TITLE 24 - UTILITIES AND COMMUNICATION

CHAPTER 2 - CABLE COMMUNICATIONS

Legislative History: Ordinance No. 04-84, the "Cable Communications Ordinance," was enacted by the Papago Council on May 10, 1984 and approved by the Papago Agency Acting Superintendent on May 31, 1984.
ORDINANCE OF THE PAPAGO TRIBAL COUNCIL

Cable Communications

WHEREAS, The Papago Council has received and reviewed an ordinance to regulate the cable communications business when located on the Papago reservation; and

WHEREAS, It has considered the reasons for enacting a regulatory ordinance for the cable business; and

WHEREAS, The Papago Council believed it would be in the best interest of the Tribe and consumers of cable services to enact an ordinance which will protect their rights;

NOW, THEREFORE, BE IT RESOLVED by the Papago Council that it hereby adopts the Cable Communications Ordinance as presented to govern and regulate the Cable Communications business on the Papago reservation by establishing certain standards, regulations and conditions for the construction, operation, maintenance and licensing of such systems.

The foregoing Ordinance was duly enacted by the Papago Council on the 10th day of May, 1984, at a meeting at which a quorum was present with a vote of 977.5 for; 0 against; 462.5 not voting; and 2 absent, pursuant to the authority vested in the Papago Council by Section 2(h), 3(b)(c)(d) of Article V of the Constitution and by-laws of the Papago Tribe of Arizona as amended, ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Resolution is effective as of the date of its approval by the Superintendent of the Papago Agency and is subject to review by the Secretary of the Interior.

THE PAPAGO COUNCIL

Josiah Moore, Chairman

ATTEST:

Francisco Osile, Secretary

ORDINANCE APPROVED this 31st day of May 1984.

Raymond Wolf, Acting Superintendent
Papago Agency
ORDINANCE OF THE PAPAGO COUNCIL
CABLE COMMUNICATIONS ORDINANCE

ORD. NO. 67-69

STATEMENT OF PURPOSE: An Ordinance providing for the regulation of cable communications systems on the Papago Reservation through the establishment of certain standards, regulations and conditions for the construction, operation, maintenance and licensing of such systems.

BE IT ENACTED by the Council of the Papago Tribe of the Papago Reservation, as follows:

Section 1. TITLE

This Ordinance may be cited as the Cable Communications Ordinance of the Papago Tribe.

Section 2. INTERPRETATION

This Ordinance shall be deemed an exercise of the police power of the Papago Tribe for the protection of the public welfare, health, peace and morals of the people of the Papago Reservation. All provisions of this Ordinance shall be liberally construed for the accomplishment of this purpose. If any provisions of this Ordinance, or the applicability thereof, be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. PURPOSE

The purpose of this Ordinance is:

(1) To regulate the installation, construction, operation and maintenance of a cable communications system upon, along, across, above, over or under or in any manner connected with the streets, public ways, or public places within the jurisdiction of the Papago Tribe as now or in the future may exist; and
To provide for the payment of certain fees and other considerations to the Papago Tribe to regulate the construction and operation, development and use of a cable communications system within the Papago Reservation; and

(3) To provide conditions under which a Licensee will serve present and future needs of government, public instructions, commercial enterprises, lawful public and private organizations and the citizens and general public of the Papago Reservation.

(4) To provide remedies and prescribe penalties for any violation of this Ordinance.

Section 4. DEFINITIONS

Unless the context otherwise provides, or where different meanings are given in subsequent sections of this Ordinance, the following terms have the meanings given herein. Words not defined shall be given their common and ordinary meaning.

(1) APPLICANT means a person, as defined in this Section, who submits a written request to the Papago Tribe or a District Council for permission to provide cable communications services to an area within the boundaries of the Papago Reservation.

(2) BASIC SERVICE means all subscriber services provided by a Licensee, including the delivery of broadcast signals, community service channels and local origination channels covered by the regular monthly charge paid by all subscribers for a particular service, or as specifically provided in the License Agreement.

(3) CHANNEL means a Megahertz (MHz) frequency band capable of carrying standard color video signals.

(4) COMMUNITY SERVICE CHANNEL means a channel assigned for programming produced or provided by persons,
organizations or institutions within the Papago Reservation for government, educational or public access purposes and approved by the Papago Tribe pursuant to this Ordinance.

(5) CONVERTER means an electronic device which converts signals to a frequency not susceptible to interference within the television or radio receiver of a subscriber, and with an appropriate channel selector which permits reception of signals transmitted by Licensee.

(6) FCC means the Federal Communications Commission or any legally designated successor.

(7) GROSS REVENUES means all cash, credits, property of any kind or nature, or other consideration received directly or indirectly by the Licensee, its affiliates, subsidiaries, parent and any person in which Licensee has a financial interest, arising from or attributable to the sale or exchange of cable communications services by Licensee within the Papago Reservation or in any way derived from the operation of its system, including, but not limited to, basic subscriber service monthly fees, optional service monthly fees, installation and reconnection fees, leased channel fees, converter rentals or sales, studio rental, production equipment and personnel fees, advertising revenues and the sale, exchange or cablecast of any programming developed on or for community service channels or institutional users. This sum shall be the basis for computing the fee imposed pursuant to Section 19 (Licensee Fee). This sum shall not include any taxes on services furnished by Licensee imposed upon any subscriber or used by the Papago Tribe or
other governmental unit and collected by Licensee on behalf of said governmental unit.

(8) LICENSE means the right and authority granted by this Ordinance to Licensee to construct, maintain and operate a cable communications system through use of the public streets, other public rights-of-way or the public places of the Papago Reservation.

(9) LICENSEE means a person who, in accordance with the provisions of this Ordinance executes a License Agreement with the Papago Tribe for the nonexclusive privilege to erect, construct, operate, maintain or dismantle a cable communications system on the Papago Reservation.

(10) PAPAGO COUNCIL means the governing body of the Papago Tribe of Arizona existing and functioning pursuant to the Constitution of the Papago Tribe, as amended.

(11) PAPAGO RESERVATION means all property and territory established, existing and geographically defined under the laws of the United States, including allotted lands, patented lands, townsites, roads, waters, bridges and rights-of-way owned, used or claimed by any person.

(12) PERSON means an individual, and where appropriate, a public or private corporation, association, partnership or a government or governmental authority.

(13) STREET means the surface, the air space above the surface and the area below the surface of any public street, communications or utility easements or other public rights-of-way or public place.

(14) SUBSCRIBER means a person who lawfully receives any signal or service provided or distributed by a cable communications system Licensee.
(15) SYSTEM means the signal reception, processing and distribution system used by a Licensee in the construction, operation and maintenance of the cable communication service.

Section 5. LICENSE REQUIRED

(1) No person shall construct, install, maintain or operate a cable communications system within, along or under any street within any District of the Papago Reservation unless a license has first been granted pursuant to this Ordinance and unless a License Agreement is in full force and effect. No application for a license shall be considered unless the applicant has first obtained the written consent to operate the system from the District Council(s) whose jurisdiction extends to the applicant's proposed service area.

(2) Any license granted pursuant to this Ordinance by the Papago Tribe shall not be exclusive and the Papago Tribe reserves the right to grant other licenses to any persons at any time and in any area of the Papago Reservation if the Papago Council determines that the granting of additional licenses is in the public interest.

(3) All provisions of this Ordinance and any license agreement shall be binding upon Licensee, its successors, lessees or assignees.

Section 6. LICENSE AGREEMENT

Each applicant shall, together with his application for a license, submit a proposed License Agreement which shall set forth the terms and conditions of the license. The agreement shall be subject to all provisions of this Ordinance and shall incorporate all terms and provisions included in Licensee’s
proposal including, but not limited, to the following:

(a) An application fee in the amount of $50.00 which shall be in the form of cash, certified or cashier's check, or money order, payable to the Papago Tribe, to pay the cost of processing the application.

(b) The name, address and telephone of the applicant. If the applicant is a partnership, the main address of each partner. If the applicant is a corporation, the names and addresses of its directors, main officers and the names and addresses of parent and subsidiary or affiliate corporations, if any.

(c) A list of stockholders holding three percent or more of the voting stock of Licensee or its parent, subsidiary or affiliate corporations, if any.

(d) A statement and description of the cable communications system to be constructed, installed, maintained and operated by the applicant; a description of the service area; and the extent in which existing or future poles or other facilities or existing utilities will be used for such system.

(e) A statement setting forth all agreements, whether written, oral or implied, existing between the applicant and any person other than those listed in the application, who propose to have ownership interest with respect to the proposed license or to the proposed cable communications operation.

If a license is granted to a person posing as a front or as a representative of another person and such information is not disclosed in the original application, such license shall be deemed voidable at the Tribe's option.

(f) A statement of schedule setting forth the number of
channels, including community service channels, and all other communications services received, distributed, relayed or otherwise conveyed over the cable system.

(g) Statement of costs of construction by component categories, projected income statement, balance sheet and statement of sources and applications of funds.

(h) Financial documents and statements showing the applicant's financial state and credibility, including income tax returns for the previous three (3) years and a current balance sheet.

(i) A proposed schedule showing all its rates and charges for services to be rendered to subscribers. The Papago Council shall approve or disapprove the rate schedule taking into consideration information regarding Licensee's capital investment, expenses of operation, income, equipment, amortization schedule and all other information necessary for a determination of fair and just rates for services to be rendered. The Council shall allow and provide for a fair and reasonable return on investments to the Licensee. No charge shall be made except in accordance with the schedule submitted and approved by the Papago Council.

Section 7. GRANT OF AUTHORITY

(1) Length of License: Any license granted by the Papago Tribe pursuant to this Ordinance shall be effective upon execution of the License Agreement by Licensee and the Papago Tribe and shall be for a period of fifteen (15) years subject to the conditions and restrictions of this Ordinance. No privilege or exemption shall be inferred from the granting of any
license unless it is specifically provided for.

(2) Renewal and Termination:

(a) A License Agreement may be renewed after

a determination is made whether Licensee has

performed its obligations under this Ordinance

and the License Agreement. All relevant factors

including, but not limited to cost of services,

programming, compliance with License obligations

prescribed by this Ordinance, cooperation and

encouragement of community service usage, industry

performance and public comments from subscribers,

residents or representatives from organizations.

(b) After a review of all relevant considerations the

Papago Council shall take such actions as it deems

appropriate which may include any of the following:

(i) Renew the License Agreement upon such con-

ditions and terms and for such additional

terms of less but not more than five (5)

years; or

(ii) Exercise the Papago Tribe’s option to pur-

chase the system as provided herein; or

(iii) Authorize the Licensee to transfer the

system pursuant to Section 20 of this

Ordinance;

(iv) Deny the renewal and exercise any appro-

priate options;

(c) Without regard to type and quality of performance

by Licensee, the Papago Tribe is under no obli-

gation to renew a license agreement.

(3) No Property Rights: The granting of any license pur-

suant to this Ordinance shall be a privilege and

shall not grant to a Licensee any right of property
in any tribal or District property.

(4) Police and Regulatory Powers: Licensee shall, at all times during the term of the License Agreement, be subject to all lawful exercise of the police power of the Papago Tribe, including any and all ordinances, rules, regulations which the Tribe has adopted or may adopt and which are applicable to the Licensee.

Section 8. Nature of Grant

(1) The License granted by this Ordinance constitutes authority to use the public streets, places, or rights-of-way on the Papago Reservation to engage in the business of operating a cable communications system, within the service area described in the License Agreement, subject to all conditions and provisions of this Ordinance.

(2) The License granted by this Ordinance is a privilege personal to the original Licensee. It cannot in any event be sold, transferred, leased, assigned, or disposed of, as a whole or in part, or otherwise, without the prior consent of the Papago Council, and then only under such conditions as the Papago Council deems appropriate.

Section 9. Geographic Area Covered

(1) The Papago Council may issue a nonexclusive license for the service area described by the Licensee and may further delineate portions of the Papago Reservation to be covered. Licensee shall not be required to provide service to an area unless at least fifty (50) subscribers per mile request service. In no event can Licensee extend into an area outside service area originally proposed without prior approval of the Papago Council and the District Council in whose jurisdiction
the area lies. Thereafter, the extended area shall be subject to all the terms of this Ordinance and the License Agreement.

(2) Cable communications services shall be made available to all individual, residential or multiple housing units, institutions, businesses or all other structures within the designated license area existing on effective date of the License Agreement.

(3) Any potential subscriber within 150 feet of a main distribution cable shall be connected at no additional extension cost. Licensee shall, at the request of any potential subscriber residing beyond the 150 foot limit, extend service to such subscriber provided additional or special installation fees are paid. The fees shall be in accordance with the rate schedule in the License Agreement.

(4) The owner or developer of any new developments or subdivisions to be served by underground power and telephone utilities, shall give reasonable notice to the Licensee of all such substructures in order that Licensee may install all necessary cable communication facilities. The cost or expense of such undergrounding shall not be the responsibility of the Papago Tribe.

(5) A landlord or owner of multiple housing units shall not interfere with the right of any tenant or lawful resident to request or receive cable communication services from Licensee by any act which penalizes, charges or threatens to forfeit any right of such tenant or resident or discriminates in any manner against such tenant or resident who requests or receives cable communication services.

(6) The Licensee shall not be required to give any payment
service or gratuity in any form as a condition for permitting the installation of a cable communications system to a dwelling occupied by a tenant or resident requesting service.

Section 10. SYSTEM DESIGN AND CAPABILITY REQUIREMENTS

(1) The Licensee shall provide the broadest range of services possible limited only by the state of technology and by reasonable economic analysis of the cost implications to both Licensee and the Subscribers. All facilities, equipment and services shall be upgraded in accordance with the state of production technology over the time. Applicants are encouraged to propose the broadest range of services, facilities, equipment, technical assistance and other considerations as is technologically and economically feasible.

(2) In this regard the requirements set forth in this section are intended only as minimum specifications for cable communications systems:

(a) Channel Capacity: Licensee shall operate a cable system having the channel capacity required by the Federal Communications Commission, FCC, but shall provide at a minimum a twelve (12) channel capacity. Capacity shall be increased as supply and demand for additional channel utilization exceeds the minimum.

(b) Interconnection Compatibility: Licensee shall interconnect with any or all other cable systems operating within the Papago Reservation upon the directive of the Papago Council. Licensee shall design and operate the system to facilitate interconnection as required in this subsection and to
be compatible with any and all other systems adjacent to or operating in other areas of the Reservation. Upon receiving the directive by the Papago Council to interconnect, Licensee shall immediately initiate negotiations with the other affected system(s) in order that costs may be shared equally by the systems for both the construction and operation of the interconnecting link.

(c) **Emergency Override:** Licensee shall provide an Emergency Alert capability which shall permit the Chairman or an authorized designate to override the regular programming on all channels and FM signals simultaneously, in the case of public emergencies. Licensee shall also designate a video channel to be used for emergency broadcasts.

(d) **Standby Power:** Licensee shall maintain in constant readiness equipment capable of providing standby power for the cable system for a minimum of four (4) hours.

(e) **Radio:** Licensee may designate in the License Agreement a range of individually processed FM radio signals. Such signals may include all local commercial and educational FM radio signals available in or near the service area. The Licensee may include AM signals in addition to the FM signals.

(f) **Systems Maps and Layout:** Licensee shall have available at all times up to date route maps showing trunk and distribution lines for review by appropriate tribal officials.

(g) **System Construction and Equipment Standards:** Licensee shall construct, install and maintain the
cable system in accordance with all applicable
codes, including the Occupational Safety and
Health Act of 1970 and any amendments, the
National Electric Safety Code and all other
applicable laws, rules and regulations of the
United States, in particular the Federal Communica-
tions Commission, the Papago Tribe or the State
of Arizona.

Section 11. CUSTOMER SERVICE STANDARDS

(1) Licensee shall maintain an office or agent in the
service area or nearby vicinity; the office or agent
shall be open or accessible during normal business
hours weekdays, have a locally listed telephone
number and operate so that complaints and requests
for repairs or adjustments may be received and
responded to.

(2) Service Procedures: Licensee shall provide each sub-
scriber at the time service is installed, complete
written instructions that clearly state procedures
for service calls. The instructions should include
at a minimum, the name, business address, business
telephone number of the cable service representative,
the service response time, information regarding
service interruptions and a statement to the sub-
scriber advising that the License Agreement and this
Ordinance can be reviewed if Licensee fails to
respond to a service call.

(3) Response time: Licensee shall correct all service
complaints promptly if possible. If the circumstances
warrant, service repairs and adjustments may be cor-
rected within a reasonable period of time. In no
event shall the response time for service calls
(4) Service Interruptions: Services may be interrupted for routine testing, maintenance and repair only upon necessary cause and for the shortest period of time possible. To the extent possible, the Licensee shall provide advance notice of service interruptions, except for emergency situations. Licensee shall provide in the License Agreement a rebate schedule in the event service to a subscriber is interrupted for an unreasonable period of time.

(5) Complaint Records: Licensee shall maintain a written record listing date of customer complaints, identifying the subscriber, describing the nature of the complaint and when and what action has been taken by the Licensee in response thereto. The record shall be kept at Licensee's local office and shall be available for inspection during regular business hours.

Section 12 RATE SCHEDULE

(1) Licensee shall provide a rate schedule of all subscriber and user rates, fees and charges of any kind for all cable services, equipment and facilities. Such rate schedule shall be established in the License Agreement and shall be binding. Rates shall not change except with the prior approval of the Papago Council.

(2) The Papago Council expressly reserves the right to regulate rates to the extent permitted by law and in accordance with the procedure provided in this Ordinance.

(3) Licensee shall file with the tribal Secretary and Treasurer of the Papago Council an up-to-date schedule of all rates, fees and charges for all cable services to be kept in the office of the Secretary.
Section 13. **RATE REGULATION**

(1) Licensee may modify the current or existing rate structure upon approval of the Papago Council, provided the Licensee has complied with all provisions of this Ordinance and the License Agreement. Any modification shall ensure fair and reasonable rates.

(2) The Papago Council shall determine whether the proposed rates, fees and charges are reasonable by considering the following factors:
   (a) The type of services provided by the Licensee and the return on investment therefrom;
   (b) The original cost of the system less standard depreciation;
   (c) The extent to which terms and conditions of the License Agreement and provisions of this Ordinance have been followed;
   (d) The presence or absence of competition in the cable business;
   (e) Fairness to subscribers, users, and residents of the Papago Reservation;
   (f) Complaints from subscribers, users or the general public that the rates are excessive or unreasonable;
   (g) Comments received at public hearings if such have been held.

(3) If the Papago Council finds that the Licensee's proposed rates are excessive or unreasonable it shall adopt a demonstrated rate structure found to be fair and reasonable.

(4) Appeals of rate decisions made by the Papago Council shall be referred to an impartial review board composed of three (3) specialists on rate structures used...
in the cable communications business. Each party to an appeal shall nominate a specialist to sit on the review board. Both nominated specialists shall in turn select the third member of the review board. The decision of the review board shall be final and binding on the Licensee.

Section 14. DISCONNECTION

(1) Licensee may disconnect any installation or outlet and remove all cable communications equipment in the following cases:

(a) When the subscriber has requested that service be disconnected;

(b) When the subscriber is delinquent thirty (30) days after the due date of the monthly subscriber fee or other proper charge, and a ten (10) day written notice has been given by the Licensee to the Subscriber of the intent to disconnect service. If the subscriber pays within thirty (30) days of the due date and after the ten (10) day written notice has been given, Licensee shall not disconnect.

(2) Licensee shall reinstate service upon payment in full of all proper fees and charges, including any reconnection charges, if any, by the subscriber.

Section 15. TIME OF ESSENCE

Time shall be deemed of the essence requiring the Licensee to diligently pursue and perform any acts for which a time schedule is prescribed by this Ordinance or the License Agreement. Licensee's failure to perform within the time periods specified will be sufficient grounds for the Papago Tribe to invoke the remedies provided for in this Ordinance.
Section 16. CONDITIONS OF CONSTRUCTION:

(1) Licensee shall give the Papago Tribe at least ten (10) days notice of the intent to begin construction on any streets or public places.

(2) Licensee shall not open or disturb the surface of any street or public place without first having obtained a permit or written approval in accordance with any applicable regulation, code or ordinance. Excavations shall be coordinated with other utility excavations or construction so as to minimize disruption and inconvenience to the public.

(3) No new, different or additional poles, conduits or other facilities shall be constructed or installed without approval of the Papago Tribe. Licensee shall, with the consent of the owner, utilize existing poles, conduits and other facilities whenever possible. The Papago Tribe gives its consent to use by Licensee of existing poles and facilities owned by the Tribe upon negotiated agreements with the Papago Tribal Utility Authority containing standard terms and provisions for joint use of the Tribe's poles and facilities. Joint use agreements shall comply with the Authority's Plan of Operation and current agreements and applicable administrative regulations.

(4) Licensee shall install telephone and electric utility facilities underground in those areas where existing facilities are both underground at the time of construction. In areas where either facility is installed aerially, Licensee may install its facilities aerially, provided however, that at such time as the facilities are placed underground, Licensee shall
likewise place its facilities underground at sole
cost to the Licensee.

(5) Licensee shall install or construct all facilities
including wire, cable lines, conduits and other dis-
tribution and transmission structures and other re-
lated facilities in such a manner as to cause minimum
interference with the use and access to streets and
other public places and with consideration to the
rights and reasonable convenience of property owners
who adjoin any of the streets and public placed.

(6) Licensee shall, at its own cost and expense, and in
the manner approved by the Papago Tribe, replace and
restore any street or public place which has been
damaged by the Licensee.

(7) The Papago Tribe reserves the right, in the event of
an emergency or by reason of public necessity or
safety, to require the Licensee, at its own expense,
to relocate, remove, temporarily disconnect, protect
or support any of its property. Restoration and
repair shall be made at the expense of the Papago
Tribe.

Section 17. TERMINATION

(1) The Papago Council may terminate the License Agreement
in the event of the material breach, failure, refusal
or neglect by the Licensee to perform its obligations
pursuant to the License Agreement, or of violation
of any provision of this Ordinance, or of any rule or
regulation passed by the Papago Council and applicable
thereto.

(2) If the Papago Council determines that Licensee, by its
acts or omissions has given the Tribe cause for
termination it may make written demand that Licensee
comply. If the violation, breach, failure, refusal or neglect is not or cannot be remedied within thirty (30) days following such demand, the Papago Council may:

(a) Further direct that Licensee comply within such additional time and upon such terms and conditions as the Papago Council may direct; or

(b) Terminate the License Agreement.

(3) If the Papago Council terminates the License Agreement it may pursue any remedies available to the Tribe pursuant to this Ordinance, or any other remedy available to the Tribe as provided by law.

(4) If the Papago Council directs the Licensee to dismantle the system, the Licensee shall, at its own expense and in an expeditious manner, restore any property to the condition in which it existed prior to the erection or construction of the system.

Section 18. CONTINUITY OF SERVICE

Licensee shall provide continuous service for the entire term of the License Agreement to all subscribers and users in return for payment of the established rates, fees and charges. If the Tribe revokes, fails to renew or terminates the License Agreement, or elects to purchase the system, Licensee shall continue to operate the system as trustee for its successor in interest, named or unnamed, until an orderly and lawful change of operation is effected. This period of operation shall not exceed six (6) months from the occurrence of the above events. During such interim period Licensee shall not make any material, administrative or operational changes without express written permission of the Papago Tribe. If Licensee fails to operate the system during the transition phase, the Papago Tribe shall have the right to operate the system, either directly or through
a designate, until such time as a new operator is selected. If
the Tribe is required to operate the system for Licensee,
Licensee shall reimburse the Tribe for any and all costs, fees
or damages incurred by the Tribe.

Section 19. PURCHASE OF SYSTEM BY TRIBE

(1) The Papago Tribe shall have the first option, directly
or as an intermediary, to purchase the system in the
event the License Agreement is terminated or expires.
The Tribe shall have ninety (90) days prior to the
effective date of expiration or termination to notify
Licensee of the Tribe's intent to exercise the option
to purchase.

(2) The Papago Tribe shall select a Certified Public
Accounting firm to audit the system's assets to
determine the value of the system. The value of the
system shall be solely based on the book value of
the tangible assets of the system, and no value shall
be assigned to the License itself or any right, privi-
lege or expectancy arising out of the privilege to
transact business under the License nor shall any
value be assigned to goodwill or as a going concern.

(3) Upon the exercise of the Tribe's option to purchase,
the Licensee shall, immediately upon payment of the
purchase price by the Tribe, transfer to the Tribe
possession and legal title to all system facilities
and property, real and personal, free from any and
all liens and encumbrances not agreed to be assumed
by the Tribe, and Licensee shall execute such warranty
deeds or other instruments of conveyance to the Tribe
as shall be necessary to effectuate this transfer.

Section 20. TRANSFERS AND ASSIGNMENTS

(1) Licensee shall not sell, transfer, assign, exchange
or release, or permit the sale, transfer, assignment, exchange or release of the ownership of the system or rights in the License Agreement without the prior written authorization of the Papago Council.

(2) Any proposed transferee shall be required to comply with all provisions of this Ordinance and the License Agreement and shall be required to submit current financial information to establish to the satisfaction of the Papago Tribe the financial solvency of the transferee. In addition, the proposed transferee shall establish to the satisfaction of the Tribe that the transferee has the experience and ability to effectively operate and maintain the system.

(3) Any proposed transferee shall be required to execute an agreement in such form as the Tribe deems acceptable, stating that it will assume and be bound by all of the provisions, terms and conditions of this Ordinance, the License Agreement and any other conditions the Papago Council may require in granting authorization to transfer.

(4) The Papago Council reserves the right to deny, restrict or condition authorization to transfer upon such criteria as the Council determines to be necessary in the public interest.

(5) No transfer under this section shall be permitted within fifteen (15) months of the expiration date of the License Agreement.

(6) An unauthorized transfer or assignment shall provide the Papago Council with cause to terminate the License Agreement, at its option. In the event of such occurrence, the Licensee shall not enter into, make, execute into any deed, contract, lease, agreement or
sale without the written approval of the Papago Council.

Section 21. LICENSE FEE

(1) The Licensee shall pay to the Papago Tribe an amount equal to five percent (5%) of Licensee's gross revenues from all sources attributable to the operations of Licensee pursuant to this Ordinance and the License Agreement.

(2) The payment required by this section shall be in addition to any other tax or payment required by the Papago Tribe pursuant to any other applicable ordinance or law.

(3) Payments due the Tribe under this section shall be computed quarterly and paid no later than thirty (30) days after the applicable computation date. Each payment shall be accompanied by a financial statement showing in detail the gross revenues of Licensee relating to the relevant quarter.

Section 22. RIGHTS RESERVED TO THE PAPAGO TRIBE

(1) The Papago Tribe expressly reserves, without limitation or effect on any other rights the Tribe might otherwise have, the following rights, power and authorities:

(a) To exercise its police and governmental powers to the extent necessary for the welfare of the public;

(b) To determine any question of fact relating to the meaning, term, obligation or other aspects of this Ordinance and the License Agreement;

(c) To grant other non-exclusive licenses within the Papago Reservation to persons for the operation of cable communications systems pursuant to this
Ordinance.

(2) Nothing in this Ordinance shall be deemed or construed to impair or affect the right of the Papago Tribe to exercise its power of eminent domain to acquire property of Licensee at a fair and just value.

Section 23.  EQUAL EMPLOYMENT OPPORTUNITY

(1) Licensee shall not discriminate because of race, creed, color, sex, physical disability, national origin, or age in providing service. In this regard, Licensee shall comply with all applicable federal, state and tribal laws, rules and regulations and orders relating to nondiscrimination.

(2) Licensee shall comply with the Tribal Employment Rights Ordinance, incorporated herein by this reference, making all reasonable efforts to assure employment for Papagos. Licensee shall review its employment structures and practices and adopt positive recruitment policies needed to assure genuine equality of opportunity.

Section 24.  INSURANCE

(1) Licensee shall maintain in full force and effect throughout the term of the License Agreement, insurance policies issued by an insurer duly authorized to conduct business in Arizona insuring with respect to the installation, construction, operation and maintenance of the system. Insurance coverage shall include, but not be limited to, comprehensive general and liability coverage with minimum amounts of $500,000 combined single limits for bodily injury, including death, property damage, auto liability, and umbrella liability of at least $10,000,000.
(2) All premiums due and payable shall be the sole responsibility of the Licensee and shall include the Papago Tribe as an additional insured.

Section 25. PENALTIES

(1) Any person violating any provision of this Ordinance or any rule or regulation promulgated hereunder, may have his/her license revoked and have all rights to engage in business on the Papago Reservation suspended or terminated by the Papago Council, and may be enjoined by an action brought in the Papago Tribal Courts in the name of the Papago Tribe from engaging or continuing in any business on the Papago Reservation.

(2) Any person convicted of violating any provision of this Ordinance or any rule or regulation promulgated hereunder shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) and costs for each offense or may be imprisoned in the tribal jail for not more than six (6) months, or both. Each day of a continuing violation shall constitute a separate and distinct offense.

Section 26. JURISDICTION

The Papago Tribal Courts shall have jurisdiction over all violations of this Ordinance and may, in addition to the penalties prescribed in Section 25 above, grant such other relief as is necessary and proper for the enforcement of this Ordinance, including but not limited to injunctive relief against acts in violation of this Ordinance. Nothing, however, in this Ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.