
Less: Net loss attributable to Hughes Retail Preferred Tracking Stock	(1,209)	(1,519)
Net income attributable to EchoStar common stock	\$ 38,924	\$ 50,674

Amounts attributable to EchoStar common stock:

Net income from continuing operations	\$ 32,347	\$ 37,616
Net income from discontinued operations	6,577	13,058
Net income attributable to EchoStar common stock	\$ 38,924	\$ 50,674

Weighted-average common shares outstanding - Class A and B common stock:

Basic	94,745	93,331
Diluted	95,893	93,852

Earnings per share - Class A and B common stock:

Basic:			
Continuing operations	\$ 0.34	\$	0.40
Discontinued operations	0.07		0.14
Total basic earnings per share	\$ 0.41	\$	0.54

Diluted:			
Continuing operations	\$	0.34	\$ 0.40
Discontinued operations		0.07	0.14
Total diluted earnings per share	\$	0.41	\$ 0.54

The accompanying notes are an integral part of these condensed consolidated financial statements .

ECHOSTAR CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands, except per share amounts)
(Unaudited)

	For the Three Months Ended March 31,	
	2017	2016
Comprehensive Income:		
Net income	\$ 37,352	\$ 48,443
Other comprehensive income (loss), net of tax:		
Foreign currency translation adjustments	24,038	11,624
Unrealized gains on available-for-sale securities and other	20,032	1,503
Recognition of realized gains on available-for-sale securities in net income	(2,756)	(2,247)
Recognition of other-than-temporary impairment loss on available-for-sale securities in net income	3,298	—
Total other comprehensive income, net of tax	44,612	10,880
Comprehensive income	81,964	59,323
Less: Comprehensive loss attributable to noncontrolling interest in HSS Tracking Stock	(655)	(823)
Less: Comprehensive income attributable to other noncontrolling interests	292	111
Comprehensive income attributable to EchoStar	\$ 82,327	\$ 60,035

The accompanying notes are an integral part of these condensed consolidated financial statements .

ECHOSTAR CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(In thousands)
(Unaudited)

	Class A and B Common Stock	Hughes Retail Preferred Tracking Stock	Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Earnings	Treasury Stock	Noncontrolling Interest in HSS Tracking Stock	Other Noncontrolling Interests	Total
Balance, December 31, 2015	\$ 99	\$ 6	\$ 3,776,451	\$ (117,233)	\$ 134,317	\$(98,162)	\$ 74,854	\$ 11,310	\$ 3,781,642
Issuances of Class A common stock:									
Exercise of stock options	1	—	2,314	—	—	—	—	—	2,315
Employee benefits	—	—	11,126	—	—	—	—	—	11,126
Employee Stock Purchase Plan	—	—	4,020	—	—	—	—	—	4,020
Stock-based compensation	—	—	4,384	—	—	—	—	—	4,384
R&D tax credits utilized by DISH Network	—	—	(691)	—	—	—	—	—	(691)
Other, net	—	—	(451)	—	—	—	—	—	(451)
Net income (loss)	—	—	—	—	49,155	—	(823)	111	48,443
Foreign currency translation adjustment	—	—	—	11,624	—	—	—	—	11,624
Unrealized losses on available-for-sale securities, net and other	—	—	—	(744)	—	—	—	—	(744)
Balance, March 31, 2016	<u>\$ 100</u>	<u>\$ 6</u>	<u>\$ 3,797,153</u>	<u>\$ (106,353)</u>	<u>\$ 183,472</u>	<u>\$(98,162)</u>	<u>\$ 74,031</u>	<u>\$ 11,421</u>	<u>\$ 3,861,668</u>
Balance, December 31, 2016	\$ 100	\$ 6	\$ 3,828,677	\$ (124,803)	\$ 314,247	\$(98,162)	\$ 73,910	\$ 12,830	\$ 4,006,805
Issuances of Class A common stock:									
Exercise of stock options	1	—	28,037	—	—	—	—	—	28,038
Employee benefits	—	—	11,199	—	—	—	—	—	11,199
Employee Stock Purchase Plan	—	—	2,409	—	—	—	—	—	2,409
Stock-based compensation	—	—	956	—	—	—	—	—	956
Cumulative effect of adoption of ASU 2016-09 as of January 1, 2017	—	—	—	—	14,508	—	—	—	14,508
Reacquisition and retirement of Tracking Stock pursuant to Share Exchange Agreement	—	(6)	(226,815)	—	—	—	(73,255)	—	(300,076)
R&D tax credits utilized by DISH Network	—	—	(93)	—	—	—	—	—	(93)
Net income (loss)	—	—	—	—	37,715	—	(655)	292	37,352
Foreign currency translation adjustment	—	—	—	24,038	—	—	—	—	24,038
Unrealized losses and impairment on available-for-sale securities, net and other	—	—	—	20,574	—	—	—	—	20,574
Balance, March 31, 2017	<u>\$ 101</u>	<u>\$ —</u>	<u>\$ 3,644,370</u>	<u>\$ (80,191)</u>	<u>\$ 366,470</u>	<u>\$(98,162)</u>	<u>\$ —</u>	<u>\$ 13,122</u>	<u>\$ 3,845,710</u>

The accompanying notes are an integral part of these condensed consolidated financial statements .

ECHOSTAR CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	For the Three Months Ended March 31,	
	2017	2016
Cash Flows from Operating Activities:		
Net income	\$ 37,352	\$ 48,443
Adjustments to reconcile net income to net cash flows from operating activities:		
Depreciation and amortization	126,742	126,734
Equity in losses (earnings) of unconsolidated affiliates, net	(5,249)	963
Gain and impairment on investments, net	(8,737)	(2,462)
Stock-based compensation	956	4,384
Deferred tax provision	343	25,684
Dividends received from unconsolidated entity	7,500	—
Changes in current assets and current liabilities, net	(13,857)	(18,184)
Changes in noncurrent assets and noncurrent liabilities, net	(6,003)	3,388
Other, net	2,308	3,899
Net cash flows from operating activities	<u>141,355</u>	<u>192,849</u>
Cash Flows from Investing Activities:		
Purchases of marketable investment securities	(45,905)	(321,892)
Sales and maturities of marketable investment securities	205,296	323,889
Expenditures for property and equipment	(102,463)	(235,223)
Refunds and other receipts related to capital expenditures	—	24,087
Changes in restricted cash and marketable investment securities	4,583	(662)
Sale of investment in unconsolidated entity	17,781	—
Expenditures for externally marketed software	(10,832)	(5,959)
Other, net	—	1,460
Net cash flows from investing activities	<u>68,460</u>	<u>(214,300)</u>
Cash Flows from Financing Activities:		
Repayment of debt and capital lease obligations	(8,736)	(10,542)
Net proceeds from Class A common stock options exercised	26,325	2,315
Net proceeds from Class A common stock issued under the Employee Stock Purchase Plan	2,409	4,020
Cash exchanged for Tracking Stock	(651)	—
Other, net	(1,475)	(302)
Net cash flows from financing activities	<u>17,872</u>	<u>(4,509)</u>
Effect of exchange rates on cash and cash equivalents	715	536
Net increase (decrease) in cash and cash equivalents	228,402	(25,424)
Cash and cash equivalents, beginning of period	2,571,143	924,240
Cash and cash equivalents, end of period	<u>\$ 2,799,545</u>	<u>\$ 898,816</u>
Supplemental Disclosure of Cash Flow Information:		
Cash paid for interest (including capitalized interest)	\$ 54,053	\$ 10,476
Capitalized interest	\$ 21,824	\$ 22,021
Cash paid for income taxes	\$ 1,035	\$ 2,586
Employee benefits paid in Class A common stock	\$ 11,199	\$ 11,126
Property and equipment financed under capital lease obligations	\$ 7,485	\$ 2,351
Increase (decrease) in capital expenditures included in accounts payable, net	\$ (6,315)	\$ 3,670
Capitalized in-orbit incentive obligations	\$ 31,000	\$ —
Noncash net assets exchanged for Tracking Stock	\$ 299,425	\$ —

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1 . Organization and Business Activities

Principal Business

EchoStar Corporation (which, together with its subsidiaries, is referred to as “EchoStar,” the “Company,” “we,” “us” and/or “our”) is a holding company that was organized in October 2007 as a corporation under the laws of the State of Nevada. We are a global provider of satellite service operations, video delivery solutions, broadband satellite technologies and broadband services for home and small office customers. We deliver innovative network technologies, managed services, and various communications solutions for enterprise and government customers. Our Class A common stock is publicly traded on the Nasdaq Global Select Market (“Nasdaq”) under the symbol “SATS.”

In February 2014, EchoStar entered into agreements with certain subsidiaries of DISH Network Corporation (“DISH”) pursuant to which, effective March 1, 2014, (i) EchoStar and our subsidiary Hughes Satellite Systems Corporation (“HSS”) issued the Tracking Stock (as defined below) to subsidiaries of DISH in exchange for five satellites (EchoStar I, EchoStar VII, EchoStar X, EchoStar XI, and EchoStar XIV), including the assumption of related in-orbit incentive obligations, and \$11.4 million in cash and (ii) DISH and certain of its subsidiaries began receiving certain satellite services on these five satellites from us (the “Satellite and Tracking Stock Transaction”). The Tracking Stock tracked the economic performance of the residential retail satellite broadband business of our Hughes segment, including certain operations, assets and liabilities attributed to such business (collectively, the “Hughes Retail Group” or “HRG”), and represented an aggregate 80.0% economic interest in HRG (the shares issued as EchoStar Tracking Stock represented a 51.89% economic interest in HRG and the shares issued as HSS Tracking Stock represented a 28.11% economic interest in the Hughes Retail Group). In addition to the remaining 20.0% economic interest in the HRG, EchoStar retained all economic interest in the wholesale satellite broadband business and other businesses of EchoStar.

On January 31, 2017, EchoStar Corporation and certain of its subsidiaries entered into a Share Exchange Agreement (the “Share Exchange Agreement”) with DISH and certain of its subsidiaries. Pursuant to the Share Exchange Agreement, on February 28, 2017, among other things, EchoStar Corporation and certain of its subsidiaries received all of the shares of the Hughes Retail Preferred Tracking Stock issued by EchoStar Corporation (the “EchoStar Tracking Stock”) and the Hughes Retail Preferred Tracking Stock issued by HSS (the “HSS Tracking Stock”, together with the EchoStar Tracking Stock, the “Tracking Stock”) in exchange for 100% of the equity interests of certain EchoStar subsidiaries that held substantially all of our EchoStar Technologies businesses and certain other assets (collectively, the “Share Exchange”). Following consummation of the Share Exchange, EchoStar no longer operates the EchoStar Technologies business segment and the EchoStar Tracking Stock and HSS Tracking Stock were retired and are no longer outstanding and all agreements, arrangements and policy statements with respect to such tracking stock terminated and are of no further effect. As a result of the Share Exchange, the condensed consolidated financial statements of the EchoStar Technologies businesses have been presented as discontinued operations and, as such, have been excluded from continuing operations and segment results for all periods presented. See Note 3 for further discussion of our discontinued operations.

We currently operate in the following two business segments:

- **Hughes** — which provides broadband satellite technologies and broadband services to home and small office customers and network technologies, managed services and communication solutions to domestic and international consumers and enterprise and government customers. The Hughes segment also provides managed services, hardware, and satellite services to large enterprises and government customers, and designs, provides and installs gateway and terminal equipment to customers for other satellite systems. In addition, our Hughes segment provides satellite ground segment systems and terminals to mobile system operators.
- **EchoStar Satellite Services (“ESS”)** — which uses certain of our owned and leased in-orbit satellites and related licenses to provide satellite service operations and video delivery solutions on a full-time and occasional-use basis primarily to DISH Network Corporation and its subsidiaries (“DISH Network”), Dish Mexico, S. de R.L. de C.V., a joint venture we entered into in 2008 (“Dish Mexico”), United States (“U.S.”) government service providers, internet service providers, broadcast news organizations, programmers, and private enterprise customers. We also manage satellite operations for certain satellites owned by DISH Network.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Our operations also include various corporate departments (primarily Executive, Strategic Development, Human Resources, IT, Finance, Real Estate and Legal) as well as other activities that have not been assigned to our operating segments, including costs incurred in certain satellite development programs and other business development activities, our centralized treasury operations, and gains (losses) from certain of our investments. These activities, costs and income are accounted for in “Corporate and Other.”

In 2008, DISH Network completed its distribution to us of its digital set-top box business, certain infrastructure, and other assets and related liabilities, including certain of its satellites, uplink and satellite transmission assets, and real estate (the “Spin-off”). Since the Spin-off, EchoStar and DISH have operated as separate publicly-traded companies. Prior to the consummation of the Share Exchange on February 28, 2017, DISH Network held the Tracking Stock discussed above. A substantial majority of the voting power of the shares of EchoStar and DISH is owned beneficially by Charles W. Ergen, our Chairman, and by certain trusts established by Mr. Ergen for the benefit of his family.

Note 2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the U.S. (“GAAP”) and with the instructions to Form 10-Q and Article 10 of Regulation S-X for interim financial information. Accordingly, these financial statements do not include all of the information and notes required for complete financial statements prepared in conformity with GAAP. In our opinion, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. Our results of operations for the interim periods presented are not necessarily indicative of the results that may be expected for the full year. For further information, refer to the consolidated financial statements and notes thereto included in our Form 10-K for the year ended December 31, 2016 .

Principles of Consolidation

We consolidate all entities in which we have a controlling financial interest. We are deemed to have a controlling financial interest in variable interest entities where we are the primary beneficiary. We are deemed to have a controlling financial interest in other entities when we own more than 50 percent of the outstanding voting shares and other shareholders do not have substantive rights to participate in management. For entities we control but do not wholly own, we record a noncontrolling interest within stockholders’ equity for the portion of the entity’s equity attributed to the noncontrolling ownership interests. As of December 31, 2016 , noncontrolling interests consisted primarily of HSS Tracking Stock previously owned by DISH Network. As a result of the Share Exchange, the noncontrolling interest in HSS Tracking Stock was extinguished as of February 28, 2017. All significant intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires us to make certain estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the balance sheets, the reported amounts of revenue and expense for each reporting period, and certain information disclosed in the notes to our condensed consolidated financial statements . Estimates are used in accounting for, among other things, amortization periods for deferred subscriber acquisition costs, revenue recognition using the percentage-of-completion method, allowances for doubtful accounts, allowances for sales returns and rebates, warranty obligations, self-insurance obligations, deferred taxes and related valuation allowances, uncertain tax positions, loss contingencies, fair value of financial instruments, fair value of stock-based compensation awards, fair value of assets and liabilities acquired in business combinations, lease classifications, asset impairment testing, useful lives and methods for depreciation and amortization of long-lived assets, and certain royalty obligations. We base our estimates and assumptions on historical experience, observable market inputs and on various other factors that we believe to be relevant under the circumstances. Due to the inherent uncertainty involved in making estimates, actual results may differ from previously estimated amounts, and such differences may be material to our condensed consolidated financial statements . Changing economic conditions may increase the inherent uncertainty in the estimates and assumptions indicated above. We review our estimates and assumptions periodically and the effects of revisions are reflected in the period they occur or prospectively if the revised estimate affects future periods.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Fair Value Measurements

We determine fair value based on the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants. Market or observable inputs are the preferred source of values, followed by unobservable inputs or assumptions based on hypothetical transactions in the absence of market inputs. We utilize the highest level of inputs available according to the following hierarchy in determining fair value:

- Level 1, defined as observable inputs being quoted prices in active markets for identical assets;
- Level 2, defined as observable inputs other than quoted prices included in Level 1, including quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations in which significant inputs and significant value drivers are observable in active markets; and
- Level 3, defined as unobservable inputs for which little or no market data exists, consistent with characteristics of the asset or liability that would be considered by market participants in a transaction to purchase or sell the asset or liability.

Transfers between levels in the fair value hierarchy are considered to occur at the beginning of the quarterly accounting period. There were no transfers between levels for each of the three months ended March 31, 2017 or 2016 .

As of March 31, 2017 and December 31, 2016 , the carrying amounts of our cash and cash equivalents, trade accounts receivable, net of allowance for doubtful accounts, accounts payable and accrued liabilities were equal to or approximated fair value due to their short-term nature or proximity to current market rates.

Fair values of our marketable investment securities are based on a variety of observable market inputs. For our investments in publicly traded equity securities and U.S. government securities, fair value ordinarily is determined based on a Level 1 measurement that reflects quoted prices for identical securities in active markets. Fair values of our investments in other marketable debt securities generally are based on Level 2 measurements, as the markets for such debt securities are less active. Trades of identical debt securities on or near the measurement date are considered a strong indication of fair value. Matrix pricing techniques that consider par value, coupon rate, credit quality, maturity and other relevant features also may be used to determine fair value of our investments in marketable debt securities.

Fair values for HSS' 6 1/2% Senior Secured Notes due 2019 (the "2019 Senior Secured Notes"), 7 5/8% Senior Unsecured Notes due 2021 (the "2021 Senior Unsecured Notes"), 5.250% Senior Secured Notes due August 1, 2026 (the "2026 Senior Secured Notes") and 6.625% Senior Unsecured Notes due August 1, 2026 (the "2026 Senior Unsecured Notes" and together with the 2026 Senior Secured Notes, the "2026 Notes") (see Note 11) are based on quoted market prices in less active markets and are categorized as Level 2 measurements. The fair values of our other debt are Level 2 measurements and are estimated to approximate their carrying amounts based on the proximity of their interest rates to current market rates. As of March 31, 2017 and December 31, 2016 , the fair values of our in-orbit incentive obligations, based on measurements categorized within Level 2 of the fair value hierarchy, approximated their carrying amounts of \$103.6 million and \$74.1 million , respectively. We use fair value measurements from time to time in connection with asset impairment testing and the assignment of purchase consideration to assets and liabilities of acquired companies. Those fair value measurements typically include significant unobservable inputs and are categorized within Level 3 of the fair value hierarchy.

Research and Development

Costs incurred in research and development activities generally are expensed as incurred. A significant portion of our research and development costs are incurred in connection with the specific requirements of a customer's order. In such instances, the amounts for these customer funded development efforts are included in cost of sales.

Cost of sales includes research and development costs incurred in connection with customers' orders of approximately \$6.9 million and \$2.8 million for the three months ended March 31, 2017 and 2016 , respectively. In addition, we incurred other research and development expenses of approximately \$7.7 million and \$6.9 million for the three months ended March 31, 2017 and 2016 , respectively.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Capitalized Software Costs

Costs related to the procurement and development of software for internal-use and externally marketed software are capitalized and amortized using the straight-line method over the estimated useful life of the software, not in excess of five years. Capitalized costs of internal-use software are included in "Property and equipment, net" and capitalized costs of externally marketed software are included in "Other noncurrent assets, net" in our condensed consolidated balance sheets. Externally marketed software generally is installed in the equipment we sell to customers. We conduct software program reviews for externally marketed capitalized software costs at least annually, or as events and circumstances warrant such a review, to determine if capitalized software development costs are recoverable and to ensure that costs associated with programs that are no longer generating revenue are expensed. As of March 31, 2017 and December 31, 2016, the net carrying amount of externally marketed software was \$83.8 million and \$76.3 million, respectively, of which \$13.5 million and \$50.1 million, respectively, is under development and not yet placed in service. We capitalized costs related to the development of externally marketed software of \$10.8 million and \$5.9 million for the three months ended March 31, 2017 and 2016, respectively. We recorded amortization expense relating to the development of externally marketed software of \$3.4 million and \$2.3 million for the three months ended March 31, 2017 and 2016, respectively. The weighted average useful life of our externally marketed software was approximately four years as of March 31, 2017.

New Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, Revenue from Contracts with Customers ("ASU 2014-09"). It outlines a single comprehensive model, codified in Topic 606 of the FASB Accounting Standards Codification, for entities to use in accounting for revenue arising from contracts with customers and supersedes most current revenue recognition guidance, including industry-specific guidance. The core principle of the revenue model is that "an entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services." In August 2015, the FASB issued ASU No. 2015-14, which deferred the mandatory effective date of ASU 2014-09 by one year. As a result, public entities are required to adopt the new revenue standard in annual periods beginning after December 15, 2017 and in interim periods within those annual periods. The standard may be applied either retrospectively to prior periods or as a cumulative-effect adjustment as of the date of adoption. Early adoption is permitted, but not before annual periods beginning after December 15, 2016. In March 2016, the FASB issued ASU No. 2016-08, Principal versus Agent Considerations, which clarifies the implementation guidance on principal versus agent considerations. In April 2016, the FASB issued ASU No. 2016-10, Identifying Performance Obligations and Licensing, which amends guidance on identifying performance obligations and accounting for licenses of intellectual property. In May 2016, the FASB issued ASU No. 2016-12, Narrow-Scope Improvements and Practical Expedients, which addresses collectibility, noncash consideration, completed contracts at transition, a practical expedient for contract modifications at transition, and an accounting policy election related to the presentation of sales taxes and other similar taxes collected from customers. In January 2017, the FASB issued ASU No. 2016-20, Technical Corrections to Topic 606, which clarifies, but does not fundamentally change, certain aspects of the new revenue standard. We plan to adopt the new revenue standard as of January 1, 2018, but have not selected the transition method that we will apply upon adoption. We continue to evaluate the impact of the new standard and available adoption methods on our consolidated financial statements. We are in the process of evaluating arrangements with customers and identifying differences in accounting between new and existing standards.

In January 2016, the FASB issued Accounting Standards Update No. 2016-01, Recognition and Measurement of Financial Assets and Financial Liabilities ("ASU 2016-01"). This update substantially revises standards for the recognition, measurement and presentation of financial instruments, including requiring all equity investments to be measured at fair value with changes in the fair value recognized through net income. It also amends certain disclosure requirements associated with the fair value of financial instruments. ASU 2016-01 is effective for annual periods beginning after December 15, 2017, including interim periods within those annual periods, with early adoption permitted for certain requirements. We are assessing the impact of adopting this new accounting standard on our consolidated financial statements and related disclosures.

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, Leases ("ASU 2016-02"). This standard requires lessees to recognize assets and liabilities for all leases with lease terms more than 12 months, including leases classified as operating leases. The standard also modifies the definition of a lease and the criteria for classifying leases as operating leases or financing leases. ASU 2016-02 is effective for annual periods beginning after December 15, 2018 and interim periods within those periods. Early adoption is permitted. We are assessing the impact of adopting this new accounting standard on our consolidated financial statements and related disclosures.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

In March 2016, the FASB issued Accounting Standards Update No. 2016-09, Improvements to Employee Share-Based Payment Accounting (“ASU 2016-09”), which simplifies the accounting for share-based payment awards. This update requires all excess tax benefits and deficiencies to be recognized as income tax expense or benefit and permits an entity to make an entity-wide policy election to either estimate forfeitures or recognize forfeitures as they occur. ASU 2016-09 is effective for annual periods beginning after December 15, 2016 and interim periods within those periods. The update specifies requirements for retrospective, modified retrospective or prospective application for the various amendments contained in the update. Upon adoption of this standard as of January 1, 2017, we recorded a \$14.5 million deferred tax asset and a corresponding credit to accumulated earnings for excess tax benefits that had not previously been recognized because the related tax deductions had not reduced taxes payable. We did not change our accounting policy to estimate forfeitures in determining compensation cost. We prospectively adopted amendments requiring presentation of excess tax benefits in operating activities in the statement of cash flows and dealing with the treatment of excess tax benefits in the calculation of diluted earnings per share. Our adoption of this update did not have a material impact on our financial statements.

In June 2016, the FASB issued Accounting Standards Update No. 2016-13, Measurement of Credit Losses on Financial Instruments (“ASU 2016-13”), which introduces an approach based on expected losses to estimate credit losses on certain types of financial instruments rather than incurred losses. It also modifies the impairment model for available-for-sale debt securities and provides for a simplified accounting model for purchased financial assets with credit deterioration since their origination. ASU 2016-13 is effective for annual periods beginning after December 15, 2019 and interim periods within those periods. Early adoption is permitted. We are assessing the impact of adopting this new accounting standard on our consolidated financial statements and related disclosures.

In October 2016, the FASB issued Accounting Standards Update No. 2016-16, Intra-Entity Transfers of Assets Other Than Inventory (“ASU 2016-16”), which improves the accounting for the income tax consequences of intra-entity transfers of assets other than inventory. ASU 2016-16 is effective for annual periods beginning after December 15, 2017 and interim periods within those periods. We early adopted ASU 2016-16 as of January 1, 2017. Our adoption of this update did not have a material impact on our financial statements.

In November 2016, the FASB issued Accounting Standards Update No. 2016-18, Statement of Cash Flows (Topic 230): Restricted Cash (“ASU 2016-18”). This standard requires restricted cash and restricted cash equivalents to be included with cash and cash equivalents in the statement of cash flows. ASU 2016-18 is effective for annual periods beginning after December 15, 2017 and interim periods within those periods. Early adoption is permitted, which must apply the guidance retrospectively to all periods presented. We are assessing the impact of adopting this new accounting standard on our consolidated financial statements and related disclosures.

In January 2017, the FASB issued Accounting Standards Update No. 2017-04, Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment (“ASU 2017-04”). This standard simplifies the accounting for goodwill impairment by removing Step 2 of the goodwill impairment test, which requires a hypothetical purchase price allocation. A goodwill impairment will now be the amount by which a reporting unit’s carrying amount, including goodwill, exceeds its fair value, not to exceed the carrying amount of goodwill. ASU 2017-04 is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019 and is to be applied on a prospective basis. We early adopted ASU 2017-04 as of January 1, 2017. Our adoption of this update did not have any impact on our condensed consolidated financial statements, but it may impact the recognition and measurement of a goodwill impairment loss in future periods if we determine that the carrying amount of any reporting units including goodwill exceeds fair value of the reporting unit.

In March 2017, the FASB issued Accounting Standards Update No. 2017-08, Receivables - Nonrefundable Fees and Other Costs (Subtopic 310-20): Premium Amortization on Purchased Callable Debt Securities (“ASU 2017-08”). This update shortens the amortization period of premiums on certain purchased callable debt securities to the earliest call date, effectively reducing interest income on such securities prior to the earliest call date. ASU 2017-08 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. Early adoption is permitted. We are assessing the impact of adopting this new accounting standard on our consolidated financial statements and related disclosures.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Note 3 . Discontinued Operations

On January 31, 2017, we and certain of our subsidiaries entered into the Share Exchange Agreement. Pursuant to the Share Exchange Agreement, on February 28, 2017, among other things, EchoStar Corporation and certain of its subsidiaries received all of the shares of the Tracking Stock in exchange for 100% of the equity interests of certain EchoStar subsidiaries that held substantially all of our EchoStar Technologies businesses and certain other assets. Following consummation of the Share Exchange, EchoStar no longer operates the EchoStar Technologies business segment and the EchoStar Tracking Stock and HSS Tracking Stock were retired and are no longer outstanding and all agreements, arrangements and policy statements with respect to such tracking stock terminated and are of no further effect.

As a result of the Share Exchange, the historical financial results of our EchoStar Technologies segment prior to the closing of the Share Exchange are reflected in our condensed consolidated financial statements as discontinued operations and, as such, have been excluded from continuing operations and segment results for all periods presented. The noncontrolling interest in HSS Tracking Stock, as reflected in our stockholders equity, was extinguished as of February 28, 2017 as a result of the Share Exchange.

The following table presents the operating results of our discontinued operations:

	For the Three Months Ended March 31,	
	2017	2016
(In thousands)		
Revenue:		
Equipment, services and other revenue - DISH Network	\$ 143,063	\$ 344,122
Equipment, services and other revenue - other	10,164	40,263
Total revenue	153,227	384,385
Costs and Expenses:		
Cost of equipment, services and other	121,843	315,335
Selling, general and administrative expenses	5,853	18,148
Research and development expenses	4,635	13,510
Depreciation and amortization	11,659	16,657
Total costs and expenses	143,990	363,650
Operating income	9,237	20,735
Other Income (Expense):		
Interest expense	(15)	(38)
Equity in losses of unconsolidated affiliates, net	(1,159)	(155)
Other, net	(65)	7
Total income (expense), net	(1,239)	(186)
Income from discontinued operations before income taxes	7,998	20,549
Income tax provision	(1,421)	(7,491)
Net income from discontinued operations	\$ 6,577	\$ 13,058

Expenditures for property and equipment of our discontinued operations totaled \$12.5 million and \$5.3 million for the three months ended March 31, 2017 and 2016, respectively.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

The following table presents the aggregate carrying amounts of assets and liabilities of our discontinued operations:

	As of	
	March 31, 2017	December 31, 2016
	(In thousands)	
Assets:		
Cash and cash equivalents	\$ —	\$ 778
Trade accounts receivable, net	44	27,261
Trade accounts receivable - DISH Network	213,147	259,198
Inventory	—	9,824
Prepays and deposits	—	14,463
Current assets of discontinued operations	213,191	311,524
Property and equipment, net	—	271,108
Goodwill	—	6,457
Other intangible assets, net	—	7,720
Investments in unconsolidated entities	—	26,203
Other noncurrent assets, net	—	5,436
Noncurrent assets of discontinued operations	—	316,924
Total assets of discontinued operations	\$ 213,191	\$ 628,448
Liabilities:		
Trade accounts payable	\$ 309	\$ 19,518
Trade accounts payable - DISH Network	—	3,960
Current portion of capital lease obligations	—	4,323
Deferred revenue and prepayments	—	2,967
Accrued compensation	—	4,652
Accrued royalties	—	23,199
Accrued expenses and other	2	12,810
Current liabilities of discontinued operations	311	71,429
Capital lease obligations	—	416
Deferred tax liabilities, net	—	7,353
Other noncurrent liabilities	—	2,932
Noncurrent liabilities of discontinued operations	—	10,701
Total liabilities of discontinued operations	\$ 311	\$ 82,130

Note 4. Earnings per Share

We present basic earnings per share (“EPS”) and diluted EPS for our Class A and Class B common stock. Basic EPS for our Class A and Class B common stock excludes potential dilution and is computed by dividing “Net income attributable to EchoStar common stock” by the weighted-average number of common shares outstanding for the period. Diluted EPS reflects the potential dilution that could occur if shares of common stock were issued pursuant to our stock-based compensation awards. The potential dilution from common stock awards was computed using the treasury stock method based on the average market value of our Class A common stock during the period. The calculation of our diluted weighted-average common shares outstanding excluded options to purchase shares of our Class A common stock, whose effect would be anti-dilutive, of 0.7 million shares and 3.3 million shares for the three months ended March 31, 2017 and 2016, respectively.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Prior to the Share Exchange, the EchoStar Tracking Stock was a participating security that shared in our consolidated earnings and therefore, we applied the two-class method to calculate EPS for periods prior to March 1, 2017. Under the two-class method, we allocated net income or loss attributable to EchoStar between common stock and the EchoStar Tracking Stock considering both dividends declared on each class of stock and the participation rights of each class of stock in undistributed earnings. Based on the 51.89% economic interest in the Hughes Retail Group represented by the EchoStar Tracking Stock, we allocated undistributed earnings to the EchoStar Tracking Stock based on 51.89% of the attributed net income or loss of the Hughes Retail Group. Moreover, because the reported amount of “Net income attributable to EchoStar” in our condensed consolidated statements of operations and comprehensive income (loss) excluded DISH Network’s 28.11% economic interest (represented by the HSS Tracking Stock) in the net loss of the Hughes Retail Group (reported as a noncontrolling interest), the amount of consolidated net income or loss allocated to holders of Class A and Class B common stock effectively excluded an aggregate 80.0% of the attributed net loss of the Hughes Retail Group.

The following table presents basic and diluted EPS amounts for all periods and the corresponding weighted-average shares outstanding used in the calculations.

	For the Three Months Ended March 31,	
	2017	2016
(In thousands, except per share amounts)		
Amounts attributable to EchoStar common stock:		
Net income attributable to EchoStar	\$ 37,715	\$ 49,155
Less: Net loss attributable to EchoStar Tracking Stock	(1,209)	(1,519)
Net income attributable to EchoStar common stock	<u>\$ 38,924</u>	<u>\$ 50,674</u>
Net income from continuing operations	\$ 32,347	\$ 37,616
Net income from discontinued operations	6,577	13,058
Net income attributable to EchoStar common stock	<u>\$ 38,924</u>	<u>\$ 50,674</u>
Weighted-average common shares outstanding :		
Class A and B common stock:		
Basic	94,745	93,331
Dilutive impact of stock awards outstanding	1,148	521
Diluted	<u>95,893</u>	<u>93,852</u>
Earnings per share:		
Class A and B common stock:		
Basic:		
Continuing operations	\$ 0.34	\$ 0.40
Discontinued operations	0.07	0.14
Total basic earnings per share	<u>\$ 0.41</u>	<u>\$ 0.54</u>
Diluted:		
Continuing operations	\$ 0.34	\$ 0.40
Discontinued operations	0.07	0.14
Total diluted earnings per share	<u>\$ 0.41</u>	<u>\$ 0.54</u>

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Note 5. Other Comprehensive Income (Loss) and Related Tax Effects

Except in unusual circumstances, we do not recognize tax effects on foreign currency translation adjustments because they are not expected to result in future taxable income or deductions. We have not recognized any tax effects on unrealized gains or losses on available-for-sale securities because such gains or losses would affect the amount of existing capital loss carryforwards for which the related deferred tax asset has been fully offset by a valuation allowance.

Accumulated other comprehensive loss includes net cumulative foreign currency translation losses of \$111.4 million and \$135.4 million as of March 31, 2017 and December 31, 2016, respectively. Other comprehensive income for the three months ended March 31, 2017 includes a \$3.0 million deferred tax benefit for foreign currency translation losses related to an asset that was transferred from a foreign subsidiary to a domestic subsidiary in March 2017.

Reclassifications out of accumulated other comprehensive loss for the three months ended March 31, 2017 and 2016 were as follows:

Accumulated Other Comprehensive Loss Components	Affected Line Item in our Condensed Consolidated Statements of Operations	For the Three Months Ended March 31,	
		2017	2016
(In thousands)			
Recognition of realized gains on available-for-sale securities in net income (1)	Gains on investments, net	\$ (2,756)	\$ (2,247)
Recognition of other-than-temporary impairment loss on available-for-sale securities in net income (2)	Other-than-temporary impairment loss on available-for-sale securities	3,298	—
Total reclassifications, net of tax and noncontrolling interests		<u>\$ 542</u>	<u>\$ (2,247)</u>

(1) When available-for-sale securities are sold, the related unrealized gains and losses that were previously recognized in other comprehensive income (loss) are reclassified and recognized as “Gains on investments, net” in our condensed consolidated statements of operations and comprehensive income (loss).

(2) We recorded an other-than-temporary impairment loss on shares of certain common stock included in our strategic equity securities.

Note 6. Investment Securities

Our marketable investment securities and restricted cash and cash equivalents consisted of the following:

	As of	
	March 31, 2017	December 31, 2016
(In thousands)		
Marketable investment securities—current, at fair value:		
Corporate bonds	\$ 231,956	\$ 402,670
Strategic equity securities	140,136	94,816
Other	10,923	25,030
Total marketable investment securities—current	<u>383,015</u>	<u>522,516</u>
Restricted marketable investment securities (1)	7,576	12,203
Total	<u>\$ 390,591</u>	<u>\$ 534,719</u>

Restricted cash and cash equivalents (1)	\$ 767	\$ 723
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(1) Restricted marketable investment securities and restricted cash and cash equivalents are included in “Restricted cash and marketable investment securities” in our condensed consolidated balance sheets.

Marketable Investment Securities

Our marketable investment securities portfolio consists of various debt and equity instruments, which generally are classified as available-for-sale or trading securities depending on our investment strategy for those securities. The value of our investment portfolio depends on the value of such securities and other instruments comprising the portfolio.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Corporate Bonds

Our corporate bond portfolio includes debt instruments issued by individual corporations, primarily in the industrial and financial services industries.

Strategic Equity Securities

Our strategic investment portfolio consists of investments in shares of common stock of public companies, which are highly speculative and have experienced and continue to experience volatility. We did not receive any dividend income for the three months ended March 31, 2017 or 2016. We recognized a \$3.3 million other-than-temporary impairment for the three months ended March 31, 2017 on one of our investments. This investment had been in a continuous loss position for more than 12 months and experienced a decline in market value as a result of adverse developments during the three months ended March 31, 2017.

For the three months ended March 31, 2017 and 2016, "Gains on investments, net" included gains of \$ 0.1 million and \$0.2 million, respectively, related to trading securities that we held as of March 31, 2017 and 2016, respectively. The fair values of our trading securities were \$ 7.3 million and \$ 7.2 million as of March 31, 2017 and December 31, 2016, respectively.

Other

Our other current marketable investment securities portfolio includes investments in various debt instruments, including U.S. government bonds, commercial paper and mutual funds.

Restricted Cash and Marketable Investment Securities

As of March 31, 2017 and December 31, 2016, our restricted marketable investment securities, together with our restricted cash, included amounts required as collateral for our letters of credit or surety bonds.

Unrealized Gains (Losses) on Available-for-Sale Securities

The components of our available-for-sale securities are summarized in the table below.

	Amortized Cost	Unrealized		Estimated Fair Value
		Gains	Losses	
(In thousands)				
As of March 31, 2017				
Debt securities:				
Corporate bonds	\$ 231,838	\$ 153	\$ (35)	\$ 231,956
Other (including restricted)	13,723	—	(28)	13,695
Equity securities - strategic	101,816	31,030	—	132,846
Total available-for-sale securities	<u>\$ 347,377</u>	<u>\$ 31,183</u>	<u>\$ (63)</u>	<u>\$ 378,497</u>
As of December 31, 2016				
Debt securities:				
Corporate bonds	\$ 402,472	\$ 285	\$ (87)	\$ 402,670
Other (including restricted)	32,488	3	(23)	32,468
Equity securities - strategic	77,149	13,120	(2,652)	87,617
Total available-for-sale securities	<u>\$ 512,109</u>	<u>\$ 13,408</u>	<u>\$ (2,762)</u>	<u>\$ 522,755</u>

As of March 31, 2017, restricted and non-restricted available-for-sale securities included debt securities of \$240.0 million with contractual maturities of one year or less and \$5.6 million with contractual maturities greater than one year. We may realize proceeds from certain investments prior to their contractual maturity as a result of our ability to sell these securities prior to their contractual maturity.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Available-for-Sale Securities in a Loss Position

The following table reflects the length of time that our available-for-sale securities have been in an unrealized loss position. We do not intend to sell these securities before they recover or mature, and it is more likely than not that we will hold these securities until they recover or mature. We believe that changes in the estimated fair values of these securities are primarily related to temporary market conditions .

	As of			
	March 31, 2017		December 31, 2016	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
	(In thousands)			
Less than 12 months	\$ 68,725	\$ (63)	\$ 154,826	\$ (2,760)
12 months or more	—	—	1,571	(2)
Total	\$ 68,725	\$ (63)	\$ 156,397	\$ (2,762)

Sales of Available-for-Sale Securities

We recognized gains from the sales of our available-for-sale securities of \$2.8 million and \$2.2 million for the three months ended March 31, 2017 and 2016 , respectively. We recognized de minimis losses from the sales of our available-for-sale securities for each of the three months ended March 31, 2017 and 2016 .

Proceeds from sales of our available-for-sale securities totaled \$22.0 million and \$12.2 million for the three months ended March 31, 2017 and 2016 , respectively.

Fair Value Measurements

Our current marketable investment securities are measured at fair value on a recurring basis as summarized in the table below. As of March 31, 2017 and December 31, 2016 , we did not have investments that were categorized within Level 3 of the fair value hierarchy.

	As of					
	March 31, 2017			December 31, 2016		
	Total	Level 1	Level 2	Total	Level 1	Level 2
	(In thousands)					
Cash equivalents (including restricted)	\$ 2,717,719	\$ 71,834	\$ 2,645,885	\$ 2,490,168	\$ 62,332	\$ 2,427,836
Debt securities:						
Corporate bonds	\$ 231,956	\$ —	\$ 231,956	\$ 402,670	\$ —	\$ 402,670
Other (including restricted)	18,499	12,202	6,297	37,233	13,517	23,716
Equity securities - strategic	140,136	140,136	—	94,816	94,816	—
Total marketable investment securities	\$ 390,591	\$ 152,338	\$ 238,253	\$ 534,719	\$ 108,333	\$ 426,386

Investments in Unconsolidated Entities — Noncurrent

We have strategic investments in certain non-publicly traded equity securities that are accounted for using either the equity or the cost method of accounting. Our ability to realize value from our strategic investments in companies that are not publicly traded depends on the success of those companies' businesses and their ability to obtain sufficient capital to execute their business plans. Because private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them we will not be able to obtain fair value for them.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Our investments in unconsolidated entities consisted of the following:

	As of	
	March 31, 2017	December 31, 2016
	(In thousands)	
Investments in unconsolidated entities—noncurrent:		
Cost method	\$ 69,513	\$ 80,052
Equity method	96,479	90,964
Total investments in unconsolidated entities—noncurrent	<u>\$ 165,992</u>	<u>\$ 171,016</u>

We recorded cash distribution from one of these investments accounted for using the equity method of \$7.5 million and zero for the three months ended March 31, 2017 and 2016, respectively. These cash distributions were determined to be a return on investment and reported in cash flows from operating activities in our condensed consolidated statements of cash flows.

In January 2017, we sold our investment in Invidi Technologies Corporation to an entity owned in part by DISH Network. Our investment was accounted for using the cost method and had a carrying amount of \$10.5 million on the date of sale. We recognized a gain of \$8.9 million and received cash proceeds of \$17.8 million in connection with this transaction for the three months ended March 31, 2017. See Note 16 for additional information about this transaction.

In connection with the Share Exchange, our equity interests in NagraStar L.L.C. and SmarDTV SA, which we accounted for using the equity method, and our equity interest in Sling TV Holding L.L.C., which we accounted for using the cost method, were transferred to DISH Network as of February 28, 2017. See Notes 3 and 16 for additional information about the Share Exchange and related party transactions with these companies in which we held equity interests.

Note 7. Trade Accounts Receivable

Our trade accounts receivable consisted of the following:

	As of	
	March 31, 2017	December 31, 2016
	(In thousands)	
Trade accounts receivable	\$ 151,536	\$ 159,313
Contracts in process, net	27,695	36,170
Total trade accounts receivable	179,231	195,483
Allowance for doubtful accounts	(11,371)	(12,956)
Trade accounts receivable - DISH Network	50,284	19,417
Total trade accounts receivable, net	<u>\$ 218,144</u>	<u>\$ 201,944</u>

As of March 31, 2017 and December 31, 2016, progress billings offset against contracts in process amounted to \$10.4 million and \$14.6 million, respectively.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Note 8. Inventory

Our inventory consisted of the following:

	As of	
	March 31, 2017	December 31, 2016
	(In thousands)	
Finished goods	\$ 64,762	\$ 49,755
Raw materials	7,936	6,678
Work-in-process	6,724	6,187
Total inventory	<u>\$ 79,422</u>	<u>\$ 62,620</u>

Note 9. Property and Equipment

Property and equipment consisted of the following:

	Depreciable Life (In Years)	As of	
		March 31, 2017	December 31, 2016
		(In thousands)	
Land	—	\$ 33,559	\$ 35,815
Buildings and improvements	1-40	181,637	175,593
Furniture, fixtures, equipment and other	1-12	636,114	514,056
Customer rental equipment	2-4	722,549	689,579
Satellites - owned	2-15	2,926,569	2,381,120
Satellites acquired under capital leases	10-15	796,245	781,761
Construction in progress	—	852,924	1,418,763
Total property and equipment		6,149,597	5,996,687
Accumulated depreciation		(2,724,049)	(2,598,492)
Property and equipment, net		<u>\$ 3,425,548</u>	<u>\$ 3,398,195</u>

Construction in progress consisted of the following:

	As of	
	March 31, 2017	December 31, 2016
	(In thousands)	
Progress amounts for satellite construction, including prepayments under capital leases and launch services costs	\$ 754,524	\$ 1,235,577
Satellite related equipment	81,278	152,737
Other	17,122	30,449
Construction in progress	<u>\$ 852,924</u>	<u>\$ 1,418,763</u>

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
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Construction in progress included the following owned and leased satellites under construction or undergoing in-orbit testing as of March 31, 2017 .

Satellites	Segment	Expected Launch Date
EchoStar XXI	Corporate and Other	Second quarter of 2017
EchoStar XXIII (1)	Corporate and Other	March 2017
EchoStar 105/SES-11	ESS	Third or fourth quarter of 2017
Telesat T19V (“63 West”) (2)	Hughes	Second quarter of 2018

(1) This satellite was launched in March 2017 and placed into service in the second quarter of 2017.

(2) We entered into a satellite services agreement for certain capacity on this satellite once launched, but are not party to the construction contract.

Depreciation expense associated with our property and equipment consisted of the following:

	For the Three Months Ended March 31,	
	2017	2016
	(In thousands)	
Satellites	\$ 52,143	\$ 46,965
Furniture, fixtures, equipment and other	17,878	15,888
Customer rental equipment	30,596	29,137
Buildings and improvements	1,750	1,746
Total depreciation expense	<u>\$ 102,367</u>	<u>\$ 93,736</u>

Satellites

As of March 31, 2017 , our satellite fleet consisted of 19 of our owned and leased satellites in geosynchronous orbit, approximately 22,300 miles above the equator. We depreciate our owned satellites on a straight-line basis over the estimated useful life of each satellite. Three of our satellites are accounted for as capital leases and are depreciated on a straight-line basis over their respective lease terms. We utilized one satellite that is accounted for as an operating lease and not included in property and equipment as of March 31, 2017 .

Recent Developments

EchoStar VIII. During the second quarter of 2017, EchoStar VIII was removed from its orbital location and retired from commercial service. This retirement is not expected to have a material impact on our results of operations or financial position.

EchoStar XIX. The EchoStar XIX satellite was launched in December 2016 and was placed into service in March 2017. The EchoStar XIX satellite provides additional capacity for the Hughes broadband services to our customers in North America and added capacity in Mexico and certain Latin American countries and is expected to add capability for aeronautical, enterprise and international broadband services. EchoStar contributed the EchoStar XIX satellite to its Hughes segment in February 2017.

EchoStar XXI and EchoStar 105/SES-11. Due to anomalies experienced by our launch providers, the launch dates of our EchoStar XXI and EchoStar 105/SES-11 satellites were delayed and are expected to launch in the second quarter and third or fourth quarter of 2017, respectively. We had regulatory obligations to meet certain milestones by the fourth quarter of 2016 regarding the operations of the EchoStar XXI satellite across the European Union (the “EU”). We have notified the regulators in the EU of our delay and we intend to seek extensions of certain of these requirements to the extent we determine necessary. Because of the delay, we may be subject to additional conditions, penalties or other requirements. Our Ku-band payload on the EchoStar 105/SES-11 satellite will replace our current capacity on the AMC-15 satellite.

EchoStar XXIII. The EchoStar XXIII satellite was launched in March 2017 and placed into service at the 45 degree west longitude orbital location in the second quarter of 2017. We have regulatory obligations to meet certain in-service milestones by the second quarter of 2017 for our Brazilian license at the 45 degree west longitude orbital location for the Ka-, Ku- and S-

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
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band frequency bands. We have met our regulatory milestone for the Ku-band. We have sought an extension of the S- and Ka-band milestones, which may or may not be granted, and, if granted, may be subject to penalties, additional conditions or other requirements.

Satellite Anomalies

Our satellites may experience anomalies from time to time, some of which may have a significant adverse impact on their remaining useful lives, the commercial operation of the satellites or our operating results. We are not aware of any anomalies with respect to our owned or leased satellites that have had any such material adverse effect during the three months ended March 31, 2017. There can be no assurance, however, that anomalies will not have any such adverse impacts in the future. In addition, there can be no assurance that we can recover critical transmission capacity in the event one or more of our in-orbit satellites were to fail.

We historically have not carried in-orbit insurance on our satellites because we assessed that the cost of insurance was uneconomical relative to the risk of failures. Therefore, we generally bear the risk of any in-orbit failures. Pursuant to the terms of the agreements governing certain portions of our indebtedness, we are required, subject to certain limitations on coverage, to maintain in-orbit insurance for our SPACEWAY 3, EchoStar XVI, and EchoStar XVII satellites. Based on economic analysis of the current insurance market we obtained launch plus one year in-orbit insurance for the EchoStar XIX and EchoStar XXIII satellites and intend to obtain such insurance for the EchoStar XXI satellite and our interest in the EchoStar 105/SES-11 satellite. All other satellites, either in orbit or under construction, are not covered by launch or in-orbit insurance. We will continue to assess circumstances going forward and make insurance decisions on a case by case basis.

Note 10. Goodwill, Regulatory Authorizations and Other Intangible Assets

Goodwill

The excess of the cost of an acquired business over the fair values of net tangible and identifiable intangible assets at the time of the acquisition is recorded as goodwill. Goodwill is assigned to the reporting units within our operating segments and is subject to impairment testing annually, or more frequently when events or changes in circumstances indicate the fair value of a reporting unit is more likely than not less than its carrying amount.

As of March 31, 2017 and December 31, 2016, all goodwill related to our continuing operations was assigned to reporting units of our Hughes segment. We test this goodwill for impairment annually in the second quarter.

Regulatory Authorizations

Regulatory authorizations included amounts with finite and indefinite useful lives, as follows:

	As of December 31, 2016	Additions	Currency Translation Adjustment	As of March 31, 2017
	(In thousands)			
Finite useful lives:				
Cost	\$ 87,959	\$ —	\$ 2,583	\$ 90,542
Accumulated amortization	(14,983)	(1,171)	(425)	(16,579)
Net	72,976	(1,171)	2,158	73,963
Indefinite lives				
	471,657	—	—	471,657
Total regulatory authorizations, net	\$ 544,633	\$ (1,171)	\$ 2,158	\$ 545,620

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
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Other Intangible Assets

Our other intangible assets, which are subject to amortization, consisted of the following:

	Weighted Average Useful Life (in Years)	As of					
		March 31, 2017			December 31, 2016		
		Cost	Accumulated Amortization	Carrying Amount	Cost	Accumulated Amortization	Carrying Amount
(In thousands)							
Customer relationships	8	\$ 270,300	\$ (220,201)	\$ 50,099	\$ 270,300	\$ (214,544)	\$ 55,756
Technology-based	6	61,300	(59,430)	1,870	60,835	(57,266)	3,569
Trademark portfolio	20	29,700	(8,663)	21,037	29,700	(8,291)	21,409
Total other intangible assets		<u>\$ 361,300</u>	<u>\$ (288,294)</u>	<u>\$ 73,006</u>	<u>\$ 360,835</u>	<u>\$ (280,101)</u>	<u>\$ 80,734</u>

Customer relationships are amortized predominantly in relation to the expected contribution of cash flow to the business over the life of the intangible asset. Other intangible assets are amortized on a straight-line basis over the periods the assets are expected to contribute to our cash flows. Intangible asset amortization expense, including amortization of regulatory authorizations with finite lives and externally marketed capitalized software, was \$12.7 million and \$16.3 million for the three months ended March 31, 2017 and 2016, respectively.

Note 11 . Debt and Capital Lease Obligations

The following table summarizes the carrying amounts and fair values of our debt:

	Effective Interest Rate	As of			
		March 31, 2017		December 31, 2016	
		Carrying Amount	Fair Value	Carrying Amount	Fair Value
(In thousands)					
Senior Secured Notes:					
6 1/2% Senior Secured Notes due 2019	6.959%	\$ 990,000	\$ 1,074,051	\$ 990,000	\$ 1,084,050
5 1/4% Senior Secured Notes due 2026	5.316%	750,000	750,000	750,000	739,688
Senior Unsecured Notes:					
7 5/8% Senior Unsecured Notes due 2021	8.062%	900,000	997,200	900,000	990,189
6 5/8% Senior Unsecured Notes due 2026	6.685%	750,000	767,498	750,000	760,245
Other		609	609	—	—
Less: Unamortized debt issuance costs		(30,030)	—	(31,821)	—
Subtotal		<u>3,360,579</u>	<u>\$ 3,589,358</u>	<u>3,358,179</u>	<u>\$ 3,574,172</u>
Capital lease obligations		<u>296,735</u>		<u>297,268</u>	
Total debt and capital lease obligations		<u>3,657,314</u>		<u>3,655,447</u>	
Less: Current portion		(37,270)		(32,984)	
Long-term debt and capital lease obligations, net of unamortized debt issuance costs		<u>\$ 3,620,044</u>		<u>\$ 3,622,463</u>	

The fair values of our debt are estimates categorized within Level 2 of the fair value hierarchy.

Under the terms of a registration rights agreement, HSS has agreed to register notes having substantially identical terms as the 2026 Notes with the SEC as part of an offer to exchange freely tradable notes for the 2026 Notes. HSS commenced such exchange offer (the "Exchange Offer") on April 13, 2017 and the Exchange Offer is expected to expire on May 11, 2017, unless HSS determines to extend the expiration date.

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Note 12. Income Taxes

Our tax provision for interim periods is determined using an estimate of our annual effective tax rate, adjusted for discrete items, if any, that are taken into account in the relevant period. Each quarter we update our estimate of the annual effective tax rate, and if our estimated tax rate changes, we make a cumulative adjustment.

Our quarterly tax provision, and our quarterly estimate of our annual effective tax rate, is subject to significant volatility due to several factors, including income and losses from investments for which we have a full valuation allowance, changes in tax laws and relative changes in unrecognized tax benefits. Additionally, our effective tax rate can be more or less volatile based on the amount of pre-tax income. For example, the impact of discrete items and non-deductible expenses on our effective tax rate is greater when our pre-tax income is lower.

Income tax benefit was approximately \$12.0 thousand for the three months ended March 31, 2017 compared to an income tax expense of approximately \$20.2 million for the three months ended March 31, 2016. Our estimated effective income tax rate was zero and 36.3% for the three months ended March 31, 2017 and 2016, respectively. The variations in our effective tax rate from the U.S. federal statutory rate for the three months ended March 31, 2017 were primarily due to the recognition of a one-time tax benefit for the revaluation of our deferred tax assets and liabilities due to a change in our state effective tax rate as a result of the Share Exchange Agreement. The tax benefit recognized from the change in our effective tax rate was partially offset by the increase in our valuation allowance associated with certain state and foreign losses. The variations in our effective tax rate from the U.S. federal statutory rate for the three months ended March 31, 2016 were primarily due to the impact of state and local taxes, partially offset by research and experimentation credits.

Note 13. Stock-Based Compensation

We maintain stock incentive plans to attract and retain officers, directors and key employees. Stock awards under these plans include both performance based and non-performance based stock incentives. We granted stock options and other incentive awards to our employees and nonemployee directors to acquire 3,250 shares and 195,840 shares of our Class A common stock for the three months ended March 31, 2017 and 2016, respectively.

Total non-cash, stock-based compensation expense is shown in the following table for the three months ended March 31, 2017 and 2016 and was assigned to the same expense categories as the base compensation for such employees:

	For the Three Months Ended March 31,	
	2017	2016
	(In thousands)	
Research and development expenses	\$ 231	\$ 272
Selling, general and administrative expenses	2,262	2,884
Total stock-based compensation	\$ 2,493	\$ 3,156

As of March 31, 2017, total unrecognized stock-based compensation cost, net of estimated forfeitures, related to our unvested stock awards was \$17.7 million.

Note 14. Commitments and Contingencies**Commitments**

As of March 31, 2017, our satellite-related obligations were approximately \$705.3 million. Our satellite-related obligations primarily include payments pursuant to agreements for the construction of the EchoStar XXI and EchoStar 105/SES-11 satellites; payments pursuant to launch services contracts and regulatory authorizations; executory costs for our capital lease satellites; costs under satellite service agreements; and in-orbit incentives relating to certain satellites; as well as commitments for long-term satellite operating leases and satellite service arrangements.

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Contingencies

Patents and Intellectual Property

Many entities, including some of our competitors, have or may in the future obtain patents and other intellectual property rights that cover or affect products or services directly or indirectly related to those that we offer. We may not be aware of all patents and other intellectual property rights that our products and services may potentially infringe. Damages in patent infringement cases can be substantial, and in certain circumstances can be trebled. Further, we cannot estimate the extent to which we may be required in the future to obtain licenses with respect to intellectual property rights held by others and the availability and cost of any such licenses. Various parties have asserted patent and other intellectual property rights with respect to components within our direct broadcast satellite (“DBS”) products and services. We cannot be certain that these persons do not own the rights they claim, that these rights are not valid or that our products and services do not infringe on these rights. Further, we cannot be certain that we would be able to obtain licenses from these persons on commercially reasonable terms or, if we were unable to obtain such licenses, that we would be able to redesign our products and services to avoid infringement.

Separation Agreement; Share Exchange

In connection with the Spin-off, we entered into a separation agreement with DISH Network that provides, among other things, for the division of certain liabilities, including liabilities resulting from litigation. Under the terms of the separation agreement, we have assumed certain liabilities that relate to our business, including certain designated liabilities for acts or omissions that occurred prior to the Spin-off. Certain specific provisions govern intellectual property related claims under which, generally, we will only be liable for our acts or omissions following the Spin-off and DISH Network will indemnify us for any liabilities or damages resulting from intellectual property claims relating to the period prior to the Spin-off, as well as DISH Network’s acts or omissions following the Spin-off. Additionally, in connection with the Share Exchange, we entered into the Share Exchange Agreement and other agreements which provide, among other things, for the division of certain liabilities, including liabilities relating to taxes, intellectual property and employees and liabilities resulting from litigation and the assumption of certain liabilities that relate to the transferred businesses and assets. These agreements also contain additional indemnification provisions between us and DISH Network for certain pre-existing liabilities and legal proceedings.

Litigation

We are involved in a number of legal proceedings (including those described below) concerning matters arising in connection with the conduct of our business activities. Many of these proceedings are at preliminary stages and/or seek an indeterminate amount of damages. We regularly evaluate the status of the legal proceedings in which we are involved to assess whether a loss is probable or there is a reasonable possibility that a loss or an additional loss may have been incurred and to determine if accruals are appropriate. We record an accrual for litigation and other loss contingencies when we determine that a loss is probable and the amount of the loss can be reasonably estimated. If accruals are not appropriate, we further evaluate each legal proceeding to assess whether an estimate of possible loss or range of loss can be made. There can be no assurance that legal proceedings against us will be resolved in amounts that will not differ from the amounts of our recorded accruals. Legal fees and other costs of defending litigation are charged to expense as incurred.

For certain cases described below, management is unable to predict with any degree of certainty the outcome or provide a meaningful estimate of the possible loss or range of possible loss because, among other reasons, (i) the proceedings are in various stages; (ii) damages have not been sought or specified; (iii) damages are unsupported, indeterminate and/or exaggerated in management’s opinion; (iv) there is uncertainty as to the outcome of pending appeals or motions; (v) there are significant factual issues to be resolved; and/or (vi) there are novel legal issues or unsettled legal theories to be presented or a large number of parties are involved (as with many patent-related cases). For these cases, however, management does not believe, based on currently available information, that the outcomes of these proceedings will have a material adverse effect on our financial condition, operating results or cash flows, though there is no assurance that the resolution and outcomes of these proceedings, individually or in the aggregate, will not be material to our financial condition, operating results or cash flows for any particular period, depending, in part, upon the operating results for such period.

We intend to vigorously defend the proceedings against us. In the event that a court ultimately rules against us, we may be subject to adverse consequences, including, without limitation, substantial damages, which may include treble damages, fines, penalties, compensatory damages and/or other equitable or injunctive relief that could require us to materially modify our business operations or certain products or services that we offer to our consumers.

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Elbit

On January 23, 2015, Elbit Systems Land and C4I LTD and Elbit Systems of America Ltd. (together referred to as “Elbit”) filed a complaint against our subsidiary Hughes Network Systems, L.L.C. (“HNS”), as well as against Black Elk Energy Offshore Operations, LLC, Bluetide Communications, Inc. and Helm Hotels Group, in the United States District Court for the Eastern District of Texas, alleging infringement of United States Patent Nos. 6,240,073 (the “073 patent”) and 7,245,874 (“874 patent”). The 073 patent is entitled “Reverse Link for a Satellite Communication Network” and the 874 patent is entitled “Infrastructure for Telephony Network.” Elbit alleges that the 073 patent is infringed by broadband satellite systems that practice the Internet Protocol Over Satellite standard. Elbit alleges that the 874 patent is infringed by the manufacture and sale of broadband satellite systems that provide cellular backhaul service via connections to E1 or T1 interfaces at cellular backhaul base stations. On April 2, 2015, Elbit filed an amended complaint removing Helm Hotels Group as a defendant, but making similar allegations against a new defendant, Country Home Investments, Inc. On November 3 and 4, 2015, and January 22, 2016, the defendants filed petitions before the United States Patent and Trademark Office challenging the validity of the patents in suit, which the Patent and Trademark Office subsequently declined to institute. On April 13, 2016, the defendants answered Elbit’s complaint. Trial is scheduled to commence on July 31, 2017.

Michael Heskiaoff, Marc Langenohl, and Rafael Mann

On July 10, 2015, Messrs. Michael Heskiaoff and Marc Langenohl, purportedly on behalf of themselves and all others similarly situated, filed suit against our now former subsidiary Sling Media, Inc. in the United States District Court for the Southern District of New York. The complaint alleges that Sling Media Inc.’s display of advertising to its customers violates a number of state statutes dealing with consumer deception. On September 25, 2015, the plaintiffs filed an amended complaint, and Mr. Rafael Mann, purportedly on behalf of himself and all others similarly situated, filed an additional complaint alleging similar causes of action. On November 16, 2015, the cases were consolidated. On August 12, 2016, the Court dismissed the consolidated case due to plaintiffs’ failure to state a claim. On September 12, 2016, the plaintiffs moved the Court for leave to file an amended complaint, which the Court denied on March 22, 2017. On April 17, 2017, the plaintiffs filed a notice of appeal.

Realtime Data LLC

On May 8, 2015, Realtime Data LLC (“Realtime”) filed suit against EchoStar Corporation and our subsidiary HNS in the United States District Court for the Eastern District of Texas alleging infringement of United States Patent Nos. 7,378,992, entitled “Content Independent Data Compression Method and System”; 7,415,530, entitled “System and Methods for Accelerated Data Storage and Retrieval”; and 8,643,513, entitled “Data Compression System and Methods.” On September 14, 2015, Realtime amended its complaint, additionally alleging infringement of United States Patent No. 9,116,908, entitled “System and Methods for Accelerated Data Storage and Retrieval.” Realtime generally alleges that the asserted patents are infringed by certain HNS data compression products and services. Over April 29, 2016 and May 5, 2016, the defendants filed petitions before the United States Patent and Trademark Office challenging the validity of the asserted patents. The United States Patent and Trademark Office has instituted proceedings on each of those petitions, but the litigation has not been stayed. On February 14, 2017, Realtime filed a second suit against EchoStar Corporation and our subsidiary HNS in the same District Court, alleging infringement of four additional United States Patents, Nos. 7,358,867, entitled “Content Independent Data Compression Method and System;” 8,502,707, entitled “Data Compression Systems and Methods;” 8,717,204, entitled “Methods for Encoding and Decoding Data;” and 9,054,728, entitled “Data Compression System and Methods.” The cases have been consolidated and no trial date has been set. Realtime is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein.

Shareholder Derivative Litigation

On December 5, 2012, Greg Jacobi, purporting to sue derivatively on behalf of EchoStar Corporation, filed suit (the “Jacobi Litigation”) against Charles W. Ergen, Michael T. Dugan, R. Stanton Dodge, Tom A. Ortolfo, C. Michael Schroeder, Joseph P. Clayton, David K. Moskowitz, and EchoStar Corporation in the United States District Court for the District of Nevada. The complaint alleges that a March 2011 attempted grant of 1.5 million stock options to Charles Ergen breached defendants’ fiduciary duties, resulted in unjust enrichment, and constituted a waste of corporate assets.

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On December 18, 2012, Chester County Employees' Retirement Fund, derivatively on behalf of EchoStar Corporation, filed a suit (the "Chester County Litigation") against Charles W. Ergen, Michael T. Dugan, R. Stanton Dodge, Tom A. Ortolf, C. Michael Schroeder, Anthony M. Federico, Pradman P. Kaul, Joseph P. Clayton, and EchoStar Corporation in the United States District Court for the District of Colorado. The complaint similarly alleges that the March 2011 attempted grant of 1.5 million stock options to Charles Ergen breached defendants' fiduciary duties, resulted in unjust enrichment, and constituted a waste of corporate assets.

On February 22, 2013, the Chester County Litigation was transferred to the District of Nevada, and on April 3, 2013, the Chester County Litigation was consolidated into the Jacobi Litigation. Oral argument on a motion to dismiss the Jacobi Litigation was held February 21, 2014. On April 11, 2014, the Chester County Litigation was stayed pending resolution of the motion to dismiss. On March 30, 2015, the Court dismissed the Jacobi Litigation, with leave for Jacobi to amend his complaint by April 20, 2015. On April 20, 2015, Jacobi filed an amended complaint, which on June 12, 2015, we moved to dismiss. On March 17, 2016, the Court dismissed the amended Jacobi Litigation, and on July 25, 2016, Jacobi filed an appeal brief with the United States Court of Appeals for the Ninth Circuit. Our answering brief was filed on September 22, 2016.

Of the attempted grant of 1.5 million options to Mr. Ergen in 2011, only 800,000 were validly granted.

Other

In addition to the above actions, we are subject to various other legal proceedings and claims, which arise in the ordinary course of our business. As part of our ongoing operations, the Company is subject to various inspections, audits, inquiries, investigations and similar actions by third parties, as well as by governmental/regulatory authorities responsible for enforcing the laws and regulations to which the Company may be subject. Further, under the federal False Claims Act, private parties have the right to bring qui tam, or "whistleblower," suits against companies that submit false claims for payments to, or improperly retain overpayments from, the federal government. Some states have adopted similar state whistleblower and false claims provisions. In addition, the Company from time to time receives inquiries from federal, state and foreign agencies regarding compliance with various laws and regulations.

In our opinion, the amount of ultimate liability with respect to any of these actions is unlikely to materially affect our financial position, results of operations or cash flows, though the resolutions and outcomes, individually or in the aggregate, could be material to our financial position, operating results or cash flows for any particular period, depending, in part, upon the operating results for such period.

The Company indemnifies its directors, officers and employees for certain liabilities that might arise from the performance of their responsibilities for the Company. Additionally, in the normal course of its business, the Company enters into contracts pursuant to which the Company may make a variety of representations and warranties and indemnify the counterparty for certain losses. The Company's possible exposure under these arrangements cannot be reasonably estimated as this involves the resolution of claims made, or future claims that may be made, against the Company or its officers, directors or employees, the outcomes of which are unknown and not currently predictable or estimable.

Note 15 . Segment Reporting

Operating segments are business components of an enterprise for which separate financial information is available and regularly evaluated by the chief operating decision maker ("CODM"), who for EchoStar is the Company's Chief Executive Officer. Prior to March 2017, we operated in three primary business segments, Hughes, EchoStar Technologies and ESS. Following consummation of the Share Exchange described in Note 3 of these condensed consolidated financial statements, we no longer operate the EchoStar Technologies business segment. The primary measure of segment profitability that is reported regularly to our CODM is earnings before interest, taxes, depreciation and amortization, or EBITDA. Effective in March 2017, we have also changed our overhead allocation methodology to reflect how the CODM evaluates our segments. Historically, the costs of all corporate functions were included on an allocated basis in each of the business segments' EBITDA. Under the revised allocation methodology, these costs are now reported and analyzed as part of "Corporate and Other" (previously "All Other and Eliminations"). Our prior period segment EBITDA disclosures have been restated to reflect this change.

As of March 2017, our two primary business segments are Hughes and ESS, as described in Note 1 of these condensed consolidated financial statements.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Our operations also include various corporate departments (primarily Executive, Strategic Development, Human Resources, IT, Finance, Real Estate and Legal) as well as other activities that have not been assigned to our operating segments, including costs incurred in certain satellite development programs and other business development activities, our centralized treasury operations, and gains (losses) from certain of our investments. Costs and income associated with these departments and activities are accounted for in the “Corporate and Other” column in the table below or in the reconciliation of EBITDA below.

Transactions between segments were not significant for the three months ended March 31, 2017 or 2016. Total assets by segment have not been reported herein because the information is not provided to our CODM on a regular basis.

The following table presents revenue, EBITDA, and capital expenditures for each of our operating segments.

	Hughes	EchoStar Satellite Services	Corporate and Other	Consolidated Total
(In thousands)				
For the Three Months Ended March 31, 2017				
External revenue	\$ 328,610	\$ 100,151	\$ 4,390	\$ 433,151
Intersegment revenue	\$ 710	\$ 175	\$ (885)	\$ —
Total revenue	\$ 329,320	\$ 100,326	\$ 3,505	\$ 433,151
EBITDA	\$ 100,852	\$ 83,063	\$ (601)	\$ 183,314
Capital expenditures	\$ 65,667	\$ 8,508	\$ 15,775	\$ 89,950
For the Three Months Ended March 31, 2016				
External revenue	\$ 325,539	\$ 102,815	\$ 3,620	\$ 431,974
Intersegment revenue	\$ 699	\$ 174	\$ (873)	\$ —
Total revenue	\$ 326,238	\$ 102,989	\$ 2,747	\$ 431,974
EBITDA	\$ 110,356	\$ 88,640	\$ (13,444)	\$ 185,552
Capital expenditures	\$ 104,237	\$ 24,720	\$ 76,838	\$ 205,795

The following table reconciles total consolidated EBITDA to reported “Income from continuing operations before income taxes” in our condensed consolidated statements of operations and comprehensive income (loss):

	For the Three Months Ended March 31,	
	2017	2016
(In thousands)		
EBITDA	\$ 183,314	\$ 185,552
Interest income and expense, net	(37,105)	(19,206)
Depreciation and amortization	(115,083)	(110,077)
Net income (loss) attributable to noncontrolling interest in HSS Tracking Stock and other noncontrolling interests	(363)	(712)
Income from continuing operations before income taxes	<u>\$ 30,763</u>	<u>\$ 55,557</u>

Note 16. Related Party Transactions

DISH Network

Following the Spin-off, we and DISH have operated as separate publicly-traded companies. However, prior to the consummation of the Share Exchange on February 28, 2017, DISH Network owned the Tracking Stock representing an aggregate 80.0% economic interest in the residential retail satellite broadband business of our Hughes segment. Following the consummation of the Share Exchange, the Tracking Stock was retired. In addition, a substantial majority of the voting power of the shares of EchoStar and DISH is owned beneficially by Charles W. Ergen, our Chairman, and by certain trusts established by Mr. Ergen for the benefit of his family.

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In connection with and following both the Spin-off and the Share Exchange, we and DISH Network have entered into certain agreements pursuant to which we obtain certain products, services and rights from DISH Network; DISH Network obtains certain products, services and rights from us; and we and DISH Network have indemnified each other against certain liabilities arising from our respective businesses. We also may enter into additional agreements with DISH Network in the future. Generally, the amounts we or DISH Network pay for products and services provided under the agreements are based on cost plus a fixed margin (unless noted differently below or in our most recent Annual Report on Form 10-K), which varies depending on the nature of the products and services provided.

The following is a summary of the terms of our principal agreements with DISH Network that may have an impact on our financial condition and results of operations.

Equipment revenue — DISH Network

Receiver Agreement . Effective January 2012, one of our subsidiaries and DISH Network entered into a receiver agreement (the “2012 Receiver Agreement”), pursuant to which DISH Network had the right, but not the obligation, to purchase digital set-top boxes, related accessories, and other equipment from us for the period from January 2012 through December 2014. The 2012 Receiver Agreement replaced the receiver agreement one of our subsidiaries entered into with DISH Network in connection with the Spin-off. The 2012 Receiver Agreement allowed DISH Network to purchase digital set-top boxes, related accessories, and other equipment from us either: (i) at cost (decreasing as we reduced costs and increasing as costs increased) plus a dollar mark-up which depended upon the cost of the product subject to a collar on our mark-up; or (ii) at cost plus a fixed margin, which depended on the nature of the equipment purchased. Under the 2012 Receiver Agreement, our margins would have increased if we were able to reduce the costs of our digital set-top boxes and our margins would have reduced if these costs increased. One of our subsidiaries provided DISH Network with standard manufacturer warranties for the goods sold under the 2012 Receiver Agreement. Additionally, the 2012 Receiver Agreement included an indemnification provision, whereby the parties agreed to indemnify each other for certain intellectual property matters. In November 2016, one of our subsidiaries and DISH Network amended this agreement to extend its term for one year through December 2017. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

Services and other revenue — DISH Network

Broadcast Agreement . Effective January 2012, one of our subsidiaries and DISH Network entered into a broadcast agreement (the “2012 Broadcast Agreement”), pursuant to which we provided certain broadcast services to DISH Network, including teleport services such as transmission and downlinking, channel origination services, and channel management services, for the period from January 2012 through December 2016. In November 2016, one of our subsidiaries and DISH Network amended the 2012 Broadcast Agreement to extend the term for one year through December 2017. The fees for the services provided under the 2012 Broadcast Agreement were calculated at either: (a) our cost of providing the relevant service plus a fixed dollar fee, which was subject to certain adjustments; or (b) our cost of providing the relevant service plus a fixed margin, depending on the nature of the services provided. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

Broadcast Agreement for Certain Sports Related Programming . In May 2010, one of our subsidiaries and DISH Network entered into a broadcast agreement pursuant to which we provided certain broadcast services to DISH Network in connection with its carriage of certain sports related programming. The term of this agreement was ten years . The fees for the broadcast services provided under this agreement depended, among other things, upon the cost to develop and provide such services. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

RUS Implementation Agreement . In September 2010, DISH Broadband L.L.C. (“DISH Broadband”), DISH’s indirect, wholly-owned subsidiary, was selected by the Rural Utilities Service (“RUS”) of the United States Department of Agriculture to receive up to approximately \$14.1 million in broadband stimulus grant funds (the “Grant Funds”). Effective November 2011, HNS and DISH Broadband entered into a RUS Implementation Agreement (the “RUS Agreement”) pursuant to which HNS provided certain portions of the equipment and broadband service used to implement DISH Broadband’s RUS program. While the RUS Agreement expired in June 2013 when the Grant Funds were exhausted, HNS is required to continue providing

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services to DISH Broadband's customers activated prior to the expiration of the RUS Agreement in accordance with the terms and conditions of the RUS Agreement.

Satellite Services Provided to DISH Network . Since the Spin-off, we have entered into certain satellite service agreements pursuant to which DISH Network receives satellite services on certain satellites owned or leased by us. The fees for the services provided under these satellite service agreements depend, among other things, upon the orbital location of the applicable satellite, the number of transponders that are providing services on the applicable satellite, and the length of the service arrangements. The terms of each service arrangement is set forth below:

EchoStar VII, EchoStar X, EchoStar XI and EchoStar XIV . As part of the Satellite and Tracking Stock Transaction, described below, in March 2014, we began providing certain satellite services to DISH Network on the EchoStar VII, EchoStar X, EchoStar XI and EchoStar XIV satellites. The term of each satellite services agreement generally terminates upon the earlier of: (i) the end of life of the satellite; (ii) the date the satellite fails; or (iii) a certain date, which depends upon, among other things, the estimated useful life of the satellite. DISH Network generally has the option to renew each satellite service agreement on a year-to-year basis through the end of the respective satellite's life. There can be no assurance that any options to renew such agreements will be exercised. In December 2016, DISH Network renewed the satellite services agreement relative to the EchoStar VII satellite for one year to June 2018.

EchoStar IX . Effective January 2008, DISH Network began receiving satellite services from us on the EchoStar IX satellite. Subject to availability, DISH Network generally has the right to continue to receive satellite services from us on the EchoStar IX satellite on a month-to-month basis.

EchoStar XII . DISH Network receives satellite services from us on the EchoStar XII satellite. The term of the satellite services agreement terminates September 2017.

EchoStar XVI . In December 2009, we entered into an initial ten -year transponder service agreement with DISH Network, pursuant to which DISH Network has received satellite services from us on the EchoStar XVI satellite since January 2013. Effective December 2012, we and DISH Network amended the transponder service agreement to, among other things, change the initial term to generally expire upon the earlier of: (i) the end-of-life or replacement of the satellite; (ii) the date the satellite fails; (iii) the date the transponder(s) on which service is being provided under the agreement fails; or (iv) four years following the actual service commencement date. In July 2016, we and DISH Network further amended the transponder service agreement to, among other things, extend the initial term by one additional year through January 2018 and to reduce the term of the first renewal option by one year . Prior to expiration of the initial term, we, upon certain conditions, and DISH Network have the option to renew for an additional five -year period. If either we or DISH Network exercise our respective five -year renewal options, DISH Network has the option to renew for an additional five -year period prior to expiration of the then-current term. There can be no assurance that any option to renew this agreement will be exercised. In the event that we or DISH Network does not exercise the first five - year renewal option or DISH Network does not exercise the second five -year renewal option, DISH Network has the option to purchase the EchoStar XVI satellite for a certain price. If DISH Network does not elect to purchase the EchoStar XVI satellite at that time, we may sell the EchoStar XVI satellite to a third party and DISH Network is required to pay us a certain amount in the event we are not able to sell the EchoStar XVI satellite for more than a certain amount.

Nimiq 5 Agreement . In September 2009, we entered into a fifteen -year satellite service agreement with Telesat Canada ("Telesat") to receive service on all 32 DBS transponders on the Nimiq 5 satellite at the 72.7 degree west longitude orbital location (the "Telesat Transponder Agreement"). In September 2009, we also entered into a satellite service agreement (the "DISH Nimiq 5 Agreement") with DISH Network, pursuant to which DISH Network receives satellite services from us on all 32 of the DBS transponders covered by the Telesat Transponder Agreement.

Under the terms of the DISH Nimiq 5 Agreement, DISH Network makes certain monthly payments to us that commenced in September 2009, when the Nimiq 5 satellite was placed into service, and continue through the service term. Unless earlier terminated under the terms and conditions of the DISH Nimiq 5 Agreement, the service term will expire in October 2019. Upon expiration of the initial term, DISH Network has the option to renew the DISH Nimiq 5 Agreement on a year-to-year basis through the end of life of the Nimiq 5 satellite. Upon in-orbit failure or end of life of the Nimiq 5 satellite, and in certain other circumstances, DISH Network has certain rights to receive service from us on a replacement satellite. There can be no assurance that any options to renew the DISH Nimiq 5 Agreement will be exercised or that DISH Network will exercise its option to receive service on a replacement satellite.

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QuetzSat-1 Agreement . In November 2008, we entered into a ten-year satellite service agreement with SES Latin America, which provides, among other things, for the provision by SES Latin America to us of service on 32 DBS transponders on the QuetzSat-1 satellite. Concurrently, in 2008, we entered into a transponder service agreement with DISH Network, pursuant to which DISH Network receives satellite services on 24 of the DBS transponders on the QuetzSat-1 satellite. The QuetzSat-1 satellite was launched in September 2011 and was placed into service in November 2011 at the 67.1 degree west longitude orbital location. In February 2013, we and DISH Network entered into an agreement pursuant to which we receive certain satellite services from DISH Network on five DBS transponders on the QuetzSat-1 satellite. In January 2013, the QuetzSat-1 satellite was moved to the 77 degree west longitude orbital location and DISH Network commenced commercial operations at such location in February 2013.

Under the terms of our contractual arrangements with DISH Network, we began to provide service to DISH Network on the QuetzSat-1 satellite in February 2013 and will continue to provide service through the remainder of the service term. Unless extended or earlier terminated under the terms and conditions of our agreement with DISH Network for the QuetzSat-1 satellite, the initial service term will expire in November 2021. Upon expiration of the initial service term, DISH Network has the option to renew the agreement for the QuetzSat-1 satellite on a year-to-year basis through the end of life of the QuetzSat-1 satellite. Upon an in-orbit failure or end of life of the QuetzSat-1 satellite, and in certain other circumstances, DISH Network has certain rights to receive service from us on a replacement satellite. There can be no assurance that any options to renew this agreement will be exercised or that DISH Network will exercise its option to receive service on a replacement satellite.

103 Degree Orbital Location/SES-3. In May 2012, we entered into a spectrum development agreement (the “103 Spectrum Development Agreement”) with Ciel Satellite Holdings Inc. (“Ciel”) to develop certain spectrum rights at the 103 degree west longitude orbital location (the “103 Spectrum Rights”). In June 2013, we and DISH Network entered into a spectrum development agreement (the “DISH 103 Spectrum Development Agreement”) pursuant to which DISH Network may use and develop the 103 Spectrum Rights. Unless earlier terminated under the terms and conditions of the DISH 103 Spectrum Development Agreement, the term generally will continue for the duration of the 103 Spectrum Rights.

In connection with the 103 Spectrum Development Agreement, in May 2012, we also entered into a ten-year service agreement with Ciel pursuant to which we receive certain satellite services from Ciel on the SES-3 satellite at the 103 degree orbital location. In June 2013, we and DISH Network entered into an agreement pursuant to which DISH Network receives certain satellite services from us on the SES-3 satellite (the “DISH 103 Service Agreement”). Under the terms of the DISH 103 Service Agreement, DISH Network makes certain monthly payments to us through the service term. Unless earlier terminated under the terms and conditions of the DISH 103 Service Agreement, the initial service term will expire on the earlier of: (i) the date the SES-3 satellite fails; (ii) the date the transponder(s) on which service was being provided under the agreement fails; or (iii) June 2023. Upon in-orbit failure or end of life of the SES-3 satellite, and in certain other circumstances, DISH Network has certain rights to receive service from us on a replacement satellite. There can be no assurance that DISH Network will exercise its option to receive service on a replacement satellite.

Satellite and Tracking Stock Transaction . In February 2014, we entered into agreements with DISH Network to implement a transaction pursuant to which, among other things: (i) in March 2014, EchoStar and HSS issued shares of the Tracking Stock to DISH Network in exchange for five satellites owned by DISH Network (EchoStar I, EchoStar VII, EchoStar X, EchoStar XI and EchoStar XIV) (including assumption of related in-orbit incentive obligations) and approximately \$11.4 million in cash; and (ii) in March 2014, DISH Network began receiving certain satellite services on these five satellites from us (collectively, the “Satellite and Tracking Stock Transaction.”) The Tracking Stock was retired in March 2017 and is no longer outstanding and all agreements, arrangements and policy statements with respect to such Tracking Stock terminated and are of no further effect. See Note 3 for further information.

TT&C Agreement . Effective January 2012, we entered into a telemetry, tracking and control (“TT&C”) agreement pursuant to which we provide TT&C services to DISH Network for a period ending in December 2016 (the “2012 TT&C Agreement”). In November 2016, we and DISH Network amended the 2012 TT&C Agreement to extend the term for one year through December 2017. The 2012 TT&C Agreement replaced the TT&C agreement we entered into with DISH Network in connection with the Spin-off. The fees for services provided under the 2012 TT&C Agreement are calculated at either: (i) a fixed fee or (ii) cost plus a fixed margin, which will vary depending on the nature of the services provided. DISH Network is able to terminate the 2012 TT&C Agreement for any reason upon 60 days’ notice .

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In connection with the Satellite and Tracking Stock Transaction, in February 2014, we amended the TT&C Agreement to cease the provision of TT&C services to DISH Network for the EchoStar I, EchoStar VII, EchoStar X, EchoStar XI and EchoStar XIV satellites. Effective March 2014, we provide TT&C services for the D-1 and EchoStar XV satellites; however, for the period that we received satellite services on the EchoStar XV satellite from DISH Network, we waived the fees for the TT&C services on the EchoStar XV satellite. Effective August 2016, we provide TT&C services to DISH Network for the EchoStar XVIII satellite.

Real Estate Leases to DISH Network . We have entered into lease agreements pursuant to which DISH Network leases certain real estate from us. The rent on a per square foot basis for each of the leases is comparable to per square foot rental rates of similar commercial property in the same geographic area at the time of the lease, and DISH Network is responsible for its portion of the taxes, insurance, utilities and maintenance of the premises. The term of each of the leases is set forth below:

100 Inverness Lease Agreement . In connection with the Share Exchange, effective March 2017, DISH Network leases from us certain space at 100 Inverness Circle East, Englewood, Colorado for a period ending in December 2020. This agreement may be terminated by either party upon 180 days ' prior notice. This agreement may be extended by mutual consent, in which case this agreement will be converted to a month-to-month lease agreement. Upon extension, either party has the right to terminate this agreement upon 30 days ' notice.

90 Inverness Lease Agreement . The lease for certain space at 90 Inverness Circle East, Englewood, Colorado was for a period ending in December 2016. In February 2016, DISH Network terminated this lease effective in August 2016.

Meridian Lease Agreement . The lease for all of 9601 S. Meridian Blvd., Englewood, Colorado was for a period ending in December 2016. Effective December 2016, we and DISH Network amended this lease to, among other things, extend the term for one year through December 2017. This agreement may be extended by mutual consent, in which case this agreement will be converted to a month-to-month lease agreement. Upon extension, either party has the right to terminate this agreement upon 30 days ' notice.

Santa Fe Lease Agreement . The lease for all of 5701 S. Santa Fe Dr., Littleton, Colorado was for a period ending in December 2016. Effective December 2016, we and DISH Network amended this lease to, among other things, extend the term for one year through December 2017. This agreement may be extended by mutual consent, in which case this agreement will be converted to a month-to-month lease agreement. Upon extension, either party has the right to terminate this agreement upon 30 days ' notice.

Atlanta Sublease Agreement . The sublease for certain space at 211 Perimeter Center, Atlanta, Georgia terminated in October 2016.

Gilbert Lease Agreement . The lease for certain space at 801 N. DISH Drive, Gilbert, Arizona was for a period ending July 2016. Effective November 2016, we and DISH Network amended this lease to extend the term for one year through July 2017. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

Cheyenne Lease Agreement . Prior to the Share Exchange, we leased to DISH Network certain space at 530 EchoStar Drive, Cheyenne, Wyoming. In connection with the Share Exchange, we transferred ownership of a portion of this property to DISH Network and we and DISH Network amended this agreement to (i) terminate the lease for the transferred space and (ii) provide for a continued lease to DISH Network of the portion of the property we retained for a period ending in December 2031. This agreement may be extended by mutual consent, in which case this agreement will be converted to a month-to-month lease agreement. Upon extension, either party has the right to terminate this agreement upon 30 days ' notice.

Product Support Agreement . In connection with the Spin-off, one of our subsidiaries entered into a product support agreement pursuant to which DISH Network had the right, but not the obligation, to receive product support from us (including certain engineering and technical support services) for all set-top boxes and related accessories that we had previously sold to DISH Network. The fees for the services provided under the product support agreement were calculated at cost plus a fixed margin, which varied depending on the nature of the services provided. The term of the product support agreement was the economic life of such set-top boxes and related accessories, unless terminated earlier. This agreement was transferred to DISH Network

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as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

DISHOnline.com Services Agreement . Effective January 2010, DISH Network entered into a two -year agreement with one of our subsidiaries pursuant to which DISH Network received certain services associated with an online video portal. The fees for the services provided under this services agreement depended, among other things, upon the cost to develop and operate such services. In November 2016, one of our subsidiaries and DISH Network amended this agreement to, among other things, extend the term for one year through December 2017. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

DISH Remote Access Services Agreement . Effective February 2010, one of our subsidiaries entered into an agreement with DISH Network pursuant to which DISH Network received, among other things, certain remote digital video recorder (“DVR”) management services. The fees for the services provided under this services agreement depended, among other things, upon the cost to develop and operate such services. This agreement automatically renewed in February 2017 for an additional one -year period until February 2018. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

SlingService Services Agreement . Effective February 2010, one of our subsidiaries entered into an agreement with DISH Network pursuant to which DISH Network received certain services related to placeshifting. The fees for the services provided under this services agreement depended, among other things, upon the cost to develop and operate such services. This agreement automatically renewed in February 2017 for an additional one -year period until February 2018. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

TerreStar Agreement . In March 2012, DISH Network completed its acquisition of substantially all the assets of TerreStar Networks Inc. (“TerreStar”). Prior to DISH Network’s acquisition of substantially all the assets of TerreStar and our completion of the Hughes Acquisition, TerreStar and HNS entered into various agreements pursuant to which our Hughes segment provides, among other things, warranty, operations and maintenance and hosting services for TerreStar’s ground-based communications equipment. TerreStar generally has the right to continue to receive warranty services from us for one of our products on a month-to-month basis. The provision of warranty services for our other product will continue until March 2018 and will automatically renew in March 2018 for an additional one - year period, unless terminated by TerreStar upon at least 60 days ’ written notice to us prior to the end of the term. The provision of operations and maintenance services will continue until April 2018 and will automatically renew in April 2018 for an additional one -year period, unless terminated by TerreStar or us upon at least 90 days ’ written notice prior to the end of the term. The provision of hosting services will continue until May 2022 and will not renew beyond May 2022 unless the parties enter into a new agreement or amend the existing agreement. In addition, TerreStar generally may terminate such services for convenience subject to providing us with prior notice and/or payment of termination charges.

Hughes Broadband Distribution Agreement . Effective October 2012, HNS and dishNET Satellite Broadband L.L.C. (“dishNET”), a wholly-owned subsidiary of DISH, entered into a distribution agreement (the “Distribution Agreement”) pursuant to which dishNET has the right, but not the obligation, to market, sell and distribute the Hughes satellite internet service (the “Hughes service”). dishNET pays HNS a monthly per subscriber wholesale service fee for the Hughes service based upon a subscriber’s service level, and based upon certain volume subscription thresholds. The Distribution Agreement also provides that dishNET has the right, but not the obligation, to purchase certain broadband equipment from us to support the sale of the Hughes service. The Distribution Agreement had an initial term of five years with automatic renewal for successive one year terms unless terminated by either party with a written notice at least 180 days before the expiration of the then-current term. In February 2014, HNS and dishNET entered into an amendment to the Distribution Agreement which, among other things, extended the initial term of the Distribution Agreement until March 2024. Upon expiration or termination of the Distribution Agreement, the parties will continue to provide the Hughes service to the then-current dishNET subscribers pursuant to the terms and conditions of the Distribution Agreement.

Hughes Broadband Master Services Agreement . In March 2017, HNS and DISH Network L.L.C. (“DNLLC”), a wholly-owned subsidiary of DISH, entered into a master service agreement (the “MSA”) pursuant to which DNLLC, among other things: (i) has the right, but not the obligation, to market, promote and solicit orders for the Hughes service and related equipment and (ii) will install Hughes service equipment with respect to activations generated by DNLLC. Under the MSA,

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HNS and DNLLC will make certain payments to each other relating to sales, purchases and installation services. The MSA has an initial term of five years with automatic renewal for successive one year terms. After the first anniversary, either party has the ability to terminate the MSA, in whole or in part, for any reason upon at least 90 days' notice to the other party. Upon expiration or termination of the MSA, HNS will continue to provide the Hughes service to subscribers and make certain payments to DNLLC pursuant to the terms and conditions of the MSA.

Set-Top Box Application Development Agreement. In November 2012, one of our subsidiaries and DISH Network entered into a set-top box application development agreement (the "Application Development Agreement") pursuant to which we provided DISH Network with certain services relating to the development of web-based applications for set-top boxes. The fees for services provided under the Application Development Agreement were calculated at our cost of providing the relevant service plus a fixed margin, which depended on the nature of the services provided. The Application Development Agreement automatically renewed in February 2017 for a one-year period ending in February 2018. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

XiP Encryption Agreement. In July 2012, we entered into an encryption agreement with DISH Network for our whole-home HD DVR line of set-top boxes (the "XiP Encryption Agreement") pursuant to which we provided certain security measures on our whole-home HD DVR line of set-top boxes to encrypt the content delivered to the set-top box via a smart card and secure the content between set-top boxes. The XiP Encryption Agreement's term ended on the same day as the 2012 Receiver Agreement and therefore was automatically extended through December 2017 when we and DISH Network extended the 2012 Receiver Agreement. The fees for the services provided under the XiP Encryption Agreement were calculated on a monthly basis based on the number of receivers utilizing such security measures each month. Effective March 2017 in connection with the Share Exchange, we and DISH Network terminated the XiP Encryption Agreement and EchoStar has no further obligations and will earn no additional revenue under these agreements after February 2017.

DBSD North America Agreement. In March 2012, DISH Network completed its acquisition of 100% of the equity of reorganized DBSD North America, Inc. ("DBSD North America"). Prior to DISH Network's acquisition of DBSD North America and completion of the Hughes Acquisition, DBSD North America and HNS entered into various agreements pursuant to which our Hughes segment provides, among other things, warranty, operations and maintenance and hosting services of DBSD North America's gateway and ground-based communications equipment. DBSD North America generally has the right to continue to receive warranty services from us on a month-to-month basis until February 2019. The provision of operations and maintenance services will continue until April 2018 and will automatically renew in April 2018 for an additional one-year period, unless terminated by DBSD North America upon at least 120 days' written notice to us prior to the end of the term. The provision of hosting services will continue until February 2022 and will automatically renew for an additional five-year period until February 2027 unless terminated by DBSD North America upon at least 180 days' written notice to us prior to the end of the term. In addition, DBSD North America generally may terminate such services for convenience, subject to providing us with prior notice and/or payment of termination charges.

Sling TV Holding L.L.C. ("Sling TV Holding"). Effective July 2012, we and DISH Network formed Sling TV Holding, which was owned two-thirds by DISH Network and one-third by us. Sling TV Holding was formed to develop and commercialize certain advanced technologies. At that time, we, DISH Network and Sling TV Holding entered into the following agreements with respect to Sling TV Holding: (i) a contribution agreement pursuant to which we and DISH Network contributed certain assets in exchange for our respective ownership interests in Sling TV Holding; (ii) a limited liability company operating agreement ("Operating Agreement"), which provided for the governance of Sling TV Holding; and (iii) a commercial agreement ("Commercial Agreement") pursuant to which, among other things, Sling TV Holding had: (a) certain rights and corresponding obligations with respect to its business; and (b) the right, but not the obligation, to receive certain services from us and DISH Network, respectively. Additionally, the spouse of Mr. Vivek Khemka, who was the President - EchoStar Technologies L.L.C. during portions of 2016 and through February 2017, was employed during 2016 as Vice President of Business Development and Operations of Sling TV Holding.

Effective August 2014, we and Sling TV Holding entered into an exchange agreement ("Exchange Agreement") pursuant to which, among other things, Sling TV Holding distributed certain assets to us and we reduced our interest in Sling TV Holding to a 10.0% non-voting interest. As a result, DISH Network had a 90.0% equity interest and a 100% voting interest in Sling TV Holding. In addition, we, DISH Network and Sling TV Holding amended and restated the Operating Agreement, primarily to reflect the changes implemented by the Exchange Agreement. Finally, we, DISH Network and Sling TV Holding amended and restated the Commercial Agreement, pursuant to which, among other things, Sling TV Holding: (1) had certain rights and

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corresponding obligations with respect to its business; (2) had the right, but not the obligation, to receive certain services from us and DISH Network; and (3) had a license from us to use certain of the assets distributed to us as part of the Exchange Agreement. Effective March 2017 following the consummation of the Share Exchange, we no longer hold our investment in Sling TV Holding. Effective March 2017 in connection with the Share Exchange, we and DISH Network terminated the Exchange Agreement and the Commercial Agreement and EchoStar has no further obligations and will earn no additional revenue under these agreements after February 2017.

Cost of sales — equipment and services and other — DISH Network

Remanufactured Receiver and Services Agreement . In connection with the Spin-off, one of our subsidiaries entered into a remanufactured receiver and services agreement with DISH Network pursuant to which we had the right, but not the obligation, to purchase remanufactured receivers and related components from DISH Network at cost plus a fixed margin, which varied depending on the nature of the equipment purchased. In November 2016, one of our subsidiaries and DISH Network amended this agreement to extend its term for one year through December 2017. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will incur no additional expenses under this agreement after February 2017.

General and administrative expenses — DISH Network

Amended and Restated Professional Services Agreement . In connection with the Spin-off, we entered into various agreements with DISH including the Transition Services Agreement, Satellite Procurement Agreement and Services Agreement, which all expired in January 2010 and were replaced by a Professional Services Agreement. In January 2010, we and DISH agreed that we shall continue to have the right, but not the obligation, to receive the following services from DISH Network, among others, certain of which were previously provided under the Transition Services Agreement: information technology, travel and event coordination, internal audit, legal, accounting and tax, benefits administration, program acquisition services and other support services. Mr. Vivek Khemka, who remained employed as DISH Network's Executive Vice President and Chief Technology Officer, provided services to us during portions of 2016 and through February 2017 pursuant to the Professional Services Agreement as President -- EchoStar Technologies L.L.C. Additionally, we and DISH agreed that DISH Network would continue to have the right, but not the obligation, to engage us to manage the process of procuring new satellite capacity for DISH Network (previously provided under the Satellite Procurement Agreement), receive logistics, procurement and quality assurance services from us (previously provided under the Services Agreement) and other support services. In connection with the consummation of the Share Exchange, we and DISH amended and restated the Professional Services Agreement to provide that we and DISH Network shall have the right to receive additional services that either we or DISH Network may require as a result of the Share Exchange. The term of the Amended and Restated Professional Services Agreement is through January 2018 and renews automatically for successive one -year periods thereafter, unless the agreement is terminated earlier by either party upon at least 60 days ' notice. However, either party may terminate the Amended and Restated Professional Services Agreement in part with respect to any particular service it receives for any reason upon at least 30 days ' notice.

Real Estate Leases from DISH Network . We have entered into lease agreements pursuant to which we lease certain real estate from DISH Network. The rent on a per square foot basis is comparable to per square foot rental rates of similar commercial property in the same geographic area at the time of the leases, and for certain properties, we are responsible for our portion of the taxes, insurance, utilities and maintenance of the premises.

El Paso Lease Agreement . The lease for certain space at 1285 Joe Battle Blvd., El Paso, Texas, was for an initial period ending in August 2015, and provided us with renewal options for four consecutive three -year terms. Effective August 2015, we exercised our first renewal option for a period ending in August 2018.

90 Inverness Lease Agreement . In connection with the Share Exchange, effective March 2017 we lease from DISH Network certain space at 90 Inverness Circle East in Englewood, Colorado for a period ending in December 2022. EchoStar has the option to renew this lease for four three -year periods.

Cheyenne Lease Agreement . In connection with the Share Exchange, effective March 2017 we lease from DISH Network certain space at 530 EchoStar Drive in Cheyenne, Wyoming for a period ending in March 2019. EchoStar has the option to renew this lease for thirteen one -year periods.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Gilbert Lease Agreement . In connection with the Share Exchange, effective March 2017 we lease from DISH Network certain space at 801 N. DISH Dr. in Gilbert, Arizona for a period ending in March 2019. EchoStar has the option to renew this lease for thirteen one -year periods.

Employee Matters Agreement . Effective March 2017 in connection with the Share Exchange, we and DISH Network entered into an Employee Matters Agreement that addresses the transfer of employees from EchoStar to DISH Network, including certain benefit and compensation matters and the allocation of responsibility for employee related liabilities relating to current and past employees of the transferred businesses. DISH Network assumed employee-related liabilities relating to the transferred businesses as part of the Share Exchange, except that we will be responsible for certain existing employee related litigation as well as certain pre-Share Exchange compensation and benefits for employees transferring to DISH Network in connection with the Share Exchange.

Collocation and Antenna Space Agreements . In connection with the Share Exchange, effective March 2017, we entered into certain agreements pursuant to which DISH Network will provide collocation and antenna space to EchoStar through March 2022 at the following locations: Cheyenne, Wyoming; Gilbert, Arizona; New Braunfels, Texas; Monee, Illinois; and Englewood, Colorado. EchoStar may terminate any of these agreements with 180 days ' prior written notice. The fees for the services provided under these agreements depend on the number of racks leased at the location.

Other agreements — DISH Network

Share Exchange Agreement . On January 31, 2017, EchoStar Corporation and certain of its subsidiaries entered into the Share Exchange Agreement with DISH and certain of its subsidiaries, pursuant to which on February 28, 2017, EchoStar Corporation and its subsidiaries received all of the shares of the Tracking Stock in exchange for 100% of the equity interests of certain EchoStar subsidiaries that held substantially all of our EchoStar Technologies businesses and certain other assets. Following consummation of the Share Exchange on February 28, 2017, EchoStar no longer operates the transferred EchoStar Technologies businesses and the Tracking Stock was retired and is no longer outstanding and all agreements, arrangements and policy statements with respect to such Tracking Stock terminated and are of no further effect. Pursuant to the Share Exchange Agreement, EchoStar transferred certain assets, investments in joint ventures, spectrum licenses and real estate properties and DISH Network assumed certain liabilities relating to the transferred assets and businesses. The Share Exchange Agreement contains customary representations and warranties by the parties, including representations by EchoStar related to the transferred assets, assumed liabilities and the financial condition of the transferred businesses. EchoStar and DISH Network have also agreed to customary indemnification provisions whereby each party indemnifies the other against certain losses with respect to breaches of representations, warranties or covenants and certain liabilities and if certain actions undertaken by it causes the transaction to be taxable to the other party after closing. See Note 3 for further information.

Intellectual Property Matters Agreement . We entered into an Intellectual Property Matters Agreement with DISH Network in connection with the Spin-off. The Intellectual Property Matters Agreement governed our relationship with DISH Network with respect to patents, trademarks and other intellectual property. Pursuant to the Intellectual Property Matters Agreement, DISH Network irrevocably assigned to us all right, title and interest in certain patents, trademarks and other intellectual property necessary for the operation of our set-top box business. In addition, the agreement permitted us to use, in the operation of our set-top box business, certain other intellectual property currently owned or licensed by DISH Network. In addition, DISH Network was prohibited from using the “EchoStar” name as a trademark, except in certain limited circumstances. Similarly, the Intellectual Property Matters Agreement provided that we would not make any use of the name or trademark “DISH Network” or any other trademark owned by DISH Network, except in certain circumstances. Effective March 2017 in connection with the Share Exchange, we and DISH Network terminated this agreement and EchoStar has no further obligations and will earn no additional revenue nor incur additional expenses under this agreement after February 2017.

Intellectual Property and Technology License Agreement . Effective March 2017 in connection with the Share Exchange, we and DISH Network entered into an Intellectual Property and Technology License Agreement (“IPTLA”) pursuant to which we and DISH and their respective subsidiaries license to each other certain intellectual property and technology. The IPTLA will continue in perpetuity, unless mutually terminated by the parties. Pursuant to the IPTLA, we granted to DISH Network a license to our intellectual property and technology for use by DISH Network, among other things, in connection with its continued operation of the businesses acquired pursuant to the Share Exchange, including a limited license to use the “ECHOSTAR” trademark during a transition period. EchoStar retains full ownership of the “ECHOSTAR” trademark. In addition, DISH Network granted a license back to us, among other things, for the continued use of all intellectual property and

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
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technology that is used in our retained businesses but the ownership of which was transferred to DISH Network pursuant to the Share Exchange.

Tax Sharing Agreement. We and DISH Network entered into a tax sharing agreement in connection with the Spin-off. This agreement governs our respective rights, responsibilities and obligations after the Spin-off with respect to taxes for the periods ending on or before the Spin-off. Generally, all pre-Spin-off taxes, including any taxes that are incurred as a result of restructuring activities undertaken to implement the Spin-off, are borne by DISH Network, and DISH Network will indemnify us for such taxes. However, DISH Network is not liable for and will not indemnify us for any taxes that are incurred as a result of the Spin-off or certain related transactions failing to qualify as tax-free distributions pursuant to any provision of Section 355 or Section 361 of the Internal Revenue Code of 1986, as amended, because of: (i) a direct or indirect acquisition of any of our stock, stock options or assets; (ii) any action that we take or fail to take; or (iii) any action that we take that is inconsistent with the information and representations furnished to the IRS in connection with the request for the private letter ruling, or to counsel in connection with any opinion being delivered by counsel with respect to the Spin-off or certain related transactions. In such case, we will be solely liable for, and will indemnify DISH Network for, any resulting taxes, as well as any losses, claims and expenses. The tax sharing agreement will only terminate after the later of the full period of all applicable statutes of limitations, including extensions, or once all rights and obligations are fully effectuated or performed.

In light of the tax sharing agreement, among other things, and in connection with our consolidated federal income tax returns for certain tax years prior to and for the year of the Spin-off, in September 2013, we and DISH Network agreed upon a supplemental allocation of the tax benefits arising from certain tax items resolved in the course of the IRS's examination of our consolidated tax returns. Prior to the agreement with DISH Network, the federal tax benefits were reflected as a deferred tax asset for depreciation and amortization, which was netted in our noncurrent deferred tax liabilities. The agreement requires DISH Network to pay us the federal tax benefit it receives at such time as we would have otherwise been able to realize such tax benefit, which we currently estimate would be after 2017. Accordingly, we recorded a noncurrent receivable from DISH Network in "Other receivable — DISH Network" and a corresponding increase in our net noncurrent deferred tax liabilities to reflect the effects of this agreement in September 2013. In addition, in September 2013, we and DISH Network agreed upon a tax sharing arrangement for filing certain combined state income tax returns and a method of allocating the respective tax liabilities between us and DISH Network for such combined returns, through the taxable period ending on December 31, 2017.

We and DISH Network file combined income tax returns in certain states. In 2016, we earned and recognized a tax benefit for certain state income tax credits that we would be unable to utilize currently if we had filed separately from DISH Network. DISH Network expects to utilize these tax credits to reduce its state income tax payable. We expect to increase additional paid-in capital upon receipt of any consideration paid to us by DISH Network in exchange for these tax credits.

Tax Matters Agreement. Effective March 2017, in connection with the Share Exchange, we and DISH entered into a tax matters agreement. This agreement governs certain of our rights, responsibilities and obligations with respect to taxes of the transferred businesses pursuant to the Share Exchange. Generally, we are responsible for all tax returns and tax liabilities for the transferred businesses and assets for periods prior to the Share Exchange and DISH Network is responsible for all tax returns and tax liabilities for the transferred businesses and assets from and after the Share Exchange. Both we and DISH Network have made certain tax-related representations and are subject to various tax-related covenants after the consummation of the Share Exchange. Both we and DISH Network have agreed to indemnify each other if there is a breach of any such tax representation or violation of any such tax covenant and that breach or violation results in the Share Exchange not qualifying for tax free treatment for the other party. In addition, DISH Network has agreed to indemnify us if the transferred businesses are acquired, either directly or indirectly (e.g., via an acquisition of DISH Network), by one or more persons and such acquisition results in the Share Exchange not qualifying for tax free treatment. The tax matters agreement supplements the Tax Sharing Agreement outlined above, which continues in full force and effect.

TiVo. In April 2011, we and DISH Network entered into a settlement agreement with TiVo, Inc. ("TiVo"). The settlement resolved all pending litigation between us and DISH Network, on the one hand, and TiVo, on the other hand, including litigation relating to alleged patent infringement involving certain DISH Network DVRs. Under the settlement agreement, all pending litigation was dismissed with prejudice and all injunctions that permanently restrain, enjoin or compel any action by us or DISH Network were dissolved. We and DISH Network were jointly responsible for making payments to TiVo in the aggregate amount of \$500.0 million, including an initial payment of \$300.0 million and the remaining \$200.0 million in six equal annual installments between 2012 and 2017. Pursuant to the terms and conditions of the agreements entered into in connection with the Spin-off, DISH Network made the initial payment to TiVo in May 2011, except for the contribution from us totaling approximately \$10.0 million, representing an allocation of liability relating to our sales of DVR-enabled receivers to an

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
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international customer. Subsequent payments were allocated between us and DISH Network based on historical sales of certain licensed products, with EchoStar being responsible for 5% of each annual payment. Effective March 2017, in connection with the Share Exchange, EchoStar has no further obligations and will incur no additional costs under this settlement agreement after February 2017.

Sling Trademark License Agreement . In December 2014, Sling TV Holding entered into an agreement with Sling Media, Inc., our subsidiary, pursuant to which Sling TV Holding had the right, for a fixed fee, to use certain trademarks, domain names and other intellectual property related to the “Sling” trademark. In December 2016, Sling TV Holding and Sling Media, Inc. amended this agreement to extend the term thereof on a month-to-month basis. This agreement was transferred to DISH Network as part of the Share Exchange and EchoStar has no further obligations and will earn no additional revenue under this agreement after February 2017.

gTLD Bidding Agreement . In April 2015, we and DISH Network entered into a gTLD Bidding Agreement whereby, among other things: (i) DISH Network obtained rights from us to participate in a generic top level domain (“gTLD”) auction, assuming all rights and obligations from us related to our application with the Internet Corporation for Assigned Names and Numbers (“ICANN”) for a particular gTLD; (ii) DISH Network agreed to reimburse us for our ICANN application fee and certain out-of-pocket expenses related to the application and the auction; and (iii) we and DISH Network agreed to split equally the net proceeds obtained by DISH Network as the losing bidder in the auction, less such fee reimbursement and out-of-pocket expenses.

Patent Cross-License Agreements . In December 2011, we and DISH Network entered into separate patent cross-license agreements with the same third party whereby: (i) we and such third party licensed our respective patents to each other subject to certain conditions; and (ii) DISH Network and such third party licensed their respective patents to each other subject to certain conditions (each, a “Cross-License Agreement”). Each Cross-License Agreement covers patents acquired by the respective party prior to January 2017 and aggregate payments under both Cross-License Agreements total less than \$10.0 million . Each Cross-License Agreement contained an option to extend each Cross-License Agreement to include patents acquired by the respective party prior to January 2022. In December 2016, both we and DISH Network exercised our renewal options, resulting in aggregate additional payments to such third party totaling less than \$3.0 million . Since the aggregate payments under both Cross-License Agreements were based on the combined annual revenue of us and DISH Network, we and DISH Network agreed to allocate our respective payments to such third party based on our respective percentage of combined total revenue.

Caltech . On October 1, 2013, Caltech Institute of Technology (“Caltech”) filed complaints against two of our subsidiaries, Hughes Communications, Inc. and HNS, as well as against DISH and certain of its subsidiaries, in the United States District Court for the Central District of California alleging infringement of United States Patent Nos. 7,116,710; 7,421,032; 7,916,781; and 8,284,833, each of which is entitled “Serial Concatenation of Interleaved Convolutional Codes forming Turbo-Like Codes.” Caltech asserted that encoding data as specified by the DVB-S2 standard infringed each of the asserted patents. Caltech claimed that certain of our Hughes segment’s satellite broadband products and services, infringed the asserted patents by implementing the DVB-S2 standard. Pursuant to a settlement agreement among us, DISH and Caltech, in May 2016, Caltech dismissed with prejudice all of its claims in these actions.

Orange, NJ . In October 2016, we and DISH Network sold two parcels of real estate owned separately by us and DISH Network in Orange, NJ to a third party pursuant to a purchase and sale agreement. Pursuant to the agreement, we and DISH Network separately received our respective payments from the buyer.

Invidi . In November 2010 and April 2011, we made investments in Invidi Technologies Corporation (“Invidi”) in exchange for shares of Invidi’s Series D Preferred Stock. In November 2016, DIRECTV, LLC, a wholly owned indirect subsidiary of AT&T Inc., DISH Network and Cavendish Square Holding B.V., an affiliate of WPP plc, entered into a series of agreements to acquire Invidi. As a result of the transaction, we sold our ownership interest in Invidi on the same terms offered to the other shareholders of Invidi. The transaction closed in January 2017.

ECHOSTAR CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - Continued
(Unaudited)

Other Agreements**Hughes Systique Corporation (“Hughes Systique”)**

We contract with Hughes Systique for software development services. In 2008, Hughes Communications, Inc. loaned \$1.5 million to Hughes Systique pursuant to a term loan facility. The initial interest rate on the outstanding loans was 6% , payable annually, and the accrued and unpaid interest was added to the principal amount outstanding under the loan facility in certain circumstances. The loans were convertible into shares of Hughes Systique upon non-payment or an event of default. In May 2014, we amended the term loan facility to increase the interest rate from 6% to 8% , payable annually, to reflect then-current market conditions and extend the maturity date of the loans to May 1, 2015, and in April 2015, we extended the maturity date of the loans to May 1, 2016 on the same terms. In 2015, Hughes Systique repaid \$1.5 million of the outstanding principal of the loan facility. In 2016, Hughes Systique repaid \$0.6 million of the outstanding principal of the loan facility. As of March 31, 2017 , the principal amount outstanding of the loan facility was zero . In addition to our 43.8% ownership in Hughes Systique, Mr. Pradman Kaul, the President of Hughes Communications, Inc. and a member of our board of directors, and his brother, who is the CEO and President of Hughes Systique, in the aggregate, own approximately 25.7% , on an undiluted basis, of Hughes Systique’s outstanding shares as of March 31, 2017 . Furthermore, Mr. Pradman Kaul serves on the board of directors of Hughes Systique. Hughes Systique is a variable interest entity and we are considered the primary beneficiary of Hughes Systique due to, among other factors, our ability to direct the activities that most significantly impact the economic performance of Hughes Systique. As a result, we consolidate Hughes Systique’s financial statements in our condensed consolidated financial statements .

NagraStar L.L.C.

Prior to March 2017, we owned 50.0% of NagraStar L.L.C. (“NagraStar”), a joint venture that was the primary provider of encryption and related security technology used in the set-top boxes produced by our former EchoStar Technologies segment. We accounted for our investment in NagraStar using the equity method. Following the consummation of the Share Exchange, we no longer hold our investment in NagraStar.

Dish Mexico

We own 49.0% of an entity that provides direct-to-home satellite services in Mexico known as Dish Mexico. We provide certain broadcast services and satellite services to Dish Mexico and prior to the Share Exchange we also sold hardware such as digital set-top boxes and related equipment to Dish Mexico. We recognized revenue from sales of services we provided to Dish Mexico in continuing operations of approximately \$3.9 million and \$5.8 million for the three months ended March 31, 2017 and 2016 , respectively. As of March 31, 2017 and December 31, 2016 , we had trade accounts receivable from continuing operations from Dish Mexico of approximately \$10.7 million .

Deluxe/EchoStar LLC

We own 50.0% of Deluxe/EchoStar LLC (“Deluxe”), a joint venture that we entered into in 2010 to build an advanced digital cinema satellite distribution network targeting delivery to digitally equipped theaters in the U.S. and Canada. We account for our investment in Deluxe using the equity method. We recognized revenue from Deluxe for transponder services and the sale of broadband equipment of approximately \$1.2 million and \$0.7 million for the three months ended March 31, 2017 and 2016 , respectively. At each of March 31, 2017 and December 31, 2016 , we had trade accounts receivable from Deluxe of approximately \$0.7 million .

SmarDTV

In May 2015, we acquired a 22.5% interest in SmarDTV, which we accounted for using the equity method. Pursuant to our agreements with SmarDTV and its subsidiaries, our former EchoStar Technologies segment purchased engineering services from and paid royalties to SmarDTV and its subsidiaries. Following the consummation of the Share Exchange, we no longer own our interest in the equity and subordinated debt of SmarDTV and no longer purchase engineering services from SmarDTV.

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AsiaSat

We contract with AsiaSat Telecommunications Inc. (“AsiaSat”) for the use of transponder capacity on one of AsiaSat’s satellites. Mr. William David Wade, a member of our board of directors, served as the Chief Executive Officer of AsiaSat in 2016 and as a senior advisor to the CEO of AsiaSat through March 2017. We incurred expenses of approximately zero and \$0.4 million payable to AsiaSat under this agreement for the three months ended March 31, 2017 and 2016 , respectively.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Unless the context indicates otherwise, as used herein, the terms "we," "us," "EchoStar," the "Company" and "our" refer to EchoStar Corporation and its subsidiaries. References to "\$" are to United States dollars. The following management's discussion and analysis of our financial condition and results of operations should be read in conjunction with the condensed consolidated financial statements and notes to our financial statements included elsewhere in this Quarterly Report on Form 10-Q. This management's discussion and analysis is intended to help provide an understanding of our financial condition, changes in our financial condition and our results of operations. Many of the statements in this management's discussion and analysis are forward-looking statements that involve assumptions and are subject to risks and uncertainties that are often difficult to predict and beyond our control. Actual results could differ materially from those expressed or implied by such forward-looking statements. See "Disclosure Regarding Forward-Looking Statements" in this Quarterly Report on Form 10-Q for further discussion. For a discussion of additional risks, uncertainties and other factors that could impact our results of operations or financial condition, see the caption "Risk Factors" in Part II, Item 1A of this Quarterly Report on Form 10-Q and in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2016. Further, such forward-looking statements speak only as of the date of this Quarterly Report on Form 10-Q and we undertake no obligation to update them.

EXECUTIVE SUMMARY

EchoStar is a global provider of satellite service operations, video delivery solutions, broadband satellite technologies and broadband services for home and small office customers. We deliver innovative network technologies, managed services, and various communications solutions for enterprise and government customers.

Prior to March 2017, we operated in three primary business segments, Hughes, EchoStar Technologies and ESS. On January 31, 2017, EchoStar Corporation and certain of its subsidiaries entered into a Share Exchange Agreement (the "Share Exchange Agreement") with DISH Network Corporation ("DISH") and certain of its subsidiaries. Pursuant to the Share Exchange Agreement, on February 28, 2017, among other things, EchoStar Corporation and certain of its subsidiaries received all of the shares of the Hughes Retail Preferred Tracking Stock issued by EchoStar Corporation (the "EchoStar Tracking Stock") and the Hughes Retail Preferred Tracking Stock issued by Hughes Satellite Systems Corporation ("HSS") (the "HSS Tracking Stock", together with the EchoStar Tracking Stock, the "Tracking Stock") in exchange for 100% of the equity interests of certain EchoStar subsidiaries that held substantially all of our EchoStar Technologies businesses and certain other assets (collectively, the "Share Exchange"). Following consummation of the Share Exchange, EchoStar no longer operates the EchoStar Technologies business segment and the EchoStar Tracking Stock and HSS Tracking Stock were retired and are no longer outstanding and all agreements, arrangements and policy statements with respect to such tracking stock terminated and are of no further effect. As a result of the Share Exchange, the condensed consolidated financial statements of the EchoStar Technologies businesses have been presented as discontinued operations and, as such, have been excluded from continuing operations and segment results for all periods presented. See Note 3 in the notes to consolidated financial statements in Item 1 of this report for further discussion of our discontinued operations.

As a consequence, we currently operate in two business segments, which are differentiated primarily by their operational focus: Hughes and EchoStar Satellite Services ("ESS"). These segments are consistent with the way decisions regarding the allocation of resources are made, as well as how operating results are reviewed by our chief operating decision maker ("CODM"), who for EchoStar is the Company's Chief Executive Officer.

In addition, we have also changed our overhead allocation methodology used in our segment disclosures to reflect how the CODM evaluates our segments. Historically, the costs of all corporate functions were included on an allocated basis in each of the business segments' EBITDA. Under the revised allocation methodology, these costs are now reported and analyzed as part of "Corporate and Other" (previously "All Other and Eliminations"). Our prior period segment EBITDA disclosures have been restated to reflect this change.

Our operations also include various corporate departments (primarily Executive, Strategic Development, Human Resources, IT, Finance, Real Estate and Legal) as well as other activities that have not been assigned to our operating segments, including costs incurred in certain satellite development programs and other business development activities, our centralized treasury operations, and gains (losses) from certain of our investments. These activities are accounted for in "Corporate and Other."

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Highlights from our financial results are as follows:

2017 First Quarter Consolidated Results of Operations

- Revenue of \$433.2 million
- Operating income of \$51.7 million
- Net income from continuing operations of \$30.8 million
- Net income attributable to EchoStar common stock of \$38.9 million and basic earnings per share of common stock of \$0.41
- EBITDA of \$183.3 million (see reconciliation of this non-GAAP measure on page 47)

Consolidated Financial Condition as of March 31, 2017

- Total assets from continuing operations of \$8.53 billion
- Total liabilities from continuing operations of \$4.90 billion
- Total stockholders' equity of \$3.85 billion
- Cash, cash equivalents and current marketable investment securities of \$3.18 billion

Hughes Segment

Our Hughes segment is a global provider of broadband satellite technologies and broadband services for home and small office customers. We deliver network technologies, managed services, equipment, and communications solutions for domestic and international consumers and enterprise and government customers. In addition, our Hughes segment provides and installs gateway and terminal equipment and provides satellite ground segment systems and terminals for other satellite systems, including mobile system operators.

We continue to focus our efforts on growing our Hughes segment consumer revenue by maximizing utilization of our existing satellites while planning for new satellites to be launched. Our consumer revenue growth depends on our success in adding new subscribers and driving higher average revenue per subscriber across our wholesale and retail channels.

Our Hughes segment currently uses three satellites, the SPACEWAY 3 satellite, the EchoStar XVII satellite, and the EchoStar XIX satellite, and additional satellite capacity acquired from multiple third-party providers, to provide satellite broadband internet access and communications services to our customers. In December 2016, we launched our EchoStar XIX satellite, a next-generation, high throughput geostationary satellite, which will provide significant capacity for continued subscriber growth. The EchoStar XIX satellite employs a multi-spot beam, bent pipe Ka-band architecture and will provide additional capacity for the Hughes broadband services to our customers in North America and added capacity in Mexico and certain Latin American countries and is expected to add capability for aeronautical, enterprise and international broadband services. We expect to launch service in Colombia in the second half of 2017 followed by service in other countries. Capital expenditures associated with the construction and launch of the EchoStar XIX satellite are included in "Corporate and Other" in our segment reporting.

In March 2017, our wholly-owned subsidiary, Hughes Network Systems, L.L.C. and DISH Network L.L.C. ("DNLLC"), a wholly-owned subsidiary of DISH, entered into a master service agreement (the "MSA") pursuant to which DNLLC, among other things: (i) has the right, but not the obligation, to market, promote and solicit orders for the Hughes satellite internet service and related equipment and (ii) will install Hughes service equipment with respect to activations generated by DNLLC. As a result of the MSA we do not expect to earn significant equipment revenue from our Distribution Agreement with dishNET Satellite Broadband L.L.C. ("dishNET") in the future and we expect our sales acquisition costs to increase in future periods.

In addition to our broadband consumer service offerings, our Hughes segment also provides network technologies, managed services, hardware, equipment and satellite services to large enterprise and government customers globally. Examples of such customers include lottery agencies, gas station operators and companies with multi-branch networks that rely on satellite or terrestrial networks for critical communication across wide geographies. Most of our enterprise customers have contracts with us for the services they purchase.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Developments toward the launch of next-generation satellite systems including low-earth orbit ("LEO") and geostationary systems could provide additional opportunities to drive the demand for our network equipment and services. The growth of our enterprise and equipment businesses relies heavily on global economic conditions and the competitive landscape for pricing relative to competitors and alternative technologies.

We continue our efforts to grow our consumer satellite services business outside of the U.S. In April 2014, we entered into a satellite services agreement pursuant to which Eutelsat do Brasil provides us Ka-band capacity into Brazil on the EUTELSAT 65 West A satellite for a 15-year term. That satellite was launched in March 2016 and we began delivering high-speed consumer satellite broadband services in Brazil in July 2016. In September 2015, we entered into satellite services agreements pursuant to which affiliates of Telesat Canada ("Telesat") will provide to us the Ka-band capacity on a satellite to be located at the 63 degree west longitude orbital location for a 15-year term. We expect the satellite to be launched in the second quarter of 2018 and plan to provide service in additional markets across South America once that capacity is available for commercial use.

As of March 31, 2017 and December 31, 2016, our Hughes segment had approximately 1,043,000 and 1,036,000 broadband subscribers, respectively. These broadband subscribers include customers that subscribe to our HughesNet broadband services through retail, wholesale and small/medium enterprise service channels. Gross subscriber additions decreased by approximately 3,100 in the first quarter of 2017 compared to the fourth quarter of 2016 primarily due to a decrease in new subscribers in our North American retail and wholesale channels resulting from capacity constraints. The decrease was partially offset by an increase in additions in our Brazil market. Our average monthly subscriber churn percentage for the first quarter of 2017 increased compared to the fourth quarter of 2016. As a result of lower gross subscriber additions and higher churn, net subscriber additions were approximately 7,000 for the quarter ended March 31, 2017 compared to approximately 17,000 for the fourth quarter of 2016. Subscriber additions and churn include only subscribers through our retail and wholesale channels.

As of March 31, 2017 and December 31, 2016, our Hughes segment had approximately \$1.56 billion and \$1.52 billion, respectively, of contracted revenue backlog. We define Hughes contracted revenue backlog as our expected future revenue under customer contracts that are non-cancelable, excluding agreements with customers in our consumer market.

EchoStar Satellite Services Segment

Our ESS segment is a global provider of satellite service operations and video delivery solutions. We operate our business using our owned and leased in-orbit satellites. We provide satellite services on a full-time and occasional-use basis primarily to DISH Network Corporation and its subsidiaries ("DISH Network"), Dish Mexico, S. de R.L. de C.V., a joint venture we entered into in 2008 ("Dish Mexico"), United States ("U.S.") government service providers, internet service providers, broadcast news organizations, programmers, and private enterprise customers. We also manage satellite operations for certain satellites owned by DISH Network.

We depend on DISH Network for a significant portion of the revenue for our ESS segment, and we expect that DISH Network will continue to be the primary source of revenue for our ESS segment. Therefore, the results of operations of our ESS segment are linked to changes in DISH Network's satellite capacity requirements. DISH Network's capacity requirements have been driven by the addition of new channels and migration of programming to high-definition TV and video on demand services. The services that we provide to DISH Network are critical to its nationwide delivery of content to its customers across the U.S. While we expect to continue to provide satellite services to DISH Network, its satellite capacity requirements may change for a variety of reasons, including its ability to construct and launch its own satellites. Any termination or reduction in the services we provide to DISH Network may cause us to have unused capacity on our satellites and require that we aggressively pursue alternative sources of revenue for this business.

In August 2014, we entered into: (i) a construction contract with Airbus Defence and Space SAS for the construction of the EchoStar 105/SES-11 satellite with C-band, Ku-band and Ka-band payloads; (ii) an agreement with SES Satellite Leasing Limited for the procurement of the related launch services; and (iii) an agreement with SES Americom Inc. ("SES") pursuant to which we will transfer the title to the C-band and Ka-band payloads to SES Satellite Leasing Limited at launch and transfer the title to the Ku-band payload to SES following in-orbit testing of the satellite. Simultaneously, SES will provide to us satellite service on the entire Ku-band payload on the EchoStar 105/SES-11 satellite for an initial ten-year term, with an option for us to renew the agreement on a year-to-year basis. Due to anomalies experienced by our launch provider, the expected launch date of the EchoStar 105/SES-11 satellite has been delayed. We currently expect to launch the EchoStar 105/SES-11 satellite in the third quarter of 2017. Our Ku-band payload on the EchoStar 105/SES-11 satellite will replace and augment our current

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

capacity on the AMC-15 satellite. As a result of this launch delay, we have incurred and expect to incur additional costs related to the lease of the AMC-15 satellite.

Revenue growth in our ESS segment depends largely on our ability to continuously make additional satellite capacity available for sale. Once the EchoStar 105/SES-11 satellite is launched and placed into operation, we expect periodic revenue from the satellite to exceed the amount currently generated by the AMC-15 satellite. As a result of the launch delay, we expect a delay in revenue generated from the EchoStar 105/SES-11 satellite.

We continue to pursue expanding our business offerings by providing value added services such as telemetry, tracking, and control services to third parties, which leverages the ground monitoring networks and personnel currently within our ESS segment.

As of March 31, 2017 and December 31, 2016, our ESS segment had contracted revenue backlog attributable to satellites currently in orbit of approximately \$1.07 billion and \$1.16 billion, respectively.

New Business Opportunities

Our industry is evolving with the increase in worldwide demand for broadband internet access for information, entertainment and commerce. In addition to fiber and wireless systems, other technologies such as geostationary high throughput satellites, LEO networks, balloons, and High Altitude Platform Systems have begun to play significant roles in enabling global broadband access, networks and services. We intend to use our expertise, technologies, capital, investments, global presence, relationships and other capabilities to continue to provide broadband internet systems, equipment, networks and services for information, entertainment and commerce in North America and internationally for consumers, enterprises and governments.

We continue to selectively explore opportunities to pursue partnerships, joint ventures and strategic acquisitions, domestically and internationally, that we believe may allow us to increase our existing market share, expand into new markets and new customers, broaden our portfolio of services, products and intellectual property, and strengthen our relationships with our customers. We may allocate significant resources for long-term initiatives that may not have a short or medium-term or any positive impact on our revenue, results of operations, or cash flow.

In 2012, we acquired the right to use various frequencies at the 45 degree west longitude orbital location ("Brazilian Authorization") from ANATEL, the Brazilian communications regulatory agency. The Brazilian Authorization provides us the rights to utilize Ku-band spectrum, Ka-band spectrum and S-band spectrum. We are exploring options for the Ka-band and S-band spectrums. In April 2014, we entered into an agreement with Space Systems Loral, LLC ("SSL") for the construction of the EchoStar XXIII satellite, a high powered broadcast satellite service ("BSS") satellite. The EchoStar XXIII satellite was launched in March 2017 and placed into service at the 45 degree west longitude orbital location in the second quarter of 2017. We have regulatory obligations to meet certain in-service milestones by the second quarter of 2017 for our Brazilian license at 45 degree west longitude orbital location for the Ka-, Ku- and S-band frequency bands. We have met our regulatory milestone for the Ku-band. We have sought an extension of the S- and Ka-band milestones, which may or may not be granted, and, if granted, may be subject to additional conditions, penalties or other requirements.

In December 2013, we acquired 100% of Solaris Mobile, which is based in Dublin, Ireland and licensed by the European Union and its member states ("EU") to provide mobile satellite services ("MSS") and complementary ground component ("CGC") services covering the entire EU using S-band spectrum. Solaris Mobile changed its name to EchoStar Mobile Limited ("EchoStar Mobile") in the first quarter of 2015. We are in the process of developing commercial services utilizing the operable payload we own on the EUTELSAT 10A satellite, along with our EchoStar XXI S-band satellite. The EchoStar XXI satellite will provide space segment capacity to EchoStar Mobile. We believe we are in a unique position to deploy a European wide MSS/CGC network and maximize the long-term value of our S-band spectrum in Europe and other regions within the scope of our licenses. Due to anomalies experienced by our launch provider, the expected launch of our EchoStar XXI satellite was delayed and we currently expect to launch the EchoStar XXI satellite in the second quarter of 2017. We had regulatory obligations to meet certain milestones by the fourth quarter of 2016 regarding the operations of the EchoStar XXI satellite across the EU. We have notified the regulators in the EU of our delay and we intend to seek extensions of certain of these requirements to the extent we determine necessary. Although we anticipate being able to receive them, any such necessary extensions may be subject to additional conditions, penalties or other requirements.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

We are tracking closely the developments in next-generation satellite businesses, and we are seeking to utilize our services, technologies and expertise to find new commercial opportunities for our business. In June 2015, we made an equity investment in WorldVu Satellites Limited ("OneWeb"), a global LEO satellite service company. In addition, our Hughes segment entered into an agreement with OneWeb to provide certain equipment and services in connection with the ground systems for OneWeb's LEO satellites.

Capital expenditures associated with the construction and launch of the EchoStar XXIII and EchoStar XXI satellites are included in "Corporate and Other" in our segment reporting.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued
RESULTS OF OPERATIONS
Three Months Ended March 31, 2017 Compared to the Three Months Ended March 31, 2016

Statements of Operations Data (1)	For the Three Months Ended March 31,		Variance	
	2017	2016	Amount	%
(Dollars in thousands)				
Revenue:				
Services and other revenue - DISH Network	\$ 114,955	\$ 116,449	\$ (1,494)	(1.3)
Services and other revenue - other	269,791	269,897	(106)	—
Equipment revenue - DISH Network	31	2,769	(2,738)	(98.9)
Equipment revenue - other	48,374	42,859	5,515	12.9
Total revenue	433,151	431,974	1,177	0.3
Costs and Expenses:				
Cost of sales - services and other	131,783	125,582	6,201	4.9
% of Total services and other revenue	34.3%	32.5%		
Cost of sales - equipment	43,938	43,108	830	1.9
% of Total equipment revenue	90.8%	94.5%		
Selling, general and administrative expenses	82,991	80,545	2,446	3.0
% of Total revenue	19.2%	18.6%		
Research and development expenses	7,705	6,932	773	11.2
% of Total revenue	1.8%	1.6%		
Depreciation and amortization	115,083	110,077	5,006	4.5
Total costs and expenses	381,500	366,244	15,256	4.2
Operating income	51,651	65,730	(14,079)	(21.4)
Other Income (Expense):				
Interest income	8,291	3,965	4,326	*
Interest expense, net of amounts capitalized	(45,396)	(23,171)	(22,225)	95.9
Gains and impairment on investments, net	8,737	2,462	6,275	*
Equity in earnings (losses) of unconsolidated affiliates, net	6,408	(808)	7,216	*
Other, net	1,072	7,379	(6,307)	(85.5)
Total other expense, net	(20,888)	(10,173)	(10,715)	*
Income from continuing operations before income taxes	30,763	55,557	(24,794)	(44.6)
Income tax benefit (provision)	12	(20,172)	20,184	*
Net income from continuing operations	30,775	35,385	(4,610)	(13.0)
Net income from discontinued operations	6,577	13,058	(6,481)	(49.6)
Net income	37,352	48,443	(11,091)	(22.9)
Less: Net loss attributable to noncontrolling interest in HSS Tracking Stock	(655)	(823)	168	(20.4)
Less: Net income attributable to other noncontrolling interests	292	111	181	*
Net income attributable to EchoStar	\$ 37,715	\$ 49,155	\$ (11,440)	(23.3)
Other Data:				
EBITDA (2)	\$ 183,314	\$ 185,552	\$ (2,238)	(1.2)
Subscribers, end of period	1,043,000	1,038,000	5,000	0.5

* Percentage is not meaningful.

(1) An explanation of our key metrics is included on pages 52 and 53 under the heading "Explanation of Key Metrics and Other Items."

(2) A reconciliation of EBITDA to "Net income," the most directly comparable GAAP measure in the accompanying financial statements, is included on page 47. For further information on our use of EBITDA see "Explanation of Key Metrics and Other Items" on page 53.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Services and other revenue - DISH Network . “ Services and other revenue - DISH Network ” totaled \$115.0 million for the three months ended March 31, 2017 , a decrease of \$1.5 million or 1.3% , compared to the same period in 2016 primarily from our Hughes segment. The decrease was primarily attributable to a decrease in wholesale subscribers, partially offset by an increase in the average revenue per subscriber as a result of an increase in wholesale subscribers receiving higher end service plans.

Services and other revenue - other . “ Services and other revenue - other ” totaled \$269.8 million for the three months ended March 31, 2017 , a decrease of \$0.1 million , compared to the same period in 2016 .

Services and other revenue - other from our Hughes segment for the three months ended March 31, 2017 increased by \$2.3 million, or 0.9%, to \$257.6 million compared to the same period in 2016 . The increase was primarily attributable to an increase in sales of broadband services of \$6.7 million to our domestic and international consumers, \$1.1 million to our domestic enterprise customers and \$0.9 million to our telecom systems customers, partially offset by a decrease in sales of broadband services of \$6.6 million to our other international markets.

Services and other revenue - other from our ESS segment for the three months ended March 31, 2017 decreased by \$2.5 million, or 15.8%, to \$13.1 million compared to the same period in 2016 . The decrease was primarily attributable to a decrease in sales of transponder services due to expired service contracts and a decrease in the number of transponders available for use in providing service.

Equipment revenue - DISH Network . “ Equipment revenue - DISH Network ” totaled \$31.0 thousand for the three months ended March 31, 2017 , a decrease of \$2.7 million or 98.9% , compared to the same period in 2016 primarily from our Hughes segment. The decrease in revenue was primarily due to the decrease in unit sales of broadband equipment to dishNET.

Equipment revenue - other . “ Equipment revenue - other ” totaled \$48.4 million for the three months ended March 31, 2017 , an increase of \$5.5 million or 12.9% , compared to the same period in 2016 primarily from our Hughes segment. The increase was mainly due to an increase of \$9.3 million in sales of broadband equipment to our domestic enterprise customers, partially offset by a decrease of \$3.6 million in revenue from our telecom systems customers.

Cost of sales - services and other . “ Cost of sales - services and other ” totaled \$131.8 million for the three months ended March 31, 2017 , an increase of \$6.2 million or 4.9% , compared to the same period in 2016 .

Cost of sales - services and other from our Hughes segment for the three months ended March 31, 2017 increased by \$6.7 million, or 6.2%, to \$115.0 million compared to the same period in 2016 . The increase was primarily attributable to an increase in the costs of broadband service provided to our international customers of \$3.2 million primarily due to the launch of consumer satellite broadband services in Brazil in July 2016 and an increase of \$2.3 million in costs of our broadband services related to the increase in sales of broadband services to our domestic consumer and enterprise customers.

Cost of sales - services and other from our ESS segment for the three months ended March 31, 2017 decreased by \$0.5 million, or 3.1%, to \$15.9 million compared to the same period in 2016 . The decrease was primarily due to a decrease in cost of sales of transponder services as a result of a decrease in the number of leased transponders available for use in providing service.

Cost of sales - equipment . “ Cost of sales - equipment ” totaled \$43.9 million for the three months ended March 31, 2017 , an increase of \$0.8 million or 1.9% , compared to the same period in 2016 primarily from our Hughes segment. The increase was primarily attributable to an increase of \$3.6 million in equipment costs related to the increase in sales volume of broadband equipment to our domestic enterprise customers and an increase of \$1.8 million in equipment costs to our international customers, partially offset by a decrease of \$2.3 million in equipment costs related to our telecom systems customers and a decrease of \$2.1 million related to the decrease in the volume of unit sales of broadband equipment to dishNET.

Selling, general and administrative expenses . “ Selling, general and administrative expenses ” totaled \$83.0 million for the three months ended March 31, 2017 , an increase of \$2.4 million or 3.0% , compared to the same period in 2016 . The increase was primarily related to an increase in professional fees of \$2.0 million and an increase of \$1.3 million in marketing and promotional costs in our Hughes segment, partially offset by other general and administrative expenses.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Research and development expenses. “ Research and development expenses ” totaled \$7.7 million for the three months ended March 31, 2017 , an increase of \$0.8 million or 11.2% , compared to the same period in 2016 . The increase was primarily related to an increase in research and development expense in our Hughes segment. Our research and development activities vary based on the activity level and scope of other engineering and customer related development contracts.

Depreciation and amortization. “ Depreciation and amortization ” expenses totaled \$115.1 million for the three months ended March 31, 2017 , an increase of \$5.0 million or 4.5% , compared to the same period in 2016 . The increase was primarily related to an increase in depreciation expense of the EUTELSAT 65 West A and the EchoStar XIX satellites in our Hughes segment that were placed into service in the second quarter of 2016 and first quarter of 2017, respectively, and an increase in depreciation expense relating to an increase in expenditures for machinery and equipment in 2017 , partially offset by a decrease in amortization expense from certain of our fully amortized other intangible assets in our Corporate and Other .

Interest income. “ Interest income ” totaled \$8.3 million for the three months ended March 31, 2017 , an increase of \$4.3 million compared to the same period in 2016 . The increase was primarily attributable to the increase in our short term investments from proceeds from the issuance of long-term debt in the third quarter of 2016 .

Interest expense, net of amounts capitalized. “ Interest expense, net of amounts capitalized ” totaled \$45.4 million for the three months ended March 31, 2017 , an increase of \$22.2 million or 95.9% , compared to the same period in 2016 . The increase was primarily due to the issuance of 5.250% Senior Secured Notes due August 1, 2026 (the “2026 Senior Secured Notes”) and 6.625% Senior Unsecured Notes due August 1, 2026 (the “2026 Senior Unsecured Notes”) and together with 2026 Senior Secured Notes, the “2026 Notes”) in the third quarter of 2016.

Gains and impairment on investments, net. “ Gains and impairment on investments, net ” totaled \$8.7 million in gains for the three months ended March 31, 2017 , an increase of \$6.3 million compared to the same period in 2016 . The increase was primarily due to a gain of \$8.9 million from the sale of our investment in Invidi Technologies Corporation to an entity owned in part by DISH Network in the first quarter of 2017 , partially offset by an other than temporary impairment loss of \$3.3 million on certain strategic equity securities in our marketable investment securities in 2017 .

Equity in earnings (losses) of unconsolidated affiliates, net. “ Equity in earnings (losses) of unconsolidated affiliates, net ” totaled \$6.4 million in earnings for the three months ended March 31, 2017 compared to \$0.8 million in losses for the three months ended March 31, 2016 . The change of \$7.2 million was primarily related to an increase in earnings from our investment in Dish Mexico.

Other, net. “ Other, net ” totaled \$1.1 million in income for the three months ended March 31, 2017 , a decrease of \$6.3 million or 85.5% , compared to the same period in 2016 . The decrease was primarily related to \$6.8 million for a provision recorded in the first half of 2015 in connection with Federal Communications Commission (“FCC”) regulatory fees, which was reversed in the first quarter of 2016, partially offset by a favorable foreign exchange impact of \$0.3 million in 2017 and a decrease in loss of \$0.1 million in a protective put associated with our trading securities in 2017 .

Income tax benefit (provision). Income tax benefit was \$12.0 thousand for the three months ended March 31, 2017 compared to an income tax expense of \$20.2 million for the three months ended March 31, 2016. Our effective income tax rate was zero and 36.3% for the three months ended March 31, 2017 and 2016, respectively. The variations in our current year effective tax rate from the U.S. federal statutory rate for the three months ended March 31, 2017 were primarily due to the recognition of a one-time tax benefit for the revaluation of our deferred tax assets and liabilities due to a change in our state effective tax rate as a result of the Share Exchange Agreement. The tax benefit recognized from the change in our effective tax rate was partially offset by the increase in our valuation allowance associated with certain state and foreign losses. The variations in our effective tax rate from the U.S. federal statutory rate for the three months ended March 31, 2016 were primarily due to the impact of state and local taxes, partially offset by research and experimentation credits.

Net income attributable to EchoStar. “ Net income attributable to EchoStar ” was \$37.7 million for the three months ended March 31, 2017 , a decrease of \$11.4 million or 23.3% , compared to the same period in 2016 . The decrease was primarily due to (i) an increase of \$22.3 million in interest expense related to the issuance of the 2026 Notes in the third quarter of 2016 , (ii) a decrease in operating income of \$14.1 million , (iii) \$6.8 million for a provision recorded in the first half of 2015 in connection with FCC regulatory fees, which was reversed in the first quarter of 2016 and (iv) a decrease of \$6.5 million in income from discontinued operations. The decrease was partially offset by (i) a decrease in income tax expense of \$20.2 million , (ii) an increase of \$7.2 million in equity in earnings of unconsolidated affiliates, net, (iii) an increase of \$6.3 million in gains on

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

investments, net of losses and impairments, and (iv) an increase of \$4.3 million in interest income primarily attributable to the increase in our short term investments from proceeds from the issuance of long-term debt in the third quarter of 2016 .

Earnings before interest, taxes, depreciation and amortization ("EBITDA") . EBITDA was \$183.3 million for the three months ended March 31, 2017 , a decrease of \$2.2 million or 1.2% , compared to the same period in 2016 . The decrease was primarily due to (i) \$6.8 million for a provision recorded in the first half of 2015 in connection with FCC regulatory fees, which was reversed in the first quarter of 2016 and (ii) a decrease in operating income, excluding depreciation and amortization, of \$9.1 million . The decrease was partially offset by (i) an increase of \$7.2 million in equity in earnings of unconsolidated affiliates, net, and (ii) an increase of \$6.3 million in gains on investments, net of losses and impairments. EBITDA is a non-GAAP financial measure and is described under Explanation of Key Metrics and Other Items below. The following table reconciles EBITDA to Net income, the most directly comparable GAAP measure in the accompanying financial statements.

	For the Three Months Ended March 31,		Variance	
	2017	2016	Amount	%
	(Dollars in thousands)			
Net income	\$ 37,352	\$ 48,443	\$ (11,091)	(22.9)
Interest income and expense, net	37,105	19,206	17,899	93.2
Income tax (benefit) provision	(12)	20,172	(20,184)	*
Depreciation and amortization	115,083	110,077	5,006	4.5
Net income from discontinued operations	(6,577)	(13,058)	6,481	(49.6)
Net loss attributable to noncontrolling interest in HSS Tracking Stock and other noncontrolling interests	363	712	(349)	(49.0)
EBITDA	<u>\$ 183,314</u>	<u>\$ 185,552</u>	<u>\$ (2,238)</u>	(1.2)

* Percentage is not meaningful.

Segment Operating Results and Capital Expenditures
Three Months Ended March 31, 2017 Compared to the Three Months Ended March 31, 2016

	Hughes	EchoStar Satellite Services	Corporate and Other	Consolidated Total
	(In thousands)			
For the Three Months Ended March 31, 2017				
Total revenue	\$ 329,320	\$ 100,326	\$ 3,505	\$ 433,151
Capital expenditures	\$ 65,667	\$ 8,508	\$ 15,775	\$ 89,950
EBITDA	\$ 100,852	\$ 83,063	\$ (601)	\$ 183,314
For the Three Months Ended March 31, 2016				
Total revenue	\$ 326,238	\$ 102,989	\$ 2,747	\$ 431,974
Capital expenditures	\$ 104,237	\$ 24,720	\$ 76,838	\$ 205,795
EBITDA	\$ 110,356	\$ 88,640	\$ (13,444)	\$ 185,552

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**Hughes Segment**

	For the Three Months Ended March 31,		Variance	
	2017	2016	Amount	%
	(Dollars in thousands)			
Total revenue	\$ 329,320	\$ 326,238	\$ 3,082	0.9
Capital expenditures	\$ 65,667	\$ 104,237	\$ (38,570)	(37.0)
EBITDA	\$ 100,852	\$ 110,356	\$ (9,504)	(8.6)

Revenue

Hughes segment total revenue for the three months ended March 31, 2017 increased by \$3.1 million , or 0.9% , compared to the same period in 2016 . The increase was primarily due to an increase of \$9.3 million in revenue related to sales of broadband equipment to our domestic enterprise customers and an increase of \$6.7 million in revenue related to sales of broadband services to our domestic and international consumers. These increases were partially offset by a decrease in sales of broadband services of \$6.6 million to our other international markets, a decrease in revenue of broadband equipment to our telecom systems customers of \$3.6 million and a decrease in the unit sales of broadband equipment to dishNET of \$2.7 million.

Capital Expenditures

Hughes segment capital expenditures for the three months ended March 31, 2017 decreased by \$38.6 million , or 37.0% , compared to the same period in 2016 , primarily as a result of a decrease in expenditures on the satellites and related ground infrastructures.

EBITDA

Hughes segment EBITDA for the three months ended March 31, 2017 was \$100.9 million , decreased by \$9.5 million , or 8.6% , compared to the same period in 2016 . The decrease was primarily attributable to a decrease of \$4.6 million in gross margin, an other than temporary impairment loss of \$3.3 million on certain strategic equity securities in our marketable investment securities in 2017 and an increase of \$1.1 million in selling, general and administrative expenses.

EchoStar Satellite Services Segment

	For the Three Months Ended March 31,		Variance	
	2017	2016	Amount	%
	(Dollars in thousands)			
Total revenue	\$ 100,326	\$ 102,989	\$ (2,663)	(2.6)
Capital expenditures	\$ 8,508	\$ 24,720	\$ (16,212)	(65.6)
EBITDA	\$ 83,063	\$ 88,640	\$ (5,577)	(6.3)

Revenue

ESS segment total revenue for the three months ended March 31, 2017 decreased by \$2.7 million , or 2.6% , compared to the same period in 2016 , primarily attributable to a decrease in sales of transponder services due to expired service contracts and a decrease in the number of transponders available for use in providing service .

Capital Expenditures

ESS segment capital expenditures for the three months ended March 31, 2017 decreased by \$16.2 million , or 65.6% , compared to the same period in 2016 , primarily related to a decrease in expenditures on the EchoStar 105/SES-11 satellite.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued*EBITDA*

ESS segment EBITDA for the three months ended March 31, 2017 was \$83.1 million, a decrease of \$5.6 million, or 6.3%, compared to the same period in 2016. The decrease in EBITDA for our ESS segment was primarily due to a decrease of \$3.8 million due to a provision recorded in the first half of 2015 in connection with FCC regulatory fees, which was reversed in the first quarter of 2016 and a decrease of \$2.2 million in gross margin.

Corporate and Other

Corporate and Other is comprised of various corporate departments (primarily Executive, Strategic Development, Human Resources, IT, Finance, Real Estate, and Legal) as well as other activities that have not been assigned to our operating segments, including costs incurred in certain satellite development programs and other business development activities, our centralized treasury activities and gains (losses) from certain of our investments.

	For the Three Months Ended March 31,		Variance	
	2017	2016	Amount	%
	(Dollars in thousands)			
Total revenue	\$ 3,505	\$ 2,747	\$ 758	27.6
Capital expenditures	\$ 15,775	\$ 76,838	\$ (61,063)	(79.5)
EBITDA	\$ (601)	\$ (13,444)	\$ 12,843	(95.5)

Capital Expenditures

For the three months ended March 31, 2017, Corporate and Other capital expenditures decreased by \$61.1 million, or 79.5%, compared to the same period in 2016, primarily related to a decrease in satellite expenditures of \$30.7 million on the EchoStar XIX satellite, a decrease in satellite expenditures of \$24.4 million on the EchoStar XXI satellite and a decrease in satellite expenditures of \$4.9 million on the EchoStar XXIII satellite. The EchoStar XIX satellite will be used to provide additional capacity for the Hughes broadband services in North America and certain Latin American countries and was contributed to the Hughes segment in the first quarter of 2017. The EchoStar XXI satellite is intended to be used by EchoStar Mobile in providing mobile satellite services in the European Union and the EchoStar XXIII satellite was deployed at the 45 degree west longitude orbital location in the second quarter of 2017.

EBITDA

For the three months ended March 31, 2017, Corporate and Other EBITDA was a loss of \$0.6 million, a decrease in loss of \$12.8 million, or 95.5%, compared to the same period in 2016. The decrease in loss was primarily related to a gain of \$8.9 million from the sale of our investment in Invidi Technologies Corporation to an entity owned in part by DISH Network in the first quarter of 2017 and an increase of \$7.2 million in equity in earnings of unconsolidated affiliates, net, partially offset by a \$3.0 million attributable to a provision recorded in the first half of 2015 in connection with FCC regulatory fees, which was reversed in the first quarter of 2016.

LIQUIDITY AND CAPITAL RESOURCES**Cash, Cash Equivalents and Current Marketable Investment Securities**

We consider all liquid investments purchased with an original maturity of 90 days or less to be cash equivalents. See "Quantitative and Qualitative Disclosures about Market Risk" for further discussion regarding our marketable investment securities. As of March 31, 2017 and December 31, 2016, our cash, cash equivalents and current marketable investment securities totaled \$3.18 billion and \$3.09 billion, respectively.

As of March 31, 2017 and December 31, 2016, we held \$383.0 million and \$522.5 million, respectively, of marketable investment securities, consisting of various debt and equity instruments including corporate bonds, corporate equity securities, government bonds and mutual funds.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

The following discussion highlights our cash flow activities for the three months ended March 31, 2017 .

Cash flows from operating activities . We typically reinvest the cash flow from operating activities in our business. For the three months ended March 31, 2017 , we reported net cash inflows from operating activities of \$141.4 million , a decrease in cash inflows of \$51.5 million , compared to the same period in 2016 . The decrease in cash inflows was primarily attributable to lower net income of \$46.4 million adjusted to exclude: (i) " Depreciation and amortization ;" (ii) " Equity in losses (earnings) of unconsolidated affiliates, net ;" (iii) " Gain and impairment on investments, net ;" (iv) " Stock-based compensation ;" (v) " Deferred tax provision ;" (vi) "Other, net;" (vii) " Dividends received from unconsolidated entity ;" and (viii) a decrease of \$5.1 million resulting from changes in operating assets and liabilities related to timing differences

Cash flows from investing activities . Our investing activities generally include purchases and sales of marketable investment securities, capital expenditures, acquisitions and strategic investments. For the three months ended March 31, 2017 , we reported net cash inflows from investing activities of \$68.5 million compared to net cash outflows from investing activities of \$214.3 million for the three months ended March 31, 2016 . The decrease of \$282.8 million in cash outflows was primarily related to a decrease of \$157.4 million in purchases of marketable investment securities, net of sales and maturities, and a decrease of \$108.7 million in capital expenditures, net of related refunds, in 2017 when compared to the same period in 2016 and cash proceeds of \$17.8 million from the sale of our investment in Invidi Technologies Corporation to an entity owned in part by DISH Network in the first quarter of 2017 .

Cash flows from financing activities . Our financing activities generally include proceeds related to the issuance of debt and cash used for the repurchase, redemption or payment of debt and capital lease obligations and the proceeds from Class A common stock options exercised and stock issued under our stock incentive plans and employee stock purchase plan. For the three months ended March 31, 2017 , we reported net cash inflows from financing activities of \$17.9 million , an increase in cash inflows of \$22.4 million , compared to the same period in 2016 . The increase in cash inflows was primarily due to an increase of \$24.0 million in net proceeds from Class A common stock options exercised issued under our stock incentive plans, partially offset by a decrease of \$1.6 million in net proceeds from Class A common stock issued under our employee stock purchase plan.

Obligations and Future Capital Requirements

Contractual Obligations

As of March 31, 2017 , our satellite-related obligations were approximately \$705.3 million . Our satellite-related obligations primarily include payments pursuant to agreements for the construction of the EchoStar XXI and EchoStar 105/SES-11 satellites; payments pursuant to launch services contracts and regulatory authorizations; executory costs for our capital lease satellites; costs under satellite service agreements; and in-orbit incentives relating to certain satellites; as well as commitments for long-term satellite operating leases and satellite service arrangements.

Off-Balance Sheet Arrangements

Other than the transactions described below, we generally do not engage in off-balance sheet financing activities or use derivative financial instruments for hedge accounting or speculative purposes.

As of March 31, 2017 , we had \$29.1 million of letters of credit and insurance bonds. Of this amount, \$7.8 million was secured by restricted cash, \$1.2 million was related to insurance bonds, and \$20.1 million was issued under credit arrangements available to our foreign subsidiaries. Certain letters of credit are secured by assets of our foreign subsidiaries.

As of March 31, 2017 , we had foreign currency forward contracts with a notional value of \$2.3 million in place to partially mitigate foreign currency exchange risk . From time to time, we may enter into foreign currency forward contracts, or take other measures, to mitigate risks associated with foreign currency denominated assets, liabilities, commitments and anticipated foreign currency transactions .

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Satellite Insurance

We historically have not carried in-orbit insurance on our satellites because we assessed that the cost of insurance was uneconomical relative to the risk of failures. Therefore, we generally bear the risk of any in-orbit failures. Pursuant to the terms of the agreements governing certain portions of our indebtedness, we are required, subject to certain limitations on coverage, to maintain in-orbit insurance for our SPACEWAY 3, EchoStar XVI, and EchoStar XVII satellites. Based on economic analysis of the current insurance market we obtained launch plus one year in-orbit insurance for the EchoStar XIX and EchoStar XXIII satellites and intend to obtain such insurance for the EchoStar XXI satellite and our interest in the EchoStar 105/SES-11 satellite. All other satellites, either in orbit or under construction, are not covered by launch or in-orbit insurance. We will continue to assess circumstances going forward and make insurance decisions on a case by case basis.

Future Capital Requirements

We primarily rely on our existing cash and marketable investment securities balances, as well as cash flow generated through our operations to fund our business. We currently depend on DISH Network for a significant portion of our revenue. The loss of, or a significant reduction in, orders from, or a decrease in selling prices of broadband equipment and services and/or provision of satellite services would significantly reduce our revenue and materially adversely impact our results of operations.

There can be no assurance that we will have positive cash flows from operations. Furthermore, if we experience negative cash flows, our existing cash and marketable investment securities balances may be reduced.

We have a significant amount of outstanding indebtedness. As of March 31, 2017, our total indebtedness was \$3.66 billion, of which \$296.7 million related to capital lease obligations. See our most recent Form 10-K for a discussion of the terms of our indebtedness. Our liquidity requirements will be significant, primarily due to our debt service requirements. In addition, our future capital expenditures are likely to increase if we make acquisitions or additional investments in infrastructure or joint ventures necessary to support and expand our business, or if we decide to purchase or build one or more additional satellites. Furthermore, we expect to become a federal cash taxpayer in 2017 which will require additional liquidity. Other aspects of our business operations may also require additional capital. We periodically evaluate various strategic initiatives, the pursuit of which could also require us to invest or raise significant additional capital, which may not be available on acceptable terms or at all.

We anticipate that our existing cash and marketable investment securities are sufficient to fund the currently anticipated operations of our business through the next twelve months.

Satellites

As our satellite fleet ages, we will be required to evaluate replacement alternatives such as acquiring, leasing or constructing additional satellites, with or without customer commitments for capacity. We may also construct or lease additional satellites in the future to provide satellite services at additional orbital locations or to improve the quality of our satellite services.

Stock Repurchases

Pursuant to a stock repurchase program approved by our board of directors, we are authorized to repurchase up to \$500.0 million of our outstanding shares of Class A common stock through December 31, 2017. As of March 31, 2017, we have not repurchased any common stock under this program.

Seasonality

For our Hughes segment, service revenue is generally not impacted by seasonal fluctuations other than those associated with fluctuations related to sales and promotional activities. However, like many communications infrastructure equipment vendors, a higher amount of our hardware revenue occurs in the second half of the year due to our customers' annual procurement and budget cycles. Large enterprises and operators often allocate their capital expenditure budgets at the beginning of their fiscal year (which often coincides with the calendar year). The typical sales cycle for large complex system procurements is six to 12 months, which often results in the customer expenditure occurring towards the end of the year. Customers often seek to expend the budgeted funds prior to the end of the year and the next budget cycle.

Our ESS segment is not generally affected by seasonal impacts.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Inflation

Inflation has not materially affected our operations during the past three years. We believe that our ability to increase the prices charged for our products and services in future periods will depend primarily on competitive pressures or contractual terms.

EXPLANATION OF KEY METRICS AND OTHER ITEMS

Services and other revenue - DISH Network . “ Services and other revenue - DISH Network ” primarily includes revenue associated with satellite and transponder services, satellite uplinking/downlinking, signal processing, conditional access management, telemetry, tracking and control, professional services, facilities rental revenue and other services provided to DISH Network. “ Services and other revenue - DISH Network ” also includes subscriber wholesale service fees for the Hughes service sold to dishNET.

Services and other revenue - other . “ Services and other revenue - other ” primarily includes the sales of enterprise and consumer broadband services, as well as maintenance and other contracted services. “ Services and other revenue - other ” also includes revenue associated with satellite and transponder services, satellite uplinking/downlinking and other services provided to customers other than DISH Network.

Equipment revenue - DISH Network . “ Equipment revenue - DISH Network ” primarily includes sales of satellite broadband equipment and related equipment, related to the Hughes service, to DISH Network.

Equipment revenue - other . “ Equipment revenue - other ” primarily includes broadband equipment and networks sold to customers in our enterprise and consumer markets.

Cost of sales - services and other . “ Cost of sales - services and other ” primarily includes the cost of broadband services provided to our enterprise and consumer customers, and to DISH Network, as well as the cost of providing maintenance and other contracted services. “ Cost of sales - services and other ” also includes the costs associated with satellite and transponder services, satellite uplinking/downlinking, signal processing, conditional access management, telemetry, tracking and control, professional services, facilities rental costs, and other services provided to our customers, including DISH Network.

Cost of sales - equipment . “ Cost of sales - equipment ” consists primarily of the cost of broadband equipment and networks sold to customers in our enterprise and consumer markets, and to DISH Network.

Selling, general and administrative expenses . “ Selling, general and administrative expenses ” primarily includes selling and marketing costs and employee-related costs associated with administrative services (e.g., information systems, human resources and other services), including stock-based compensation expense. It also includes professional fees (e.g. legal, information systems and accounting services) and other items associated with facilities and administrative services provided by DISH Network and other third parties.

Research and development expenses . “ Research and development expenses ” primarily includes costs associated with the design and development of products to support future growth and provide new technology and innovation to our customers.

Interest income . “ Interest income ” primarily includes interest earned on our cash, cash equivalents and marketable investment securities, including premium amortization and discount accretion on debt securities.

Interest expense, net of amounts capitalized . “ Interest expense, net of amounts capitalized ” primarily includes interest expense associated with our debt and capital lease obligations (net of capitalized interest), and amortization of debt issuance costs.

Gains and impairment on investments, net . “ Gains and impairment on investments, net ” primarily includes gains, net of any losses, on the sale or exchange of investments and other-than-temporary impairment on certain of our marketable investment securities.

Equity in earnings (losses) of unconsolidated affiliates, net . “ Equity in earnings (losses) of unconsolidated affiliates, net ” includes earnings or losses from our investments accounted for under the equity method.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Other, net . “ Other, net ” primarily includes foreign exchange gains and losses, dividends received from our marketable investment securities, and other non-operating income or expense items that are not appropriately classified elsewhere in our condensed consolidated statements of operations and comprehensive income (loss) .

Income (loss) from discontinued operations. “Income (loss) from discontinued operations” includes the condensed consolidated financial statements of the EchoStar Technologies businesses and certain other assets exchanged as a result of the Share Exchange.

Earnings before interest, taxes, depreciation and amortization (“EBITDA”) . EBITDA is defined as “Net income” excluding “ Interest expense, net of amounts capitalized ,” “ Interest income ,” “ Income tax benefit (provision) ,” and “ Depreciation and amortization .” EBITDA is not a measure determined in accordance with GAAP. This non-GAAP measure is reconciled to “Net income” in our discussion of “Results of Operations” above. EBITDA should not be considered in isolation or as a substitute for operating income, net income or any other measure determined in accordance with GAAP. EBITDA is used by our management as a measure of operating efficiency and overall financial performance for benchmarking against our peers and competitors. Management believes EBITDA provides meaningful supplemental information regarding the underlying operating performance of our business. Management also believes that EBITDA is useful to investors because it is frequently used by securities analysts, investors, and other interested parties to evaluate the performance of companies in our industry.

Subscribers . “Subscribers” include customers that subscribe to our Hughes segment’s HughesNet broadband services, through retail, wholesale and small/medium enterprise service channels.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market Risks Associated with Financial Instruments and Foreign Currency

Our investments and debt are exposed to market risks, discussed below.

Cash, Cash Equivalents and Current Marketable Investment Securities

As of March 31, 2017, our cash, cash equivalents and current marketable investment securities had a fair value of \$3.18 billion. Of this amount, a total of \$3.04 billion was invested in: (a) cash; (b) commercial paper and corporate notes with an overall average maturity of less than one year and rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations; (c) debt instruments of the U.S. government and its agencies; and/or (d) instruments with similar risk, duration and credit quality characteristics to the commercial paper and corporate obligations described above. The primary purpose of these investing activities has been to preserve principal until the cash is required to, among other things, fund operations, make strategic investments and expand the business. Consequently, the size of this portfolio fluctuates significantly as cash is received and used in our business. The value of this portfolio may be negatively impacted by credit losses; however, this risk is mitigated through diversification that limits our exposure to any one issuer.

Interest Rate Risk

A change in interest rates would not affect the fair value of our cash, or materially affect the fair value of our cash equivalents due to their maturities of less than 90 days. A change in interest rates would affect the fair value of our current marketable debt securities portfolio; however, we normally hold these investments to maturity. Based on our current non-strategic investment portfolio of \$3.04 billion as of March 31, 2017, a hypothetical 10% change in average interest rates during 2017 would not have a material impact on the fair value of our cash, cash equivalents and debt securities portfolio due to the limited duration of our investments.

Our cash, cash equivalents and current marketable debt securities had an average annual rate of return for the three months ended March 31, 2017 of 1.1%. A change in interest rates would affect our future annual interest income from this portfolio, since funds would be re-invested at different rates as the instruments mature. A hypothetical 10% decrease in average interest rates during 2017 would have resulted in a decrease of approximately \$3.0 million in annual interest income.

Strategic Marketable Investment Securities

As of March 31, 2017, we held current strategic investments in the publicly traded common stock of several companies with a fair value of \$140.1 million. These investments, which are held for strategic and financial purposes, are concentrated in a small number of companies, are highly speculative and have experienced and continue to experience volatility. The fair value of these investments can be significantly impacted by the risk of adverse changes in securities markets generally, as well as risks related to the performance of the companies whose securities we have invested in, risks associated with specific industries, and other factors. These investments are subject to significant fluctuations in fair value due to the volatility of the securities markets and of the underlying businesses. In general, our strategic marketable investment securities portfolio is not significantly impacted by interest rate fluctuations as it currently consists solely of equity securities, the value of which is more closely related to factors specific to the underlying business. A hypothetical 10% adverse change in the market price of our public strategic equity investments would result in a decrease of approximately \$14.0 million in the fair value of these investments.

Restricted cash and marketable investment securities and investments in unconsolidated entities

Restricted cash and marketable investment securities

As of March 31, 2017, we had \$8.3 million of restricted cash and marketable investment securities invested in: (a) cash; (b) debt instruments of the U.S. government and its agencies; (c) commercial paper and corporate notes with an overall average maturity of less than one year and rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations; (d) mutual funds; and (e) instruments with similar risk, duration and credit quality characteristics to the commercial paper described above. Based on our investment portfolio as of March 31, 2017, a hypothetical 10% increase in average interest rates would not have a material impact on the fair value of our restricted cash and marketable investment securities.

Investments in unconsolidated entities

As of March 31, 2017, we had \$166.0 million of noncurrent equity instruments that we hold for strategic business purposes and account for under the cost or equity methods of accounting. The fair value of these instruments is not readily determinable. We periodically review these investments and estimate fair value when there are indications of impairment. A hypothetical adverse change equal to 10% of the carrying amount of these equity instruments would result in a decrease of approximately \$16.6 million in the value of these investments.

Our ability to realize value from our strategic investments in companies that are privately held depends on the success of those companies' businesses and their ability to obtain sufficient capital to execute their business plans. Because private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them we will not be able to obtain fair value for them.

Foreign Currency Exchange Risk

We generally conduct our business in U.S. dollars. Our international business is conducted in a variety of foreign currencies with our largest exposures being to the Brazilian real, the Indian rupee, and the British pound. This exposes us to fluctuations in foreign currency exchange rates. Transactions in foreign currencies are converted into U.S. dollars using exchange rates in effect on the dates of the transactions.

Our objective in managing our exposure to foreign currency changes is to reduce earnings and cash flow volatility associated with foreign exchange rate fluctuations. Accordingly, we may enter into foreign currency forward contracts, or take other measures, to mitigate risks associated with foreign currency denominated assets, liabilities, commitments and anticipated foreign currency transactions. As of March 31, 2017, we had \$9.9 million of net foreign currency denominated receivables and payables outstanding, and foreign currency forward contracts with a notional value of \$2.3 million in place to partially mitigate foreign currency exchange risk. The estimated fair values of the foreign exchange contracts were not material as of March 31, 2017. The impact of a hypothetical 10% adverse change in exchange rates on the carrying amount of the net assets and liabilities of our foreign subsidiaries would be an estimated loss to the cumulative translation adjustment of \$34.3 million as of March 31, 2017.

Derivative Financial Instruments

We generally do not use derivative financial instruments for speculative purposes and we generally do not apply hedge accounting treatment to our derivative financial instruments. We evaluate our derivative financial instruments from time to time but there can be no assurance that we will not enter into additional foreign currency forward contracts, or take other measures, in the future to mitigate our foreign exchange risk.

Item 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) and Rule 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this report. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report such that the information required to be disclosed in our SEC reports is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms, and is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

There has been no change in our internal control over financial reporting (as defined in Rule 13a-15(f) and Rule 15d-15(f) under the Securities Exchange Act of 1934, as amended) that occurred during the first quarter of 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. We continue to review our internal control over financial reporting, and may from time to time make changes aimed at enhancing its effectiveness and to ensure that our systems evolve with our business.

PART II — OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

For a discussion of legal proceedings, see Part I, Item 1. Financial Statements — Note 14 “Commitments and Contingencies — Litigation” in this Form 10-Q.

Item 1A. RISK FACTORS

Item 1A, “Risk Factors,” of our Form 10-K for the year ended December 31, 2016 includes a detailed discussion of our risk factors.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Issuer Purchases of Equity Securities

There were no repurchases of our Class A common stock for the three months ended March 31, 2017 .

Item 3. DEFAULTS UPON SENIOR SECURITIES

Not applicable

Item 4. MINE SAFETY DISCLOSURES

Not applicable

Item 5. OTHER INFORMATION

None.

Item 6. EXHIBITS

Exhibit No.	Description
3.1*	Certificate of Withdrawal of Certificate of Designation of EchoStar Corporation (incorporated by reference to Exhibit 3.1 to EchoStar Corporation's Current Report on Form 8-K filed March 6, 2017, Commission File No. 001-33807)
4.1*	Joinder Agreement, dated as of March 23, 2017, to the Security Agreement dated as of June 8, 2011, by and between Cheyenne Data Center L.L.C. and Wells Fargo Bank, National Association, as collateral agent (incorporated by reference to Exhibit 4.18 to the Registration Statement of Form S-4 of Hughes Satellite Systems Corporation, filed April 6, 2017, Commission File No. 333-179121)
4.2*	Supplemental Indenture, dated March 23, 2017, relating to Hughes Satellite Systems Corporation's 5.250% Senior Secured Notes due 2026, among Hughes Satellite Systems Corporation, the guarantors and the supplemental guarantor listed on the signature pages thereto, U.S. Bank National Association, as trustee, and Wells Fargo Bank, National Association, as collateral agent (incorporated by reference to Exhibit 4.19 to the Registration Statement of Form S-4 of Hughes Satellite Systems Corporation, filed April 6, 2017, Commission File No. 333-179121)
4.3*	Supplemental Indenture, dated as of March 23, 2017, relating to Hughes Satellite Systems Corporation's 6.625% Senior Notes due 2026, among Hughes Satellite Systems Corporation, the guarantors and the supplemental guarantor listed on the signature pages thereto and U.S. Bank National Association, as trustee (incorporated by reference to Exhibit 4.20 to the Registration Statement of Form S-4 of Hughes Satellite Systems Corporation, filed April 6, 2017, Commission File No. 333-179121)
4.4*	Supplemental Indenture, dated March 23, 2017, relating to Hughes Satellite Systems Corporation's 6½% Senior Secured Notes due 2019, by and among Hughes Satellite Systems Corporation, the guarantors and the supplemental guarantor listed on the signature pages thereto and Wells Fargo Bank, National Association, as collateral agent and trustee (incorporated by reference to Exhibit 4.21 to the Registration Statement of Form S-4 of Hughes Satellite Systems Corporation, filed April 6, 2017, Commission File No. 333-179121)
4.5*	Supplemental Indenture, dated March 23, 2017, relating to Hughes Satellite Systems Corporation's 7% Senior Notes due 2021, by and among Hughes Satellite Systems Corporation, the guarantors and the supplemental guarantor listed on the signature pages thereto and Wells Fargo Bank, National Association, as trustee (incorporated by reference to Exhibit 4.22 to the Registration Statement of Form S-4 of Hughes Satellite Systems Corporation, filed April 6, 2017, Commission File No. 333-179121)
10.1(H)	Share Exchange Agreement among DISH Network Corporation, DISH Network L.L.C., DISH Operating L.L.C., EchoStar Corporation, EchoStar Broadcasting Holding Parent L.L.C., EchoStar Broadcasting Holding Corporation, EchoStar Technologies Holding Corporation, and EchoStar Technologies L.L.C.***
10.2*	EchoStar Corporation 2017 Stock Incentive Plan (incorporated by reference to EchoStar Corporation's Definitive Proxy Statement on Form 14, filed March 23, 2017, Commission File No. 001-33807).**
10.3*	EchoStar Corporation 2017 Non-Employee Director Stock Incentive Plan (incorporated by reference to EchoStar Corporation's Definitive Proxy Statement on Form 14, filed March 23, 2017, Commission File No. 001-33807).**
10.4*	Amended and Restated EchoStar Corporation 2017 Employee Stock Purchase Plan (incorporated by reference to EchoStar Corporation's Definitive Proxy Statement on Form 14, filed March 23, 2017, Commission File No. 001-33807).**
31.1(H)	Section 302 Certification of Chief Executive Officer.
31.2(H)	Section 302 Certification of Chief Financial Officer.
32.1(I)	Section 906 Certifications of Chief Executive Officer and Chief Financial Officer.
101.INS	XBRL Instance Document.
101.SCH	XBRL Taxonomy Extension Schema.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase.
101.DEF	XBRL Taxonomy Extension Definition Linkbase.
101.LAB	XBRL Taxonomy Extension Label Linkbase.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase.

(H) Filed herewith.

(I) Furnished herewith

* Incorporated by reference.

** Constitutes a management contract or compensatory plan or arrangement.

*** Certain portions of the exhibit have been omitted and separately filed with the Securities and Exchange Commission with a request for confidential treatment.

SIGNATURES

Pursuant to the requirements 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.

ECHOSTAR CORPORATION

Date: May 10, 2017

By: /s/ Michael T. Dugan

Michael T. Dugan
Chief Executive Officer, President and Director
(Principal Executive Officer)

Date: May 10, 2017

By: /s/ David J. Rayner

David J. Rayner
Executive Vice President, Chief Financial Officer, Chief Operating Officer and
Treasurer
(Principal Financial and Accounting Officer)

SHARE EXCHANGE AGREEMENT

by and among

DISH NETWORK CORPORATION,

DISH NETWORK L.L.C.,

DISH OPERATING L.L.C.,

ECHOSTAR CORPORATION,

ECHOSTAR BROADCASTING HOLDING PARENT L.L.C.,

ECHOSTAR BROADCASTING HOLDING CORPORATION,

ECHOSTAR TECHNOLOGIES HOLDING CORPORATION

and

ECHOSTAR TECHNOLOGIES L.L.C.

Dated as of January 31, 2017

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Exhibits

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*** Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

SHARE EXCHANGE AGREEMENT

This SHARE EXCHANGE AGREEMENT (this “Agreement”), dated as of January 31, 2017, is made by and among DISH Network Corporation, a Nevada corporation (“DISH”), DISH Network L.L.C., a Colorado limited liability company and an indirect wholly owned subsidiary of DISH (“DNLLC”), DISH Operating L.L.C., a Colorado limited liability company and a direct wholly owned Subsidiary of DNLLC (“DOLLC”), EchoStar Corporation, a Nevada corporation (“EchoStar”), EchoStar Broadcasting Holding Parent L.L.C. (“EB Holdco”), a Colorado limited liability company and a direct wholly owned Subsidiary of Hughes Satellite Systems Corporation, a Colorado corporation and a direct Subsidiary of EchoStar (“HSSC”), EchoStar Broadcasting Holding Corporation, a Colorado corporation and a direct wholly owned Subsidiary of EB Holdco (“EB Splitco”), EchoStar Technologies Holding Corporation, a Colorado corporation and a direct wholly owned Subsidiary of EchoStar (“ET Splitco”), and EchoStar Technologies L.L.C., a Texas limited liability company and a direct wholly owned Subsidiary of EchoStar (“ETLLC”) (all such parties, collectively, the “Parties” and each, a “Party”).

WITNESSETH:

WHEREAS, EchoStar directly owns 1,000 shares of common stock, par value \$0.001 per share, of ET Splitco (such stock, “ET Splitco Common Stock,” and all such shares, the “ET Splitco Shares”), which represent all of the issued and outstanding shares of ET Splitco Common Stock;

WHEREAS, HSSC directly owns all of the issued and outstanding membership interests in EB Holdco, a newly formed limited liability company, and EB Holdco directly owns 1,000 shares of common stock, par value \$0.001 per share, of EB Splitco (such stock, “EB Splitco Common Stock,” and all such shares, the “EB Splitco Shares”), which shares represent all of the issued and outstanding shares of EB Splitco, a newly formed corporation;

WHEREAS, DOLLC directly owns 81.128 shares of Hughes Retail Preferred Tracking Stock, par value \$0.001 per share, of HSSC (such stock, the “HSSC Tracking Stock,” and all such shares, the “HSSC Tracking Shares”), which represent all of the issued and outstanding shares of HSSC Tracking Stock;

WHEREAS, DNLLC directly owns 6,290,499 shares of Hughes Retail Preferred Tracking Stock, par value \$0.001 per share, of EchoStar (such stock, “EchoStar Tracking Stock,” and all such shares, the “EchoStar Tracking Shares”), which represent all of the issued and outstanding shares of EchoStar Tracking Stock;

WHEREAS, the Parties desire to enter into a series of transactions pursuant to which, among other things, DNLLC will, upon the terms and subject to the conditions set forth in this Agreement, directly or indirectly acquire all of the shares of ET Splitco Common Stock and all of the shares of EB Splitco Common Stock;

WHEREAS, prior to the Closing, the Parties intend for the EchoStar Parties to undertake certain restructuring transactions pursuant to which, among other things, (i) the EB

*** Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

Business shall be transferred to EB Splitco, (ii) the ET Business shall be transferred to ETLLC and (iii) ETLLC shall be transferred to ET Splitco;

WHEREAS, at the Closing, upon the terms and subject to the conditions set forth in this Agreement, EchoStar shall transfer all of the ET Splitco Shares to DNLLC in exchange for all of the EchoStar Tracking Shares;

WHEREAS, at the Closing, upon the terms and subject to the conditions set forth in this Agreement, EB Holdco shall transfer all of the EB Splitco Shares to DOLLC in exchange for all of the HSSC Tracking Shares;

WHEREAS, the Parties desire to enter into certain other transactions pursuant to this Agreement and the other Transaction Documents; and

WHEREAS, the Parties desire to make certain representations, warranties, covenants and agreements in connection with such transactions.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and in the other Transaction Documents and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Article I

ECHOSTAR PRE-CLOSING RESTRUCTURING; TRANSFERRED ASSETS AND RETAINED ASSETS

Section 1.1 The EchoStar Pre-Closing Restructuring. Prior to the Closing, the EchoStar Parties shall implement the Pre-Closing Restructuring consistent with the terms set forth in this Agreement. The Parties hereto acknowledge that the Pre-Closing Restructuring is intended to result in (i) EB Splitco, directly or indirectly, operating the EB Business, owning the EB Transferred Assets and assuming the EB Assumed Liabilities as set forth in this Article I, (ii) ET Splitco, directly or indirectly, operating the ET Business, owning the ET Transferred Assets and assuming the ET Assumed Liabilities, (iii) EB Splitco not, directly or indirectly, owning the EB Retained Assets and not, directly or indirectly, assuming the EB Excluded Liabilities and (iv) ET Splitco not, directly or indirectly, owning the ET Retained Assets and not, directly or indirectly, assuming the ET Excluded Liabilities, in each case, as set forth in this Article I. As promptly as practicable after the Pre-Closing Restructuring is complete and subject to the conditions set forth in Article V, the Parties hereto shall take, or cause to be taken, all actions that are necessary or appropriate to effectuate the Closing.

Section 1.2 Implementation. The Pre-Closing Restructuring shall be completed in accordance with the agreed general principles, objectives and other provisions set forth in this Article I and shall be implemented in the following manner:

- (a) through the completion of the transactions generally described on Schedule 1.2; and
- (b) through the allocation of the Assets and Liabilities as set forth in this Article I.

Section 1.3 Transactions to be Effected Prior to the Closing. In furtherance of consummating the Closing Transactions, the EchoStar Parties agree to take the following actions prior to the Closing in accordance with the steps generally set forth on Schedule 1.2 (together, the “Pre-Closing Restructuring”):

- (a) Except as expressly contemplated by Section 1.4(e), EchoStar shall, and shall cause its applicable Subsidiaries to, cause the EB Transferred Assets to be contributed, assigned, transferred, conveyed and delivered, directly or indirectly, to EB Splitco or, when contemplated by Schedule 1.2, one of its Subsidiaries and EB Splitco or, when contemplated by Schedule 1.2, one of its Subsidiaries shall accept from EchoStar and its Subsidiaries, all of EchoStar’s and its Subsidiaries’ rights, title and interest in and to all the EB Transferred Assets, which will result in EB Splitco owning, directly or indirectly, the EB Business;
- (b) EB Splitco shall accept, assume and agree to faithfully perform, discharge and fulfill all of the EB Assumed Liabilities in accordance with their respective terms. EB Splitco shall be responsible for all of the EB Assumed Liabilities and its obligations under this Section 1.3(b) shall not be subject to offset or reduction, whether by reason of any actual or alleged breach of any representation, warranty or covenant contained in any Transaction Document or any other agreement or document delivered in connection therewith or any right to indemnification hereunder or otherwise;
- (c) Except as expressly contemplated by Section 1.4(e), EchoStar shall, and shall cause its applicable Subsidiaries to, cause the ET Transferred Assets to be contributed, assigned, transferred, conveyed and delivered, directly or indirectly, to ET Splitco or, when contemplated by Schedule 1.2, one of its Subsidiaries and ET Splitco or, when contemplated by Schedule 1.2, one of its Subsidiaries shall accept from EchoStar and its Subsidiaries, all of EchoStar’s and its Subsidiaries’ rights, title and interest in and to all the ET Transferred Assets, which will result in ET Splitco owning, directly or indirectly, the ET Business; and
- (d) ET Splitco shall accept, assume and agree to faithfully perform, discharge and fulfill all of the ET Assumed Liabilities in accordance with their respective terms. ET Splitco shall be responsible for all of the ET Assumed Liabilities and its obligations under this Section 1.3(d) shall not be subject to offset or reduction, whether by reason of any actual or alleged breach of any representation, warranty or covenant contained in any Transaction Document or any other agreement or document delivered in connection therewith or any right to indemnification hereunder or otherwise.

Section 1.4 Transferred Assets.

(a) For purposes of this Agreement, “EB Transferred Assets” shall mean, without duplication, those Assets used, contemplated for use or held for use, in each case, primarily in the ownership, operation or conduct of the EB Business as currently owned, operated and conducted or relating primarily to the EB Business as currently owned, operated or conducted, and shall include the following even if the following would otherwise be considered an EB Retained Asset:

- (i) the outstanding capital stock, units or other equity interests of the entities listed on Schedule 1.4(a)(i) and the Assets owned by such entities as of the Closing Date;
- (ii) all Assets properly reflected on the EB Group Financial Statements, excluding Assets disposed of by EchoStar or any other Subsidiary or entity controlled by EchoStar subsequent to the date of the EB Group Financial Statements;
- (iii) all Assets that have been written off, expensed or fully depreciated by EchoStar or any Subsidiary or entity controlled by EchoStar that, had they not been written off, expensed or fully depreciated, would have been reflected on the EB Group Financial Statements in accordance with GAAP;
- (iv) all Assets acquired by EchoStar or any Subsidiary or entity controlled by EchoStar after the date of the EB Group Financial Statements and that would be reflected on the balance sheet of EB Splitco as of the Closing Date, if such balance sheet were prepared in accordance with GAAP;
- (v) ***
- (vi) the Assets set forth on Schedule 1.4(a)(vi); and
- (vii) those Assets not used, contemplated for use or held for use, in each case, primarily in the ownership, operation or conduct of the EB Business or not relating primarily to the EB Business as currently owned, operated or conducted that are as listed on Schedule 1.4(a)(vii) as Assets to be transferred to, or retained by, EB Splitco;

provided, that any and all other Assets owned or held immediately prior to the Closing Date by EchoStar or any other member of the EchoStar Group that do not constitute EB Transferred Assets based on the foregoing shall constitute “EB Transferred Assets” to the extent that DISH and EchoStar agree in good faith that the Assets would have been deemed “EB Transferred Assets” if the Parties hereto had given specific consideration to such Asset as of the date hereof. No Asset shall be deemed to be an EB Transferred Asset solely as a result of the proviso in this Section 1.4(a) if (i) such Asset is within the category or type of Asset expressly covered by the subject matter of a Transaction Document or (ii) a claim with respect thereto is not made by the DISH Parties on or prior to the second anniversary of the Closing Date.

Notwithstanding anything to the contrary contained in this Section 1.4 or elsewhere in this Agreement, the EB Transferred Assets shall not in any event include the EB Retained Assets referred to in Section 1.4(b) below.

(b) The DISH Parties expressly understand and agree that all Assets of EchoStar or any other member of the EchoStar Group that are not EB Transferred Assets shall, unless any such Asset constitutes an ET Transferred Asset, remain the exclusive property of EchoStar or the relevant member of the EchoStar Group (subject to the Intellectual Property and Technology License Agreement) on and after the Closing (the “EB Retained Assets”), and shall include the following even if the following would otherwise be considered an EB Transferred Asset:

- (i) any Asset expressly identified on Schedule 1.4(b)(i);
- (ii) all cash or cash equivalents, bank accounts, lock boxes and other deposit arrangements, except as otherwise set forth on Schedule 1.4(a)(vi);
- (iii) all books, records, files and papers, whether in hard copy or electronic format, to the extent prepared in connection with this Agreement, any Transaction Document or the transactions contemplated hereby and thereby, and all minute books and corporate records of the EchoStar Group other than minutes and corporate records of the EB Group;
- (iv) all rights of any member of the EchoStar Group arising under this Agreement or any Transaction Document;
- (v) all Assets sold or otherwise disposed of during the period from the date hereof until the Closing Date in accordance with Section 4.2;
- (vi) the personnel records (including all human resources and other records) of the EchoStar Group relating to employees of the EchoStar Group (other than the personnel records relating to the Transferred Employees);
- (vii) ***
- (viii) any and all other Assets that are expressly contemplated by this Agreement or any Transaction Document (or the Schedules hereto or thereto) as Assets to be retained by EchoStar or any other member of the EchoStar Group; and
- (ix) except for any Assets identified in Schedule 1.4(e) as EB Transferred Assets, all Assets owned by HSSC or any of its Subsidiaries (other than the EB Group).

(c) For purposes of this Agreement, “ET Transferred Assets” shall mean, without duplication, those Assets used, contemplated for use or held for use, in each case, primarily in the ownership, operation or conduct of the ET Business as currently owned, operated and conducted or relating primarily to the ET Business as currently owned, operated or conducted, and shall include the following even if the following would otherwise be considered an ET Retained Asset:

- (i) the outstanding capital stock, units or other equity interests of the entities listed on Schedule 1.4(c)(i) and the Assets owned by such entities as of the Closing Date;
- (ii) all Assets properly reflected on the ET Group Financial Statements, excluding Assets disposed of by EchoStar or any other Subsidiary or entity controlled by EchoStar subsequent to the date of the ET Group Financial Statements;
- (iii) all Assets that have been written off, expensed or fully depreciated by EchoStar or any Subsidiary or entity controlled by EchoStar that, had they not been written off, expensed or fully depreciated, would have been reflected on the ET Group Financial Statements in accordance with GAAP;
- (iv) all Assets acquired by EchoStar or any Subsidiary or entity controlled by EchoStar after the date of the ET Group Financial Statements and that would be reflected on the balance sheet of ETLLC as of the Closing Date, if such balance sheet were prepared in accordance with GAAP;
- (v) ***
- (vi) the Assets set forth on Schedule 1.4(c)(vi); and
- (vii) those Assets not used, contemplated for use or held for use, in each case, primarily in the ownership, operation or conduct of the ET Business or not relating primarily to the ET Business as currently owned, operated or conducted that are listed on Schedule 1.4(c)(vii) as Assets to be transferred to, or retained by, ETLLC;

provided, that any and all other Assets owned or held immediately prior to the Closing Date by EchoStar or any other member of the EchoStar Group that do not constitute ET Transferred Assets based on the foregoing shall constitute “ET Transferred Assets” to the extent that DISH and EchoStar agree in good faith that the Assets would have been deemed “ET Transferred Assets” if the Parties hereto had given specific consideration to such Asset as of the date hereof. No Asset shall be deemed to be an ET Transferred Asset solely as a result of the proviso in this Section 1.4(c) if (i) such Asset is within the category or type of Asset expressly covered by the subject matter of a Transaction Document or (ii) a claim with respect thereto is not made by the DISH Parties on or prior to the second anniversary of the Closing Date.

Notwithstanding anything to the contrary contained in this Section 1.4 or elsewhere in this Agreement, the ET Transferred Assets shall not in any event include the ET Retained Assets referred to in Section 1.4(d) below.

(d) The DISH Parties expressly understand and agree that all Assets of EchoStar or any other member of the EchoStar Group that are not ET Transferred Assets shall, unless any such Asset constitutes an EB Transferred Asset, remain the exclusive property of EchoStar or the relevant member of the EchoStar Group (subject to the Intellectual Property and Technology License Agreement) on and after the Closing (the “ET Retained Assets”), and shall include the following even if the following would otherwise be considered an ET Transferred Asset:

- (i) any Asset expressly identified on Schedule 1.4(d)(i);
- (ii) all cash or cash equivalents, bank accounts, lock boxes and other deposit arrangements except as otherwise set forth on Schedule 1.4(c)(vi);
- (iii) all books, records, files and papers, whether in hard copy or electronic format, prepared in connection with this Agreement, any Transaction Document or the transactions contemplated hereby and thereby, and all minute books and corporate records of the EchoStar Group other than minutes and corporate records of the ET Group;
- (iv) all rights of any member of the EchoStar Group arising under this Agreement or any Transaction Document;
- (v) all Assets sold or otherwise disposed of during the period from the date hereof until the Closing Date in accordance with Section 4.2;
- (vi) the personnel records (including all human resources and other records) of the EchoStar Group relating to employees of the EchoStar Group (other than the personnel records relating to the Transferred Employees);
- (vii) ***
- (viii) any and all other Assets that are expressly contemplated by this Agreement or any Transaction Document (or the Schedules hereto or thereto) as Assets to be retained by EchoStar or any other member of the EchoStar Group; and
- (ix) except for any Assets identified in Schedule 1.4(e) as ET Transferred Assets, all Assets owned by HSSC or any of its Subsidiaries (other than the EB Group).

(e) Notwithstanding the foregoing, each EchoStar Party shall execute instruments of conveyance transferring each EB Transferred Asset and each ET Transferred Asset set forth on Schedule 1.4(e), effective as of the Closing (the “Asset Conveyance Instruments”), to one or more Affiliates of DISH as designated by DISH. Each EB Transferred Asset and each ET Transferred Asset set forth on Schedule 1.4(e) is in the name of such Affiliate of EchoStar for reasons germane to the EB Business or ET Business, as applicable, but is held by such Affiliate of EchoStar, and following the Closing will be held by such Affiliate of DISH, for the use and benefit, insofar as commercially reasonable, legally permitted and possible, of EB Splitco or ET Splitco, as applicable. ***

Section 1.5 Liabilities.

(a) For the purposes of this Agreement, “EB Assumed Liabilities” shall mean (without duplication) any and all Liabilities to the extent primarily arising from or resulting from the operation of the EB Business as currently conducted or the ownership of the EB Transferred Assets, including the following:

- (i) the EB EMA Assumed Liabilities;
- (ii) any and all Environmental Liabilities to the extent primarily arising from or resulting from the operation of the EB Business, or the ownership of the EB Transferred Assets;
- (iii) any and all indemnification obligations under, or claims for breaches of, Contracts that constitute EB Transferred Assets;
- (iv) ***
- (v) any and all Liabilities primarily arising from or resulting from the EB Transferred Assets or the EB Business arising out of or in connection with acts or omissions occurring prior to, on or after the Closing Date; and
- (vi) any other Liability which is expressly identified on Schedule 1.5(a)(vi).

Notwithstanding anything to the contrary contained in this Section 1.5 or elsewhere in this Agreement, the EB Assumed Liabilities shall not in any event include the EB Excluded Liabilities referred to in Section 1.5(b) below.

(b) For the purposes of this Agreement, “EB Excluded Liabilities” shall mean:

- (i) any and all Indebtedness of the EchoStar Group, the EB Group or the ET Group as of the Closing Date;
- (ii) the EB EMA Excluded Liabilities;
- (iii) any and all Liabilities of members of the EchoStar Group arising or incurred in connection with the negotiation, preparation, investigation and performance of this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby, including, without limitation, fees and expenses of counsel, accountants, consultants, advisers and others;
- (iv) ***

(v) any and all Liabilities to the extent primarily arising from or resulting from the matters set forth on Schedule 1.5(b)(v) (subject to any limitations set forth therein); and

(vi) any and all Liabilities to the extent relating to, arising out of or resulting from any EB Retained Assets.

(c) For the purposes of this Agreement, “ET Assumed Liabilities” shall mean (without duplication) any and all Liabilities to the extent primarily arising from or resulting from the operation of the ET Business as currently conducted or the ownership of the ET Transferred Assets, including the following:

(i) the ET EMA Assumed Liabilities;

(ii) any and all Environmental Liabilities to the extent primarily arising from or resulting from the operation of the ET Business, or the ownership of the ET Transferred Assets;

(iii) any and all indemnification obligations under, or claims for breaches of, Contracts that constitute EB Transferred Assets;

(iv) ***

(v) any and all Liabilities for any third party claim relating to, or arising out of, the use, application, malfunction, defect, design, operation, performance or suitability of any product of the ET Business manufactured, sold or distributed prior to, on or after the Closing Date;

(vi) any and all Liabilities primarily arising from or resulting from the ET Transferred Assets or the ET Business arising out of or in connection with acts or omissions occurring prior to, on or after the Closing Date; and

(vii) any other Liability which is expressly identified on Schedule 1.5(c)(vii).

Notwithstanding anything to the contrary contained in this Section 1.5 or elsewhere in this Agreement, the ET Assumed Liabilities shall not in any event include the ET Excluded Liabilities referred to in Section 1.5(d) below.

(d) For the purposes of this Agreement, “ET Excluded Liabilities” shall mean:

(i) any and all Indebtedness of the EchoStar Group, the EB Group or the ET Group as of the Closing Date;

(ii) the ET EMA Excluded Liabilities;

(iii) any and all Liabilities of members of the EchoStar Group arising or incurred in connection with the negotiation, preparation, investigation and performance of this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby, including, without limitation, fees and expenses of counsel, accountants, consultants, advisers and others;

(iv) ***

(v) any and all Liabilities to the extent primarily arising from or resulting from the matters set forth on Schedule 1.5(d)(v) (subject to any limitations set forth therein); and

(vi) any and all Liabilities to the extent relating to, arising out of or resulting from any ET Retained Assets.

Section 1.6 Assumed and Excluded Liabilities. From and after the Closing, DISH shall, or shall cause its Subsidiaries, as applicable, to be responsible for the EB Assumed Liabilities and the ET Assumed Liabilities regardless of when or where such Liabilities (or the acts or omissions relating thereto) arose or arise, regardless of when or where such Liabilities are asserted or determined and regardless of whether arising or related to or asserted or determined prior to, on or after the Closing Date. EchoStar shall, or shall cause its Subsidiaries, as applicable, to be responsible for the EB Excluded Liabilities and the ET Excluded Liabilities regardless of when or where such Liabilities (or the acts or omissions relating thereto) arose or arise, regardless of when or where such Liabilities are asserted or determined and regardless of whether arising or related to or asserted or determined prior to, on or after the Closing Date.

Section 1.7 ***

Section 1.8 ***

ARTICLE II

THE CLOSING TRANSACTIONS; CLOSING

Section 2.1 Closing Date. The closing of the Closing Transactions (the “Closing”) shall take place at the offices of DISH Network Corporation, 9601 South Meridian Boulevard, Englewood, Colorado 80112 (or at such other place as the parties may designate in writing), at 11:59 p.m. Colorado time on the date that is three (3) Business Days after the satisfaction or waiver of all of the conditions set forth in Article V (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at such time), but no earlier than February 28, 2017, unless another time, date or place is agreed to in writing by the Parties. The date on which the Closing actually occurs is referred to hereinafter as the “Closing Date.”

Section 2.2 The Closing Transactions. Upon the terms and subject to the conditions set forth in this Agreement, and in reliance on the representations, warranties and covenants made or given in this Agreement and the other Transaction Documents, the Parties hereby agree that, on the Closing Date, the following transactions (the “Closing Transactions”) shall occur:

- (a) EB Holdco shall assign, transfer, convey and deliver to DOLLC all of the EB Splitco Shares, free and clear of all Liens, and, in exchange for such assignment, transfer, conveyance and delivery, DOLLC shall assign, transfer, convey and deliver to EB Holdco all of the HSSC Tracking Shares, free and clear of all Liens; and
- (b) EchoStar shall assign, transfer, convey and deliver to DNLLC all of the ET Splitco Shares, free and clear of all Liens, and, in exchange for such assignment, transfer, conveyance and delivery, DNLLC shall assign, transfer, convey and deliver to EchoStar all of the EchoStar Tracking Shares, free and clear of all Liens.

Section 2.3 Closing Deliverables. At the Closing, the following deliveries shall be made in the following manner:

- (a) EB Holdco shall deliver to DOLLC certificates representing the EB Splitco Shares, duly endorsed in blank for transfer (or accompanied by a stock power duly endorsed in blank for transfer), with any required transfer stamps affixed thereto;
- (b) DOLLC shall deliver to EB Holdco certificates representing the HSSC Tracking Shares, duly endorsed in blank for transfer (or accompanied by a stock power duly endorsed in blank for transfer), with any required transfer stamps affixed thereto;
- (c) EchoStar shall deliver to DNLLC certificates representing the ET Splitco Shares, duly endorsed in blank for transfer (or accompanied by a stock power duly endorsed in blank for transfer), with any required transfer stamps affixed thereto;
- (d) DNLLC shall deliver to EchoStar certificates representing the EchoStar Tracking Shares, duly endorsed in blank for transfer (or accompanied by a stock power duly endorsed in blank for transfer), with any required transfer stamps affixed thereto;
- (e) each Party shall cause to be delivered, to each of the other Parties thereto, each Transaction Document (other than this Agreement) to which such Party is a party thereto, duly executed on behalf of such Party;
- (f) EchoStar and its Subsidiaries shall deliver, or cause to be delivered, resignation letters from (x) all members of the board of directors (or board of managers or similar governing body) of ET Splitco, EB Splitco and each other member of the EB Group and the ET Group and (y) the officers of ET Splitco, EB Splitco and each other member of the EB Group and the ET Group as of the Closing (other than any such members or officers identified by DNLLC in writing to EchoStar);

- (g) EchoStar shall deliver, or cause to be delivered, the Asset Conveyance Instruments to the designee(s) of the DISH Parties;
- (h) the DISH Parties shall receive a tax opinion from Sullivan & Cromwell LLP, counsel to the DISH Parties, dated the Closing Date, in the form described in the Tax Matters Agreement;
- (i) the EchoStar Parties shall receive a tax opinion from White & Case LLP, counsel to the EchoStar Parties, dated the Closing Date, in the form described in the Tax Matters Agreement;
- (j) the EchoStar Parties shall receive a legal opinion from Sullivan & Cromwell LLP, counsel to the DISH Parties, dated the Closing Date, in a form mutually acceptable to the Parties; and
- (k) the DISH Parties shall receive a legal opinion from White & Case LLP, counsel to the EchoStar Parties, dated the Closing Date, in a form mutually acceptable to the Parties.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the EchoStar Parties. Except as set forth in the EchoStar Reports filed with the SEC *** and prior to the date of this Agreement (excluding, in each case, any disclosures set forth in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or in the corresponding sections of the disclosure letter delivered to the DISH Parties by EchoStar prior to entering into this Agreement (the “EchoStar Disclosure Letter”) (it being agreed that disclosure of any item in any section or subsection of the EchoStar Disclosure Letter shall be deemed disclosure with respect to any section of this Agreement or any other section or subsection of the EchoStar Disclosure Letter to which the relevance of such disclosure is reasonably apparent on its face and that the mere inclusion of an item in such EchoStar Disclosure Letter as an exception to a representation or warranty shall not be deemed an admission that such item represents a material exception or material fact, event or circumstance or that such item has had, would have or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect), EchoStar represents and warrants to the DISH Parties, as of the date of this Agreement and as of the Closing Date, that:

- (a) Organization and Good Standing. Each EchoStar Party is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and has the full power and authority to enter into each Transaction Document to which it is a party and to perform its obligations thereunder. Each entity set forth on Schedule 1.4(a)(i) and Schedule 1.4(c)(i), and each member of the EB Group and the ET Group (collectively, the “Significant EchoStar Subsidiaries”), is duly organized, validly existing and, if applicable, in good standing under the laws of its jurisdiction of organization. Each of the EchoStar Parties and the Significant EchoStar Subsidiaries (A) has the requisite power and authority to own, lease and operate its properties and

to carry on its business as now being conducted and (B) is duly qualified or licensed and in good standing to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification or licensing necessary, except where the failure to be so qualified or licensed has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Authorization and Execution of Transaction Documents. Each EchoStar Party has taken all necessary corporate action to authorize the execution, delivery and performance of its obligations under this Agreement and to consummate the Closing Transactions and, as of the Closing, each EchoStar Party shall have taken all necessary corporate action to authorize the execution, delivery and performance of its obligations under each of the other Transaction Documents to which it is, or shall be, a party and to consummate the Pre-Closing Restructuring. No other corporate proceedings on the part of any EchoStar Party is necessary to approve this Agreement or to consummate the Closing Transactions and, as of the Closing, no other corporate proceedings on the part of any EchoStar Party will be necessary to approve any other Transaction Document to which it is a party or to consummate the Pre-Closing Restructuring. As of the date of this Agreement, the board of directors of EchoStar has approved this Agreement, the other Transaction Documents to which it is a party, the Pre-Closing Restructuring and the Closing Transactions. As of the date of this Agreement, the board of directors of ET Splitco has approved this Agreement, the other Transaction Documents to which it is a party, the Pre-Closing Restructuring and the Closing Transactions. As of the date of this Agreement, EchoStar, in its capacity as the sole manager of EB Holdco, has approved this Agreement, the other Transaction Documents to which EB Holdco is a party and the Closing Transactions. As of the date of this Agreement, the board of directors of EB Splitco has approved this Agreement, the other Transaction Documents to which it is a party, the Pre-Closing Restructuring and the Closing Transactions. No vote or consent of the holders of any class or series of capital stock of any EchoStar Party or any of the Significant EchoStar Subsidiaries is necessary to approve this Agreement, the other Transaction Documents, the Pre-Closing Restructuring or the Closing Transactions. This Agreement has been duly executed and delivered by each EchoStar Party, and each other Transaction Document to which each EchoStar Party is a party, when delivered by it in accordance herewith, shall have been duly executed and delivered by such EchoStar Party.

(c) Enforceability of Transaction Documents. Assuming that this Agreement and each of the Transaction Documents to which any EchoStar Party is a party is the valid and binding obligation of each DISH Party or other counterpart thereto, this Agreement constitutes, and the other Transaction Documents shall at Closing constitute, the valid, legal and binding obligation of each EchoStar Party that is party to each such agreement, enforceable against each such EchoStar Party in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(d) Non-Contravention. The execution and delivery by any EchoStar Party of each of the Transaction Documents to which it is a party and the consummation of the Closing Transactions by it pursuant thereto will not: (x) conflict with any requirement of its Corporate Documents; (y) assuming compliance with the matters referred to in Section 3.1(e) (*Consents*) of this Agreement, result in a violation or breach of any Applicable Law by which it is bound or to which any of its properties is subject; or (z) with or without notice, lapse of time or both, result in a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under or the creation of a Lien on any of the assets of such EchoStar Party or any of its Subsidiaries pursuant to any Contract binding upon such EchoStar Party or any of its Subsidiaries or result in any change in the rights or obligations of any party under any Contract binding upon such EchoStar Party or any of its Subsidiaries, except, in the case of clauses (y) and (z), as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(e) Consents. No consent, license, approval or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required by or of any EchoStar Party in connection with the execution, delivery, performance, validity or enforceability of any Transaction Document to which any EchoStar Party is a party or the consummation of the Closing Transactions, except (i) any such consent, license, approval, authorization, filing, notice or act that has been obtained, made or taken, (ii) any such consent, license, approval, authorization, filing, notice or act as set forth on Schedule 3.1(e), (iii) the Required Governmental Applications and the Required Governmental Notices, and (iv) where the failure to obtain such consent, license, approval or authorization or make such filing or take such act has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(f) Capital Structure.

(i) The authorized capital stock of EB Splitco consists of 1,000 shares of EB Splitco Common Stock, of which 1,000 shares are issued and outstanding. All 1,000 shares of EB Splitco Common Stock are, and prior to the Closing will be, owned by EB Holdco, and there are no other equity interests authorized, issued or outstanding in EB Splitco. There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or rights of any kind that obligate EB Splitco to issue or sell any shares of capital stock or other securities of EB Splitco or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of EB Splitco, and no securities or obligations evidencing such rights are authorized, issued or outstanding. All of the EB Splitco Shares have been duly authorized and are validly issued, fully paid and nonassessable. EB Splitco does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the stockholders of EB Splitco on any matter. Immediately following the Closing, DOLLC will have good and valid title to the EB Splitco Shares, free and clear of any Liens (other than Liens arising

under applicable securities laws and Liens resulting from any action of DISH, DOLLC or any of their Affiliates).

(ii) The authorized capital stock of ET Splitco consists of 1,000 shares of ET Splitco Common Stock, of which 1,000 shares are issued and outstanding. All 1,000 shares of ET Splitco Common Stock are, and prior to the Closing will be, owned by EchoStar, and there are no other equity interests authorized, issued or outstanding in ET Splitco. There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or rights of any kind that obligate ET Splitco to issue or sell any shares of capital stock or other securities of ET Splitco or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of ET Splitco, and no securities or obligations evidencing such rights are authorized, issued or outstanding. All of the ET Splitco Shares have been duly authorized and are validly issued, fully paid and nonassessable. ET Splitco does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the stockholders of ET Splitco on any matter. Immediately following the Closing, DNLLC will have good and valid title to the ET Splitco Shares, free and clear of any Liens (other than Liens arising under applicable securities laws and Liens resulting from any action of DISH, DNLLC or any of their Affiliates).

(iii) Schedule 3.1(f)(iii) sets forth (i) each member of the EB Group (other than EB Splitco) and each other member of the ET Group (other than ET Splitco), as well as the ownership interest of each Person or Persons in each such member and (ii) each share of capital stock, equity interest or other direct or indirect ownership interest held by any member of the EB Group or the ET Group in any other Person, in each case, from and after giving effect to the Pre-Closing Restructuring until the Closing. There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or rights of any kind that obligate any member of the EB Group or the ET Group to issue or sell any shares of capital stock or other securities of EB Splitco or ET Splitco or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of any member of the EB Group or the ET Group, and no securities or obligations evidencing such rights are authorized, issued or outstanding. All of the equity interests of each member of the EB Group and the ET Group have been duly authorized and are validly issued, fully paid and nonassessable. No member of the EB Group or the ET Group has outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the stockholders of any such member on any matter.

(iv) Schedule 3.1(f)(iv) sets forth a true and complete list of (A) all Indebtedness and (B) each Contract (1) that is a letter of credit, performance bond, banker's acceptance, corporate guarantee or other similar agreement or credit transaction issued and outstanding in connection with the EB Business or the ET Business, in each case, that would be an EB Assumed Liability or ET Assumed Liability, with, in each case, an indication of any amounts drawn thereunder or (2) in respect of any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which are required to be classified and accounted for under GAAP as capital leases in connection with the EB Business or the ET Business, with, in the case of each of (1) and (2), the value ascribed to such letter of credit, performance bond, banker's acceptance, corporate guarantee or capital lease in the EB Group Financial Statements or the ET Group Financial Statements, as applicable.

(g) Reports; Financial Statements.

(i) EchoStar has filed or furnished, as applicable, on a timely basis all forms, statements, reports and documents required to be filed or furnished by it with the SEC pursuant to the Exchange Act or the Securities Act *** (such forms, statements, reports and documents filed or furnished *** and those filed or furnished subsequent to the date of this Agreement, including any amendments thereto, the "EchoStar Reports"). Each of the EchoStar Reports, at the time of its filing or being furnished (or, if amended prior to the date of this Agreement, as of the date of such amendment) complied as to form in all material respects with the applicable requirements of the Securities Act and the Exchange Act.

(ii) Each of the consolidated balance sheets included in or incorporated by reference into the EchoStar Reports (including the related notes and schedules), fairly presents the consolidated financial position of EchoStar and its consolidated Subsidiaries as of the dates thereof and each of the consolidated statements of operations and comprehensive income (loss), changes in stockholders' or shareholder's equity and cash flows included in or incorporated by reference into the EchoStar Reports (including any related notes and schedules), fairly presents the results of operations and cash flows of EchoStar and its consolidated Subsidiaries for the periods set forth therein (subject, in the case of unaudited statements, to normal year-end adjustments and lack of footnote disclosure), in each case in accordance with GAAP consistently applied during the periods involved, except as may be noted therein or may be permitted by the SEC under the Exchange Act.

(iii) ***

(iv) ***

(v) There are no obligations or liabilities of EchoStar or any of its Subsidiaries primarily arising from or resulting from the operation of the EB Business or the ET Business or the ownership of the EB Transferred Assets or the ET Transferred Assets, whether or not accrued, contingent or otherwise and whether or not required to be disclosed or any other facts or circumstances which could reasonably be expected to result in any claims against, or obligations or liabilities of, the EB Business or the ET Business, except for (x) obligations or liabilities set forth in the EB Group Financial Statements or the ET Group Financial Statements, (y) future executory liabilities arising under any EB Business Contract or ET Business Contract (other than as a result of breach of contract, tort, infringement or violation of Applicable Law) or (z) those that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(vi) ***

(vii) ***

(h) Absence of Certain Changes. ***, EchoStar and each of its Subsidiaries have conducted the EB Business and the ET Business only in accordance with the Ordinary Course of Business, and there has not been, with respect to the EB Business or the ET Business or any EB Transferred Asset or ET Transferred Asset:

(i) any event, action, change, occurrence, condition or effect which has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; or

(ii) any action taken by EchoStar or any of its Subsidiaries that, if taken during the period from the date of this Agreement through the Closing Date, would constitute a violation or breach of or would otherwise require consent under Section 4.2.

(i) Compliance with Laws.

(i) EchoStar and each of its Subsidiaries is in and has, ***, been in compliance in all material respects with Applicable Laws (including the Communications Act but excluding Environmental Laws) and Permits, in each case, to the extent applicable to the EB Business or the ET Business. Neither EchoStar nor any of its Subsidiaries has received any notice or confirmation of any material noncompliance with any such Applicable Laws or any such Permits applicable to the EB Business or the ET Business that has not been cured as of the date of this Agreement.

(ii) EchoStar and its Subsidiaries have, and following the Pre-Closing Restructuring, appropriate members of the EB Group or the ET Group shall have, all material Permits necessary to own, operate and conduct the EB Business and the ET Business as currently conducted. All such material Permits are valid, in force and in good standing. There is no default on the part of EchoStar or any of its Subsidiaries, *** any other party,

under any such Permit. Schedule 3.1(i)(ii) sets forth a correct and complete list of each Permit held by EchoStar and its Subsidiaries material to the EB Business or the ET Business. No notices from a Governmental Authority have been received by EchoStar or any of its Subsidiaries with respect to any material (i) actual or alleged violation of, or failure to comply with, any term or requirement of any such Permit or (ii) threatened or pending sanction, revocation, withdrawal, termination, rescission, suspension, cancellation, modification, corrective action or limitation of, or with respect to, any such Permit.

(iii) ***, neither the EchoStar Parties nor any of their Subsidiaries, nor, ***, any director, officer, employee, agent or representative of the EchoStar Parties or of any of their Subsidiaries, has taken any action in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value directly, or indirectly through an intermediary, to any “government official” (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) in order to influence official action which would result in a violation by such persons of the FCPA, the UK Bribery Act of 2010 or any other Applicable Law that prohibits corruption, bribery or any of the foregoing actions (collectively, the “Anti-Corruption Laws”) in connection with the operation of the EB Business or the ET Business or ownership of the EB Transferred Assets or the ET Transferred Assets. The EchoStar Parties and their Subsidiaries have conducted the EB Business and the ET Business in compliance with all Anti-Corruption Laws in all material respects and maintain and will continue to maintain policies and, procedures that are designed to provide reasonable assurance of compliance with such laws.

(iv) Neither EchoStar nor any of its Subsidiaries, nor, *** any of their directors, officers, employees, agents or representatives of the EchoStar Parties or any of their Subsidiaries is or is 50% or more owned or controlled by one or more Persons that are: (A) the subject of any sanctions administered by OFAC or the U.S. Department of State, the United Nations Security Council, the European Union, or other relevant sanctions authority (collectively, “Sanctions”), or (B) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Crimea region of Ukraine, Cuba, Iran, North Korea, Sudan and Syria).

(v) ***, neither EchoStar nor any of its Subsidiaries has engaged in, directly or indirectly, any dealings or transactions with any Person relating to the EB Business or the ET Business, or in any country or territory that, at the time of the dealing or transaction, is or was the subject of Sanctions, except as otherwise authorized pursuant to Sanctions.

(vi) ***, EchoStar and its Subsidiaries have been in compliance in all material respects with, and have not been given written notice of any material violation of, any applicable Sanctions or export controls laws.

(vii) The EchoStar Parties and each of their Subsidiaries have instituted policies and procedures reasonably designed to ensure the compliance in all material respects of the EchoStar Parties and each of their Subsidiaries with all Sanctions and Anti-Money Laundering Laws in connection with the operation of the EB Business or the ET Business or ownership of the EB Transferred Assets or the ET Transferred Assets.

(j) Litigation and Other Proceedings. There is no pending or, ***, threatened in writing, claim, action, suit, investigation or proceeding relating to or affecting the operation of the EB Business or the ET Business or the ownership of the EB Transferred Assets or the ET Transferred Assets against EchoStar or any of its Subsidiaries, nor is EchoStar or any of its Subsidiaries, or any of their respective properties, subject to any order, injunction, judgment or decree by or before any Governmental Authority concerning the EB Business or the ET Business or the ownership of the EB Transferred Assets or the ET Transferred Assets, except for claims, actions, suits, investigations, proceedings, orders, injunctions, judgments or decrees relating to or affecting the EB Business or the ET Business which have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. There is no action, suit, investigation or proceeding pending or, ***, threatened against EchoStar or any of its Subsidiaries related to the EB Business or the ET Business, or any of their respective properties, including with respect to the release of Hazardous Substances, except for matters that have not, individually or in the aggregate, resulted in, and would not reasonably be expected to result in (i) any criminal liability of any of the Subsidiaries related to the EB Business or the ET Business or any director, officer or employee of any of the Subsidiaries related to the EB Business or the ET Business or (ii) a Material Adverse Effect.

(k) Intellectual Property.

(i) Schedule 3.1(k)(i) sets forth a true and complete list of all Registered Intellectual Property owned or purported to be owned by the EchoStar Parties and included in the EB Transferred Assets and the ET Transferred Assets (“Separated Registered IP Assets”), indicating for each Registered item the registration or application number, registration or application date and the applicable filing jurisdiction (or in the case of an Internet domain name, the applicable domain name registrar). There are no inventorship challenges, opposition or nullity proceedings or interferences declared or commenced with respect to any Patents included in the Separated Registered IP Assets or, ***, threatened.

(ii) EchoStar or one of its Subsidiaries owns solely and exclusively the Intellectual Property owned or purported to be owned by the EchoStar Parties and included in the EB Transferred Assets and the ET Transferred Assets (the “Separated IP Assets”), free and clear of all Liens other than Permitted Liens.

(iii) Together with the Intellectual Property licensed under the Intellectual Property and Technology License Agreement, and the Amended Professional Services Agreement and Transition Services Agreement(s), if any, and any other Contract, arrangement or understanding remaining in effect following the Closing Date between DISH and its Subsidiaries, on the one hand, and EchoStar and its Subsidiaries, on the other hand, the EB Transferred Assets, the ET Transferred Assets, and other Intellectual Property possessed by the EB Group or the ET Group constitute, in all material respects, all the Intellectual Property that is used, contemplated for use or held for use in the ownership, operation and conduct of the EB Business or the ET Business, respectively, as currently owned, operated and conducted.

(iv) The Separated IP Assets are subsisting, and ***, the issued or granted Separated Registered IP Assets included therein are valid and enforceable. The Separated IP Assets are not subject to any outstanding order, judgment, decree or agreement adversely affecting the EchoStar Parties' use or contemplated use of such Intellectual Property or its or their rights to such Intellectual Property. ***

(v) ***, the conduct of the EB Business and the ET Business as currently conducted does not infringe, misappropriate or otherwise violate, and has not infringed, misappropriated or otherwise violated during ***, any Intellectual Property of any third party. ***

(vi) The EchoStar Parties have taken reasonable measures to protect the confidentiality and value of the Trade Secrets included in the Separated IP Assets.

(vii) The IT Assets included in the EB Transferred Assets or the ET Transferred Assets (the "Separated IT Assets") (A) operate and perform in all material respects in accordance with their documentation and functional specifications, (B) have not materially malfunctioned or failed within *** in a manner that has had a material impact on the EB Business or the ET Business, and (C) are free from material bugs or other defects, and do not contain any Malicious Code. ***, no Person has gained unauthorized access to the Separated IT Assets during ***. Each of EchoStar and its Subsidiaries has implemented reasonable backup and disaster recovery technology processes for the Separated IT Assets.

(viii) EchoStar and each of its Subsidiaries has complied in all material respects with all Applicable Laws and contractual and fiduciary obligations relating to the collection, storage, use, transfer and any other processing of any Personally Identifiable Information collected by or used in the EB Business and the ET Business. EchoStar and each of its Subsidiaries has at all times taken all steps reasonably necessary (including implementing and monitoring compliance with adequate measures with respect to technical and physical security) to ensure that all such Personally Identifiable Information is protected against loss and against unauthorized access, use, modification or disclosure, and there has been no unauthorized access to or misuse of such Personally Identifiable Information.

(ix) Neither EchoStar nor any of its Subsidiaries has incorporated Technology subject to an Open Source License into, or combined, linked, or distributed any such Technology with, any products or services of the EB Business or the ET Business, in any manner that creates, or purports to create, obligations for the EchoStar Parties, with respect to any part of such products or services that is not (a) Technology owned by a third party subject to an Open Source License or (b) Technology which is intentionally distributed and licensed to third parties by the EchoStar Parties under an Open Source License; provided that the foregoing representations do not apply with respect to the conduct (including any failure to act as instructed) of, and EchoStar makes no representations with respect to, distributors and retailers of the products or services of the EB Business or the ET Business. None of the EchoStar Parties is, in any material respect, in violation or breach of any Open Source License.

(l) Material Contracts.

(i) Each Material Contract is valid and binding on EchoStar and each of its Subsidiaries party thereto and, ***, any other party thereto, and is in full force and effect, except for such failures to be valid and binding or to be in full force and effect which has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as which has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, there is no default under any Material Contract by EchoStar or any of its Subsidiaries party thereto or bound thereby and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by EchoStar or any of its Subsidiaries party thereto or bound thereby or, ***, any other party thereto.

(ii) Schedule 3.1(1)(ii) sets forth a true and correct list of each Material Contract, and a copy of each Material Contract has been made available to the DISH Parties.

(m) Employee Benefits and Labor.

(i) Each Benefit Plan has been established, operated and administered in compliance in all material respects with its terms and Applicable Law, including ERISA and the Code, and there are no pending or, ***, threatened claims (other than routine claims for benefits) or proceedings by a Governmental Authority by, on behalf of or against any Benefit Plan or any trust related thereto which could reasonably be expected to result in any material liability which would be an EB Assumed Liability or ET Assumed Liability. ***, with respect to any Benefit Plan that is an “employee benefit plan” within the meaning of Section 3(3) of ERISA, none of the EchoStar Parties nor any of their Subsidiaries has engaged in any breach of fiduciary responsibility or any “prohibited transaction” (as such term is defined in Section 406 of ERISA or Section 4975 of the Code) in connection with which the EchoStar Party or Subsidiary reasonably could be subject to either a material civil penalty assessed pursuant to Section 409 or 502(i) of ERISA or a material tax imposed pursuant to Section 4975 or 4976 of the Code.

(ii) As of the date hereof, none of the Transferred Employees are covered by any collective bargaining agreement or other agreement with a labor union or like organization, and, ***, there are no activities or proceedings by any individual or group of individuals, including representatives of any labor organizations or labor unions, to organize any such employees.

(n) Environmental Matters. Except as set forth on Schedule 3.1(n), (a) the ET Business and the EB Business have each been conducted, ***, in compliance in all material respects with all applicable Environmental Laws, (b) neither EchoStar nor any of its Subsidiaries is conducting or is required to conduct any investigation, remediation or other action pursuant to the requirements of any Environmental Law at any Transferred Site contaminated with any Hazardous Substance or property formerly owned or operated by EchoStar or any of its Subsidiaries (including soils, groundwater, surface water, buildings or other structures at such properties) contaminated with any Hazardous Substance, (c) neither EchoStar nor any of its Subsidiaries is subject to remedial action Liability under applicable Environmental Law for any Hazardous Substance disposal or contamination on any third party property that received Hazardous Substances, (d) neither EchoStar nor any of its Subsidiaries has received any written notice, demand, letter, claim or request for information alleging that EchoStar or any of its Subsidiaries is in violation of or subject to liability under any Environmental Law, (e) neither EchoStar nor any of its Subsidiaries is subject to any written order, decree or injunction with any Governmental Authority relating to any Environmental Liability or relating to Hazardous Substances, in each case of clauses (a) through (e), to the extent primarily relating to the operation of the EB Business or the ET Business or the ownership of the EB Transferred Assets or the ET Transferred Assets and (f) *** there are no other circumstances or conditions involving the EB Business, the ET Business or the ownership of the EB Transferred Assets or the ET Transferred Assets that would reasonably be expected to result in any material claim, Liability, investigation, cost or restriction on the ownership, use or transfer of any property pursuant to any Environmental Law.

(o) Products Liability. ***, there have been no claims made, pending or, ***, threatened against EchoStar or any of its Subsidiaries or to which EchoStar or any of its Subsidiaries was a party, for product Liability or similar claims by any third party (whether based on contract or tort and whether relating to personal injury, including death, property damage or economic loss), in each case arising from: (i) products sold or services rendered by the EB Business or the ET Business; or (ii) the development, sale, distribution, or installation by EchoStar or any of its Subsidiaries of any products to the extent primarily related to the EB Business or the ET Business. ***, all products sold and services rendered by either the EB Business or the ET Business complied with all applicable warranties related to such product or service. No Governmental Authority regulating the design, manufacture, production, marketing, distribution, sale or advertising of any of the products of the EB Business or the ET Business has requested, ***, that any such product be modified, removed from the market, removed from installation of any product or recalled, or that substantial new product testing be undertaken as a condition to the continued development, production, selling, distribution or use of any such product.

(p) Assets.

(i) Except for any Assets identified in Schedule 1.4(e) as an EB Transferred Asset or an ET Transferred Asset and except for properties, interests, Assets, services and rights that are the subject of Consents as set forth on Schedule 3.1(e) and which may not be delivered as of the Closing Date, EB Splitco and ET Splitco each have in all material respects access to and use of, or will have access to and use of as of the Closing Date, all EB Transferred Assets and ET Transferred Assets including (A) good and marketable fee simple title to, or a valid and binding leasehold interest in, the real property they own or lease that are included in the EB Transferred Assets or the ET Transferred Assets and (B) good title to the personal tangible property they own or lease that are included in the EB Transferred Assets or the ET Transferred Assets, in each case free and clear of all Liens, except Permitted Liens.

(ii) Except for Intellectual Property, which is addressed in Section 3.1(k)(iii), immediately following the Closing the EB Transferred Assets and the ET Transferred Assets, together with the Assets or services for which provision for access thereto is otherwise made in this Agreement, in the Transaction Documents (taking into account each such Asset only to the extent to which such access is so provided to the EB Group or the ET Group following the Closing) or in any other Contract, arrangement or understanding between DISH and its Subsidiaries, on the one hand, and EchoStar and its Subsidiaries, on the other hand, remaining in effect following the Closing Date, including those Assets already possessed by a member of the EB Group or the ET Group, constitute all the Assets necessary to conduct the EB Business and the ET Business in the same manner as which the EB Business and the ET Business are being conducted or contemplated to be conducted on the date hereof by EchoStar and its Subsidiaries in all material respects.

(iii) Except as would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect, (A) the tangible EB Transferred Assets and the ET Transferred Assets are in good condition, reasonable wear and tear excepted, and (B) the plants, buildings, structures and other improvements included in the EB Transferred Assets and ET Transferred Assets are structurally sound, free of defects and with no material alterations or repairs required thereto under Applicable Law or insurance company requirements, have access to public roads or valid easements for such ingress and egress and have access to water supply, storm and sanitary sewer facilities, telephone, gas and electrical connections, fire protection and drainage and other similar systems and facilities, in each case as necessary to permit the use of such plants, buildings and structures in the operation of the EB Business and the ET Business as conducted on the date hereof.

(iv) ***, neither EchoStar nor any of its Subsidiaries has: (A) experienced any material interruption in the provision of services to customers at the Data Centers or (B) experienced any material security breaches at any of the Data Centers.

(v) Except for any Assets identified in Schedule 1.4(e) as an EB Transferred Asset or an ET Transferred Asset, neither HSSC nor any of its Subsidiaries (other than the EB Group) own any EB Transferred Assets or ET Transferred Assets (disregarding Section 1.4(b)(ix) and Section 1.4(d)(ix) for purposes of this Section 3.1(p)(v)).

(q) Real Properties.

(i) Schedule 3.1(q)(i) sets forth a list of all leases, subleases, licenses and occupancy agreements in respect of the Leased Sites (the “Transferred Real Property Leases”).

(ii) EchoStar and its Subsidiaries have good and valid leasehold estate in and the right to quiet enjoyment of the Leased Sites pursuant to a legal, valid and binding lease in full force and effect and enforceable in all material respects in accordance with its terms upon EchoStar, its Subsidiaries and, ***, each other Person that is a party to such lease. With respect to each of the Transferred Real Property Leases: (A) such Transferred Real Property Lease is legal, valid, binding, enforceable and in full force and effect; (B) neither EchoStar, its Subsidiaries nor, ***, any other party to such Transferred Real Property Lease is in breach or default thereunder, and no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default thereunder; (C) no security deposit or portion thereof deposited with respect to such Transferred Real Property Lease has been applied in respect of a breach or default under such Transferred Real Property Lease which has not been redeposited in full; (D) neither EchoStar nor any of its Subsidiaries owes, nor will owe in the future, any brokerage commissions or finder’s fees with respect to such Transferred Real Property Lease; (E) ***, the counterparty to such Transferred Real Property Lease has not subleased, licensed or otherwise granted any Person (other than EchoStar or its Subsidiaries) the right to use or occupy the premises demised thereunder or any portion thereof; (F) ***, the counterparty has not collaterally assigned or granted any other security interest in such Transferred Real Property Lease; and (G) ***, there are no Liens on the estate or interest created by such Transferred Real Property Lease, other than Permitted Liens.

(iii) EchoStar or any of its Subsidiaries has good and marketable fee simple title to all Owned Sites and such title is not subject to any Liens, other than Permitted Liens. Except as set forth on Schedule 3.1(q)(iii), there are no options, rights of first offer or rights of first refusal to purchase any Owned Site or any material portion thereof.

(iv) No Transferred Site is subject to any Order to be sold or is being condemned, expropriated or otherwise taken by any public authority with or without payment of compensation therefor nor, ***, has any condemnation, expropriation or taking been proposed, and there is no pending or, ***, threatened legislation introduced to change any zoning classification of any Transferred Site.

- (v) As of the date of this Agreement, there are no pending property insurance claims with respect to any interest of EchoStar or any of its Subsidiaries in any Transferred Site or any portion thereof. As of the date of this Agreement, the EchoStar Parties have not received any written notice from any insurance company or any board of fire underwriters (or any entity exercising similar functions) with respect to any Transferred Site or any portion thereof (A) requesting the EchoStar Parties to perform any repairs, alterations, improvements or other work for such Transferred Site which the EchoStar Parties have not completed in full or (B) notifying the EchoStar Parties of any defects or inadequacies in such Transferred Site, or other conditions, which would materially and adversely affect the insurability of such Transferred Site or the premiums for the insurance thereof.
- (vi) The use and operation of the Transferred Sites in the conduct or operations of the EB Business or the ET Business do not violate any material contractual covenant, condition, restriction, easement, license, right of way or agreement. No Transferred Site or any buildings, structures, facilities, fixtures or other improvements thereon or the use thereof contravenes or violates any building, zoning, administrative, occupational safety and health or other Applicable Law in any material respect.
- (vii) Except for the EB Business Contracts, the ET Business Contracts and the Contracts set forth on Schedule 3.1(q)(vii), neither EchoStar nor any of its Subsidiaries has entered into any lease, sublease, license or other occupancy agreement to occupy space of any of the Transferred Sites where EchoStar or any of its Subsidiaries is the lessor or sublessor or is otherwise similarly situated.
- (viii) *******, no Transferred Site has suffered any material damage, destruction or other casualty loss, whether or not covered by insurance.
- (ix) There is no Indebtedness secured over, relating to or listed on the title record for, any Transferred Site, other than Permitted Liens.
- (r) Related Party Transactions. Schedule 3.1(r) contains an accurate and complete list of all material (A) loans, leases and other written and executed Contracts between EchoStar or any of its Subsidiaries (other than any member of the EB Group or the ET Group) or the directors, officers or employees of such entities (or Affiliates of any such directors, officers or employees), or any immediate family members of the foregoing that are natural persons (each of the foregoing, together with each other Person to the extent such Person is acting for the benefit for the foregoing, a “EchoStar Related Party”), on the one hand, and any member of the EB Group or the ET Group, on the other hand, (B) written and executed Contracts between an EchoStar Related Party and a third-party vendor for the benefit of any member of the EB Group or the ET Group, (C) written and executed Contracts between any member of the EB Group or the ET Group and a third-party vendor for the benefit of any EchoStar Related Party and (D) any other written and executed EB Business Contract or written and executed ET Business Contract to which an EchoStar Related Party is a party.

(s) Investment Company Act. Neither EchoStar nor HSSC is, or will become after giving effect to the Closing Transactions, an “investment company” required to be registered under the Investment Company Act of 1940, as amended.

(t) Takeover Statutes. No “fair price,” “moratorium,” “control share acquisition” or other similar anti-takeover statute or regulation (each, a “Takeover Statute”) or any anti-takeover provision in EchoStar’s or any of the Significant EchoStar Subsidiaries’ Corporate Documents applies to this Agreement, the Transaction Documents, the Pre-Closing Restructuring or the Closing Transactions.

(u) No Brokers. Except for *** no agent, broker, investment banker, Person or firm is or will be entitled to any broker’s or finder’s fee or any other commission or similar fee payable by EchoStar or any of its Subsidiaries directly or indirectly in connection with the Closing Transactions.

Section 3.2 Representations and Warranties of the DISH Parties. Each DISH Party represents and warrants to EchoStar, as of the date of this Agreement and as of the Closing Date, that:

(a) Organization; Good Standing; Qualification. Each DISH Party is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and has the full power and authority to enter into each Transaction Document to which it is a party and to perform its obligations thereunder, and (A) has the requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted and (B) is duly qualified or licensed and in good standing to do business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification or licensing necessary, except where the failure to be so qualified or licensed would not reasonably be expected to prevent, materially delay or materially impair the performance by such DISH Party of its obligations under this Agreement or any other Transaction Document to which it is a party or the consummation of the Closing Transactions.

(b) Authorization and Execution of Transaction Documents. Each DISH Party has taken all necessary corporate action to authorize the execution, delivery and performance of its obligations under each of the Transaction Documents to which it is a Party and to consummate the Closing Transactions. This Agreement has been duly executed and delivered by each DISH Party, and each other Transaction Document to which it is a Party, when delivered by it in accordance herewith, shall have been duly executed and delivered by such DISH Party.

(c) Enforceability of Transaction Documents. Assuming that this Agreement and each of the Transaction Documents to which any DISH Party is a party is the valid and binding obligation of each of the EchoStar Parties thereto, this Agreement constitutes, and each other Transaction Document shall at Closing constitute, the valid, legal and binding obligation of such DISH Party, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors’ rights and to general equity principles.

(d) Non-Contravention. The execution and delivery by any DISH Party of each of the Transaction Documents to which it is a party and the consummation of the Closing Transactions by it pursuant thereto will not: (i) conflict with any requirement of its Corporate Documents; (ii) assuming compliance with the matters referred to in Section 3.2(e)(*Consents*) of this Agreement, result in a violation or breach of any Applicable Law by which it is bound or to which any of its properties is subject; or (iii) with or without notice, lapse of time or both, result in a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under or the creation of a Lien on any of the assets of such DISH Party or its Subsidiaries pursuant to any Contract binding upon such DISH Party or its Subsidiaries or result in any change in the rights or obligations of any party under any Contract binding upon such DISH Party or its Subsidiaries, except, in the case of clauses (ii) and (iii), as would not reasonably be expected to prevent, materially delay or materially impair the performance by such DISH Party of its obligations under this Agreement or any other Transaction Document to which it is a party or the consummation of the Closing Transactions.

(e) Consents. No consent, license, approval or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required by or of such DISH Party in connection with the execution, delivery, performance, validity or enforceability of any Transaction Document to which such DISH Party is a party or the consummation of the Closing Transactions, except (i) for any such consent, license, approval, authorization, filing, notice or act that has been obtained, made or taken, and (ii) where the failure to obtain such consent, license, approval or authorization or make such filing or take such act would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or materially impair the performance by such DISH Party of its obligations under this Agreement or any other Transaction Document to which it or any of its Affiliates is a party or the consummation of the Closing Transactions.

(f) Ownership and Transfer of Tracking Stock.

(i) All of the HSSC Tracking Shares are, and prior to the Closing will be, owned by DOLLC. Immediately following the Closing, EB Holdco will have good and valid title to the HSSC Tracking Shares, free and clear of any Liens (other than Liens resulting from any action of EchoStar or any of its Subsidiaries).

(ii) All of the EchoStar Tracking Shares are, and prior to the Closing will be, owned by DNLLC. Immediately following the Closing, EchoStar will have good and valid title to the EchoStar Tracking Shares, free and clear of any Liens (other than Liens resulting from any action of EchoStar or any of its Subsidiaries).

(g) Litigation and Other Proceedings. Except as would not reasonably be expected to prevent, materially delay or materially impair the performance by such DISH Party of its obligations under this Agreement or any other Transaction Document to which it is a party or the consummation of the Closing Transactions, as of the date of this Agreement, (i) there is no action, suit, investigation or proceeding pending or, ***, threatened in writing against such DISH Party or any of its Subsidiaries or any of their respective properties by or before any Governmental Authority and (ii) none of the DISH Parties or any of their respective Subsidiaries nor any of their respective properties is or are subject to any judgment, order, injunction, rule or decree of any Governmental Authority, in each case of clauses (i) and (ii), (1) that are reasonably likely to prohibit or restrain the ability of the DISH Parties to enter into this Agreement or any other Transaction Document or consummate the Closing Transactions, or (2) challenging or seeking to make illegal or otherwise restrain, enjoin or prohibit the consummation of the Closing Transactions. There is no action, suit, investigation or proceeding pending or, ***, threatened in writing against any of the DISH Parties or any of their respective Subsidiaries or any of their respective properties relating to the Closing Transactions, in each case, except for matters that have not resulted in, and would not reasonably be expected to result in, any criminal liability of any of the DISH Parties or any of their respective Subsidiaries or any director, officer or employee of any of the DISH Parties.

(h) No Brokers. No agent, broker, investment banker, Person or firm is or will be entitled to any broker's or finder's fee or any other commission or similar fee payable by DISH, the DISH Parties or any of their Subsidiaries directly or indirectly in connection with the Closing Transactions.

(i) ***

ARTICLE IV

COVENANTS

Section 4.1 Access to Information.

(a) Prior to the Closing, each of the DISH Parties and their Affiliates shall be entitled, through their officers, employees and representatives (including their legal advisors and accountants), to make such investigation of the properties, businesses and operations to the extent related to the EB Business or the ET Business and such examination of the books and records to the extent related to the EB Business or the ET Business as it reasonably requests and to make extracts and copies of such books and records, including access to customary supporting information, data and documentation utilized in or necessary for the preparation of the financial information described in Schedule 5.2(e). Any such investigation and examination shall be conducted under reasonable circumstances and shall be subject to any restrictions under Applicable Law. The EchoStar Parties shall cause the officers, employees, consultants, agents, accountants, attorneys and other representatives of the EB Business or the ET Business, respectively, to cooperate with the DISH Parties and their representatives in connection with such investigation and examination, and the DISH Parties and their representatives shall cooperate with the respective representatives of the EB Business or the ET Business and shall use their reasonable efforts to minimize any disruption to the business.

(b) Following the Closing, the DISH Parties will give the EchoStar Parties reasonable access during the DISH Parties' regular business hours upon reasonable advance notice and subject to restrictions under Applicable Law to books and records transferred to the DISH Parties to the extent necessary for the preparation of financial statements or regulatory filings of the EchoStar Parties or their Affiliates in respect of periods ending on or prior to Closing, or in connection with any Legal Proceedings. The EchoStar Parties shall be entitled, at their sole cost and expense, to make copies of the books and records to which they are entitled to access pursuant to this Section 4.1(b).

(c) Following the Closing, the EchoStar Parties will give, or cause to be given, the DISH Parties and their Affiliates reasonable access during the EchoStar Parties' regular business hours upon reasonable advance notice and subject to restrictions under Applicable Law to their respective books and records to the extent relating to the EB Business or the ET Business to the extent necessary for the preparation of financial statements or regulatory filings of DISH, members of the EB Group or ET Group in respect of periods ending on or prior to Closing, in connection with any Legal Proceedings, or to the extent reasonably necessary or advisable to operate the EB Business or the ET Business after the Closing. DISH, the DISH Parties and their Affiliates shall be entitled, at their sole cost and expense, to make copies of the books and records to which they are entitled to access pursuant to this Section 4.1(c).

(d) ***

Section 4.2 Conduct of the Business Pending the Closing.

(a) Prior to the Closing, except (I) as permitted by Schedule 4.2, (II) as required by Applicable Law, (III) as otherwise expressly required or expressly contemplated by this Agreement or any other Transaction Document, (IV) with the prior written consent of DNLLC (such consent not to be unreasonably withheld, conditioned or delayed), or (V) to the extent expressly contemplated by the Pre-Closing Restructuring, EchoStar shall, and shall cause its Subsidiaries to, (i) conduct the EB Business and the ET Business only in the Ordinary Course of Business; and (ii) use its commercially reasonable efforts to (A) preserve the present business operations of, Assets primarily related to, and organization and goodwill of, in each case, the EB Business and the ET Business, (B) preserve the present relationships with customers, licensors, vendors, distributors and suppliers to the extent primarily related to the EB Business and the ET Business and other third parties having a business relationship with the EB Business and the ET Business, (C) preserve the EB Business and the ET Business and their respective business organization intact and retain the respective Permits to the extent related to the EB Business and the ET Business and (D) keep available the services of the employees of the EB Business and the ET Business, in the case of (A) through (D), in all material respects.

(b) Without limiting the generality of Section 4.2(a), and in furtherance of Section 4.2(a), except (I) as expressly permitted by Schedule 4.2, (II) as otherwise expressly required or contemplated by this Agreement or any other Transaction Document, (III) with the prior written consent of DNLLC (such consent not to be unreasonably withheld, conditioned or delayed), (IV) as required by Applicable Law, or (V) to the extent contemplated by the Pre-Closing Restructuring, each EchoStar Party shall not, and shall cause each of their Subsidiaries not to:

- (i) incur, assume or guarantee any Indebtedness that will, at the Closing, constitute EB Assumed Liabilities or ET Assumed Liabilities;
- (ii) make any loan, advance or capital contribution to or investment in any Person that would constitute EB Transferred Assets or ET Transferred Assets;
- (iii) change any method of accounting or accounting practice, in each case, which materially affects or relates to the EB Business or the ET Business, except for any such changes required by Applicable Law or under GAAP;
- (iv) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of the EB Splitco Shares or any of the ET Splitco Shares or enter into any agreement with respect to the voting of the EB Splitco Shares or the ET Splitco Shares;
- (v) transfer, issue, encumber, sell or dispose of any equity or membership interests in, or other securities of, the EB Group or the ET Group or grant options, warrants, calls or other rights to purchase or otherwise acquire equity or membership interests in, or other securities of, the EB Group or the ET Group;
- (vi) effect any recapitalization, reclassification or like change in the capitalization of the EB Group or the ET Group;
- (vii) amend or propose any change to the Corporate Documents of any member of the EB Group or any member of the ET Group;
- (viii) other than as required by Applicable Law, any existing Benefit Plan or Material Contract or any of the Transaction Documents (including the Employee Matters Agreement), (A) increase the annual level of compensation of any Transferred Employee or consultant primarily related to the EB Business or the ET Business, except for (1) increases in annual salary, wage rate or base compensation in the Ordinary Course of Business and after prior consultation with DISH and (2) the payment of annual bonuses to Transferred Employees for completed periods, (B) grant or increase any bonus or incentive opportunity or other direct or indirect compensation to any Transferred Employee other than in the Ordinary Course of Business, (C) establish, adopt or amend or otherwise materially increase the coverage or benefits available under any (or create any new) Benefit Plan, (D) take any action to accelerate the vesting or payment, or fund or in any other way to secure the payment, of compensation or benefits under any Benefit Plan with respect to any Transferred Employee, to the extent not already provided in any such Benefit Plan for Transferred

Employees, (E) materially change any actuarial or other assumptions used to calculate funding obligations with respect to any Benefit Plan or to change the manner in which contributions to such plans are made or the basis on which such contributions are determined, except as may be required by GAAP, (F) establish, adopt, amend or terminate any employment, deferred compensation, severance, consulting, non-competition or similar agreement to which any Transferred Employee is a party, or (G) become a party to, establish, adopt, amend, commence participation in or terminate any collective bargaining agreement or other agreement with a labor union, works council or similar organization, in each case, with respect to any Transferred Employee;

(ix) subject to any Lien (other than any Permitted Lien), any EB Transferred Assets or ET Transferred Assets;

(x) except for acquisitions and sales of parts and inventory in the Ordinary Course of Business, (A) acquire any properties or assets that would constitute EB Transferred Assets or ET Transferred Assets with a value or purchase price in the aggregate *** or (B) sell, assign, license, transfer, convey, lease, let lapse, abandon or otherwise dispose of any of the properties or Assets that would otherwise constitute EB Transferred Assets or ET Transferred Assets with a value or purchase price in the aggregate ***;

(xi) cancel or compromise any material debt or claim or waive or release any material right related to the EB Business or the ET Business;

(xii) enter into any commitment for capital expenditures primarily related to the EB Business or the ET Business *** for any individual commitment and *** for all commitments in the aggregate;

(xiii) permit any member of the EB Group or any member of the ET Group to enter into any merger or consolidation with any Person;

(xiv) except in the Ordinary Course of Business, enter into, renew, terminate, modify in any material respect or waive any material right under or with respect to, a Contract that is, or would be if entered into after the date hereof, a Material Contract;

(xv) transfer, sell, license, encumber, divest, abandon, cancel, fail to renew, permit to lapse or fail to defend any challenge (other than a frivolous challenge), or otherwise dispose of rights to any Separated IP Assets, except for granting non-exclusive licenses to the Separated IP Assets in the Ordinary Course of Business and the abandonment or failure to renew any item included within the Separated IP Assets where such decision was made prior to the date of this Agreement or otherwise in the Ordinary Course of Business;

(xvi) except (A) in the Ordinary Course of Business with respect to immaterial proceedings or (B) with respect to any EB Excluded Liability or ET Excluded Liability (so long as any such settlement does not admit any wrongdoing by, or place any restrictions on, the EB Business or the ET Business), initiate or settle any Legal Proceedings related to the EB Business or the ET Business;

(xvii) (A) make or rescind any material Tax election or change any material Tax accounting method, (B) agree to a waiver or an extension of a statute of limitations with respect to the assessment or determination of Taxes, or (C) compromise or settle any material Tax dispute, in each case, related to and which materially affects the EB Business or the ET Business;

(xviii) fail to (A) maintain inventory at levels (by device type) in the Ordinary Course of Business, (B) maintain and continue regular purchase order activity in the Ordinary Course of Business or (C) conduct capital expenditures in the Ordinary Course of Business and consistent with the capital expenditure plan for the EB Business and the ET Business;

(xix) engage in any practice which would have the effect of (A) postponing payments payable in connection with the operation or conduct of the EB Business' and the ET Business' operations (including prepayments) or (B) accelerating collections of accounts receivable or other payments owed to the EB Business or the ET Business; or

(xx) agree, authorize or consent to do any of the foregoing.

Section 4.3 Third Party Consents; Government Actions and Authorizations.

(a) Cooperation. Subject to the terms and conditions set forth in this Agreement, the DISH Parties and the EchoStar Parties shall cooperate with each other and use (and shall cause their respective Subsidiaries to use) their respective commercially reasonable efforts to take or cause to be taken all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under this Agreement and Applicable Law to consummate and make effective the Closing Transactions or any other agreement contemplated hereby as soon as practicable, including preparing and filing as promptly as practicable all documentation to effect all necessary notices, reports and other filings and to obtain as promptly as practicable all consents, registrations, approvals, and Permits necessary or advisable to be obtained from any third party and/or any Governmental Authority in order to consummate the Closing Transactions or any of the other transactions contemplated by this Agreement. Subject to Applicable Law relating to the exchange of information, the DISH Parties and the EchoStar Parties shall consult with one another and jointly direct all matters with any Governmental Authority consistent with its obligations hereunder; provided, that the Parties shall have the right to review in advance and, to the extent practicable, each will consult with the other on and consider in good faith the views of the other in connection with, all of the information relating to the DISH Parties or the EchoStar Parties, as the case may be, and any of their respective Subsidiaries, that appears in any filing made with, written materials submitted to, or oral conversations had with, any third party and/or any Governmental Authority in connection with the Closing Transactions or any other agreement contemplated hereby. In exercising the foregoing

rights, each of the DISH Parties and the EchoStar Parties shall act reasonably and as promptly as practicable.

(b) Information. The DISH Parties and the EchoStar Parties each shall, upon request by the other, furnish the other with all information concerning itself, its Subsidiaries, directors, officers and stockholders and such other matters as may reasonably be necessary or advisable in connection with any statement, filing, notice or application made by or on behalf of the DISH Parties, the EchoStar Parties or any of their respective Subsidiaries to any third party and/or any Governmental Authority in connection with the Closing Transactions or any other agreement contemplated hereby.

(c) Status. Subject to Applicable Law and as required by any Governmental Authority, the DISH Parties and the EchoStar Parties each shall keep the other apprised of the status of matters relating to completion of the Closing Transactions or any other agreement contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by the EchoStar Parties or the DISH Parties, as the case may be, or any of their Subsidiaries, from any third party and/or any Governmental Authority with respect to the Closing Transactions or any other agreement contemplated hereby. Each of EchoStar and DISH shall give prompt notice to the other upon learning of any change, fact or condition that is reasonably expected to result in a Material Adverse Effect or of any failure of any condition to any of the Parties' obligations to effect the Closing Transactions. Neither the DISH Parties nor the EchoStar Parties shall permit any of their officers or any other representatives or agents to participate in any substantive meeting with any Governmental Authority in respect of any filing, investigation or other inquiry relating to the Closing Transactions or any other agreement contemplated hereby unless it consults with the EchoStar Parties or the DISH Parties, as the case may be, in advance and, to the extent permitted by such Governmental Authority, gives the other Party the opportunity to attend and participate thereat.

(d) Without limiting the generality of Section 4.3(a), the DISH Parties and the EchoStar Parties shall make (and shall cause their respective Subsidiaries to make) the governmental application filings set forth in Schedule 4.3(d)(i) (the "Required Governmental Applications") and the governmental notices set forth in Schedule 4.3(d)(ii) (the "Required Governmental Notices").

(e) The Parties shall use their respective commercially reasonable efforts to ensure that EchoStar and/or its Affiliates can fulfill their responsibilities as an FCC licensee for the radio service authorizations to be retained by EchoStar but that relate to the EB Business, including without limitation ensuring compliance with all applicable communications laws and FCC rules, orders and policies.

Section 4.4 Further Assurances.

(a) Each of the DISH Parties and the EchoStar Parties agree to (1) take all actions necessary or appropriate to consummate the Closing Transactions, (2) cause the fulfillment at the earliest practicable date of all of the conditions to their respective obligations to consummate the Closing Transactions, and (3) from and after the Closing, take such actions and execute such documents as are reasonably necessary to make effective and carry out the intent of the Closing Transactions.

(b) Neither the DISH Parties nor the EchoStar Parties shall be obligated, in connection with this Section 4.4, to expend money other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, unless reimbursed by the EchoStar Parties or the DISH Parties, as the case may be.

(c) From the date of this Agreement until the Closing Date, EchoStar and DISH shall cooperate in good faith to identify any and all additional services (i) related to the operation of the EB Business and the ET Business that are not included in the EB Transferred Assets or the ET Transferred Assets and that are reasonably necessary or advisable to operate the EB Business or the ET Business following the Closing and (ii) related to the operation of the EB Business and the ET Business included in the EB Transferred Assets or the ET Transferred Assets and that are reasonably necessary or advisable for the EB Business or the ET Business to provide to the EchoStar Group following the Closing. EchoStar and DISH shall cooperate in good faith to add the provision by the EchoStar Group or DISH and its applicable Subsidiaries, as applicable, of any services identified pursuant to this Section 4.4(c) that either DISH or EchoStar, as applicable, reasonably requests to the scope of services provided under the Professional Services Agreement, dated August 4, 2009, between EchoStar and DISH (as amended to include such additional services, the "Amended Professional Services Agreement"), or if the parties mutually agree in writing, to another transition services agreement between DISH or any of its Subsidiaries (including any member of the EB Group or the ET Group) and one or more members of the EchoStar Group (the "Transition Services Agreement" or "Transition Services Agreements," as the case may be), and such services shall be provided in the manner customarily used by DISH and its Subsidiaries and the EchoStar Group to provide services to each other in the past. Notwithstanding the foregoing, neither the EchoStar Group nor DISH or any of its Subsidiaries shall be obligated to provide any service the provision of which would violate Applicable Law or any Contract to which any such party is a member; provided that in the event that any service contemplated by this Section 4.4(c) is not provided due to this sentence, members of the EchoStar Group and DISH and its applicable Subsidiaries, as applicable, shall take such other actions as may reasonably be requested by the other party in order to place such party, insofar as legally permitted and reasonably possible, in the same position as if such service had been provided to such party.

(d) ***

(e) From the date of this Agreement through the Closing Date (or, with respect to each Potential Transferred Employee, the date that is the earlier of (i) such Potential Transferred Employee's Transfer Date and (ii) ***) and subject to any applicable legal restrictions, prior to making any material communications to the EB Employees, ET Employees or Potential Transferred Employees pertaining to compensation or benefit matters that are affected by the transactions contemplated by this Agreement and not in the Ordinary Course of Business, DISH and EchoStar each shall provide the other with a copy of the intended communication and such other Party shall have a reasonable period of time (to the extent practicable) to review and comment on the communication.

Section 4.5 EchoStar Credit Support Obligations. DISH shall use its commercially reasonable efforts to cause the EchoStar Parties and their respective Affiliates to be relieved reasonably promptly following the Closing of all EB Assumed Liabilities and ET Assumed Liabilities arising out of the letters of credit, performance bonds, banker's acceptance, corporate guarantees and other similar items issued and outstanding in connection with the EB Business or the ET Business that constitute EB Assumed Liabilities or ET Assumed Liabilities and are set forth on Schedule 4.5 (together, the "EchoStar Credit Support Obligations"). DISH agrees to continue to use its commercially reasonable efforts after the Closing to relieve the EchoStar Parties and their respective Affiliates of all such EchoStar Credit Support Obligations. ***

Section 4.6 Confidentiality.

(a) The terms of the Confidentiality Agreement, dated as of December 22, 2016, between DISH and EchoStar (the "Confidentiality Agreement"), shall continue in full force and effect until the Closing, at which time the Confidentiality Agreement shall terminate. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement shall continue in full force and effect in accordance with its terms.

(b) Each of the EchoStar Parties hereby agrees with DISH that such Party will not, and that such Party will cause its Affiliates, directors, officers, employees, agents and representatives not to, at any time on or after the Closing Date, directly or indirectly, without the prior written consent of DISH, disclose or use any confidential or proprietary information involving or relating to any of the EB Business or the ET Business (collectively, the "DISH Confidential Information"), and each of the DISH Parties hereby agrees with EchoStar that such Party will not, and that such Party will cause its Affiliates, directors, officers, employees, agents and representatives not to, at any time on or after the Closing Date, directly or indirectly, without the prior written consent of EchoStar, disclose or use any confidential or proprietary information involving or relating to any of the Tracking Stock or the Hughes Retail Group (collectively, the "EchoStar Confidential Information," and, together with the DISH Confidential Information, the "Confidential Information"); provided, however, that Confidential Information will not include any information generally available to, or known by, the public (other than as a result of disclosure in violation hereof); provided, further, that the provisions of this Section 4.6(b) will not prohibit any retention of copies of records or disclosure (i) required by Applicable Law so long as, to the extent practicable, reasonable prior notice is given of such disclosure and a reasonable opportunity is afforded to contest

the same or (ii) in connection with the enforcement of any right or remedy relating to this Agreement or any other Transaction Document. ***

Section 4.7 Preservation of Records. The EchoStar Parties and the DISH Parties agree that each of them (i) shall preserve and keep the records held by them or their Affiliates relating to the EB Business and the ET Business for a period of *** from the Closing Date (or such longer period as required by Applicable Law), other than records (x) in the case of the EchoStar Parties, that are actually delivered to DISH pursuant to Section 4.10, (y) and in the case of the DISH Parties, a copy of which is retained by the EchoStar Parties and (ii) shall make such records and personnel available to the other as may reasonably be required by such party in connection with, among other things, any insurance claims by, Legal Proceedings against or governmental investigations of the EchoStar Parties or the DISH Parties or any of their Affiliates or in order to enable the EchoStar Parties and the DISH Parties to comply with their respective obligations under this Agreement and each other agreement, document or instrument contemplated hereby or thereby. In the event any of the EchoStar Parties or any of the DISH Parties wishes to destroy such records after that time, such Party shall first give *** prior written notice to, in the case of any EchoStar Party, DNLLC, and in the case of any DISH Party, EchoStar, and DNLLC or EchoStar, respectively, shall have the right at its option and expense, upon prior written notice given to such Party within that *** period, to take possession of the records within *** days after the date of such notice.

Section 4.8 Publicity. None of the Parties shall issue any press release or public announcement concerning this Agreement or the Closing Transactions without obtaining the prior written approval of the other applicable Parties hereto, which approval will not be unreasonably withheld, conditioned or delayed, unless, in the sole judgment of DISH or EchoStar, as applicable, disclosure is otherwise required by Applicable Law or by the applicable rules of any stock exchange on which DISH or EchoStar lists securities, provided, that, to the extent permitted by Applicable Law, the Party intending to make such release shall use its commercially reasonable efforts consistent with such Applicable Law to consult with the other Parties with respect to the timing and content thereof.

Section 4.9 Intercompany Arrangements; ***.

(a) Except as set forth on Schedule 4.9(a), as such schedule may be supplemented by the mutual written agreement of the parties between the date of this Agreement and the Closing Date, EchoStar shall procure that as of the Closing there shall be no outstanding material Liabilities, obligations, Contracts or agreements between or among any member of the EchoStar Group, on the one hand, and any member of the EB Group or the ET Group, on the other hand.

(b) The provisions of Section 4.9(a) shall not apply to this Agreement, any other Transaction Document and each other Contract or amendment expressly contemplated by this Agreement or other Transaction Document to be entered into or continued by any of the Parties or any of their respective Affiliates.

(c) ***

(d) ***

Section 4.10 Books and Records. As soon as practicable following the Closing Date, the EchoStar Parties shall deliver, or cause to be delivered, to DNLLC originals or copies of all books, records, files and papers, whether in hard copy or computer format, primarily relating to the EB Group and the ET Group and its assets, properties and operations.

Section 4.11 Notice of Developments. Prior to the Closing, the EchoStar Parties shall notify DNLLC in writing reasonably promptly after becoming aware of (a) any event, circumstance, fact or occurrence arising subsequent to the date of this Agreement which would result in any material breach of any representation, warranty or covenant of the EchoStar Parties in this Agreement or which could have the effect of making any representation or warranty of the EchoStar Parties in this Agreement untrue or incorrect in any material respect, (b) any other material development affecting the assets, liabilities, business, properties, financial condition, results of operation or employee relations of the EB Group or the ET Group and (c) any action or investigation in which any EchoStar Party is a party and which has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or which relates to the Pre-Closing Restructuring or the Closing Transactions. Prior to the Closing, the DISH Parties shall promptly notify EchoStar in writing upon becoming aware of (i) any event, circumstance, fact or occurrence arising subsequent to the date of this Agreement which would result in any material breach of any representation, warranty or covenant of the DISH Parties in this Agreement or which could have the effect of making any representation or warranty of the DISH Parties in this Agreement untrue or incorrect in any material respect and (ii) any action or investigation in which any DISH Party is a party and which has or would reasonably be expected to prevent, materially delay or materially impair the performance by such DISH Party of its obligations under this Agreement or any other Transaction Document to which it is a party or the consummation of the Closing Transactions.

Section 4.12 Completion of the Pre-Closing Restructuring. The EchoStar Parties shall keep the DISH Parties reasonably apprised as to the status of the completion of the Pre-Closing Restructuring and shall provide the DISH Parties with copies of proposed drafts of all documents effecting the Pre-Closing Restructuring as promptly as practicable. EchoStar shall consider in good faith all reasonable comments thereto proposed by the DISH Parties, and the prior written consent of DISH to the form and contents of each document shall be required prior to completing the Pre-Closing Restructuring (such consent not to be unreasonably withheld, conditioned or delayed).

Section 4.13 Transfer of ET Splitco Common Stock, EB Splitco Common Stock, and Tracking Stock. Except for the Pre-Closing Restructuring and the Closing Transactions, (i) no EchoStar Party shall transfer, issue, encumber, sell, assign or otherwise dispose of any ET Splitco Shares or the EB Splitco Shares, and (ii) no DISH Party shall transfer, issue, encumber, sell, assign or otherwise dispose of any of the HSSC Tracking Shares or the EchoStar Tracking Shares.

Section 4.14 Tax Matters. Notwithstanding anything to the contrary in this Agreement, except as provided in Section 4.2(b), (i) all Tax matters, including the preservation of Tax records and access to Tax information, and any Liability for Taxes shall be handled exclusively in accordance with the provisions of the Tax Matters Agreement, and (ii) the representations and warranties in respect of Taxes contained in the Tax Matters Agreement are the exclusive representations or warranties in respect of Taxes in any Transaction Document. For the avoidance of doubt, no Party may recover Losses under both this Agreement and the Tax Matters Agreement for the same indemnification claim.

Section 4.15 Environmental Reports. EchoStar shall, prior to the Closing Date, deliver to the DISH Parties copies of all material environmental reports in its possession from the last *** relating to the EB Business, the ET Business or the ownership of the EB Transferred Assets or the ET Transferred Assets, and shall use its commercially reasonable efforts to diligently search for any other such material environmental reports *** and shall deliver to the DISH Parties any such reports that are located prior to the Closing Date.

ARTICLE V

CONDITIONS TO CLOSING

Section 5.1 Mutual Conditions to Closing. The respective obligations of each Party hereto to consummate the Closing Transactions is subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in whole or in part by all of the Parties hereto to the extent permitted by Applicable Law):

- (a) the Required Governmental Applications shall have been granted;
- (b) there shall not be pending any Action or proceeding by any Governmental Authority (i) challenging or seeking to make illegal or otherwise, directly or indirectly, restrain, enjoin or prohibit the consummation of the Closing Transactions, or (ii) directly involving the EB Group, the ET Group or the DISH Parties or any of their Affiliates that would reasonably be expected to materially impair the DISH Parties' ability to (A) own or operate the EB Business or the ET Business and conduct the businesses as currently conducted, or (B) vote, transfer, receive dividends or otherwise exercise full ownership rights and control with respect to the ET Splitco Shares or the EB Splitco Shares;
- (c) no court or other Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Applicable Law (whether temporary,

preliminary or permanent) or Order that is in effect and restrains, enjoins or otherwise prohibits consummation of the Pre-Closing Restructuring, the Closing Transactions or any other agreements or other transactions contemplated by this Agreement; and

(d) the Pre-Closing Restructuring shall have been completed in accordance with Article I and Section 4.12.

Section 5.2 Conditions Precedent to Obligations of the DISH Parties. The obligations of the DISH Parties to consummate the Closing Transactions are further subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by the DISH Parties in whole or in part to the extent permitted by Applicable Law):

(a) (i) the representations and warranties of the EchoStar Parties set forth in this Agreement that are qualified by reference to Material Adverse Effect shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date); (ii) the representations and warranties of the EchoStar Parties set forth in this Agreement that are not qualified by reference to Material Adverse Effect shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), provided, however, that notwithstanding anything herein to the contrary, the condition set forth in this Section 5.2(a)(ii) shall be deemed to have been satisfied even if any representations and warranties of the EchoStar Parties (***) which must be true and correct subject only to de minimis exceptions) are not so true and correct unless the failure of such representations and warranties of the EchoStar Parties to be so true and correct, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect; and (iii) DNLLC shall have received at the Closing a certificate signed on behalf of the EchoStar Parties by an executive officer of EchoStar to the effect that such executive officer has read this Section 5.2(a) and the conditions set forth in this Section 5.2(a) have been satisfied;

(b) each of the EchoStar Parties shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date, and DNLLC shall have received a certificate signed on behalf of the EchoStar Parties by an executive officer of EchoStar to such effect;

(c) since the date of this Agreement, there shall not have occurred any event, change, occurrence, condition or effect which has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(d) all outstanding Indebtedness of ET Splitco and EB Splitco and their respective Subsidiaries shall have been repaid in full; and

(e) the DISH Parties shall have received the financial information set forth on Schedule 5.2(e) in a form reasonably satisfactory to the DISH Parties;

(f) the DISH Parties shall have received each of the deliveries set forth in Section 2.3 required to be delivered to any of the DISH Parties.

Section 5.3 Conditions Precedent to Obligations of the EchoStar Parties. The obligations of the EchoStar Parties to consummate the Closing Transactions are further subject to the fulfillment, prior to or on the Closing Date, of each of the following conditions (any or all of which may be waived by the EchoStar Parties in whole or in part to the extent permitted by Applicable Law):

(a) (i) the representations and warranties of the DISH Parties set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date and ***), and (ii) EchoStar shall have received at the Closing a certificate signed on behalf of the DISH Parties by an executive officer of DNLLC to the effect that such executive officer has read this Section 5.3(a) and the conditions set forth in this Section 5.3(a) have been satisfied;

(b) each of the DISH Parties shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date, and EchoStar shall have received a certificate signed on behalf of the DISH Parties by an executive officer of DNLLC to such effect;

(c) EchoStar shall have received each of the deliveries set forth in Section 2.3 required to be delivered to it or to any of the EchoStar Parties; and

(d) ***

ARTICLE VI

INDEMNIFICATION

Section 6.1 Indemnification Obligations of EchoStar. Subject to the limitations set forth in this Article VI, EchoStar shall indemnify DISH, DNLLC, DOLLC and each of their respective Affiliates, officers, directors, employees, representatives and agents (the “DISH Indemnified Persons”) against and hold them harmless from any and all damages, losses, charges, liabilities, claims, demands, actions, suits, proceedings, payments, judgments, settlements, assessments, deficiencies, taxes, interest, penalties, diminution in value and costs and expenses but excluding punitive, exemplary and special damages (unless a third party is entitled to such damages pursuant to a third party claim (a “Third Party Claim”) and such damages are actually paid to such third party) (collectively, “Losses”) imposed on, sustained, incurred or suffered by, or asserted against, any of the DISH Indemnified Persons, whether in respect of Third Party Claims, claims between the Parties, or otherwise, relating to, arising out of or resulting from (a) any breach of any of the representations or warranties of any EchoStar Party contained in this Agreement, (b) any breach or

nonperformance of any covenant or agreement made by any EchoStar Party contained in this Agreement or the Employee Matters Agreement, (c) any of the EB Excluded Liabilities, or (d) any of the ET Excluded Liabilities; ***.

Section 6.2 Indemnification Obligations of DISH. Subject to the limitations set forth in this Article VI, the DISH Parties shall indemnify EchoStar and its Affiliates and its and their officers, directors, employees, representatives and agents (the “EchoStar Indemnified Persons”) against and hold them harmless from any and all Losses imposed on, sustained, incurred or suffered by, or asserted against, any of the EchoStar Indemnified Persons, whether in respect of Third Party Claims, claims between the Parties, or otherwise, relating to, arising out of or resulting from (a) any breach of any of the representations or warranties of any DISH Party contained in this Agreement, (b) any breach or nonperformance of any covenant or agreement made by any DISH Party contained in this Agreement or the Employee Matters Agreement, (c) any of the EB Assumed Liabilities or (d) any of the ET Assumed Liabilities; ***.

Section 6.3 Limitations on Indemnity. No Party shall be required to make any payment with respect to its indemnification obligations in respect of a breach of any representation or warranty other than a breach of any Fundamental Representation under this Article VI unless (A) the aggregate Losses arising from an individual breach of any representation or warranty exceed *** (it being stated for the avoidance of doubt that the Losses arising from any potential indemnification claims that arise out of or involve or relate to similar facts or are based on related or similar occurrences, events or circumstances will be aggregated and treated as a single breach for purposes of this clause (A) of this Section 6.3) and (B) until such time as the obligations to the DISH Indemnified Persons, on the one hand, or the EchoStar Indemnified Persons, on the other hand, excluding Losses for which indemnification is not available as a result of the application of the de minimis threshold contained in clause (A) above, exceed *** in the aggregate (the “Deductible”); provided, that once such Losses exceed the Deductible, the indemnifying party shall be responsible for all amounts in excess thereof; provided, further, that in no event shall the aggregate indemnification actually paid by the EchoStar Parties, on the one hand, or the DISH Parties, on the other hand, pursuant to Section 6.1 or Section 6.2, as the case may be, in respect of a breach of any of the representations or warranties (other than a breach of any of the Fundamental Representations) exceed ***. Notwithstanding the foregoing, in no event shall (x) the aggregate indemnification actually paid by the EchoStar Parties pursuant to Section 6.1, taken together with all other indemnification actually paid by the EchoStar Parties pursuant to Section 6.1, or (y) the aggregate indemnification actually paid by the DISH Parties pursuant to Section 6.2, taken together with all other indemnification actually paid by the DISH Parties pursuant to Section 6.2, in the case of each of (x) and (y), in respect of breaches of any representations or warranties, exceed ***. Payments by an EchoStar Party or a DISH Party pursuant to Section 6.1 or Section 6.2 in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received or reasonably expected to be received by the EchoStar Indemnified Persons or the DISH Indemnified Persons, as applicable, in respect of any such claim. The EchoStar Indemnified Persons or the DISH Indemnified Persons, as applicable, shall take, and cause its Affiliates to take, all commercially reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent

necessary to remedy the breach that gives rise to such Loss; provided, that nothing herein shall require any EchoStar Indemnified Person or DISH Indemnified Person to file any claim under any insurance policy. ***

Section 6.4 Method of Asserting Claims. All claims for indemnification by any DISH Indemnified Person or EchoStar Indemnified Person (each, an “Indemnified Party”) shall be asserted and resolved as set forth in this Section 6.4. Any Indemnified Party seeking indemnity pursuant to Section 6.1 or Section 6.2 shall notify in writing the Party from whom indemnification is sought (the “Indemnifying Party”) of such demand for indemnification. The Indemnifying Party shall have *** from the personal delivery or mailing of such notice (the “Notice Period”) to notify the Indemnified Party whether or not it desires to defend the Indemnified Party against such claim or demand with respect to a claim or demand based on a Third Party Claim. In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that, with respect to a Third Party Claim, it desires to defend the Indemnified Party against such Third Party Claim, the Indemnifying Party shall have the right to defend the Indemnified Party at the Indemnifying Party’s sole cost and expense and with counsel (plus local counsel if appropriate) reasonably satisfactory to the Indemnified Party. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, compromise or consent to entry of any judgment or enter into any settlement agreement with respect to any action or proceeding in respect of which indemnification is sought under Section 6.1 or Section 6.2 (whether or not the Indemnified Party is an actual or potential party thereto), unless such compromise, consent or settlement involves only the payment of money damages for which the Indemnifying Party will indemnify the Indemnified Party hereunder. If the right to assume and control the defense is exercised, the Indemnified Party shall have the right to participate in, but not control, such defense at its own expense and the Indemnifying Party’s indemnity obligations shall be deemed not to include attorneys’ fees and litigation expenses incurred in such participation by the Indemnified Party after the assumption of the defense by the Indemnifying Party in accordance with the terms of this Agreement; provided, however, that the Indemnified Parties collectively shall be entitled to employ one firm or separate counsel (plus local counsel if appropriate) to represent the Indemnified Parties if, in the opinion of counsel to each Indemnified Party seeking to employ such separate counsel, a conflict of interest between such Indemnified Party or Parties and the Indemnifying Party exists in respect of such claim and in each such event, the fees, costs and expenses of one such firm or separate counsel (plus one local counsel per jurisdiction if appropriate) shall be paid in full by the Indemnifying Party. If the Indemnifying Party has not elected to assume the defense of a Third Party Claim within the Notice Period, the Indemnified Party may defend and settle the claim for the account and cost of the Indemnifying Party; provided, that the Indemnified Party will not settle the Third Party Claim without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld. The Indemnified Party shall cooperate with the Indemnifying Party and, subject to obtaining proper assurances of confidentiality and privilege, shall make available to the Indemnifying Party all pertinent information under the control of the Indemnified Party.

Section 6.5 *** Survival.

- (a) ***
- (b) The representations and warranties of the Parties contained in this Agreement shall survive the Closing for the period set forth in this Section 6.5(b). All representations and warranties contained in this Agreement and all claims with respect thereto shall terminate on ***, it being understood that in the event that notice of any claim for indemnification under this Article VI has been given pursuant to Section 6.4 within the applicable survival period, the representations and warranties that are the subject of such indemnification claim (and the right to pursue such claim) shall survive with respect to such claim until such time as such claim is finally resolved. Any claim for a breach of a representation or warranty must be delivered prior to the expiration of the applicable survival term set forth in this Section 6.5(b). It is the intention of the Parties that the survival periods and termination date set forth in this Section 6.5(b) supersede a statute of limitation applicable to such representations and warranties or claim with respect thereof other than in the case of fraud. No Indemnified Party shall be required to show reliance on any representation, warranty, certificate or other agreement in order for such Indemnified Party to be entitled to indemnification, compensation or reimbursement hereunder.

ARTICLE VII

TERMINATION

Section 7.1 Termination of Agreement. This Agreement may be terminated prior to the Closing as follows:

- (a) by mutual written consent of DISH and EchoStar;
- (b) by either DISH or EchoStar, by giving written notice of such termination to the other Party, if (i) the Closing shall not have occurred on or prior to the close of business on March 31, 2017 (the “Termination Date”), or (ii) any of the conditions set forth in Section 5.1 (*Mutual Conditions to Closing*) shall have become incapable of satisfaction, provided, that the right to terminate this Agreement pursuant to this Section 7.1(b) shall not be available to any Party that has breached in any material respect its obligations under this Agreement in any manner that shall have proximately caused or resulted in the failure of a condition to the consummation of the Closing Transactions;
- (c) by EchoStar if there has been a breach of any representation, warranty, covenant or agreement made by any of the DISH Parties in this Agreement, or any such representation and warranty shall have become untrue after the date hereof, such that Section 5.3(a) (*Representations and Warranties of the DISH Parties*) or Section 5.3(b) (*Performance of Obligations and Agreements by the DISH Parties*) would not be satisfied and such breach or condition is not curable or, if curable, is not cured within the earlier of (i) thirty (30) days after written notice thereof is given by EchoStar to DISH and (ii) the Termination Date; or

(d) by DISH if there has been a material breach of any representation, warranty, covenant or agreement made by any of the EchoStar Parties in this Agreement, or any such representation and warranty shall have become untrue after the date hereof, such that Section 5.2(a) (*Representations and Warranties of the EchoStar Parties*) or Section 5.2(b) (*Performance of Obligations and Agreements by the EchoStar Parties*) would not be satisfied and such breach or condition is not curable or, if curable, is not cured within the earlier of (i) thirty (30) days after written notice thereof is given by DISH to EchoStar and (ii) the Termination Date.

Section 7.2 Procedure Upon Termination. In the event of termination by DISH or EchoStar, or both, pursuant to Section 7.1, written notice thereof shall forthwith be given to the other Party, and this Agreement shall terminate, and each of the Pre-Closing Restructuring and Closing Transactions shall be abandoned, without further action by DISH or EchoStar.

Section 7.3 Effect of Termination.

(a) In the event that this Agreement is validly terminated in accordance with Sections 7.1 and 7.2, then each of the Parties shall be relieved of their duties and obligations arising under this Agreement after the date of such termination and such termination shall be without liability to the other Parties, and each exhibit hereto and each Transaction Document shall be deemed null and void *ab initio* ; provided, that the obligations of the Parties set forth in this Section 7.3, Section 4.6 (*Confidentiality*), Section 4.8 (*Publicity*) and Article VIII (*Miscellaneous*) hereof shall survive any such termination and shall be enforceable hereunder.

(b) Nothing in this Section 7.3 shall relieve any of the Parties of any liability for a material breach of any of its covenants or agreements or material breach of its representations and warranties contained in this Agreement or any Transaction Document executed prior to or on the date hereof prior to the date of termination. The damages recoverable by the non-breaching Party shall include all attorneys' fees reasonably incurred by such Party in connection with the Closing Transactions.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Notices. All notices required or permitted to be given hereunder shall be in writing and shall be sent by facsimile transmission, or by first class certified mail, postage prepaid, or by overnight courier service, charges prepaid, to the Party to be notified, addressed to such Party at the address set forth below, or sent by facsimile to the fax number set forth below, or such other address(es) or fax number(s) as such Party may have substituted by written notice to the other Parties. The sending of such notice with confirmation of receipt thereof (in the case of facsimile transmission) or receipt of such notice (in the case of delivery by mail or by overnight courier service) shall constitute the giving thereof.

If to EchoStar, EB Holdco, or prior to the Closing, to EB Splitco, ET Splitco or ETLLC :

EchoStar Corporation
100 Inverness Terrace East
Englewood, Colorado
Attention: Chief Financial Officer
Fax number: ***

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

EchoStar Corporation
100 Inverness Terrace East
Englewood, Colorado
Attention: General Counsel
Fax number: ***

If to any DISH Party, or, following the Closing, to EB Splitco, ET Splitco or ETLLC :

DISH Network L.L.C.
9601 South Meridian Blvd.
Englewood, Colorado 80112
Attention: Executive Vice President, Corporate Development
Fax number: ***

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

DISH Network L.L.C.
9601 South Meridian Blvd.
Englewood, Colorado 80112
Attention: Executive Vice President, General Counsel and Secretary
Fax number: ***

or to such other address or facsimile number as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered.

Section 8.2 Amendment; Waiver.

- (a) This Agreement shall not be amended or modified except by written instrument duly executed by each of the Parties.
- (b) No waiver of any term or provision of this Agreement shall be effective unless in writing, signed by the Party against whom enforcement of the same is sought. The grant of a waiver in one instance does not constitute a continuing waiver in any other instances. No failure by any Party to exercise, and no delay by any Party in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof.

Section 8.3 Counterparts; Signatures. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties. Each Party acknowledges that it and the other Parties may execute this Agreement by facsimile, stamp or pdf signature. Each Party expressly adopts and confirms each such facsimile, stamp or pdf signature made in its respective name as if it were a manual signature, agrees that it will not assert that any such signature is not adequate to bind such Party to the same extent as if it were signed manually and agrees that at the reasonable request of the other Parties at any time it will as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof).

Section 8.4 Assignment and Binding Effect. No Party may assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder, by operation of law or otherwise, without the prior written consent of the other Parties, and any such attempted assignment, delegation or transfer shall be void. Subject to the preceding sentence, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors, permitted transferees and permitted assigns.

Section 8.5 Entire Agreement. This Agreement, the other Transaction Documents, the Confidentiality Agreement and the Schedules and Exhibits hereto and thereto constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all previous agreements, negotiations, discussions, understandings, writings, commitments and conversations between the Parties with respect to such subject matter. No agreements or understandings exist between the Parties other than those set forth or referred to herein or therein.

Section 8.6 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby or thereby, as the case may be, is not affected in any manner adverse to any Party. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties. In the event the Parties are not able to agree, such provision shall be construed by limiting and reducing it so that such provision

is valid, legal, and fully enforceable while preserving to the greatest extent permissible the original intent of the Parties; the remaining terms and conditions of this Agreement shall not be affected by such alteration.

Section 8.7 Headings. The heading references herein and the table of contents hereof are for convenience purposes only, and shall not be deemed to limit or affect any of the provisions hereof.

Section 8.8 No Third Party Beneficiaries. Except as provided in Section 6.4 of this Agreement, (a) the provisions of this Agreement and the other Transaction Documents are solely for the benefit of the Parties and their respective successors and permitted assigns and are not intended to confer upon any Person, except the Parties and their respective successors and permitted assigns, any rights or remedies hereunder and (b) there are no third party beneficiaries of this Agreement or the other Transaction Documents, and this Agreement and the other Transaction Documents shall not provide any third party with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 8.9 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THEREOF.

Section 8.10 Expenses. Except as otherwise expressly provided in the Transaction Documents, each Party shall bear its own costs and expenses in connection with the preparation, negotiation and execution, amendment or modification of this Agreement and the other Transaction Documents and the consummation of the Closing Transactions.

Section 8.11 Dispute Resolution.

(a) Agreement to Resolve Disputes. Except as otherwise specifically provided in this Agreement or in another Transaction Document, the procedures for discussion, negotiation and dispute resolution set forth in this Section 8.11 shall apply to all disputes, controversies or claims (whether sounding in contract, tort or otherwise) that may arise out of or relate to, or arise under or in connection with this Agreement or the Closing Transactions (including all actions taken in furtherance of the Closing Transactions on or prior to the date hereof). Each Party agrees that the procedures set forth in this Section 8.11 shall be the sole and exclusive remedy in connection with any dispute, controversy or claim relating to any of the foregoing matters and irrevocably waives any right to commence any action or proceeding in or before any Governmental Authority, except as otherwise required by Applicable Law.

(b) Dispute Resolution; Mediation.

(i) Any Party may commence the dispute resolution process of this Section 8.11(b) by giving the applicable Party written notice (a “ Dispute Notice ”) of any controversy, claim or dispute of whatever nature arising out of or relating to this Agreement or the breach, termination, enforceability or validity thereof (a “ Dispute ”) which has not been resolved in the normal course of business. The Parties shall attempt in good faith to resolve any Dispute by negotiation between executives of each Party (“ Senior Party Representatives ”) who have authority to settle the Dispute and who are at a higher level of management than the persons who have direct responsibility for the administration of this Agreement. *** after delivery of the Dispute Notice, the receiving Party shall submit to the delivering Party a written response (the “ Response ”). The Dispute Notice and the Response shall include (A) a statement setting forth the position of the Party giving such notice and a summary of arguments supporting such position and (B) the name and title of such Party’s Senior Party Representative and any other persons who will accompany the Senior Party Representative at the meeting at which the Parties will attempt to settle the Dispute. *** after the delivery of the Dispute Notice, the Senior Party Representatives of the applicable Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the Dispute. The Parties shall cooperate in good faith with respect to any reasonable requests for exchanges of information regarding the Dispute or a Response thereto.

(ii) If the Dispute has not been resolved *** after delivery of the Dispute Notice, or if the Parties fail to meet *** after delivery of the Dispute Notice as hereinabove provided, the Parties shall make a good faith attempt to settle the Dispute by mediation pursuant to the provisions of this Section 8.11(b) before resorting to arbitration contemplated by Section 8.11(c) or any other dispute resolution procedure that may be agreed by the Parties.

(iii) All negotiations, conferences and discussions pursuant to this Section 8.11(b) shall be confidential and shall be treated as compromise and settlement negotiations. Nothing said or disclosed, nor any document produced, in the course of such negotiations, conferences and discussions that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future arbitration.

(iv) Unless the Parties agree otherwise, the mediation shall be conducted in accordance with the CPR Institute for Dispute Resolution Model Procedure for Mediation of Business Disputes in effect on the date of this Agreement by a mediator mutually selected by the Parties.

(v) *** after the mediator has been selected as provided above, the Parties and their respective attorneys shall meet with the mediator for one mediation session, it being agreed that each Party representative attending such mediation session shall be a Senior Party Representative with authority to settle the Dispute. If the Dispute cannot be settled at such mediation session or at any mutually agreed continuation thereof, the DISH Parties

or the EchoStar Parties, as the case may be, may give the other and the mediator a written notice declaring the mediation process at an end.

(vi) Costs of the mediation shall be borne equally by the Parties involved in the matter, except that each Party shall be responsible for its own expenses.

(c) Arbitration.

(i) Subject to Section 8.11(c)(ii), if the Dispute has not been resolved by the dispute resolution process described in Section 8.11(b), the Parties agree that any such Dispute shall be settled by binding arbitration before the American Arbitration Association (“AAA”) in Denver, Colorado pursuant to the Commercial Rules of the AAA. Any arbitrator(s) selected to resolve the Dispute shall be bound exclusively by the laws of the State of New York without regard to its choice of law rules. Any decisions of award of the arbitrator(s) will be final and binding upon the Parties and may be entered as a judgment by the Parties. Any rights to appeal or review such award by any court or tribunal are hereby waived to the extent permitted by Applicable Law.

(ii) Any Dispute regarding the following is not required to be negotiated or mediated prior to seeking relief from an arbitrator: (i) breach of any obligation of confidentiality; and (ii) any other claim where interim relief from the arbitrator is sought to prevent serious and irreparable injury to one of the Parties. However, the Parties to the Dispute shall make a good faith effort to negotiate and mediate such Dispute, according to the above procedures, while such arbitration is pending.

(iii) Costs of the arbitration shall be borne equally by the Parties involved in the matter, except that each Party shall be responsible for its own expenses.

(d) Continuity of Service and Performance. Unless otherwise agreed in writing, the Parties will continue to honor all other commitments under this Agreement during the course of dispute resolution pursuant to the provisions of this Section 8.11 with respect to all matters not subject to such Dispute.

Section 8.12 Limited Liability. Notwithstanding any other provision of this Agreement, no individual who is a stockholder, director, employee, officer, agent or representative of DISH or EchoStar or any of their Affiliates, in its capacity as such, shall have any liability in respect of or relating to the covenants or obligations of such Party under this Agreement and, to the fullest extent legally permissible, each of DISH and EchoStar, for itself and its respective stockholders, directors, employees, officers and Affiliates, waives and agrees not to seek to assert or enforce any such liability that any such Person otherwise might have pursuant to Applicable Law.

ARTICLE IX

DEFINITIONS

Section 9.1 Certain Definitions. For purposes of this Agreement, the following terms shall have the meanings specified in this Section 9.1:

“Action” means any demand, action, suit, counter suit, arbitration, inquiry, proceeding or investigation by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

“Affiliate” means, with respect to any Person, another Person directly or indirectly controlling, controlled by, or under common control with that Person; it being understood that for purposes of the Transaction Documents (except as provided in Section 6.1 (*Indemnification Obligations of EchoStar*) of this Agreement), none of DISH, the DISH Parties or any other Subsidiaries of DISH will be considered an Affiliate of any EchoStar Party or any other Subsidiaries of EchoStar, and (except as provided in Section 6.2 (*Indemnification Obligations of DISH*) of this Agreement) none of the EchoStar Parties or any other Subsidiaries of EchoStar will be considered an Affiliate of DISH, any DISH Party or any other Subsidiaries of DISH.

“Anti-Money Laundering Laws” means all applicable anti-money laundering laws, rules and regulations, including the Bank Secrecy Act, as amended by the USA PATRIOT Act.

“Applicable Law” means any applicable federal, state, local or foreign law, rule, regulation, ordinance, code, directive, order, writ, injunction, decree, judgment, award, determination, direction or demand, authorization or treaty of any Governmental Authority and any relevant final administrative or judicial precedent interpreting or applying the foregoing.

“Assets” means assets, properties and rights (including goodwill), wherever located (including in the possession of vendors or other third parties or elsewhere), whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person, including the following:

- (i) all accounting and other books, records, systems and files whether in paper, microfilm, microfiche, computer tape or disc, magnetic tape or any other form or medium;
- (ii) all IT Assets, fixtures, machinery, equipment, furniture, office equipment, motor vehicles and other transportation equipment, special and general tools, prototypes and models and other tangible personal property, wherever located that are owned or leased by the Person, together with any express or implied warranty by the manufacturers, sellers or lessors of any item or component part thereof;

(iii) all inventories, wherever located, including all finished goods, (whether or not held at any location or facility or in transit), work in process, raw materials, spare parts and all other materials and supplies to be used or consumed in the production of finished goods;

(iv) all interests in any land and improvements and all appurtenances thereto;

(v) all interests in any capital stock or other equity interests of any Subsidiary or any other Person; all bonds, notes, debentures or other securities issued by any Subsidiary or any other Person; all loans, advances or other extensions of credit or capital contributions to any Subsidiary or any other Person; and all other investments in securities of any Person;

(vi) all license agreements, leases of personal property, including satellites, open purchase orders for raw materials, supplies, parts or services, unfilled orders for the manufacture and sale of products and other contracts, agreements or commitments;

(vii) all deposits, escrow accounts and prepaid expenses, letters of credit and performance and surety bonds, claims for refunds and rights of set-off in respect thereof;

(viii) all written technical information, data, specifications, research and development information, engineering drawings, operating and maintenance manuals, and materials and analyses whether prepared by Affiliates, by consultants or other third parties;

(ix) all Intellectual Property;

(x) all licenses, covenants not to sue and other rights to any third party Intellectual Property;

(xi) all cost information, sales and pricing data, customer prospect lists, supplier records, customer and supplier lists, customer and vendor data, correspondence and lists, product literature, artwork, design, development and manufacturing files, vendor and customer drawings, formulations and specifications, quality records and reports and other books, records, studies, surveys, reports, plans and documents;

(xii) all trade accounts and notes receivable and other rights to payment from customers and (a) all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or otherwise disposed of or services rendered to customers, (b) all other accounts and notes receivable and all security for such accounts or notes and (c) any claim, remedy or other right relating to any of the foregoing;

(xiii) all rights under contracts or agreements, all claims or rights against any Person arising from the ownership of any Asset, all rights in connection with any bids or offers and all claims, choses in action or similar rights, whether accrued or contingent;

(xiv) all rights under insurance policies and all rights in the nature of insurance, indemnification or contribution, including insurance proceeds; and

(xv) all Permits.

“Benefit Plan” means any benefit or compensation plan, program, policy, practice, agreement, contract, arrangement or other obligation, whether or not in writing and whether or not funded, in each case, which covers (and only to the extent of such coverage) any Transferred Employee. Benefit Plans include, but are not limited to, ERISA Plans, employment, consulting, retirement, severance, termination or change in control agreements, deferred compensation, equity-based, incentive, bonus, supplemental retirement, profit sharing, insurance, medical, welfare, fringe or other benefits or remuneration of any kind.

“Business Day” means any day other than a Saturday, a Sunday, a legal holiday in New York, New York, or any other day on which commercial banks in that location are authorized by Applicable Law or governmental decree to close.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Communications Act” means the Communications Act of 1934 and the Telecommunications Act of 1996, in each case as amended from time to time, and all rules and regulations promulgated thereunder.

“Consents” means any consents, waivers, approvals, or notification requirements, including those in connection with the Required Governmental Applications.

“Contract” means any agreement, lease, license, contract, note, bond, mortgage, indenture or other instrument or obligation, in each case whether written or oral.

“Control” and its correlative meanings “controlling” and “controlled” means the possession, direct or indirect, or the power to direct or cause the direction of, the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Corporate Documents” means, with respect to any entity, such entity’s articles or certificate of incorporation, by-laws, memorandum and articles of association, limited liability company agreement or partnership agreement, as applicable, and any other organizational documents of such entity.

“Data Centers” means, collectively, the data centers situated on the Owned Sites and the Leased Sites.

“ DISH Parties ” means DISH, DNLLC and DOLLC.

“ EB Business ” means (i) EchoStar’s business of providing online video delivery and satellite video delivery for broadcasters and pay-TV operators, including satellite uplinking/downlinking, transmission services, signal processing, conditional access management, and other services, primarily to DISH Network and Dish Mexico, principally located in Cheyenne, Wyoming and Gilbert, Arizona and (ii) the business operations, revenues, billings and operating activities primarily related to clause (i) above.

“ EB Business Contracts ” means the written Contracts to which EchoStar or any member of the EchoStar Group is a party or by which it or any of the EB Transferred Assets is bound which constitute Contracts that are: (i) used, contemplated for use or held for use, in each case, primarily in the ownership, operation or conduct of the EB Business as currently owned, operated and conducted or relating primarily to the EB Business as currently owned, operated or conducted or (ii) otherwise expressly contemplated pursuant to this Agreement or any of the Transaction Documents to be assigned to EB Splitco or any member of the EB Group.

“ EB EMA Assumed Liabilities ” means the employee-related Liabilities with respect to the EB Business (or the ownership of the EB Transferred Assets) to be assumed by DISH and DNLLC pursuant to the Employee Matters Agreement.

“ EB EMA Excluded Liabilities ” means the employee-related Liabilities with respect to the EB Business to be retained by EchoStar pursuant to the Employee Matters Agreement.

“ EB Employee ” shall have the meaning ascribed to it in the Employee Matters Agreement.

“ EB Group ” means EB Splitco and each Subsidiary of EB Splitco immediately after the consummation of the Pre-Closing Restructuring.

“ EchoStar Group ” means EchoStar and each Subsidiary of EchoStar immediately after the consummation of the Pre-Closing Restructuring (other than any member of the EB Group or the ET Group).

“EchoStar Parties” means EchoStar, EB Holdco, EB Splitco, ET Splitco and ETLIC.

“Employee Matters Agreement” means the Employee Matters Agreement substantially in the form attached hereto as Exhibit B.

“Environmental Law” means any federal, state, local or foreign statute, law, regulation, order, decree, Permit or requirement of any relevant Governmental Authority relating to: (A) the protection, investigation or restoration of the environment, health (to the extent health relates to exposure to Hazardous Substances), safety (to the extent safety relates to exposure to Hazardous Substances), or natural resources; (B) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance; or (C) indoor air, employee exposure to Hazardous Substances, wetlands, pollution, contamination or any injury or threat of injury to persons or property relating to any Hazardous Substance.

“Environmental Liabilities” means all Liabilities under (1) any applicable Environmental Law or (2) any applicable Contract relating to environmental matters (including all removal, remediation or cleanup costs, investigatory costs, governmental response costs, natural resources damages, property damages, personal injury damages, costs of compliance with any product take back requirements or with any settlement, judgment or other determination of Liability and indemnity, contribution or similar obligations, in each case, related to such Liabilities described in (1) and (2) above) and all costs and expenses, interest, fines, penalties or other monetary sanctions in connection therewith.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Plan” means any “employee benefit plan” within the meaning of Section 3(3) of ERISA.

“ET Business” means the business segment of EchoStar that (i) designs, develops and distributes secure end-to-end video technology solutions including digital set-top boxes and related products and technology, primarily for satellite TV service providers and telecommunication companies, (ii) provides TV Anywhere technology through Slingbox® units directly to consumers via retail outlets and online, as well as to the pay-TV operator market, (iii) includes Move Networks, an over-the-top, Streaming Video on Demand platform business, which includes Assets acquired from Sling TV Holding L.L.C. (formerly DISH Digital Holding L.L.C.) and primarily provides support services to DISH Network’s Sling TV™ operations and (iv) the business operations, revenues, billings and operating activities primarily related to clauses (i) through (iii) above.

“ET Business Contracts” means the written Contracts to which EchoStar or any member of the EchoStar Group is a party or by which it or any of the ET Transferred Assets is bound which constitute Contracts that are: (i) used, contemplated for use or held for use, in each case, primarily in the ownership, operation or conduct of the ET Business as currently owned, operated and conducted or relating primarily to the ET Business as currently owned, operated or

conducted or (ii) otherwise expressly contemplated pursuant to this Agreement or any of the Transaction Documents to be assigned to ET Splitco or any member of the ET Group.

“ ET EMA Assumed Liabilities ” means the employee-related Liabilities with respect to the ET Business (or the ownership of the ET Transferred Assets) to be assumed by DISH and DNLLC pursuant to the Employee Matters Agreement.

“ ET EMA Excluded Liabilities ” means the employee-related Liabilities with respect to the ET Business to be retained by EchoStar pursuant to the Employee Matters Agreement.

“ ET Employee ” shall have the meaning ascribed to it in the Employee Matters Agreement.

“ ET Group ” means ET Splitco and each Subsidiary of ET Splitco immediately after the consummation of the Pre-Closing Restructuring.

“ Exchange Act ” means the United States Securities Exchange Act of 1934, or any successor federal statute, and the rules and regulations promulgated thereunder, all as amended, and as the same may be in effect from time to time.

“ FCC ” means the United States Federal Communications Commission or any bureau or subdivision thereof acting under delegated authority.

“ FCPA ” means the Foreign Corrupt Practices Act of 1977, as amended.

“ GAAP ” means generally accepted accounting principles in the United States.

“ Governmental Authority ” means any federal, state, local, municipal, foreign or other governmental or quasi-governmental authority or self-regulatory organization of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers) or exercising, or entitled to exercise, any administrative, executive, judicial, legislative, enforcement, regulatory or taxing authority or power.

“ Hazardous Substance ” means any substance that is: (A) listed, classified or regulated pursuant to any Environmental Law; and (B) any petroleum product or by-product, asbestos-containing material, lead-containing paint or plumbing, polychlorinated biphenyls, toxic mold, radioactive material or radon.

“ Hughes Retail Group ” means the residential retail satellite broadband business of EchoStar’s Hughes segment, including certain operations, assets and liabilities attributed to such business.

“ Indebtedness ” of any Person means, without duplication, (i) the principal of and, accreted value and accrued and unpaid interest in respect of (A) all Liabilities of such Person for money borrowed, whether current or funded, secured or unsecured, and (B) all Liabilities evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all Liabilities of such Person in respect of mandatorily redeemable or purchasable capital stock or securities convertible into capital stock; (iii) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding trade accounts payable and other accrued current Liabilities); (iv) all Liabilities for the reimbursement of any obligor under any drawn letter of credit or performance bond that is subject to an actual demand, or other similar agreement or credit transaction securing obligations of a type described in clauses (i) through (iii) above to the extent of the obligation secured; (v) all obligations of the type referred to in clauses (i) through (iv) of any Persons the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise; and (vi) all obligations of the type referred to in clauses (i) through (iv) above of other Persons secured by any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person).

“ Intellectual Property ” means all intellectual property or proprietary rights arising from or in respect of the following in any jurisdiction in the world: (i) all patents and utility models of any kind, patent applications, including provisional applications, statutory invention registrations and invention disclosures, and all related continuations, continuation-in-part, divisions, reissues, re-examinations, substitutions, and extensions thereof (collectively, “ Patents ”); (ii) all trademarks, service marks, trade names, service names, brand names, trade dress, logos, Internet domain names, uniform resource locators, and corporate names, in each case whether or not Registered, and together with the common law rights and goodwill associated with any of the foregoing, and all applications, registrations and renewals thereof; (iii) copyrights in and to published and unpublished works of authorship, in each case whether or not Registered or sought to be Registered, together with all common law rights and moral rights therein, and any applications and registrations therefor, including extensions, renewals, restorations, derivatives, and reversions; (iv) rights in trade secrets and other legally recognized rights in and to confidential information, proprietary information, inventions, discoveries, and know-how (collectively, “ Trade Secrets ”); (v) mask work rights; (vi) any of the foregoing rights in Technology; and (vi) other similar types of proprietary or intellectual property rights recognized under Applicable Law.

“Intellectual Property and Technology License Agreement” means the Intellectual Property and Technology License Agreement substantially in the form attached hereto as Exhibit A.

“IT Assets” means computers, Software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology equipment, and all associated documentation.

“Leased Sites” means the leased real property primarily related to the EB Business or the ET Business listed on Schedule 9.1 (and any rights associated therewith), including any fixtures attached to such real property and all structures, facilities and improvements located thereon, or attached or appurtenant thereto with respect to which EchoStar or any of its Subsidiaries has a leasehold interest.

“Legal Proceeding” means any judicial, administrative or arbitral action, suit, proceeding (public or private) or investigation by or before a Governmental Authority.

“Liability” means, with respect to any Person, any and all losses, claims, charges, debts, demands, actions, causes of action, suits, damages, obligations, payments, costs and expenses, sums of money, accounts, reckonings, bonds, specialties, indemnities and similar obligations, exoneration covenants, Contracts, controversies, doings, omissions, variances, guarantees, make whole agreements and similar obligations, and other liabilities and requirements, including all contractual obligations, whether absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, joint or several, whenever arising, and including those arising under any Applicable Law, Action, threatened or contemplated Action (including the costs and expenses of demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all costs and expenses, whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened or contemplated Actions) or order of any Governmental Authority or any award of any arbitrator or mediator of any kind, and those arising under any Contract, in each case, whether or not recorded or reflected or otherwise disclosed or required to be recorded or reflected or otherwise disclosed, on the books and records or financial statements of any Person.

“Lien” means any mortgage, pledge, hypothecation, security interest, lien, license, covenant not to sue, charge, option, assignment or encumbrance of any kind or any arrangement to provide priority or preference, including any easement, right-of-way, restriction (whether on voting, sale, transfer, disposition, use or otherwise), right, lease and other encumbrance on title to real or personal property (whether or not of record), whether voluntary or imposed by Applicable Law, and any agreement to give any of the foregoing.

“ Malicious Code ” means any “back door,” “drop dead device,” “time bomb,” “Trojan horse,” “virus,” “worm,” “spyware” (as such terms are commonly understood in the software industry) or any other code designed to have any of the following functions: (i) disrupting, disabling or harming the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed or (ii) compromising the privacy or data security of a user or damaging or destroying any data or file, in each case, without authorization and without the applicable user’s consent; provided, that “Malicious Code” excludes code that enables or provides security, support, and maintenance functionality.

“ Material Adverse Effect ” means (a) any event, change, occurrence, condition or effect that would reasonably be likely to have a material adverse effect on the business, financial condition, assets, properties or results of operations of (1) EchoStar and its Subsidiaries taken as a whole, (2) the EB Business and EB Transferred Assets taken as a whole, or (3) the ET Business and ET Transferred Assets taken as a whole or (b) any event, change, occurrence, condition or effect that would reasonably be likely to prevent, materially delay or materially impair the consummation of the Pre-Closing Restructuring or the Closing Transactions, except, in the case of clause (a), any such event, change, occurrence, condition or effect to the extent resulting from, arising out of or relating to:

- (i) general changes or developments in any of the industries in which EchoStar or its Subsidiaries operate;
- (ii) changes in global, national or regional political conditions (including the outbreak or escalation of war (whether or not declared) or acts of terrorism) or in general economic, business, regulatory, political or market conditions or in national or global financial markets;
- (iii) ***
- (iv) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates;
- (v) ***
- (vi) ***
- (vii) any action expressly required or expressly permitted by this Agreement or any other Transaction Document (other than the Pre-Closing Restructuring or the obligations set forth in Section 4.2(a) (*Conduct of the Business Pending Closing*));

(viii) any changes in Applicable Laws or accounting rules (including GAAP) or the enforcement, implementation or interpretation thereof;

(ix) *** or

(x) any natural or man-made disaster or acts of God;

provided, further, however that, with respect to clauses (i), (ii), (iv), (viii) and (x) such change, event, circumstance or development does not disproportionately adversely affect EchoStar and its Subsidiaries compared to other companies operating in the industries in which EchoStar and its Subsidiaries operate.

“ Material Contract ” means any EB Business Contract or ET Business Contract:

(i) that is with any Governmental Authority, except for Contracts entered into in the Ordinary Course of Business;

(ii) involving future payments, performance or services or delivery of goods or materials to or by EchoStar or any of its Subsidiaries of any amount or value reasonably expected to exceed *** in any future ***;

(iii) for the sale of any Assets other than in the Ordinary Course of Business;

(iv) relating to any acquisition to be made by EchoStar or any of its Subsidiaries of any operating business or the capital stock of any other Person;

(v) relating to the incurrence of any material Indebtedness, or the making of any material loans by any member of the EchoStar Group;

(vi) providing for severance, retention, change in control or other similar payments by any of EchoStar or any of its Subsidiaries;

(vii) relating to the engagement, retention or employment of any Person as a consultant, contractor or in a similar role and providing for annual or annualized payments in excess of ***;

(viii) that purport to bind DISH or any of its Affiliates (other than EB Group or the ET Group) after the Closing Date or that would give rise to any rights or obligations of any member of the EB Group or the ET Group or any third party by virtue of the identity of DISH or any of its Affiliates as the acquiror of the ET Splitco Shares or the EB Splitco Shares;

(ix) relating to any lease of real or personal property involving future payments to or by EchoStar or any of its Subsidiaries of any amount or value reasonably expected to exceed *** in any future ***;

(x) (A) granting to EchoStar or any of its Subsidiaries a license, covenant not to sue or other right under any Intellectual Property (excluding Contracts for commercial off-the-shelf computer software that are generally available on non-discriminatory pricing terms which have an aggregate acquisition cost *** or less) or (B) granting to any third party a license, covenant not to sue or other right under any Separated IP Assets;

(xi) evidencing any agreement for indemnification, except for Contracts entered into in the Ordinary Course of Business;

(xii) evidencing any partnership, operating, joint venture, profit sharing, collaboration or other similar contract or arrangement;

(xiii) containing non-competition or exclusivity covenants, or any other covenants limiting the freedom of EchoStar or any of its Subsidiaries to compete in any line of business or in any geographic area, or to provide any product or service, or that otherwise restricts EchoStar's or any of its Subsidiaries' (or, after the Closing, DISH's or its Affiliates') ability to compete, to solicit, hire or solicit business from any Person, and any Contract that could require the disposition of any material assets or line of business (or, after the Closing, DISH or its Affiliates);

(xiv) containing a put, call, right of first refusal, right of first offer or comparable right pursuant to which EchoStar or any of its Subsidiaries could be required to purchase or sell, as applicable, any equity interests in or assets (in the case of assets, having a purchase price in excess of ***) of any Person, or a standstill or comparable agreement pursuant to which a Person has agreed not to acquire assets or securities of another Person;

(xv) containing a "most favored nation" provision or a limitation on price increases or granting any third party the exclusive right to develop, market, sell or distribute any of EchoStar's or any of its Subsidiaries products or services or to provide any products or services to EchoStar or any of its Subsidiaries, in each case only to the extent that any of the foregoing relate primarily to the ownership, operation or conduct of the EB Business or the ET Business; or

(xvi) evidencing any agreement for settlement pursuant to which any member of the EB Group or the ET Group is obligated to (A) pay any amounts after the date of this Agreement, (B) provide any injunctive relief, (C) take any action or refrain from taking any action after the date of this Agreement or (D) admit liability, fault or negligence.

“OFAC” means the United States Department of Treasury's Office of Foreign Assets Control.

“Open Source License” means any license identified as an open source license by the Open Source Initiative (www.opensource.org/) that conditions the distribution of certain Software on (i) the disclosure, licensing or distribution of any source code for any portion of such Software, or (ii) the granting to licensees of the right to make derivative works or other modifications to such Software, (iii) the licensing under terms that allow the Software or portions thereof or

interfaces therefor to be reverse engineered, reverse assembled or disassembled (other than by operation of law), or (iv) redistribution of such Software at no license fee.

“Order” means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award (in each case, whether temporary, preliminary or permanent) of a Governmental Authority.

“Ordinary Course of Business” means the ordinary and usual course of normal day-to-day operations consistent with past practice.

“Owned Sites” means the owned real property primarily related to the EB Business or the ET Business listed on Schedule 9.1, including any fixtures attached to such real property and all structures, facilities and improvements located thereon, or attached or appurtenant thereto.

“Permits” means any franchise, license (including radio and similar licenses), authorization, consent, permit, certificate, waiver, approval, qualification or registration of, with or from any Governmental Authority, including the FCC.

“Permitted Liens” means (i) Liens for Taxes that are not yet due and payable, and Liens for current Taxes that are being contested in good faith by appropriate proceedings, (ii) non-exclusive licenses of Intellectual Property granted prior to the Closing and in the Ordinary Course of Business, including as set forth in the Material Contracts, (iii) Liens of landlords, lessors, carriers, warehousemen, employees, mechanics and materialmen and other like Liens arising in the Ordinary Course of Business of EchoStar and its Subsidiaries (or Liens against any landlord’s or lessor’s interest in any Leased Site that do not affect the operations of the EB Business and the ET Business), (iv) any conditions that may be shown by a current, accurate survey or physical inspection of any real property made prior to Closing, (v) easements, rights of way, restrictive covenants, encroachments, zoning, building code or planning ordinances or regulations, and other similar encumbrances affecting real property and (vi) other imperfections of title or Liens that, in the case of subclauses (ii)-(vi), individually or in the aggregate, do not, and would not reasonably be expected to, materially detract from the value or use of any of the properties or Assets of EchoStar and its Subsidiaries.

“Person” means any natural person, corporation, general partnership, limited partnership, limited liability company, joint venture, trust, proprietorship, Governmental Authority or other entity, association or organization of any nature, however and wherever organized or constituted (whether or not having a separate legal personality).

“Personally Identifiable Information” means any information that alone or in combination with other information held by EchoStar or any of its Subsidiaries can be used to specifically identify an individual person and any individually identifiable health information.

“ Potential Transferred Employee ” shall have the meaning ascribed to it in the Employee Matters Agreement.

“ Registered ” means issued by, registered with or the subject of a pending application before any Governmental Authority or Internet domain name registrar.

“ SEC ” means the United States Securities and Exchange Commission, or any successor agency of the federal government.

“ Securities Act ” means the United States Securities Act of 1933, or any successor federal statute, and the rules and regulations promulgated thereunder, all as amended, and as the same may be in effect from time to time.

“ Software ” means any and all (i) computer applications, programs and other software, including any and all operating software, network software, firmware, software implementations of algorithms, middleware, design software, models and methodologies, whether in source code or object code, systems and networks; (ii) Internet sites, databases and compilations, including any and all data and collections of data, whether machine readable or otherwise; (iii) screens, user interfaces, command structures, report formats, templates, menus, buttons and icons; (iv) descriptions, flow-charts, architectures, design tools, development tools, and other materials used to design, plan, organize and develop any of the foregoing; and (v) all documentation and media relating thereto.

“ Subsidiary ” means, with respect to any Person, any other Person more than fifty percent (50%) of the shares of the voting stock or other voting interests of which are owned or controlled, or the ability to select or elect more than fifty percent (50%) of the directors or similar managers is held, directly or indirectly, by such first Person or one or more of its Subsidiaries or by such first Person and one or more of its Subsidiaries.

“ Tax ” or “ Taxes ” shall have the meaning ascribed to it in the Tax Matters Agreement.

“ Tax Matters Agreement ” means the Tax Matters Agreement substantially in the form attached hereto as Exhibit C.

“ Technology ” means, collectively, all Software, information, designs, formulae, algorithms, procedures, methods, techniques, technical data, specifications, processes, apparatuses, improvements, and other similar materials, and all recordings, graphs, drawings, reports, analyses, and other writings, and other tangible embodiments of the foregoing, in any form whether or not specifically listed herein.

“Tracking Stock” means, collectively, the EchoStar Tracking Stock and the HSSC Tracking Stock.

“Transaction Documents” means the following documents:

- (i) this Agreement;
- (ii) the Intellectual Property and Technology License Agreement;
- (ii) the Employee Matters Agreement;
- (iv) the Tax Matters Agreement;
- (v) the Amended Professional Services Agreement, in the form agreed to by DISH and EchoStar; and
- (vi) the Transition Services Agreement(s), in the form agreed to by DISH and EchoStar, if any.

“Transfer Date” shall have the meaning ascribed to it in the Employee Matters Agreement.

“Transferred Employees” shall have the meaning ascribed to it in the Employee Matters Agreement.

“Transferred Sites” means the Leased Sites and the Owned Sites.

Section 9.2 Terms Defined Elsewhere in This Agreement. For purposes of this Agreement, the following terms have meanings set forth in the sections indicated:

<u>Term</u>	<u>Section</u>
AAA Agreement	Section 8.11(c)(i) Preamble
Amended Professional Services Agreement	Section 4.4(c)
Anti-Corruption Laws	Section 3.1(i)(iii)
***	***
Asset Conveyance Instruments	Section 1.4(e)
Closing	Section 2.1
Closing Date	Section 2.1
Closing Transactions	Section 2.2
Confidential Information	Section 4.6(b)
Confidentiality Agreement	Section 4.6(a)
Deductible	Section 6.3
DISH	Preamble
DISH Confidential Information	Section 4.6(b)

<u>Term</u>	<u>Section</u>
DISH Indemnified Persons	Section 6.1
Dispute	Section 8.11(b)(i)
Dispute Notice	Section 8.11(b)(i)
DNLLC	Preamble
DOLLC	Preamble
EB Assumed Liabilities	Section 1.5(a)
EB Excluded Liabilities	Section 1.5(b)
***	***
EB Holdco	Preamble
EB Retained Assets	Section 1.4(b)
EB Splitco	Preamble
EB Splitco Common Stock	Recitals
EB Splitco Shares	Recitals
EB Transferred Assets	Section 1.4(a)
EchoStar	Preamble
EchoStar Confidential Information	Section 4.6(b)
EchoStar Credit Support Obligations	Section 4.5
EchoStar Disclosure Letter	Section 3.1
***	***
EchoStar Indemnified Persons	Section 6.2
EchoStar Related Party	Section 3.1(r)
EchoStar Reports	Section 3.1(g)(i)
EchoStar Tracking Shares	Recitals
EchoStar Tracking Stock	Recitals
ET Assumed Liabilities	Section 1.5(c)
ET Excluded Liabilities	Section 1.5(d)
***	***
ET Retained Assets	Section 1.4(d)
ET Splitco	Preamble
ET Splitco Common Stock	Recitals
ET Splitco Shares	Recitals
ET Transferred Assets	Section 1.4(c)
ETLLC	Preamble
HSSC	Preamble
HSSC Tracking Shares	Recitals
HSSC Tracking Stock	Recitals
Indemnified Party	Section 6.4
Indemnifying Party	Section 6.4
Losses	Section 6.1
Notice Period	Section 6.4
Party, Parties	Preamble

<u>Term</u>	<u>Section</u>
Patents	Section 9.1 (in Intellectual Property definition)
Pre-Closing Restructuring	Section 1.3
Required Governmental Applications	Section 4.3(d)
Required Governmental Notices	Section 4.3(d)
Response	Section 8.11(b)(i)
Sanctions	Section 3.1(i)(iv)
Senior Party Representatives	Section 8.11(b)(i)
Separated IP Assets	Section 3.1(k)(ii)
Separated IT Assets	Section 3.1(k)(vii)
Separated Registered IP Assets	Section 3.1(k)(i)
Significant EchoStar Subsidiaries	Section 3.1(a)
Takeover Statute	Section 3.1(t)
Termination Date	Section 7.1(b)
Third Party Claim	Section 6.1
Trade Secrets	Section 9.1 (in Intellectual Property definition)
Transferred Real Property Leases	Section 3.1(q)(i)
Transition Services Agreement	Section 4.4(c)

Section 9.3 Other Definitional and Interpretive Matters. For all purposes of this Agreement, except as otherwise expressly provided:

- (a) Words importing the singular number or plural number include the plural number and singular number respectively;
- (b) Words importing the masculine gender include the feminine and neuter genders and vice versa;
- (c) All references to a given agreement, instrument or other document are references to that agreement, instrument or other document as modified, amended, supplemented and restated from time to time (but only if such modification, amendment, supplement or restatement is permitted pursuant hereto or pursuant to such agreement, instrument or other document);
- (d) Any reference to a statute includes, and is deemed to be, a reference to such statute and to the rules, regulations, ordinances, interpretations, policies and guidance made pursuant thereto, and all amendments made to such statute and other such implementing provisions and enforced from time to time, and to any statute or other implementing provisions subsequently passed or adopted having the effect of supplementing or replacing such statute or such other implementing provisions;

- (e) References herein to “primarily” shall include “primarily” as well as any other standard that reflects a majority or more of the matter addressed, including "exclusively" or any similar term.
- (f) References herein to “include,” “includes” and “including” will be deemed to be followed by the phrase “without limitation;”
- (g) References herein to “\$,” “USD” or “dollars” means lawful currency of the United States of America;
- (h) Reference in this Agreement to “herein,” “hereby,” “hereof” or “hereunder,” or any similar formulation, will be deemed to refer to this Agreement;
- (i) Unless otherwise indicated, all references to time of day refer to Eastern Standard Time or Eastern Daylight Savings Time, as in effect in New York, New York on such day. For purposes of the computation of a period of time under this Agreement, (i) the word “from” means “from and including” and the words “to” and “until” each means “to but excluding” and (ii)(A) the day of the act, event or default from which the designated period of time begins to run will be included, unless such period of time is denominated in Business Days and the day of the act, event or default is not a Business Day, in which event the period will begin on the next day that is a Business Day, and (B) the last day of the period so computed will not be included;
- (j) Subject to any applicable restrictions on assignment or other transfer in a Transaction Document, any references to a Person in such Transaction Document shall be deemed to be references to such Person’s successors, permitted transferees and permitted assigns from and after the effective date of the relevant succession, transfer or assignment;
- (k) The use of the term “shall,” “will” or “must” indicates a mandatory action and the use of the term “may” indicates a permissive action;
- (l) In the event of any conflict between the general terms and conditions of this Agreement and the specific terms and conditions which have been mutually agreed to by the parties in a Transaction Document, the terms and conditions contained in the Transaction Document shall prevail; and
- (m) The Parties hereto have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

[*Signature pages follow*]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective authorized officers, as of the date first written above.

DISH NETWORK CORPORATION

By: _____
Name: W. Erik Carlson
Title: President and Chief Operating Officer

DISH NETWORK L.L.C.

By: _____
Name: W. Erik Carlson
Title: President and Chief Operating Officer

DISH OPERATING L.L.C.

By: _____
Name: W. Erik Carlson
Title: President and Chief Operating Officer

[*Signature Page to Share Exchange Agreement*]

*** Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

EHOSTAR CORPORATION

By: _____

Name: Dean A. Manson

Title: Executive Vice President, General Counsel and Secretary

EHOSTAR TECHNOLOGIES HOLDING CORPORATION

By: _____

Name: Dean A. Manson

Title: President and Secretary and Treasurer

EHOSTAR TECHNOLOGIES L.L.C.

By: _____

Name: Dean A. Manson

Title: Executive Vice President, General Counsel and Secretary

EHOSTAR BROADCASTING HOLDING PARENT L.L.C.

By: Echostar Corporation, as Sole Manager

By: _____

Name: Dean A. Manson

Title: Executive Vice President, General Counsel and Secretary

[*Signature Page to Share Exchange Agreement*]

*** Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

ECHOSTAR BROADCASTING HOLDING CORPORATION

By:

Name: Dean A. Manson

Title: President and Secretary and Treasurer

[*Signature Page to Share Exchange Agreement*]

*** Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

