

EXHIBIT B

May 27, 2004

Pegasus Satellite Communications, Inc.

c/o Pegasus Communications Management Company
225 City Line Avenue
Suite 200
Bala Cynwyd, Pennsylvania 19004

Attention: Marshall W. Pagon
Scott Blank

Dear Mr. Pagon:

This letter agreement confirms the terms under which Pegasus Satellite Communications, Inc. (the "Company") has engaged Miller Buckfire Lewis Ying & Co., LLC ("MBLY") on a nonexclusive basis as its financial advisor and exclusive basis as its investment banker with respect to a possible Restructuring, Financing and/or Sale (each as defined below) and with respect to such other financial matters as to which the Company and MBLY may agree in writing during the term of this engagement. For purposes hereof, the term "Company" includes all subsidiaries and affiliates of the Company that become a debtor under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") and any entity that the Company or its affiliates may form or invest in to consummate a Restructuring, Financing and/or Sale, and shall also include any successor to or assignee of all or a portion of the assets and/or businesses of the Company pursuant to a Plan (as defined below). If appropriate in connection with performing its services for the Company hereunder, MBLY, with the consent of the Company, may utilize the services of one or more of its affiliates, in which case references herein to MBLY shall include such affiliates.

1. MBLY, as nonexclusive financial advisor and exclusive investment banker to the Company, will perform the following financial advisory and investment banking services:
 - a. General Financial Advisory and Investment Banking Services. MBLY will:
 - i. to the extent it deems necessary, appropriate and feasible, familiarize itself with the business, operations, properties, financial condition and prospects of the Company; and
 - ii. if the Company determines to undertake a Restructuring, Financing and/or Sale advise and assist the Company in structuring and effecting the financial aspects of such a transaction or transactions, subject to the terms and conditions of this agreement.
 - b. Restructuring Services. If the Company pursues a Restructuring, MBLY will:
 - i. provide financial advice and assistance to the Company in developing and seeking approval of a Restructuring plan (as the same may be

modified from time to time, a "Plan"), which may be a plan filed by the Company pursuant to section 1121 of the Bankruptcy Code;

- ii. if requested by the Company, in connection therewith, provide financial advice and assistance to the Company in structuring any new securities to be issued under the Plan;
- iii. if requested by the Company, assist the Company and/or participate in negotiations with entities or groups affected by the Plan; and
- iv. if requested by the Company, participate in hearings before the bankruptcy court having jurisdiction over the Company's chapter 11 cases (the "Bankruptcy Court") with respect to the matters upon which MBLY has provided advice, including, as relevant, coordinating with the Company's counsel with respect to testimony in connection therewith.

For purposes of this agreement, the term "Restructuring" shall mean any recapitalization or restructuring (including, without limitation, through any exchange, conversion, cancellation, forgiveness, purchase, retirement and/or a material modification or amendment to the terms, conditions or covenants) of the Company's preferred equity and/or debt securities and/or other indebtedness, obligations or liabilities, including, without limitation, pursuant to a repurchase or an exchange transaction, a Plan or a solicitation of consents, waivers, acceptances or authorizations.

c. Financing Services. If the Company pursues a Financing, MBLY will:

- i. provide financial advice and assistance to the Company in structuring and effecting a Financing, identify potential Investors (as defined below) and, at the Company's request, contact such Investors;
- ii. if MBLY and the Company deem it advisable, assist the Company in developing and preparing a memorandum (with any amendments or supplements thereto, the "Financing Offering Memorandum") to be used in soliciting potential Investors, it being agreed that (A) the Financing Offering Memorandum shall be based entirely upon information supplied by the Company, (B) the Company shall be solely responsible for the accuracy and completeness of the Financing Offering Memorandum, and (C) other than as contemplated by this subparagraph (c)(ii), the Financing Offering Memorandum shall not be used, reproduced, disseminated, quoted or referred to at any time in any way, except with MBLY's prior written consent; and
- iii. if requested by the Company, assist the Company and/or participate in negotiations with potential Investors.

For purposes of this agreement, the term "Financing" shall mean a private issuance, sale or placement of the equity, equity-linked or debt securities, instruments or obligations of the Company with one or more lenders and/or investors except to the extent issued to existing security holders of the Company in exchange for their existing securities, or any loan or other financing, including any "debtor in possession financing" or "exit financing" in connection with a case under the Bankruptcy Code or a rights offering (each such lender or investor, an "Investor").

It is understood and agreed that nothing contained herein shall constitute an expressed or implied commitment by MBL Y to act in any capacity or to underwrite, place or purchase any financing or securities, which commitment shall only be set forth in a separate underwriting, placement agency or other appropriate agreement relating to the Financing.

- d. Sale Services. If the Company pursues a Sale, MBL Y will:
- i. provide financial advice and assistance to the Company in connection with a Sale, identify potential acquirors and, at the Company's request, contact such potential acquirors;
 - ii. at the Company's request, assist the Company in preparing a memorandum (with any amendments or supplements thereto, the "Sale Memorandum") to be used in soliciting potential acquirors, it being agreed that (A) the Sale Memorandum shall be based entirely upon information supplied by the Company, (B) the Company shall be solely responsible for the accuracy and completeness of the Sale Memorandum, and (C) other than as contemplated by this subparagraph (d)(ii), the Sale Memorandum shall not be used, reproduced, disseminated, quoted or referred to at any time in any way, except with MBL Y's prior written consent; and
 - iii. if requested by the Company, assist the Company and/or participate in negotiations with potential acquirors.

For purposes of this agreement, the term "Sale" shall mean the disposition to one or more third parties in one or a series of related transactions of (x) all or substantially all of the equity securities of the Company by the security holders of the Company or (y) all or substantially all of the assets (including the assignment of any executory contracts) or businesses of the Company or its subsidiaries, in either case, including through a sale or exchange of capital stock, options or assets, a lease of assets with or without a purchase option, a merger, consolidation or other business combination, an exchange or tender offer, a recapitalization, the formation of a joint venture, partnership or similar entity, or any similar transaction. "Sale" expressly excludes the disposition of the broadcast television assets of the Company.

In rendering its services to the Company hereunder, MBL Y is not assuming any responsibility for the Company's underlying business decision to pursue or not to pursue any

business strategy or to effect or not to effect any Restructuring, Financing, and/or Sale or other transaction. The Company agrees that MBLY shall not have any obligation or responsibility to provide accounting, audit, "crisis management," or business consultant services for the Company and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements, or to provide any fairness or valuation opinions or any advice or opinions with respect to solvency in connection with any transaction. The Company confirms that it will rely on its own counsel, accountants and similar expert advisors for legal, accounting, tax and other similar advice.

In order to coordinate effectively the Company's and MBLY's activities to effect a Restructuring, Financing or Sale, the Company will promptly inform MBLY of any discussions, negotiations or inquiries regarding a possible Restructuring, Financing or Sale (including any such discussions, negotiations or inquiries that have occurred in the six month period prior to the date of this agreement).

The Company shall make available to MBLY all information concerning the business, assets, operations, financial condition and prospects of the Company that MBLY reasonably requests in connection with the services to be performed for the Company hereunder and shall provide MBLY with reasonable access to the Company's officers, directors, employees, independent accountants and other advisors and agents as MBLY and the Company shall deem appropriate. The Company represents that all information furnished by it or on its behalf to MBLY (including information contained in any Financing Offering Memorandum and/or Sale Memorandum) will be accurate and complete in all material respects. The Company recognizes and confirms that in advising the Company and completing its engagement hereunder, MBLY will be using and relying on publicly available information and on data, material and other information furnished to MBLY by the Company and other parties. It is understood that in performing under this engagement MBLY may assume and rely upon the accuracy and completeness of, and is not assuming any responsibility for independent verification of, such publicly available information and the other information so furnished.

2. Subject to paragraph 11 hereof, MBLY's compensation for services rendered under this agreement will consist of the following cash fees:
 - a. A monthly financial advisory fee of \$175,000 (the "Monthly Advisory Fee"), which shall be due and paid by the Company upon the execution of this agreement and thereafter on each monthly anniversary thereof during the term of this engagement. Upon execution of this agreement, the Company also agrees to pay MBLY a \$500,000 retainer. The retainer shall be used to satisfy Monthly Advisory Fees and expenses due after the payment of the initial Monthly Advisory Fee and will be refunded to the Company to the extent the retainer has not been fully utilized if MBLY is not approved by the Bankruptcy Court to serve hereunder. Fifty percent of the amount of the Monthly Advisory Fees actually paid during the first twelve months of this

engagement will be credited against any Restructuring Transaction Fee or Sale Transaction Fee payable to MBLY pursuant to this agreement.

- b. If at any time during the term of this engagement or within the fifteen full months following the termination of this engagement (including the term of this engagement, the "Fee Period"), (x) any Restructuring is consummated or (y)(1) an agreement in principle, definitive agreement or Plan to effect a Restructuring is entered into and (2) consummated, MBLY shall be entitled to receive a transaction fee (a "Restructuring Transaction Fee"), contingent upon the consummation of a Restructuring and payable at the closing thereof, equal to \$11,250,000.
- c. If at any time during the Fee Period, (x) any Sale is consummated or (y)(1) an agreement in principle or definitive agreement to effect a Sale is entered into, and (2) consummated, MBLY shall be entitled to receive a transaction fee (a "Sale Transaction Fee"), contingent upon the consummation of a Sale and payable at the closing thereof, equal to the greater of (i) \$11,250,000 and (ii) the sum of (A) 0.75% of the Aggregate Consideration (as defined below) up to \$1.5 Billion plus (B) 0.50% of the Aggregate Consideration, if any, in excess of \$1.5 Billion.

For purposes of this agreement, the term "Aggregate Consideration" shall mean the total amount of cash and the fair market value (on the date of payment and as agreed by the parties thereto of all securities and other property paid or payable, directly or indirectly, by the acquiring party (the "Acquiror") to the acquired party or the seller of the acquired business (in either case, the "Acquired"), or to the Acquired's contract parties, claim holders, security holders and employees, or by the Acquired to the Acquired's contract parties, claim holders, security holders and employees, in connection with a Sale or a transaction related thereto (including, without limitation, amounts paid by the Acquiror (i) pursuant to covenants not to compete, employment contracts, employee benefit plans or other similar arrangements of the Acquired and (ii) to holders of any warrants, stock purchase rights, convertible securities or similar rights of the Acquired and to holders of any options or stock appreciation rights issued by the Acquired, whether or not vested). Aggregate Consideration shall also include the value of any liabilities (including obligations relating to any capitalized leases and the principal amount of any indebtedness for borrowed money) (x) existing on the Acquired's balance sheet at the time of a Sale or repaid or retired in anticipation of a Sale (if such Sale takes the form of a merger or sale or exchange of stock) or (y) assumed directly or indirectly by the Acquiror in connection with a Sale (if such Sale takes the form of a sale or exchange of assets). Aggregate Consideration shall be reduced by the value of any current liabilities not assumed by the Acquiror, each such value as of the closing date of the Sale and as determined by MBLY reasonably and in good faith. If a Sale takes the form of a recapitalization of the Company (including, without limitation, an extraordinary dividend, a spin-off, split-off or similar transaction), Aggregate Consideration shall also include the fair market value (on the closing date of the Sale and as agreed by the parties thereto) of (i) the equity securities of the Company retained by the Company's security holders and/or creditors following the consummation of such transaction and (ii) any cash, securities

(including securities of subsidiaries) or other consideration received by the Company's security holders and/or creditors in exchange for or in respect of securities of and/or claims against the Company in connection with such transaction (all such cash, securities or and/or claims against other consideration received by such security holders and/or creditors being deemed to have been paid to such security holders and/or creditors in such transaction). In the event that any part of the consideration in connection with any Sale will be payable (whether in one payment or a series of two or more payments) at any time following the consummation thereof, the term Aggregate Consideration shall include the present value of such future payment or payments, as determined by MBLY reasonably and in good faith. As used in this agreement, the terms "payment," "paid" or "payable" shall be deemed to include, as applicable, the issuance or delivery of securities or other property other than cash.

- d. If at any time during the Fee Period, the Company (x) consummates any Financing or (y)(1) the Company receives and accepts written commitments for one or more Financings (the execution by a potential financing source and the Company of a commitment letter or securities purchase agreement or other definitive documentation shall be deemed to be the receipt and acceptance of such written commitment) and (2) concurrently therewith or at any time thereafter (including following the expiration of the Fee Period) any Financing is consummated, the Company will pay to MBLY the following (either as underwriting discounts, placement fees or other compensation):
- i. 1.00% of the gross proceeds of any indebtedness issued that is secured;
 - ii. 2.00% of the gross proceeds of any indebtedness issued that (x) is unsecured and/or (y) is subordinated;
 - iii. 3.00% of the gross proceeds of any equity or equity-linked securities or obligations issued; and
 - iv. with respect to any other securities or indebtedness issued, such underwriting discounts, placement fees or other compensation as shall be customary under the circumstances and mutually agreed by the Company and MBLY.

It is understood and agreed that if the proceeds of any such Financing are to be funded in more than one stage, the aggregate proceeds to be raised in all stages of such Financing shall be deemed to have been received, and MBLY shall be entitled to the applicable compensation hereunder calculated based on such aggregate proceeds, upon the closing date of the first stage thereof.

The Company acknowledges and agrees that the fees payable to MBLY hereunder are reasonable. The Company and MBLY acknowledge and agree that (a) the hours worked, the results achieved and the ultimate benefit to the Company of the work performed, in each case, in connection with this engagement, may be variable, and that the Company and

MBLY have taken this into account in setting the fees hereunder, and (b) more than one fee may be payable to MBLY under subparagraphs 2(b), 2(c) and/or 2(d) hereof in connection with any single transaction or a series of transactions, it being understood and agreed that (i) 50% of any financing fee payable to MBLY hereunder in respect of a Financing consummated prior to the consummation of a Sale or Restructuring (including any financing fee in respect of a DIP Financing) will be credited against any Restructuring Transaction Fee or Sale Transaction Fee payable under this agreement, (ii) 100% of any financing fee payable to MBLY hereunder in respect of a Financing consummated concurrently with any Restructuring or Sale will be credited against any Restructuring Transaction Fee or Sale Transaction Fee payable under this agreement, and (iii) notwithstanding anything in this agreement to the contrary, MBLY shall not be entitled to receive any financing fee(s) in respect of any Financing consummated after the consummation of a Sale or Restructuring in respect of which MBLY is entitled to receive a fee.

3. Subject to paragraph 11 hereof, in addition to any fees payable by the Company to MBLY hereunder, the Company shall, whether or not any transaction contemplated by this agreement shall be proposed or consummated, reimburse MBLY on a monthly basis for its travel and other reasonable out-of-pocket expenses (including all fees, disbursements and other charges of counsel to be retained by MBLY, and of other consultants and advisors retained by MBLY with the Company's consent) incurred in connection with, or arising out of MBLY's activities under or contemplated by this engagement. The Company shall also reimburse MBLY, at such times as MBLY shall request, for any sales, use or similar taxes (including additions to such taxes, if any) arising in connection with any matter referred to or contemplated by, this engagement. Such reimbursements shall be made promptly upon submission by MBLY of statements for such expenses.
4. The Company agrees to indemnify MBLY and certain related persons in accordance with the indemnification provisions ("Indemnification Provisions") attached to this agreement. Such Indemnification Provisions are an integral part of this agreement, and the terms thereof are incorporated by reference herein. Such Indemnification Provisions shall survive any termination or completion of MBLY's engagement hereunder.
5. The Company agrees that none of MBLY, its affiliates or their respective directors, officers, members, managers, agents, employees and controlling persons, or any of their respective successors or assigns ("Covered Persons") shall have any liability to the Company or any person asserting claims on behalf of the Company or in the Company's right for or in connection with this engagement or any transactions or conduct in connection therewith except for losses, claims, damages, liabilities or expenses incurred by the Company which are finally judicially determined to have resulted primarily from the gross negligence or willful misconduct of such Covered Person; provided, however, that in no event shall the Covered Persons' aggregate liability to the Company or any person asserting claims on behalf of the Company or in the Company's right exceed the fees MBLY actually receives from the Company

pursuant to its engagement hereunder, unless there is a final judicial determination of willful misconduct specified in this sentence.

6. This agreement and MBLY's engagement hereunder may be terminated by either the Company or MBLY at any time, upon prior written notice thereof to the other party; provided, however, that (a) termination of MBLY's engagement hereunder shall not affect the Company's continuing obligation to indemnify MBLY and certain related persons as provided for in this agreement, and its continuing obligations and agreements under paragraphs 5 and 7 hereof, (b) notwithstanding any such termination, MBLY shall be entitled to the full fees in the amounts and at the times provided for in paragraph 2 hereof; provided, however, if the Company becomes a debtor under chapter 11 and the Bankruptcy Court does not approve this engagement, then so long as the Company performed in good faith its obligations under the first sentence of paragraph 11 of this agreement, the Company shall have no obligation to pay MBLY the fees to be paid in accordance with subparagraphs 2(b), 2(c) and 2(d), and (c) any termination of MBLY's engagement hereunder shall not affect the Company's obligation to reimburse expenses accruing prior to such termination to the extent provided in paragraph 3 hereof.
7. MBLY has been retained under this agreement as an independent contractor with no fiduciary or agency relationship to the Company or to any other party with no agency relation to the Company or to any other party, it being understood that MBLY shall have no authority to bind, represent or otherwise act as agent, executor, administrator, trustee, lawyer or guardian for the Company, nor shall MBLY have the authority to manage money or property of the Company. The advice (oral or written) rendered by MBLY pursuant to this agreement is intended solely for the benefit and use of the Board of Directors of the Company in considering the matters to which this agreement relates, and the Company agrees that such advice may not be relied upon by any other person or entity, used for any other purpose or reproduced, disseminated, quoted or referred to at any time, in any manner for any purpose, nor shall any public references to MBLY be made by the Company, without the prior written consent of MBLY.
8. The Company agrees that MBLY shall have the right to place advertisements in financial and other newspapers and journals at its own expense describing its services to the Company hereunder; provided that MBLY will submit a copy of any such advertisement to the Company for its prior approval, which approval shall not be unreasonably withheld or delayed.
9. This agreement shall be deemed to be made in New York. This agreement and all controversies arising from or relating to performance of this agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to such state's rules concerning conflicts of laws that might provide for any other choice of law. The Company hereby irrevocably consents to personal jurisdiction in the Supreme Court of the State of New York in New York County, Commercial Part, or any Federal court sitting in the Southern

District of New York for the purposes of any suit, action or other proceeding arising out of this agreement or any of the agreements or transactions contemplated hereby, which is brought by or against the Company, hereby waives any objection to venue with respect thereto, and hereby agrees that all claims in respect of any such suit, action or proceeding shall be heard and determined in any such court, and that such courts shall have exclusive jurisdiction over any claims arising out of or relating to such agreements or transactions; provided that in the event that the Company becomes a debtor under chapter 11 of the Bankruptcy Code, during any such case, any such claims may also be heard and determined in the Bankruptcy Court (as defined below). The Company hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the Company at its address set forth above, such service to become effective ten (10) days after such mailing. ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM OR ACTION ARISING OUT OF THIS AGREEMENT OR CONDUCT IN CONNECTION WITH MBLY'S ENGAGEMENT IS HEREBY WAIVED.

10. This agreement may be executed in counterparts, each of which together shall be considered a single document. This agreement shall be binding upon MBLY and the Company and their respective successors and assigns (including, in the case of the Company, any successor to all or a portion of the assets and/or the businesses of the Company under a Plan). This agreement is not intended to confer any rights upon any shareholder, creditor, owner or partner of the Company, or any other person or entity not a party hereto other than the indemnified persons referenced in the Indemnification Provisions contained herein and the Covered Persons referenced above.
11. In the event that the Company becomes a debtor under chapter 11 of the Bankruptcy Code, the Company shall use its reasonable best efforts to promptly apply to the Bankruptcy Court for the approval pursuant to sections 327 and 328 of the Bankruptcy Code of this agreement and MBLY's retention by the Company under the terms of this agreement, and subject to the standard of review provided for in Section 328(a) of the Bankruptcy Code, and not subject to any other standard of review under section 330 of the Bankruptcy Code. The Company shall supply MBLY with a draft of such application and any proposed order authorizing MBLY's retention that is proposed to be submitted to the Bankruptcy Court sufficiently in advance of the filing of such application or the submission of such order, as the case may be, to enable MBLY and its counsel to review and comment thereon. MBLY shall have no obligation to provide any services under this agreement in the event that the Company becomes a debtor under the Bankruptcy Code unless MBLY's retention under the terms of this agreement is approved under Section 328(a) of the Bankruptcy Code by a final order of the Bankruptcy Court no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which is acceptable to MBLY in all respects. MBLY acknowledges that in the event that the Bankruptcy Court approves its retention by the Company, (i) MBLY shall file appropriate fee

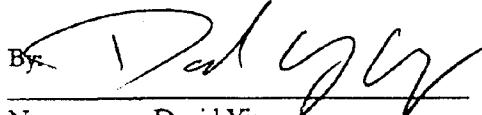
applications in accordance with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, applicable local rules, any guidelines issued by the office of the United States Trustee and any orders issued by the Bankruptcy Court, and (ii) MBL Y's fees and expenses shall be subject to the jurisdiction and approval of the Bankruptcy Court under Section 328(a) of the Bankruptcy Code and any applicable fee and expense guideline orders. In the event that the Company becomes a debtor under the Bankruptcy Code and MBL Y's engagement hereunder is approved by the Bankruptcy Court, the Company shall pay all fees and expenses of MBL Y hereunder as promptly as practicable in accordance with the terms hereof. Prior to commencing a chapter 11 case, the Company shall pay all undisputed amounts theretofore due and payable to MBL Y in cash.

12. MBL Y agrees to be bound by the provisions of the Confidentiality Agreement dated May 21, 2004 until one year after the termination of this engagement letter; provided, however, if the Company files as a debtor under Chapter 11 and the Bankruptcy Court approves this engagement, this period shall be extended until one year after a Plan is approved.

We are pleased to accept this engagement and look forward to working with the Company. Please confirm that the foregoing is in accordance with your understanding by signing and returning to us the enclosed duplicate of this letter, which shall thereupon constitute a binding agreement between MBLY and the Company.

Very truly yours,

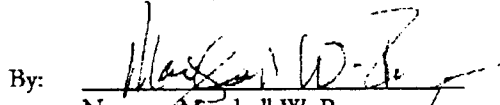
MILLER BUCKFIRE LEWIS YING & CO., LLC

By: 

Name: David Ying
Title: Managing Director

Accepted and Agreed to:

PEGASUS SATELLITE COMMUNICATIONS, INC.

By: 

Name: Marshall W. Pagon
Title: Chairman and Chief Executive Officer

INDEMNIFICATION PROVISIONS

In connection with the engagement of Miller Buckfire Lewis Ying & Co., LLC ("MBLY") as financial advisor to Pegasus Satellite Communications, Inc., the Company hereby agrees to indemnify and hold harmless MBL Y and its affiliates, their respective directors, officers, members, managers, agents, employees and controlling persons, and each of their respective successors and assigns (collectively, the "indemnified persons"), to the full extent lawful, from and against all losses, claims, damages, liabilities and expenses incurred by them which (A) are related to or arise out of (i) actions or alleged actions taken or omitted to be taken (including any untrue statements made or any statements omitted to be made) by the Company or (ii) actions or alleged actions taken or omitted to be taken by an indemnified person with the Company's consent or in conformity with the Company's actions or omissions or (B) are otherwise related to or arise out of MBL Y's activities under MBL Y's engagement. The Company will not be responsible, however, for any losses, claims, damages, liabilities or expenses pursuant to clause (B) of the preceding sentence which are finally judicially determined to have resulted primarily from the gross negligence or willful misconduct of the person seeking indemnification hereunder. To the extent that the Company has paid any expenses incurred by the indemnified persons or otherwise provided indemnification to an indemnified person and it is finally judicially determined that the losses, claims, damages, liabilities or expenses resulted primarily from the gross negligence or willful misconduct of the person seeking indemnification hereunder, MBL Y agrees on behalf of the indemnified person to reimburse the Company for any amounts paid prior to such judicial determination. For purposes of these indemnification provisions, the term the "Company" has the meaning set forth in the engagement letter, dated as of May 21, 2004, between MBL Y and Pegasus Satellite Communications, Inc., of which these indemnification provisions are an integral part.

After receipt by an indemnified person of notice of any complaint or the commencement of any action or proceeding with respect to which indemnification is being sought hereunder, such person will notify the Company in writing of such complaint or of the commencement of such action or proceeding, but failure so to notify the Company will relieve the Company from any liability which the Company may have hereunder only if, and to the extent that such failure results in the forfeiture by the Company of substantial rights and defenses, and will not in any event relieve the Company from any other obligation or liability that the Company may have to any indemnified person otherwise than under these indemnification provisions. If the Company so elects or is requested by such indemnified person, the Company will assume the defense of such action or proceeding, including the employment of counsel reasonably satisfactory to MBL Y and the payment of the fees and disbursements of such counsel. In the event, however, such indemnified person reasonably determines in its judgment that having common counsel would present such counsel with a conflict of interest or if the defendants in, or targets of, any such action or proceeding include both an indemnified person and the Company, and such indemnified person reasonably concludes that there may be legal defenses available to it or other indemnified persons that are different from or in addition to those available to the Company, or if the Company fails to assume the defense of the action or proceeding or to employ counsel reasonably satisfactory to such indemnified person, in either case in a timely manner, then such indemnified person may employ separate counsel to represent or defend it in any such action or proceeding and the Company will pay the fees and disbursements of such counsel; provided, however, that the Company will not be required to pay the fees and disbursements of more than one separate counsel (in addition to local counsel) for all indemnified persons in any jurisdiction in any single action or proceeding. In any action or proceeding the defense of which the Company assumes, the indemnified person will have the right to participate in such litigation and to retain its own counsel at such indemnified person's own expense. The Company further agrees that it will not, without the prior written consent of MBL Y, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not MBL Y or any other indemnified person is an actual or potential party to such claim, action, suit or proceeding) unless such settlement, compromise or consent includes an unconditional release of MBL Y and each other indemnified person hereunder from all liability arising out of such claim, action, suit or proceeding.

The Company agrees that if any indemnification sought by an indemnified person pursuant to these indemnification provisions is held by a court to be unavailable for any reason other than as specified in the second sentence of the first paragraph of these indemnification provisions, then (whether or not MBL Y is the indemnified person), the Company and MBL Y will contribute to the losses, claims, damages, liabilities and expenses for which such indemnification is held unavailable (i) in such proportion as is appropriate to reflect the relative benefits to the Company, on the one hand, and MBL Y, on the other hand, in connection with MBL Y's engagement referred to above, or (ii) if the allocation provided

by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i), but also the relative fault of the Company, on the one hand, and MBL Y, on the other hand, as well as any other relevant equitable considerations; provided however, that in any event the aggregate contribution of all indemnified persons, including MBL Y, to all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder will not exceed the amount of fees actually received by MBL Y from the Company pursuant to MBL Y's engagement referred to above. It is hereby agreed that for purposes of this paragraph, the relative benefits to the Company, on the one hand, and MBL Y, on the other hand, with respect to MBL Y's engagement shall be deemed to be in the same proportion as (i) the total value paid or proposed to be paid or received by the Company or the Company's stockholders, claims holders or contract parties, as the case may be, pursuant to the transaction, whether or not consummated, for which MBL Y is engaged to render financial advisory services, bears to (ii) the fee paid or proposed to be paid to MBL Y in connection with such engagement. It is agreed that it would not be just and equitable if contribution pursuant to this paragraph were determined by pro rata allocation or by any other method which does not take into account the considerations referred to in this paragraph.

The Company further agrees that it will promptly reimburse MBL Y and any other indemnified person hereunder for all expenses (including fees and disbursements of counsel) as they are incurred by MBL Y or such other indemnified person in connection with investigating, preparing for or defending, or providing evidence in, any pending or threatened action, claim, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not MBL Y or any other indemnified person is a party) and in enforcing these indemnification provisions. If

The Company's indemnity, contribution, reimbursement and other obligations under these indemnification provisions shall be in addition to any liability that the Company may otherwise have, at common law or otherwise, and shall be binding on the Company's successors and assigns.

Solely for purposes of enforcing these indemnification provisions, the Company hereby consents to personal jurisdiction, service and venue in any court in which any claim or proceeding which is subject to, or which may give rise to a claim for indemnification or contribution under, these indemnification provisions is brought against MBL Y or any other indemnified person; provided, however, if the Company becomes a debtor under chapter 11 of the Bankruptcy Code, the Bankruptcy Court shall have exclusive jurisdiction over any such claim.

These indemnifications provisions shall apply to the above-mentioned engagement, activities relating to the engagement occurring prior to the date hereof, and any subsequent modification of or amendment to such engagement, and shall remain in full force and effect following the completion or termination of MBL Y's engagement.