

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: **Approval of an Ordinance: Approving Cable Television Franchise Agreement with Comcast**

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION:

I hereby move to approve an ordinance authorizing the approval of a nonexclusive franchise agreement with Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC.

As indicated in the attached agreement, the term of the Franchise will be from November 22, 2022 to November 21, 2027, with the provision for one automatic extension of an additional five year term.

DATE OF INTRODUCTION: November 1, 2022

DATE OF PASSAGE: November 22, 2022

EFFECTIVE DATE: December 23, 2022



November 22, 2022

Scott A. Nicewarner
City Administrator
City of Hagerstown
One East Franklin Street
Hagerstown, MD 21740

Dear Mr. Nicewarner:

The purpose of this letter agreement is to provide further information and confirm the understanding that has been reached between Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC ("Comcast") and the City of Hagerstown, MD ("City") with respect to certain matters that were discussed with the City during franchise renewal negotiations that are in addition to the Cable Television Franchise Agreement between the parties, that is effective November 22, 2022 ("Franchise Agreement").

The City Code, §70-6, provides for a \$25,000 application fee for an initial cable franchise agreement, to cover costs associated with processing the application, and reimbursement of any additional costs in processing an application exceeding the \$25,000 application fee. Comcast's position is that federal law prohibits fees beyond those that are "incidental" to granting a cable franchise, where the cable franchise includes the statutory maximum (5%) franchise fee, and that \$25,000 exceeds an amount that would qualify as incidental. The City's position is that there are presently no cable franchise fees being paid by Comcast (significant construction has not started on the cable system) and that because this process has been ongoing since January, 2022, the application fee and additional costs associated with processing the application as specified in the City Code are reasonable. In the interest of finalizing the Franchise Agreement in order to bring additional competition to the City related to video and other services, Comcast and the City agree that Comcast will pay the application fee and reimburse the City for additional costs incurred by the City consistent with the requirements of City Code Section 70-6 subject to the conditions as indicated below.

(i) Comcast agrees to pay a \$25,000 application fee to the City prior to execution of the Franchise Agreement by both parties. Comcast will not offset the application fee from future franchise fees to be paid to the City under the Franchise Agreement.

(ii) Within thirty (30) days of the City's approval of the Franchise Agreement, the City shall provide a comprehensive, itemized statement showing the costs incurred by the City consistent with the requirements of City Code Section 70-6, and Comcast shall pay to the City any additional amounts referenced in the statement in excess of \$25,000 within thirty (30) days. Comcast may recover any additional amounts paid to the City per this letter agreement, beyond the \$25,000 application fee, through an offset from future franchise fees to be paid to the City under the Franchise Agreement.

Failure of Comcast to make timely payment of the application fee or the additional costs associated with processing the application shall constitute a material violation of the Franchise Agreement.

Sincerely,

Misty Allen
Regional Vice President, Government Affairs & Regulatory Affairs

Accepted and agreed to this 22nd day of November, 2022.

City of Hagerstown, Maryland

By: _____
Scott A. Nicewarner - City Administrator

CABLE TELEVISION FRANCHISE AGREEMENT

This Cable Television Franchise Agreement ("Franchise") is entered into this 22nd day of November, 2022, by and between the City of Hagerstown, Maryland ("City"), and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC ("Grantee").

RECITALS

WHEREAS, the City is authorized to grant franchises for the installation, operation and maintenance of cable television systems within the City; and

WHEREAS, the Grantee has applied to the City for a cable television franchise to construct, operate and maintain a cable television system within the City; and

WHEREAS, the Grantee is willing to accept this Franchise subject to the terms and conditions stated herein, and to abide by these terms and conditions; and

WHEREAS, the public has had adequate notice and opportunity to comment on the Grantee's proposal to provide cable television service within the City; and

WHEREAS, the City Council hereby finds that it would serve the public interest of the citizens of the City to grant a new cable television franchise to the Grantee subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and Grantee do hereby agree as follows:

SECTION 1. DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, words, and their derivations have the meanings given herein or ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §521 et seq. (the "Cable Act"), unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, the word he shall be gender neutral and shall include all persons, words in the plural number include the singular number, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

1.1 "Access" means the availability for noncommercial use by various educational institutions in the community, and the City and its designees, of the Access Channels.

1.2 "Access Channel" means any video Channel, which Grantee makes available for non-commercial Educational or Government (EG) Access use for the transmission of EG Access video programming as directed by the City.

1.3 "Affiliate" when used in connection with Grantee, means any Person, or entity, who owns or controls, is owned or controlled by, or is under common ownership or control with Grantee,

excluding affiliates that are not involved with the use, management, operation, construction, repair and/or maintenance of Comcast's cable systems.

1.4 "Bad Debt" means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.5 "Basic Service" means the lowest Cable Service Tier which includes, at a minimum, the retransmission of local broadcast television signals, carried in fulfillment of the requirements of 47 U.S.C. §§ 534 and 535, and all EG Access Channels required by the Franchise to be provided to Subscribers as Basic Service.

1.6 "Cable Act" means the Communications Act of 1934 as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and all additional amendments thereto.

1.7 "Cable Operator" means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more Affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.8 "Cable Service" means the one-way transmission to Subscribers of Video Programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

1.9 "Cable System" means a facility, consisting of a set of closed transmissions paths and associated Signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area, but such term does not include (A) a facility that serves only to retransmit the television Signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an Open Video System that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems. As used herein, the term Cable System shall mean Grantee's cable communications facilities located in the City.

1.10 "Channel" means a time or frequency slot or technical equivalent on the Cable System in a specified format, discreetly identified and capable of carrying full motion, color video and audio, and may include other non-video subcarriers and digital information.

1.11 "City" is the City of Hagerstown, a body politic and corporate under the laws of the State of Maryland, and all of the area within its boundaries, as such may change from time to time.

1.12 "City Council" means the Hagerstown City Council, or its successor, the governing body of the City.

- 1.13 "Commercial Subscribers" means any Subscribers other than Residential Subscribers.
- 1.14 "Demarcation Point" means a point located at an Access Channel origination site and shall be the point of input to Grantee's equipment for the Designated Access Provider's encoded video and audio. Under current technology, that point is the SDI input to the Grantee's encoder at the Access Channel origination site.
- 1.15 "Designated Access Provider" means the entity or entities designated now or in the future by the City to manage or co-manage the Government Access Channel and Educational Access Channel, and facilities. The City may be a Designated Access Provider.
- 1.16 "Downstream" means carrying a transmission from the Headend to remote points on the Cable System.
- 1.17 "Dwelling Unit" means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy.
- 1.18 "Educational Access Channel" means an Access Channel made available for non-commercial use by educational institutions in the City for the purpose of showing programming related to education.
- 1.19 "Expanded Basic Service" means the digital Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service.
- 1.20 "FCC" means the Federal Communications Commission, or successor governmental entity thereto.
- 1.21 "Franchise" means the document, together with any Exhibit attached hereto, in which this definition appears, i.e., the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.
- 1.22 "Franchise Area" means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise.
- 1.23 "GAAP" means generally accepted accounting principles.
- 1.24 "Government Access Channel" means an Access Channel made available for non-commercial use by the City for the purpose of showing governmental programming.
- 1.25 "Grantee" means Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC or its lawful successor, transferee or assignee.
- 1.26 "Gross Revenues" means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliate that is the cable operator of the Cable System, from the operation of Grantee's Cable System to provide Cable Services within the City. Grantee

will calculate gross revenues in accordance with General Accepted Accounting Principles (“GAAP”). Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade, or similar charges associated with changes in Subscriber Cable Service tiers;
- fees for service calls related to Cable Service;
- fees for additional outlets of Cable Service;
- fees paid to Grantee for channels designated for commercial/leased access use within the City, which shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the programming;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined in this Section;
- late fees, convenience fees, administrative fees and other multiservice fees, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees;
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the City;
- revenue from the lease of the Cable System to provide Cable Services in the Franchise Area; and
- payments or other consideration received from programmers for carriage of programming on the Cable System and recognized as revenue under GAAP.

(A) “Advertising Revenues” shall mean revenues derived from the sale of advertising that are made available to Grantee’s Cable System subscribers within the City and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, representative fees, Affiliated Entity fees, or rebates paid to the National Cable Communications and

Comcast Effectv or their successors or other affiliated advertising agencies associated with the sale of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) "Gross Revenues" shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- any taxes and/or fees on services furnished by Grantee imposed by a municipality, state, or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- other fees imposed by any municipality, state, or other governmental unit on Grantee, including but not limited to the EG Capital Fee;
- except as provided above, launch fees and marketing co-op fees; and
- unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, or where any multi-service fees are assessed and not directly attributable to a particular line of business, such as late fees, such revenue shall be allocated to Cable Service and non-Cable Service in accordance with GAAP. It is expressly understood that in some cases equipment and other non-service charges may be subject to inclusion in the bundled price at full rate card value due to requirements related to sales taxes or similar tax requirements. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document any changes to the City upon request or as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to subsection (E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the FASB, EITF and/or the SEC. Notwithstanding the forgoing, the City reserves its right to challenge Grantee's calculation of Gross Revenues and calculation of Franchise Fees, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.27 "Headend" means the control center of the Cable System, where incoming Signals are amplified, converted, processed and/or combined for transmission to Subscribers.

1.28 "Leased Access Channel" means a Channel on the Cable System designated by the Grantee pursuant to Section 612 of the Cable Act (47 U.S.C. § 532).

1.29 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.30 "Residential Subscriber" means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.31 "Right-of-Way" means the surface and the area across, in, over, along, upon, above and below the surface of each of the following which are located within the City and have been dedicated to the public or are hereafter dedicated to the public and maintained by the City: streets, roadways, highways, avenues, lanes, alleys, freeways, drives, circles, roads, courts, ways, boulevards, bridges, and sidewalks, and other public Rights-of-Way as defined in City Code Sections 70-2 and 216-3, as the same now or may hereafter exist, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System. Public Right-of-Way also means any easement now or hereafter held by the City within the Franchise Area for the purpose of public travel, or for utility or public service use utilized for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to their use, for example, for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and appurtenant to the Cable System. Use of any City owned utility poles shall be subject to a separate Pole Attachment Agreement.

1.32 "Schools" means all accredited public elementary and secondary schools. Schools shall also mean Special Programs and the Technical High School and any other school affiliated with Washington County Public Schools (WCPS). However, Schools do not include "home schools" or "cyber schools" (with the exception of a cyber school that is affiliated with WCPS).

1.33 "State" means the State of Maryland.

1.34 "Subscriber" means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully activated to receive Cable Service from Grantee's Cable System.

1.35 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. 153(50)).

1.36 "Telecommunications Service" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. 153(53)).

1.37 "Tier" means a group of Channels for which a periodic subscription fee is charged.

1.38 "Two-Way" means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.39 "Upstream" means carrying a transmission to the Headend from remote points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the City to own, construct, operate, extend, maintain, reconstruct, rebuild and upgrade a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise. Nothing in this Agreement shall be construed to prohibit the Grantee from offering any service over the Cable System that is allowed by Federal, State, or local law. This Franchise shall constitute both a right and an obligation to provide the Cable Service required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable City law existing as of the Effective Date of this Franchise.

(C) Grantee is subject to generally applicable local law, including, but not limited to, those laws related to cable operators, State law, federal law, the Charter of the City of Hagerstown and the ordinances and regulations enacted pursuant thereto. Except as otherwise provided in Section 2.5, in the event of a conflict specifically between the ordinances or regulations and this Franchise, this Franchise shall prevail.

(D) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Franchise.

(E) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other applicable permit or authorization generally required and subject to applicable law for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City.

(2) Any applicable permit, agreement, or authorization subject to applicable law and required by the City for similarly-situated Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any applicable permits or agreements subject to applicable law and required for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(F) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way.

(G) This Franchise does not waive any lawful requirements the City may have a right to impose on the other services offered on the Cable System by the Grantee.

(H) The parties to this Franchise shall cooperate in good faith in advancing its underlying objectives. In particular, the City, in its administration of the Franchise, shall consider costs and other operational burdens on Grantee and any adverse effects on Grantee and its ability to serve existing and potential subscribers.

2.2 Use of Rights-of-Way

(A) Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, rebuild, reconstruct, upgrade, own, operate, extend, maintain, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Cable System within the City.

(B) Grantee must follow applicable City-established requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the City's role in protecting public health, safety and welfare, the City may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with City's requirements; and may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the City, or which is installed without prior City approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal.

2.3 Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on November 22, 2022 (the "Effective Date"), and shall terminate on November 21, 2027, unless terminated sooner as hereinafter provided. This Franchise shall be automatically extended for one (1) additional term of five (5) years unless either party notifies the other in writing of its desire to not extend the Franchise at least one (1) year before the expiration of the then-current Franchise. Notice under Section 626(a)(1) of the Cable Act, 47 U.S.C § 546 – Renewal, shall not constitute notification for purposes of this section.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the City to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the City to use the same for any purpose it

deems fit, including the same or similar purposes allowed Grantee hereunder. The City has and may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the City deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the City through its lawful exercise of its police powers, or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power, and any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter; provided that such ordinances shall be reasonable and not destructive of the rights granted in this Franchise. If the reasonable and lawful exercise of the City's police power results in any material alteration of the terms and conditions of this Franchise, then the Grantee may notify the City that it desires to have this Franchise modified or that other appropriate action needs to be taken. Upon such notification, the parties shall negotiate in good faith to modify this Franchise, or take other appropriate action, such that, to the reasonable satisfaction of both parties, any negative effects on Grantee of the material alteration are ameliorated.

2.6 Grant of Other Franchises

(A) After the Effective Date, in the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other Person or entity other than the Grantee to enter into the City's Rights-of-Way for the purpose of constructing or operating a facilities-based system to provide wireline, multichannel video programming services (excluding over-the-top ["OTT"] services) to any part of the Franchise Area, in which the material provisions thereof (including provisions related to the geographic scope of service, subject to reasonable build-out requirements as specified by the FCC) are more favorable or less burdensome than those contained in this Franchise, then Grantee may request amendments to this Franchise to provide Grantee with competitive equity. The foregoing provision shall not be operative until the competitor actually provides video services in the City. The modification process shall only be initiated by written notice by the Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (a) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (b) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (c) providing text for any proposed Franchise amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent. The parties agree that these provisions shall not require identical word for word provisions so long as the regulatory and financial burdens on each entity are materially equivalent when comparing this Franchise to a new competing franchise as a whole. The City shall not permit Cable Service competition without a City franchise unless the competitor is duly authorized by Federal or State law. The protections afforded Grantee under this section shall also apply to any action taken by the City, or any entity affiliated with the City, to construct or operate a Cable System or to provide cable service in competition with Grantee. The City shall notify Grantee in the event any entity applies for authority to provide Cable Service to any part of the Franchise Area.

(B) If during this Franchise's term, any laws, rules, regulations or governmental authorizations would allow a competing provider of facilities based, wireline multichannel video programming service (excluding OTT service) in the City's Rights-of-Way to provide Cable Service or materially equivalent service under less burdensome regulations or regulatory structure than Grantee is operating under in this Franchise, the more burdensome terms and conditions of Grantee's Franchise shall be modified to correspond to the less burdensome requirements applicable to the competing provider. The parties agree that this shall not require identical word for word provisions so long as the regulatory and financial burdens on each entity are materially equivalent taken as a whole. The parties agree that (a) video service provided through an "Open Video System" (as specified in Federal laws or regulations); (b) video service provided through the public Internet without any affiliated occupation of the City's Rights-of-Way; and (c) video service provided through wireless distribution shall not trigger the relief available under these provisions.

(C) In the event that Grantee elects to pursue the relief provided under subsections (A) or (B) above, Grantee shall notify the City in writing, and the parties shall engage in good faith negotiations, which shall conclude within a ninety (90) day time period unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City and Grantee shall amend this Franchise to include the modifications. If the City and Grantee are unable to reach agreement on the Franchise modifications to ensure a competitive Franchise, then Grantee may enforce in a court of competent jurisdiction its right to a franchise modification pursuant to subsection (A) or (B) above or may terminate this Franchise subject to subsection (D) below. In the event that Grantee secures any franchise modification in a judicial proceeding under these provisions, the City shall reimburse any Franchise-related fees paid to the City subsequent to the initiation of said judicial proceeding that exceed the Franchise-related fee obligations established as a result of that proceeding; and, if the court finds the City did not engage in good faith negotiations, the City shall reimburse Grantee's reasonable attorneys' fees. Nothing in Section 2.6 shall limit Grantee's right to pursue any other cause of action available to it, including, but not limited to, the right to pursue the modification procedures set forth in Section 625 of the Cable Act.

(D) As specified in subsection (C) above, in the event Grantee fails to secure a satisfactory modification from the City, Grantee shall have the option of shortening the term of this Franchise (while retaining full substantive renewal rights, including, but not limited to, the renewal rights provided under this Franchise and Section 626 of the Cable Act) such that this Franchise expires on a date twenty-four (24) months after Grantee provides notice to the City of such intent to terminate the Franchise; provided, however, in no event shall Grantee invoke this provision by providing notice to the City during the initial four (4) year period of this Franchise.

(E) The City shall not be obligated to amend this Franchise unless the new entrant makes Cable Services or materially equivalent service available for purchase by subscribers or customers.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered all requirements and provisions of this Franchise and finds that the same are commercially practicable at this time.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to applicable law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fees

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the City's Rights-of-Way, Grantee shall pay as a franchise fee to the City, throughout the duration of this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues. Accrual of such franchise fees shall commence as of the Effective Date of this Franchise.

3.2 Payments

Grantee's franchise fee payments to the City shall be computed quarterly for the preceding calendar quarter. Each quarterly payment shall be due and payable no later than thirty (30) days after the end of the preceding quarter.

3.3 Acceptance of Payment and Recomputation

The acceptance of any payment required by the City shall not be construed as an acknowledgement or an accord and satisfaction that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release or waiver of any claim which the City may have for additional sums due and payable. However, if the City accepts payment of the amount determined to be due to the City through an audit, that shall be construed as an accord and satisfaction.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the City, verified by an officer of Grantee, containing an accurate statement in categorized form of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System and shall be drafted in accordance with GAAP and all of the provisions of this Franchise (including, but not limited to, Subsection 1.26 herein).

3.5 Audits

(A) The City shall have the right to inspect books and records of Grantee and its Affiliates and to audit and recompute any amounts determined to be payable under this Franchise; provided, however, that any such inspection shall take place within three (3) years from the date the City receives such payment, after which period any such payment shall be considered final.

(1) Upon the completion of any such audit by the City, the City shall provide to the Grantee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Final Settlement Amount." For purposes of this Section, the term "Final Settlement Amount(s)" shall mean the agreed upon underpayment, if any, to the City by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

(2) Any "Final Settlement Amount(s)" due to the City as a result of such audit shall be paid to the City by the Grantee within thirty (30) days from the date the parties agree upon the "Final Settlement Amount." Once the parties agree upon a Final Settlement Amount and such amount is paid by the Grantee, the City shall have no further rights to audit or challenge the payment for that period.

(B) The City's expenses, fees, and costs for an audit or financial review shall be borne by the City unless the audit or financial review discloses an underpayment of five percent (5%) or more, in which case the costs shall be borne by the Grantee, not to exceed thirty thousand dollars (\$30,000) for the audit period.

(C) Disputed amounts recovered by the City shall be subject to the additional payment of interest as provided for in this Franchise.

3.6 Late Payments

In the event that the Franchise Fees herein required are not tendered on or before the date due as identified above, interest on such fees shall accrue from the date due at the then current bank prime rate of interest as published in the Wall Street Journal.

3.7 Alternative Compensation

In the event the obligation of Grantee to compensate the City through franchise fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City such other compensation as is required by applicable law.

3.8 Tax Liability

The franchise fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the franchise fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator.

3.9 No Limitation on Authority

Nothing in this Franchise shall be construed to limit any authority of the City to impose any tax, fee, or assessment of general applicability on Grantee or its Subscribers.

3.10 Financial Records

Upon sixty (60) days written request, Grantee shall make information available reasonably necessary to review Grantee's methodology of record-keeping, financial reporting, the computing of franchise fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records as necessary for the purpose of verifying compliance with the terms and conditions of this Franchise. Additionally, upon thirty (30) days prior written request by the City, Grantee agrees to meet virtually with the City or its designee to discuss any of the foregoing methodologies to verify compliance by Grantee under this Franchise.

3.11 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of the Grantee to the City by utilizing the funds available through the security and surety mechanisms provided by the Grantee.

3.12 Bundling of Cable Service and Non-Cable Service

If Grantee offers bundled Cable and non-Cable Services, any discount applied to a Cable Service under this Franchise shall not be applied in a manner so as to evade the payment of Franchise Fees. Any discounting shall be done reasonably among Cable and non-Cable Services so as not to evade the payment of Franchise Fees. For the purpose of determining the amount of Franchise Fees due on a discounted Cable Service, or where any multi-service fees are assessed and not directly attributable to a particular line of business, such as late fees, Grantee shall use GAAP in applying the requirements of this Franchise.

3.13 Additional Commitments Not Franchise Fees

The EG Capital Contribution pursuant to Section 9.1, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the City and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with applicable law, with the stipulation that any in-kind services may only be valued at their marginal cost. The City likewise reserves all rights it has under applicable law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments against the Franchise Fees in accordance with applicable law, including any Orders

resulting from the FCC, Grantee shall provide the City advance written notice. The City shall notify Grantee, within one hundred twenty (120) days whether it elects the amount due each month to be invoiced for payment or offset from Franchise Fees if Grantor concurs with Grantee, or elects to negotiate modification of the obligation as set forth in applicable law by amendment of this Franchise, or opposes the offset as not being consistent with applicable law.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) To the extent permitted under federal, State and local law, the City shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof to any agent in its sole discretion. The City shall identify a single point of contact at the City to administer this Franchise.

(B) Nothing in this Franchise shall limit nor expand the City's right of eminent domain under State law.

4.2 Rates and Charges

The City reserves its rights to regulate Grantee's cable rates and charges to the full extent authorized by applicable law.

4.3 Filing of Rates and Charges

(A) Upon the Effective Date, and subsequently upon written request throughout the term of this Franchise, Grantee shall provide written notification to the City of its complete schedule of applicable rates and charges for residential Cable Services, along with a complete listing of such Cable Services, provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to provide written notice of its rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Grantee shall apply its rates in accordance with governing law without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military, or physical or mental disability or geographic location within the City. Grantee may engage in reasonable review of creditworthiness and impose reasonable conditions (e.g., equipment deposits) based on that review and past payment history. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit the offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or the Grantee from establishing different rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

(C) Upon request of the City, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by

Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.4 Performance Evaluations

(A) The City may hold a performance evaluation session during Year three (3) of this Franchise, and if the Franchise is extended, another performance evaluation session during Year eight (8).

(B) Special evaluation sessions may be held at any time by the City during the term of this Franchise.

(C) All evaluation sessions shall be open to the public. Grantee shall receive ninety (90) days prior written notice of an evaluation session.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, compliance with technical standards, construction standards, consumer protection standards, customer service standards and financial reporting.

(E) During evaluations under this subsection, Grantee shall comply with the City's reasonable requests for information related to compliance with the terms and conditions of this Franchise in a timely manner.

4.5 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum other than collection fees that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with applicable law.

(B) The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the City without regard to the neighborhood or income level of the Subscriber.

(C) Except as otherwise provided herein, nothing in this subsection shall be deemed to limit or affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums, for Grantee's other services or activities it performs in compliance with applicable law, including FCC rules and regulations.

4.6 Force Majeure

Notwithstanding any other provision of this Franchise, the Grantee shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Franchise due directly or indirectly to severe or unusual weather conditions, strike, labor disturbance, lock-out, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of the public enemy, acts of terrorism, accidents for which Grantee is not primarily responsible, fire, flood or other Acts of God, pandemics, epidemics, sabotage, action or inaction of any government instrumentality or public utility including condemnation, public health emergencies, and work delays caused by waiting for utility providers to service or monitor utility poles to which

Grantee's Cable System is attached, the unavailability of material and/or qualified labor to perform the work necessary, or other events to the extent that such causes or other events are beyond the reasonable control of the Grantee. In the event that any such delay in performance or failure to perform affects only a part of the Grantee's capacity to perform, the Grantee shall perform to the maximum extent it is able to perform and shall take all reasonable steps within its power to correct such causes in as expeditious a manner as possible. The City's lawful exercise of its appropriate and reasonable regulatory authority under this Franchise Agreement shall not constitute Force Majeure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) Grantee shall fully indemnify and hold harmless the City and its officers, agents, and employees from and against any and all losses, claims, damages, expenses, or liabilities, joint or several, to which they or any of them may become subject, and except as hereinafter provided, to reimburse each of them for any legal or other expenses reasonably incurred in connection with the investigating or defending of any action (whether or not resulting in any final and appealable adjudication or liability), arising directly or indirectly out of or from the actions of Grantee, or any of its employees, agents, or independent contractors in the establishment, construction, operation or maintenance of the Cable System or Cable System facilities or in the execution or performance of any of their duties or functions contemplated under the provisions of this Franchise including without limitation damage to persons or property, both real and personal except for damage caused by the City, its officers, employees, or agents. Grantee shall not indemnify the City for any claims resulting from acts of willful misconduct or gross negligence on the part of the City. The City may participate in any defense of a claim at its own cost and expense.

(B) Grantee shall be liable for the acts or omissions of its Affiliates while such Affiliates are involved directly or indirectly in the operation of the Cable System as if the acts or omissions of such Affiliates were the acts or omissions of Grantee.

(C) As promptly as practicable after receipt by the City of notice of the commencement of any action subject to indemnification under this Franchise, but in no event more than ten (10) business days after the date the City receives notice, the City shall notify Grantee of the commencement thereof. In case any such action is brought against the City or any other indemnified party and notice thereof is given to Grantee, Grantee shall participate in and assume the defense thereof with counsel. Grantee shall consult with the City regarding the development of available legal defenses, and the City shall cooperate in Grantee's defense of any indemnification action. Grantee may not settle any claim or action without the advance written consent of the City, such consent not to be unreasonably withheld. In the event that any such proposed settlement includes the release of the City, and the City does not consent to the amount of any such settlement or compromise, the Grantee shall not settle the claim or action, but its obligation to indemnify the City shall in no event exceed the amount of such settlement. The City agrees that it will take all necessary action to avoid a default judgment and not prejudice the Grantee's ability to defend the claim or action.

(D) The City shall, at its sole cost and expense, indemnify and hold harmless Grantee against any claims arising out of the City's use of the Cable System and the Government Access Channel. Other than to the extent provided by law, the City shall not be liable to Grantee for any damage or loss caused to any facility under the control of Grantee as a result of protecting, breaking through, moving, removing, altering or relocating any part of the Cable System by or on behalf of the

City or Grantee in connection with any declared emergency, public work or public improvement. The City shall not be held liable for the interruption of Cable Service by lawful actions of City employees in performance of their duties nor shall the City be held liable for the failure of Grantee to perform due to Force Majeure.

5.2 Insurance

(A) Grantee shall carry insurance throughout the term of this Franchise and any renewal period. The City shall be named as an additional insured. Insurance companies shall carry an A minus rating and be licensed to do business in the State of Maryland. The policies shall indemnify Grantee and the City from and against any and all claims for injury or damage to persons and property, both real and personal, caused by the construction, installation, operation, maintenance and/or removal of Grantee's Cable System. If Grantee is self-insured, it must so notify the City of the level of risk, in terms of dollar coverage, the Grantee has assumed.

(B) The minimum coverage for Commercial General Liability insurance for Grantee pursuant to this Franchise shall be one million dollars (\$1,000,000) and excess liability shall be provided for in an umbrella policy of not less than five million dollars (\$5,000,000). Grantee shall be solely liable for payment of premiums due on each policy.

(C) Grantee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Section 5.2. Grantee shall provide the City with at least thirty (30) days prior written notice by certified mail in the event there is an adverse material change in coverage or the policies are cancelled or not renewed.

(D) Grantee shall file certificates of insurance with the City within five (5) days of the effective date of this Franchise, which certificates of insurance shall be on standard industry forms.

(E) In the event of cancellation of any insurance policy required herein or upon Grantee's failure to procure said insurance, the City shall have the right to terminate the Franchise, or alternatively, to procure such insurance and charge the cost thereof to Grantee. Such costs may be paid for from Grantee's surety or by any means deemed appropriate by the City.

5.3 Construction Bonds

Grantee shall be required to obtain construction bonds in an amount to cover the costs of Grantee's construction in accordance with the City's ordinary practices applicable to users of the Rights-of-Way. The construction bond(s) shall be with a surety or sureties and in a form or forms acceptable to the City. Grantee shall pay all premiums or costs associated with maintaining the bond(s), and shall keep the same in full force and effect at all times during construction.

5.4 Letter of Credit

(A) Grantee shall provide a letter of credit from a financial institution in the amount of \$50,000 in a form acceptable to the City. In the event of any transfer of this Franchise, the City may require the new franchisee to increase the amount of the letter of credit to \$100,000.

(B) In the event it becomes necessary for the City to draw upon the letter of credit, the City will follow the procedures and requirements detailed in the letter of credit. The letter of credit shall be conditioned to be drawn upon by the City to compensate itself for any damages, costs or expenses consistent with this Franchise, and subject to providing Grantee with notice and a reasonable opportunity to cure. In particular, but without limitation, such letter of credit shall be drawn on in the case of any default or failure of Grantee to pay any fees, claims, damages, liens or taxes due under the Franchise. The City shall give Grantee ten (10) business days' notice of its intent to draw on the letter of credit. Grantee shall, within ten (10) business days, take action required to restore the letter of credit to its original full amount. The City may not draw from the letter of credit while a judicial action has been instituted by Grantee to challenge the amount owed.

5.5 Rights Reserved to the City

The rights reserved to the City with respect to the letter of credit and bonds are in addition to all other rights of the City, whether reserved by this Franchise or authorized by law, and no action or proceeding or exercise of a right with respect to such letter of credit or bonds shall affect any other right the City may have, although nothing herein is intended to allow duplicative recovery from or duplicative payments by Grantee or its surety(s).

5.6 No Limitation

Neither the provisions of this Franchise, or any bond accepted pursuant hereto, or any damages recovered hereunder shall be construed to excuse unfaithful performance by Grantee of the terms and conditions of this Franchise; or to limit the liability of Grantee under this Franchise. Any cancellation by the surety or sureties during the term of the Franchise, whether for failure to pay a premium or otherwise, without thirty (30) days advance written notice mailed by the surety or sureties, or Grantee, to the City shall be a violation of this Franchise.

SECTION 6. CUSTOMER SERVICE STANDARDS

6.1 Customer Service Standards

Grantee shall comply with the Customer Service Standards set forth in Exhibit A which is attached hereto and incorporated herein by reference. Nothing herein prohibits the City from exercising any additional customer service standard rights it has under applicable law.

6.2 Subscriber Privacy

Grantee shall comply with all applicable laws regarding the privacy rights of Subscribers and of records and correspondence pertaining thereto, including, but not limited to, any information obtained through marketing efforts or Subscriber surveys.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or the requirements of any applicable customer service standard. Upon request, Grantee will provide to the City a sample of the Subscriber contract or service agreement then in use.

SECTION 7. REPORTS AND RECORDS

7.1 Recordkeeping

Grantee's books and records shall be maintained in accordance with all federal, state, and local laws, rules and regulations. Subject to applicable law, this Franchise and the City's regulatory powers, the City shall have the right to inspect and copy all books and records, including documents in whatever form maintained, including electronic media, to the extent that such books and records are necessary for the purpose of verifying compliance with the terms and conditions of this Franchise. The inspection shall take place during Normal Business Hours, upon reasonable notice by the City of not less than fifteen (15) business days, and at Grantee's place of business unless at a location otherwise mutually agreed upon by the parties. Such notice shall reasonably identify the books, records and materials or general categories of such the City requires to inspect. The City shall take reasonable steps to protect the proprietary and confidential nature of any such documents to the extent that such documents are identified as such by Grantee or as may be covered under applicable State law. Grantee shall be responsible for marking any construction documents that it deems proprietary and confidential.

7.2 Records Required

(A) Upon request, Grantee shall provide during the term of this Franchise annual reports for activation of new types of service and Subscriber numbers for the system. Such information shall be kept confidential to the extent provided by law and in a format reasonably acceptable to the City.

(B) Reports shall be subject to the subscriber privacy provisions of the Cable Act.

(C) Grantee shall maintain all records required under federal law in addition to any records required under this Franchise. Records required under this Franchise shall be retained in a reasonable form, for three (3) years.

(D) During periods of initial construction or reconstruction of the Cable System or construction or reconstruction of a major residential subdivision of the City, Grantee shall furnish monthly construction reports. During all other periods of major construction, quarterly reports shall be filed with the City. The type and form of the report shall be provided in a format reasonably acceptable to the City.

(E) Upon request, Grantee shall provide reports of the number of Dwelling Units passed by the Cable System during the term of this Franchise. The type and form of this report shall be provided in a format reasonably acceptable to the City.

(F) Grantee may file reports required above in an electronic format convenient and available to the City and Grantee.

(G) Upon request, Grantee shall file with the City a list of all petitions, documents, applications, reports and communications submitted or filed by Grantee, or its parent, with the FCC or any governmental agency or entity having jurisdiction with respect to Grantee's Cable System that specifically relate to Grantee's Cable System within the City.

(H) From time to time, the City will review its record reporting and retention policies to ascertain their usefulness to the City.

(I) Upon written request, copies of all current rules, regulations, terms, Subscriber contract forms, rates, and conditions established or imposed by Grantee in connection with the construction, operation and maintenance of the Cable System, including revised construction manuals, shall be provided to the City.

(J) Upon written request, Grantee shall provide a link to Grantee's, or its parent organization's Form 10-K.

(K) Grantee shall provide the City such other information as is reasonably requested by the City which is necessary for the enforcement of the Franchise, provided that Grantee is given thirty (30) days prior written notice of such request.

(L) The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the City may reasonably request related to compliance with the terms and conditions of this Franchise (not including clerical errors or errors made in good faith), may be deemed a violation of this Franchise.

7.3 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the City under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall offer broad categories of programming services designed to meet the needs and interests of its Subscribers, similar to broad categories of programming offered in other jurisdictions.

8.2 Obscenity

In accordance with applicable law, Grantee shall not transmit any programming which is obscene under, or violates any provision of, applicable law relating to obscenity, and is not protected by the Constitution of the United States or the State of Maryland, provided however, Grantee shall in no way be responsible for programming over which it has no editorial control, including EG Access programming. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.3 Parental Control Device

The Grantee shall provide adequate security provisions in its Subscriber site equipment to permit parental control over the use of Cable Services on the System.

8.4 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored; provided, however, Grantee reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or proven harassment or abuse of Grantee's employees or agents. The Grantee shall act to the best of its ability so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for repair, maintenance or testing.

(B) In the event of a transfer of the Franchise, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the City, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to its reasonable costs for services rendered (as requested by the City) when it no longer operates the Cable System.

(C) In the event Grantee willfully fails to operate the Cable System for seven (7) consecutive days without just cause, the City may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the City or a permanent Cable Operator is selected.

(D) Subject to applicable law, for a reasonable period of time, not to exceed three (3) months, in the period between revocation, termination or forfeiture of this Franchise and the transfer of the Cable System to a qualified Person approved by the City, the Grantee shall continue to provide technical and operational services including all programming services, including EG Access services and other services, in accordance with the terms and conditions of this Franchise. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to its reasonable costs for services rendered when it no longer operates the Cable System.

8.5 Services for the Disabled

Grantee shall comply with all applicable federal regulations, including the Communications Act of 1934, as amended, and the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., that ensure the provision of Cable Services and related equipment are accessible to and usable by persons with disabilities, if readily achievable. It is the Subscriber's responsibility to notify the Grantee that he/she is disabled and requires special accommodation and to provide a reasonable amount of time for the Grantee to comply.

SECTION 9. ACCESS

9.1 EG Capital Contribution and Supplemental Fee

(A) Unless the City notifies Grantee of a lesser amount, Grantee shall provide to the City Seventy Cents (\$0.70) per month per Residential Subscriber for EG Access capital costs (the "Capital Contribution"). Grantee shall not be responsible for collecting or paying the Capital

Contribution with respect to gratis or bad debt accounts. Within ninety (90) days of a written request from the City, Grantee shall provide a report to the City regarding such gratis and bad debt accounts.

(B) The Capital Contribution shall take effect on the Effective Date and payments hereunder shall be due and payable no later than thirty (30) days following the end of each quarter. The City shall have discretion to allocate the Capital Contribution in accordance with applicable law, provided that, upon written request of the Grantee, the City submits a summary of EG capital expenditures from the Capital Contribution to Grantee within ninety (90) days of the end of each calendar year. To the extent the City makes Access capital investments using City funds prior to receiving necessary Capital Contribution funds, the City is entitled to credit such investments against subsequent Capital Contribution payments due from Grantee.

(C) Additionally, during the first five (5) years of the term of the Franchise Agreement, and provided the Franchise is mutually extended beyond the initial five (5) year term in accordance with Section 2.3 herein, for an additional three (3) years or more, Grantee shall, for a period not to exceed eight (8) years, provide to the City a Supplemental EG Capital Fee of Ten Cents (\$0.10) per month per Residential Subscriber (the "Supplemental Fee"). Grantee shall not be responsible for collecting or paying the Supplemental Fee with respect to gratis or bad debt accounts. The Supplemental Fee shall take effect on the Effective Date and payments hereunder shall be due and payable no later than thirty (30) days following the end of each quarter. The City shall have discretion to allocate the Supplemental Fee in accordance with applicable law, provided that, upon written request of the Grantee, the City will submit a summary of expenditures from the Supplemental Fee to Grantee within ninety (90) days of the end of each calendar year. To the extent the City makes Access capital investments using City funds prior to receiving necessary Supplemental Fee funds, the City is entitled to credit such investments against subsequent Supplemental Fee payments due from Grantee.

(1) If the incumbent cable operator no longer maintains an institutional network for the City of Hagerstown or begins to offset its marginal cost related to any institutional network from its franchise fees paid to the City, Grantee shall no longer be obligated to provide the Supplemental Fee.

(D) To the extent permitted by federal law, Grantee may (i) recover the costs of the Capital Contribution, Supplemental Fee, or any other costs arising from the provision of EG services, from Subscribers, (ii) include such costs as a separately billed line item on each Subscriber's bill; and (iii) externalize, line-item, or otherwise pass-through costs to Subscribers.

9.2 Management and Control of Access Channels

The City shall have the responsibility for identifying the Designated Access Providers and sole and exclusive responsibility for allocating the Access Channel resources under this Section to control and manage the use of the Access Channels provided by Grantee under this Franchise, which are used or useable for the Educational Access Channel and Government Access Channel ("EG" or "EG Access"). The City may authorize Designated Access Providers to control and manage the use of any and all EG Access facilities provided by Grantee under this Franchise, including, without limitation, the operation of EG Access Channels. To the extent of such designation by the City, the Designated Access Provider shall have the responsibility for operating and managing such EG Access facilities. The City shall require any Designated Access Provider, at its sole cost and expense, to indemnify and hold harmless Grantee against any claims arising out of the Designated Access

Providers use of the Cable System and Access Channels. The City or its designee may formulate rules for the non-commercial operation of the EG Access Channels, consistent with this Franchise. Grantee shall cooperate with the City and Designated Access Providers in the use of the Cable System and EG Access facilities for the provision of the Government and Educational Access Channels. Nothing herein shall prohibit the City from authorizing itself to be a Designated Access Provider. Nothing herein shall prohibit the City from assigning several Designated Access Providers to share a single EG Access Channel. Nothing herein shall prohibit the City, at its discretion, from reallocating use of the Access Channels established under subsection 9.3 in order to best meet community needs. Any reallocated use must comply with the requirements of this Franchise.

9.3 Access Channels

(A) Grantee shall, at its expense, within six (6) months after the Effective Date make available to the City or its Designated Access Provider two (2) standard-definition ("SD") Downstream Access Channels and simulcast two (2) high-definition ("HD") Downstream Access Channels. These Access Channels initially shall be allocated as follows: one (1) Governmental Access Channel in SD and HD for use by the City; and one (1) Educational Access Channel in SD and HD to be used primarily by the Washington County Board of Education ("BOE"). The HD channels shall mirror the content from the respective SD channels.

(1) For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of 720p, 1080i, or greater.

(2) Grantee shall not be required to carry HD Access Channels in a higher quality format than that of the HD Access Channel signals delivered to Grantee. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the programming.

(3) Grantee shall carry the HD Access Channel simultaneously in SD format until SD channels are no longer provided over the Cable Systems.

(4) Grantee shall be responsible for all costs associated with the transmission of HD Access signals on its side of the Demarcation Point. The City or Designated Access Provider shall be responsible for costs associated with HD Access signal transmission on its side of the Demarcation Point.

(5) The City or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) The City acknowledges that to view Access Channels in HD Subscribers may have to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers or the City.

(B) The Educational Access Channel shall be made available to the BOE/Schools and local higher educational institutions free of charge. Grantee, the City and representatives from the BOE/Schools/local higher educational institutions may meet to determine the rules for use of the Channel and facilities.

(C) The Access Channels shall not be under the direction, control, supervision or management of Grantee except that Grantee can require that the signals meet applicable technical standards.

(D) There shall be no restriction on Grantee's technology used to deploy and deliver Access Channel signals so long as the requirements of the Franchise are otherwise met. Grantee may implement carriage of the EG channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that does not materially degrade the signal provided by the City or Designated Access Provider so that the EG Channels are reasonably comparable and functionally equivalent to similar commercial channels carried on the Cable System. In the event the City believes that Grantee fails to meet this standard, the City will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

(E) The City shall require all users of any of the EG facilities or Channels to execute a compliance form, and Grantee shall transmit programming consistent with this Franchise and such EG users shall defend and hold harmless Grantee and the City from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims arising out of the content of the material furnished for cablecast.

9.4 Competitive Services

(A) Neither Government Access or Educational Access users shall use the Access Channels, equipment, or facilities to provide programming, production or advertising services that are in competition with the programming, production or advertising services of Grantee.

(B) Educational programming produced by School or local higher educational institution personnel or staff or purchased by the Schools or local higher educational institutions for educational purposes shall not be considered competitive services.

(C) An Access Channel may not be leased to any third party for any type of service without the express written approval of the Grantee and City.

9.5 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access Channel services or programming, Grantee shall at its own expense take necessary technical steps including the acquisition of all necessary equipment, on Grantee's side of the Demarcation Point, to ensure that the capabilities of EG Access Channel services are not diminished or adversely affected by such change. The City, or Designated Access Provider, shall at its own expense, provide any necessary equipment on its side of the Demarcation Point, which may be reimbursed from the EG Capital Contribution.

9.6 Underutilized Access Channels

(A) Grantee and the City agree that it is their mutual goal to fully and efficiently use the Channel capacity of the Cable System, which may include allowing the Grantee to use underutilized

time on Access Channels. If Grantee believes that any Access Channel has underutilized time, Grantee may file a request with the City to use that time. In response to the request, the City will consider a combination of factors, including but not limited to, the community's needs and interests, and the source, quantity, type and schedule of the programming carried on the Access Channel. The City will also take into account the mission of the Access programming, whether it is feasible for the Designated Access Providers to cluster Access Channel programming into blocks of time such that the Channel space can be compatibly shared between the Designated Access Provider and the Grantee and/or if several Designated Access Providers can combine their programming onto a single Access Channel. The City shall render its decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the Access Channel or portion of the Access Channel may be used by the Grantee, then Grantee may begin using such time ninety (90) days after receipt of the decision. Any permission granted pursuant to this subsection for use of an Access Channel or a portion thereof shall be considered temporary.

(B) At such time as a Designated Access Provider believes that it has the resources and ability to utilize the Access Channel time currently used by the Grantee pursuant to this subsection, a Designated Access Provider may request that the City return such Channel or portion of the Channel for Access Channel purposes. In response to the request, the City will consider a combination of factors, including but not limited to, the community's needs and interests, and the source, quantity, type and schedule of the programming proposed to be carried on the Access Channel as well the applicant's ability and resources to acquire or produce the proposed Access Channel programming. The City shall render its decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the evidence exists to support the return of the Access Channel or portion of the Access Channel to the Designated Access Provider, then Grantee shall surrender the requested time on the Access Channel within ninety (90) days of receiving the decision. The Designated Access Provider's request shall not be unreasonably denied.

9.7 Access Channels On Basic Service

All Access Channels provided to Subscribers under this Franchise shall be included by Grantee, without limitation, as a part of Basic Service. If Basic Service is no longer provided by Grantee, Access Channels shall continue to be provided to all Subscribers subject to applicable law and the requirements of this Franchise.

9.8 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of Access Channel assignments.

9.9 EG Access Channel Identification

Anytime an EG Access Channel is moved from its identified channel location, the Grantee shall provide ninety (90) days' notice to the City and thirty (30) days' notice to Subscribers. The Grantee shall use reasonable means of notification so that Subscribers are made aware of the change in channel assignment. In the event that an EG Access Channel has developed logos and identification with the prior channel assignment identified, the Grantee shall pay, up to Five Thousand Dollars (\$5,000) for the reasonable documented out-of-pocket costs to recreate logos and identification materials that identify the EG Access Channel with the new channel assignment and where necessary pay for the printing of replacement paper stock with the new channel information.

The requirements herein shall not apply for EG Access Channel assignment relocations due to factors not within Grantee's control, including changes in the channel designation of must-carry Channels or other Federal, state or local requirements. Grantee does not relinquish its ownership of or ultimate right of control over a channel by designating it for access programming use.

9.10 Interconnection

The Grantee shall maintain its Cable System so that it may be interconnected with other City franchised Cable Systems in order to make EG Access, in any form, widely available.

9.11 Return Lines

Concurrent with the System build-out, Grantee shall, at its expense, provide throughout the term of this Franchise a fiber optic return line to the headend from City Hall, at 1 East Franklin Street, Hagerstown, MD 21740 ("City Hall") in order to enable the distribution of Access Channel programming to Residential Subscribers. In addition, Grantee shall provide and maintain a fiber optic return line from the Washington County Board of Education, at 820 Commonwealth Avenue, Hagerstown, MD 21740, to City Hall to consolidate EG Access signals for delivery to Grantee's headend. At the City's or Designated Access Provider's expense, which may be reimbursed from the EG Capital Contribution, Grantee shall provide any additional return lines, or relocation of return lines, requested during the term of the Franchise. Grantee shall provide and maintain the equipment on its side of the Demarcation Point. The City shall provide and maintain the equipment on its side of the Demarcation Point. Such channel transmission, reception and switching equipment shall be capable of transporting an HD signal for Access Channels provided under Section 9.3. Notwithstanding the requirements above, Grantee as an alternative to providing fiber optic return lines, may, at its sole discretion, interconnect its Cable System with other providers in order to receive and transmit EG Channel programming.

(1) Notwithstanding the requirements above, Grantee may interconnect Access Channels with the incumbent cable operator in the City in the event that Grantee determines, in its sole discretion, that it would be economically burdensome to construct and maintain return lines for receipt of the Access Channel(s) programming versus interconnecting with the incumbent cable operator. Grantee shall be responsible for negotiating and constructing the interconnect with the incumbent operator in a timely manner, not to exceed six (6) months from the Effective Date, and for Grantee's costs in constructing and maintaining the interconnect.

9.12 Repair and Replacement

The Grantee shall be responsible for maintaining the return line(s) so long as the City provides Grantee with access to such locations and access to the EG Access Channel equipment within such locations. Any replacement or upgrade of signal transmitter and channel modulation equipment at EG Access origination sites shall be at the City's or Designated Access Provider's expense on the City's or Designated Access Provider's side of the Demarcation Point. Any replacement or upgrade of signal receiver, demodulation and processing or remodulation equipment on Grantee's side of the Demarcation Point or at the Grantee's headend for EG Access purposes shall be at Grantee's expense. If Grantee intends to charge the marginal cost for the maintenance of the return line(s), it will give the City one hundred twenty (120) days' notice of the commencement of charges. If the City believes that the marginal cost has not been reasonably substantiated, it will

notify Grantee and discussions will ensue within the 120-day period until the City and Grantee determine a mutually agreeable marginal cost. The Grantee will disclose in writing the amount due and provide the City, in writing, with reasonable detail sufficient to substantiate the marginal cost and the amount due.

9.13 Access Program Listings in Subscriber Guides

(A) For purposes of this Section, "Electronic Program Guide" or "EPG" means the program guide, navigation system and search functions accessible on Grantee's digital Cable Services through the Subscriber set-top unit and remote control, or their successor technology.

(B) Grantee shall make available to the City and any Designated Access Providers the third-party vendor contact information to participate in the Electronic Program Guide ("EPG") carried on the Cable System, and take any necessary steps to authorize and facilitate a request to place programming on the EPG.

(C) The City and its Designated Access Providers shall be responsible for providing the Access Channel programming information in the format and within the appropriate timeframe for insertion into program guides to the third-party guide providers.

(D) The City or the Designated Access Provider, whichever is applicable, shall bear the capital, implementation and operating costs to include the Access Channel programming information into the EPG for Subscribers.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Required Authorizations

No substantial construction or reconstruction can take place within the City without the City's knowledge and appropriate authorizations including authorizations from the FCC and State agencies, as may be required. A permit or permits, when issued, will satisfy this requirement to provide knowledge to, and receive appropriate authorization from, the City for such work.

10.2 Use of the Rights-of-Way

Grantee's Cable System and facilities, including poles, lines, antennas, satellite dishes, microwave dishes, other equipment and all appurtenances shall be located and erected so as:

- (A) Not to endanger or interfere with the health, safety, or lives of Persons;
- (B) Not interfere with improvements the City may deem proper to make;
- (C) Not interfere with the free and proper use of the Rights-of-Way, places or property except to the minimal extent possible during actual construction and/or repair;
- (D) Not interfere with the rights and reasonable convenience of private property owners, except to the minimal extent possible during actual construction and/or repair; and

(E) Not to obstruct, hinder, or interfere with any gas, electric, water, or telephone facilities or other utilities located within the City.

10.3 Change in Right-of-Way

In the event that all or part of a Right-of-Way is eliminated, discontinued, modified or closed, all rights and privileges granted pursuant to this Franchise with respect to said Right-of-Way, or any part thereof so eliminated, discontinued, modified or closed, shall cease upon the date on which the Right-of-Way, or part thereof, is affected. Nonetheless, the City shall provide Grantee with sixty (60) days prior written notice of said elimination, discontinuance, modification or closure. Where reasonably possible and to the extent consistent with the treatment of other utility facilities in the former street or Right-of-Way, the City shall reserve easements for Grantee to continue to use the former street or Right-of-Way. The Grantee shall bear the cost of any removal or relocation of the Cable System unless the vacation is primarily for the benefit of a private party, in which case the private party shall bear such costs. If public funds are available to any other user of the Right-of-Way for the purpose of defraying the cost of any of the foregoing, the City shall notify Grantee of such funding and make available such funds to the Grantee within a reasonable timeframe.

10.4 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the City, of which the Grantee is made aware, regarding Rights-of-Way, joint trenching and boring issues that may impact the Cable System. The City shall provide ten (10) days' written notice of any such meetings.

10.5 Joint Trenching

Grantee shall endeavor to limit the cutting of streets, sidewalks and other Rights-of-Way through joint trenching. Grantee shall contact the Department of Engineering prior to any street cuts or disturbance of a sidewalk to determine if utilities or telecommunications companies or other cable operators are scheduled to cut the same street or disturb the same sidewalk. A permit, when issued, will satisfy this requirement. Upon discovery of other like plans to disturb the Right-of-Way, Grantee shall contact the other users and, where practicable, plan for joint trenching.

10.6 General Standards

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be durable and installed in accordance with sound engineering practices. Grantee will take prompt corrective action if it finds that any facilities or equipment in the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or applicable law.

10.7 Permits Required for Construction

No Cable System construction work shall take place without a City permit and the payment of the permit fee as required by the City Code. Notwithstanding the requirements herein, Grantee shall not be required to obtain a permit for individual drop connections to Subscribers, servicing or installing pedestals or other similar facilities, or other instances of routine maintenance or repair to its Cable System. The City shall not be required to make inspections or approve Grantee's Cable System or construction plans and specifically disclaims such obligation. Grantee is also responsible for

securing and paying for any and all State permits and is responsible for displaying the appropriate permits, upon request, at the work site. Any other related construction shall also be subject to the requirements of the City Code and the payment of all associated fees.

10.8 Emergency Permits

In the event that emergency repairs are necessary, that would under normal conditions require a permit from the City under Section 10.7, Grantee may initiate such emergency repairs and shall apply for appropriate permits with the City's Engineering Department the next business day.

10.9 Maps

(A) Upon thirty (30) days' written request, Grantee shall provide strand maps in hard copy or electronic form of all constructed areas and maps of proposed construction in sufficient detail as reasonably requested by the City. The maps are not required to depict cable types, number of cables, electronic equipment, and service lines to individual Subscribers.

(B) The City does not guarantee the accuracy of any of its maps showing the horizontal or vertical location of existing substructures.

10.10 Movement of Facilities During Emergencies

During emergencies, the City may move Grantee's facilities without prior notice. The City shall use reasonable efforts to minimize the impact on Grantee's facilities related to any emergency movement. Grantee shall be entitled to compensation for expenses incurred for replacement or repair related to any emergency movement by the City to the extent that other wired users of the Right-of-Way are so compensated.

10.11 Compliance with Construction Standards

(A) Grantee shall construct, maintain, operate and repair its Cable System in accordance in all material respects with applicable sections of the following most current editions and standards, to the extent that such standards and regulations remain in effect and are applicable to the Grantee's Cable System: Occupational Safety and Health Act, as amended; National Electrical Safety Code ("NESC") and National Electrical Code ("NEC"), as amended; Federal Aviation Administration rules and regulations, as amended; FCC rules and regulations, as amended; County, State, and City environmental permits and procedures; and generally applicable provisions of the City Code as amended from time to time. Grantee shall also comply in all material respects with any common joint trenching agreements to which Grantee is a party; any pole attachment agreements; and any federal, state or applicable local laws and regulations that may apply to the operation, construction, maintenance or repair of Cable Systems, including without limitation local zoning and construction codes and laws, all as hereafter may be amended or adopted.

(B) Grantee's Cable System, including drop cables, shall be grounded in accordance with the latest version of the NESC, the NEC, or in a pole attachment agreement. The City's adoption of the latest NESC or NEC standards shall not be required to enforce these provisions.

10.12 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits; pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the City's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not unduly interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not unduly obstruct or impede traffic. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.13 Main Roads and Streets

Grantee shall not unduly create traffic congestion on main roads and streets due to construction or maintenance of the Cable System. In compliance with generally applicable permitting requirements, construction and maintenance shall be scheduled around morning and evening rush hours on North and South Potomac, East and West Washington, North and South Burhans Blvd, Northern Avenue and Eastern Blvd, when practicable. In the event that construction or maintenance must be conducted during such times at such places, the Grantee shall notify the City's Department of Engineering. The City may deny Grantee's use of said streets and roadways during said periods.

10.14 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition.

10.15 Marking

Grantee will comply with and adhere to State and local regulations relating to the locating and marking of its underground facilities.

10.16 Notice Regarding Right-of-Way

Grantee shall give not less than seven (7) calendar days' notice to private property owners of construction work in adjacent Rights-of-Way.

10.17 Underground Construction and Use of Poles

- (A) The Grantee shall utilize existing poles and conduit wherever possible.

(B) In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) In areas where electric and telephone wires are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality, at no expense to the City unless funding is generally available for such relocation to all users of the Rights-of-Way. Nothing in this Franchise shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment, although such related equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules applicable to cable systems.

(D) Upon the decision of the City to require the undergrounding of all aerial utility and Cable System facilities within an area, the City shall notify Grantee ninety (90) days prior to the requirement to place its facilities and cables underground. Unless Grantee's reimbursement is otherwise directed or prohibited by applicable law, Grantee's reasonable relocation costs shall be included in any computation of necessary project funding by the City or private parties. It is understood that there is no guarantee by the City that public or private funds will be available or that such funds, if available, will cover the entire cost of any such project.

(E) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper City authorities.

(F) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person. Grantee shall obtain a separate pole attachment agreement with the City prior to attaching or installing facilities on any City owned poles, which shall be in a form mutually agreeable to the City and Grantee. To the extent another Person owns poles or facilities, Grantee shall be required to obtain an agreement with such other Person prior to installation of Grantee's facilities and equipment.

(G) The Grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for fiber optic cable in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the City in any construction by the Grantee that involves trenching or boring, provided that the City has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the City to lay its cables, conduits and fiber optics in the Grantee's trenches and bores, provided the City pro rata shares in the cost of the trenching and boring on the same terms and conditions as the Grantee. The City shall not use, or permit any other entity or person, to use the City's cables, conduits and fiber optics placed in trenches or bores opened by the Grantee to provide any service or products that directly or indirectly compete with any product or

services provided by the Grantee. The City shall be responsible for maintaining its respective cables, conduits and fiber optic facilities buried in the Grantee's trenches and bores under this paragraph.

10.18 Installation In Public Buildings

Grantee shall secure, if required under applicable City building ordinances, a permit for installations in public buildings and facilities.

10.19 Poles, Towers, and Satellite Dishes and Antennas

(A) Grantee shall comply with the applicable provisions of the City's Zoning Ordinance, and other applicable ordinances, related to the erection of poles, towers, satellite dishes or antennas.

(B) No location of any pole, antenna or tower of Grantee shall be a vested right and such pole, antenna or tower shall be removed or modified by Grantee at its own expense whenever the City determines that the public convenience or public safety would be enhanced thereby.

(C) Grantee shall, to the extent technically feasible, utilize existing poles, towers and other structures in the construction of its Cable System. The City in its deliberations may consider economic considerations brought forward by Grantee which may impact Grantee's use of existing poles, towers and structures.

(D) Nothing in this Franchise prohibits, restricts or seeks to regulate Grantee's contractual freedom to negotiate for collocation upon the towers or poles of telecommunications providers, other cable systems or upon the City's towers and poles; or from seeking to rent to telecommunications providers and other cable operator's space upon Grantee's poles and towers.

10.20 Restoration of Public and Private Property

(A) Grantee shall be responsible for restoring, replacing or repairing public and private property disturbed by Grantee's construction, reconstruction, maintenance or other activity that causes a disturbance to property. Property shall be restored, replaced or repaired at Grantee's sole cost and expense to a condition reasonably comparable to that prior to the conditions which caused the disturbance, injury or damage. Absent unusual or extraordinary circumstances, Grantee shall use its best efforts to repair, restore or replace property within ten (10) days from the date the work causing damage is complete. In the event Grantee fails to perform replacement, restoration or repair in a satisfactory manner, as determined by the City, the City shall have the right to make the correction at the sole expense of Grantee and may demand payment from Grantee, which payment shall be made within thirty (30) days after completion of the work. In the event a private property owner claims that his property has not been fully restored or restored in accordance with the conditions described herein, that owner shall file a written complaint with the Grantee with a copy to the City stating the damage to the property and request that the restoration be completed. If the restoration is not satisfactorily completed within thirty (30) days of notice from the owner to the Grantee, the owner shall notify the City. Failure to restore property in accordance with the terms and conditions of this Section shall be considered a violation of this Franchise.

(B) The Grantee shall have the authority to cut or trim trees, or other natural vegetative growth, encroaching or overhanging any of its Cable System in the Franchise Area so as to prevent contact with or potential damage to Grantee's wires, cable, or other equipment. Grantee shall comply

with federal, state, or generally applicable local law related to any such work. Grantee shall not cut or trim any tree, shrub or vegetation on public property, other than in the Right-of-Way, without first obtaining written authorization from the City. Written authorization shall not be required for emergency work or work to restore service outages. However, authorization must be obtained once the emergency is concluded or the outage is resolved. Any such work shall be done at Grantee's expense. Grantee shall not perform any such work on private property without first securing permission of the property owner.

10.21 Inside Wiring

Grantee shall comply with the federal inside wiring rules and regulations, as amended from time to time.

10.22 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to permanently discontinue using any facility within the Rights-of-Way, Grantee shall notify the City of its intent regarding such discontinuance. Grantee may remove the facility or request that the City allow it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the facility. Until such time as Grantee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, Access Channel purposes.

10.23 Movement of Cable System Facilities For City Purposes

(A) The City has the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the City when reasonable public convenience requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes). Such work shall be performed at the Grantee's expense. The City shall provide reasonable notice to Grantee, not to be less than thirty (30) days, except in the case of an emergency, and allow Grantee the opportunity to perform such action.

(B) In the event of any capital improvement project exceeding \$500,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least thirty (30) days' written notice to Grantee. Following notice by the City, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City. If the City requires Grantee to relocate its facilities located within the Rights-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way.

(C) If the Grantee fails to complete this work within the time prescribed and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the City due to Grantee's delay. In such event, the City shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City.

(D) If public funds are available to any other user of the Right-of-Way for the purpose of defraying the cost of any of the foregoing, the City shall notify Grantee of such funding and make available proportionate funds to the Grantee within a reasonable timeframe.

10.24 Emergencies

In the event of an emergency, or where the Cable System has been determined by the City to be constituting an imminent danger to health, safety, life or property, Grantee shall remove or relocate any or all parts of the Cable System at the request of the City. If Grantee refuses or fails to comply with the City's request, the City may remove or relocate any or all parts of the Cable System upon reasonable notice to Grantee. The City shall bill the Grantee, or deduct the costs from the letter of credit or bonds, for the City's actual costs and expenses in performing the work. The City shall use reasonable efforts to minimize the impact on Grantee's facilities related to any emergency removal, but the City shall not be liable to Grantee for any real or consequential damages sustained by Grantee or its Subscribers or any other users of the Cable System. Grantee shall be entitled to compensation for expenses incurred for replacement or repair related to any emergency removal by the City to the extent that other users of the Rights-of-Way affected by the same emergency are so compensated.

10.25 Movement of Cable System Facilities for Other Franchise or Permit Holders

If any removal, replacement, modification or disconnection of the Cable System is reasonably required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise or permit holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the expense of such removal, replacement, modification or disconnection of the Cable System be paid by the benefitted party, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.26 Temporary Movement of Cable

Upon not less than ten (10) business days written notice, Grantee shall temporarily raise and lower its aerial cable and associated structures upon a request by a person holding a valid permit from the City. The requesting party shall be responsible for all costs and expenses associated with the movement of the cables and structures. Grantee may require prepayment of the fees and expenses. A statement of fees for such temporary raising and lowering of cables and structures shall be provided to the requesting party at the time of the request, and the requesting party shall sign a document agreeing to the charge and the payment thereof or the Grantee shall not be required to move its cable plant and structures.

10.27 Reservation of City Use of Right-of-Way

Nothing in this Franchise shall prevent the City or public utilities owned, maintained or operated by public entities other than the City from constructing sewers; grading, paving, repairing or

altering any Right-of-Way; repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.28 Inspection of Construction and Facilities

The City may inspect any of Grantee's facilities, equipment or construction at any time during Normal Business Hours upon at least two (2) business days' notice, or, in case of an emergency related to facilities in the Right-of-Way, at any time, upon demand without prior notice in order to ensure compliance with the terms and conditions of this Franchise. Any such inspection shall not interfere with the Grantee's operations. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to bill the Grantee, or deduct the costs from the bonds, for the City's actual costs and expenses in performing the work. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City. The Grantee shall have the right to have a representative present at any such inspection. Both parties shall make a good faith effort to work with each other to schedule any such inspections at a mutually convenient time. The City shall have the right to charge generally applicable inspection fees therefor.

10.29 Stop Work

(A) On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.30 Contractors and Subcontractors

Any contractor or subcontractor used for work or construction, installation, operation, maintenance or repair of Grantee's Cable System must be properly licensed under the laws of the State of Maryland and in accordance with all applicable local ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as Grantee would have if the work were performed by Grantee. Grantee shall employ contractors, subcontractors and employees to perform work for it who are trained and experienced in their duties. Grantee shall be responsible for ensuring that the work performed is consistent with the obligations of this Franchise and applicable

laws, regulations, policies and procedures, and shall be responsible for promptly correcting acts, as necessary, or omissions by any contractor or subcontractor. Contractors and subcontractors shall maintain, at a minimum, insurance appropriate to, and at sufficient levels for, the scope of each such contractor's or subcontractor's work.

10.31 Single Point of Contact

The City shall designate a single point of contact at the City for the administration of Right-of-Way matters.

SECTION 11. CABLE SYSTEM CONFIGURATION, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee shall build, maintain and operate an activated Cable System with a minimum equivalent bandwidth of 1 GHz and provide two-way capability throughout the service area.

(B) Equipment must be installed so that all closed captioned programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all signals received in stereo are retransmitted in stereo.

(C) Grantee's construction decisions shall not discriminate based on the income level of any particular community within the Franchise Area.

11.2 Standby Power

Grantee shall provide standby power generating capacity at the Headend capable of providing at least twenty-four (24) hours continuous emergency operation. Grantee shall maintain standby power system supplies, rated for at least four (4) hours duration, throughout the trunk and distribution networks. Grantee shall also deploy status monitoring equipment at strategic locations throughout its Cable System and in accordance with industry practice, make commercially reasonable efforts to maintain portable motorized generators to be deployed, prior to system failure, in the event that the duration of the power disruption is potentially going to exceed four (4) hours.

11.3 Emergency Broadcasts

Grantee shall install and maintain as part of its Cable System an Emergency Alert System (EAS) consistent with federal requirements.

11.4 FCC Technical Standards

Grantee shall comply in all material respects with applicable FCC Technical Standards, as amended from time to time.

11.5 Cable System Performance Testing

(A) Grantee shall, at its expense, perform all tests on its Cable System required by the FCC, and the City under Section 11.6, and shall maintain written records of its test results, including in its public file as required by the FCC. Copies of such test results will be provided to the City upon request.

(B) Upon written request, required tests may be observed by representatives of the City. Grantee will notify the City of Cable System tests at least ten (10) days before, and provide the opportunity to observe, any such tests the City has requested to witness.

(C) Grantee shall promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure to correct deficiencies identified through this testing process shall be a violation of this Franchise. Sites shall be re-tested following correction.

11.6 Additional Tests

Where there exists significant evidence which in the judgment of the City reasonably casts doubt upon the reliability or technical quality of Cable Service, the City shall have the right and authority, upon thirty (30) days prior written notice to require Grantee to perform additional applicable tests to show compliance with FCC standards, and to analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required by the City.

SECTION 12. CABLE SYSTEM BUILD-OUT AND SERVICE TO PUBLIC BUILDINGS

12.1 Cable System Construction

(A) The parties acknowledge that Grantee is not the first entrant into the wireline video market in the City. As a new entrant, investment in and expansion of Grantee's Cable System should be driven by market success, and not a contractual requirement for ubiquitous coverage. To demonstrate its commitment to provide Cable Service in the City, Grantee agrees that within three (3) years from the Effective Date of this Franchise, Grantee shall use commercially reasonable efforts to make Cable Services available to at least forty percent (40%) of the Dwelling Units in the City ("Initial Service Area"). Grantee shall not be obligated to expand its Cable System beyond the Initial Service Area until at least twenty-five percent (25%) of the Dwelling Units in the Initial Service Area purchase Cable Services from Grantee ("Initial Subscription Threshold"). Once the Grantee achieves the Initial Subscription Threshold, Grantee agrees that within two (2) years from the date Grantee meets the Initial Subscription Threshold, Grantee shall make a further investment in the Cable System to ensure that Grantee has the capability to offer Cable Services to at least an additional

twenty percent (20%) of the Dwelling Units in the City ("Additional Service Area"). Grantee shall not be obligated to expand its Cable System beyond the "Additional Service Area" until at least twenty-five percent (25%) of the Dwelling Units in the Additional Service Area purchase Cable Services from Grantee ("Additional Subscription Threshold"). Provided the Franchise is mutually extended beyond the initial five (5) year term, once the Grantee achieves the Additional Subscription Threshold, Grantee agrees that within two (2) years from the date the Grantee meets the Additional Subscription Threshold, Grantee shall make a further investment in the Cable System to ensure that the Grantee has the capability to offer Cable Services to at least eighty-five percent (85%) of the Dwelling Units in the City ("Ending Service Area").

(1) Except as provided in Section 12.2(D), Grantee shall not be obligated to extend its Cable System to areas where the average density is below twenty (20) Dwelling Units per mile, as measured in strand footage from the nearest technically feasible point on the active Cable System trunk or feeder line from which a usable cable signal can be obtained. For purposes of this Subsection, a home shall only be counted as a Dwelling Unit if such home is not currently passed by the Cable System and is within three hundred (300) feet drop distance of the Grantee's proposed distribution cable in the Right-of-Way.

(2) A Dwelling Unit shall be counted toward the Initial Service Area, Additional Service Area, or thereafter when Grantee's Cable Service passes the Dwelling Unit's route of vehicular or wireline utility ingress or egress regardless of whether providing Cable Service to the Dwelling Unit would require additional cost to the customer for a non-standard drop or Cable System extension.

(3) Dwelling Units requiring private easements for trunk or feeder line construction will be excluded from the Initial Coverage Threshold calculation unless Grantee is able to secure such private easement.

(4) Subject to the build out requirements in this Section 12.1(A) or Section 12.2(D), Grantee shall offer Cable Service to Dwelling Units within one hundred twenty-five (125) feet of drop distance from its distribution cable in the Right-of-Way at its standard installation rate. Grantee may charge a Dwelling Unit the incremental cost required to reach such Dwelling Unit beyond the one hundred twenty-five (125) foot drop distance. The Grantee may require such cost to be paid in advance.

(5) Grantee shall not be held in non-compliance with these build-out requirements caused by delays in the receipt of all necessary easements, permits, pole licenses, pole attachment agreements, locates, or other required authorizations, when the delay is not the fault of the Grantee.

(B) Nothing herein shall preclude Grantee from constructing additional Cable System extensions or making Cable Service available to additional Dwelling Units at its discretion.

(C) While Grantee is granted a franchise to serve the entire City, subject to the provisions of this subsection and Section 9.11, the parties acknowledge that Grantee shall have the sole discretion to determine where and when to activate and offer Cable Services to Subscribers.

12.2 Service Availability

(A) In General. Under Normal Operating Conditions, Grantee shall provide a standard installation of Cable Service within seven (7) days of a request by any potential Residential Subscriber within its service area in the City, except that the time deadline shall not apply where line extension construction or extensive internal wiring is required to provide such service, or where the potential Residential Subscriber requests an installation date beyond seven (7) days. For purposes of this subsection, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. This standard shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis. Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise;

(2) At a non-discriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125) foot aerial drop connecting to the exterior demarcation point for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing, upon request, to the City;

(B) Non-discriminatory Service. Grantee shall not arbitrarily refuse to provide Cable Services to any Person within its Franchise Area. Grantee reserves the right to refuse to provide Cable Service for good cause, including but not limited to non-payment, theft of service, damage to equipment or abusive conduct directed towards Grantee's employees or agents. Subject to the installation requirements above, all Dwelling Units passed by the Cable System in the Franchise Area shall have the same availability of Cable Services from Grantee's Cable System at non-discriminatory rates. Notwithstanding the foregoing, Grantee may impose reasonable requirements (e.g., equipment deposits) based on creditworthiness and past payment history and introduce new or expanded Cable Services on a geographically phased basis, where such services require an upgrade of the Cable System. Nothing contained herein shall prohibit the Grantee from offering promotions, discounts, or other marketing techniques.

(C) Service to Multiple Dwelling Units. The parties hereto acknowledge and agree that installation and provision of Cable Service to MDUs are subject to a separate negotiation between the landlord, owner or governing body of any such MDU and the Grantee. Unless the Grantee has entered into a bulk services agreement with the building owner, landlord or governing body, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the serviceability of the building in accordance with this Section and Grantee having legal access to the building and said unit. Grantee may charge installation fees in connection therewith.

(D) Customer Charges for Extensions of Service. For areas with an average density of less than twenty (20) Dwelling Units per mile under Section 12.1(A)(1) that are not otherwise going to be served by Grantee, or subsequent to the completion of the Ending Service Area build, for service requests outside of Grantee's Ending Service Area, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements.

For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which service may be expanded, Grantee will contribute an amount equal to the total construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of Dwelling Units per 5,280 cable-bearing strand feet of its trunk or distribution cable from the nearest technically feasible point on the Cable System from which a usable signal can be obtained and whose denominator equals twenty (20). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. For purposes of this Subsection, a home shall only be counted as a Dwelling Unit if such home is not currently passed by the Cable System and is within three hundred (300) feet drop distance of the Grantee's proposed distribution cable in the Right-of-Way. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

(E) Upon written request, the Grantee shall provide the technical specifications required to be met for the Dwelling Unit owner to dig the trench and/or install appropriate conduit, consistent with the technical specifications of the Grantee. If the owner elects to conduct trenching and/or install appropriate conduit at the owner's expense, the Grantee's cost estimate shall be modified to take into account any cost savings or increases that may result.

(F) Exceptions to the above density computation and line extension requirements are businesses located in IR, JG, CL, CG, CC-MU, CR, POM and I-MU zoning districts, as amended from time to time, as it is the intent of this subsection to exclude industrial parks and shopping centers.

12.3 Service to Community Facilities.

Upon written request, the Grantee shall provide Basic and Expanded Basic Cable Service and a Standard Installation at one outlet to fifteen (15) Public Building locations or Schools as defined in Section 1.32 of this Franchise, located in the Franchise Area within one hundred twenty-five (125) feet of the Grantee's distribution cable. No charge shall be made for installation or Basic or Expanded Basic Cable Service, except that Grantee may charge for installation beyond one hundred twenty-five (125) feet of distance of the cable plant. Notwithstanding the foregoing requirement, Grantee may charge the marginal cost for Basic and/or Expanded Basic Cable Service in accordance with applicable law. If Grantee intends to charge the marginal cost for the services required by this Section, it will give the City one hundred twenty (120) days' notice of the commencement of charges. The Grantee will disclose in writing the amount due and provide the City, in writing, reasonable detail sufficient to substantiate the marginal cost and the amount due. If the City believes that the marginal cost has not been reasonably substantiated, it will notify Grantee within sixty (60) days of receipt of the notice of the commencement of charges, identifying the information it reasonably requires to substantiate marginal cost. Grantee, within the 120-day period shall provide the City with the information requested. Charges may include those for services and equipment, if any, at each location. Charges may include all applicable fees and taxes and shall be subject to adjustment at a time consistent with Grantee's retail rate adjustments. The City may remove locations or change the level of Cable Service with thirty (30) days' written notice to the Grantee. Such obligation to provide such Cable Service shall not extend to areas of City buildings where the Grantee would normally enter into a contract to provide Cable Service. Outlets of Basic and Expanded Basic Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be

used for lawful purposes. The City shall designate a City representative to monitor the above complimentary video service and cable drop requirements.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Notice of Noncompliance

(A) In the event the City believes that Grantee has not complied with the material terms of the Franchise, the City shall notify Grantee in writing of the alleged noncompliance; state the nature of the noncompliance; and reference the sections of the Franchise for which Grantee is alleged to be out of compliance.

(B) The Grantee shall have thirty (30) days from receipt of the City's written notice to: (i) come into compliance as provided for; (ii) propose an alternative remedy which the City may deem acceptable that would have the effect of placing the Grantee in compliance; (iii) in the event that, by nature of the noncompliance, such noncompliance cannot be cured within the thirty (30) day period, initiate commercially reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that the cure will be completed; or respond to the City contesting the assertion of noncompliance. Noncompliant action may lead to revocation of the Franchise as provided for in this Franchise or for certain violations the imposition of liquidated damages.

(C) In the event the Grantee fails to respond to the City's notice, if the alleged noncompliance is not remedied within thirty (30) days or the date projected by the Grantee, or if the City disagrees with the Grantee's assertion contesting the noncompliance, the City shall schedule a public hearing to investigate the default. Such public hearing shall be held at a time that is no less than ten (10) business days therefrom. The City shall notify the Grantee in advance, in writing of the time and place of such hearing and provide the Grantee with a reasonable opportunity to be heard.

(D) A public hearing under this section stays all other proceedings in furtherance of the alleged noncompliance.

(E) Subject to applicable federal and state law, in the event the City, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the City may: (i) seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; (ii) pursue liquidated damages in accordance with Section 13.7 below; or (ii) in the case of a substantial default of a material provision of the Franchise, initiate revocation proceedings in accordance with Section 13.2 below.

13.2 Franchise Forfeiture, Revocation and Termination

(A) Subject to applicable federal and state law, in addition to all other rights and powers retained by the City under this Franchise, or otherwise, the City reserves the right to forfeit, revoke and terminate the Franchise and all rights and privileges of the Grantee in the event of a substantial breach of the material terms and conditions of the Franchise.

(B) If Grantee practices any intentional fraud or deceit upon the City or its Subscribers, or if Grantee becomes insolvent or bankrupt, as adjudged by a court of competent jurisdiction, then this Franchise may be revoked.

(C) In accordance with Section 13.1 herein, Grantee shall be given a written notice from the City, an opportunity to cure, and public hearing prior to revocation, termination or forfeiture of this Franchise. In the event that the City believes that grounds for revocation, termination or forfeiture exist or have existed, the City shall give written notice to the Grantee of its intent to revoke, terminate, or forfeit the Franchise, including an instance of substantial non-compliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have sixty (60) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response from the Grantee or upon receipt of the response does not agree that the allegations of noncompliance have been or will be resolved, it may then seek revocation of the Franchise at a public hearing. The City shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request revocation of the Franchise.

(D) At the designated public hearing, the City shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, in accordance with the standards of a fair hearing applicable to administrative hearings in the State of Maryland, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the City shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court.

(E) In the event that the City has revoked this Franchise for cause, the City shall comply with Section 627 of the Cable Act as to the disposition of the Cable System, or the City may require removal of the System in accordance with this Franchise. Upon a decision to acquire the Cable System, the City shall exercise its option to acquire the Cable System within four (4) months from the date of revocation of this Franchise or the entry of a final order of Grantee's judicial appeal of the City's revocation order, whichever is later. Notwithstanding the above, Grantee shall not be required to remove its Cable System, or to relocate the Cable System, or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Grantee from providing Cable Services, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act.

13.3 Judicial Relief

No provision of this Franchise shall be deemed to bar the right of the City or Grantee from seeking judicial relief for a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated hereunder. Neither the existence of other remedies identified in the Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of either party to recover monetary damages, as allowed under applicable law, or to seek judicial enforcement by means of specific performance, injunctive relief or mandate, or pursue any other judicial remedy available at law or in equity, although nothing herein is intended to allow duplicative recovery from or duplicative payments by Grantee or its surety(s).

13.4 Sale or Acquisition of Cable System

The sale or acquisition of the Cable System due to non-renewal of the Franchise shall be governed by the Cable Act.

13.5 Receivership and Foreclosure

(A) At the option of the City, subject to applicable law, this Franchise may be revoked one hundred eighty (180) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred eighty (180) days of appointment; or

(2) The receiver or trustee has, within one hundred eighty (180) days after his/her election or appointment, fully complied with all the terms and provisions of this Franchise and remedied all defaults under the Franchise. Additionally, the receiver or trustee shall have executed an agreement duly approved by the court having jurisdiction, by which the receiver or trustee assumes and agrees to be bound by each and every term, provision and condition of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the City may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, subject to applicable law, unless:

(1) The City has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and conditions of this Franchise.

13.6 City Immunity

This Franchise shall not be read to limit any immunities the City may enjoy under federal, State or local law.

13.7 Liquidated Damages

(A) Prior to the imposition of any liquidated damages by the City, the Grantee shall be given notice and an opportunity to cure, and public hearing, in accordance with Section 13.1 herein.

(B) In the event of a violation of this Franchise, the City may pursue actual or liquidated damages. If the City pursues liquidated damages, such action shall be in lieu of pursuing actual damages on behalf of the City for the violation. The City in its sole discretion may assess Grantee or charge to and collect from the letter of credit or bonds provided for in this Franchise, the following liquidated damages for:

(1) Failure to construct and activate the Cable System in accordance with the terms of this Franchise, unless the delay is authorized by the City, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(2) Failure to provide data, documents, reports or information, one hundred dollars (\$100) per day for each day, or part thereof, such failure occurs or continues.

(3) Failure to cooperate with the City during any performance evaluation, technical audit or financial audit, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(4) Failure to comply with FCC technical standards, five hundred dollars (\$500) per day for each day, or part thereof such failure occurs or continues.

(5) Failure to comply with customer service standards, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(6) Failure to notify the City of a transfer, five hundred dollars (\$500) per day for each day, or part thereof, such failure occurs or continues.

(7) Failure to provide the Emergency Alert System or failure of the EAS system to work properly due to fault of the Grantee, five hundred dollars (\$500) per day for each day, or part thereof, such failure occurs or continues.

(8) Failure to restore City property or Rights-of-Way in accordance with this Franchise, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(9) Failure to operate the Cable System or provide Cable Service over the required portion of the Franchise Area for three (3) consecutive days, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(C) In calculating the potential forfeitures under this provision, such forfeitures shall be assessed only on a category-by-category basis, without simultaneous assessments within the same category. For example, a failure to provide multiple reports shall be assessed as a single per day forfeiture of \$100. Liquidated damages awarded under this Franchise shall be limited to no more than \$25,000 per year. Nothing herein is intended to allow duplicative recovery from or payments by Grantee or its surety(s).

(D) The City may, in its discretion, waive in full or in part any or all liquidated damages.

(E) Subject to the provisions of Section 14.7 (A) above, liquidated damages shall be paid by the Grantee to the City. If the liquidated damages are not paid in full and in a timely manner, the City may draw upon the letter of credit to satisfy the obligations as provided herein.

(F) The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period if granted by the City.

13.8 Effect of Abandonment

(A) If the Grantee abandons its Cable System during the Franchise term, the City, at its option, may operate the Cable System; designate another entity to operate the Cable System

temporarily until the Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City; or obtain an injunction requiring the Grantee to continue operations.

(B) The City shall be entitled to exercise its options herein if the Grantee willfully fails to provide Cable Service over a substantial portion of the Franchise Area for seven (7) consecutive days.

(C) If Grantee arbitrarily and capriciously discontinues Cable Service to Subscribers, this Franchise may be revoked or terminated by the City Council in accordance with Sections 13.1 and 13.2 herein.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

The City and Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

14.2 Transfers

(A) This Franchise and the Cable System shall not be assigned, transferred, sold, or disposed of in whole, or in part, by voluntary sale, sale and leaseback, merger, consolidation, exchange of stock, by provision of a management agreement, or otherwise, or by forced or involuntary sale, without the prior written consent of the City.

(B) Prior approval of the City shall be required where a controlling interest in Grantee is to be acquired during the term of this Franchise in any transaction, or series of transactions, by a person or group of persons acting in concert, none of whom owned or controlled Grantee, singularly or collectively on the Effective Date of the Franchise. The term "controlling interest" as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised.

(C) The approval of a transfer in one instance shall not render unnecessary approval of any subsequent transfer.

(D) Approval of a transfer by the City does not constitute a waiver or release by the City of its rights under this Franchise (unless otherwise stated in writing), whether arising before or after the date of the transfer, nor does such approval constitute a waiver or release of the rights of the City in and to the Rights-of-Way or public land, or release of any police powers.

(E) A transfer of this Franchise shall be conducted in accordance with the Cable Act and applicable federal rules and regulations, and the requirements set forth in this Franchise. The City may request any information it deems reasonable to evaluate the financial, technical, and legal qualifications of the transferee. Grantee and the transferee shall provide the information requested by the City in a timely manner. Any questions raised by the City, and any decision made by the City,

regarding a transfer request shall be directly related to *bona fide* concerns regarding the qualifications of the transferee and the ability of the transferee to comply with the existing Franchise terms.

(F) If a transfer occurs within three (3) years of the Effective Date, a transferee and the Grantee requesting a transfer of this Franchise shall be responsible for the City's reasonable direct and indirect costs, consultants' and attorneys' fees and other fees and expenses of the transfer process in an amount up to \$12,500.

(G) The City's consent to a transfer shall not be unreasonably withheld.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for (i) a transfer in trust, by mortgage, hypothecation, or by assignment to a financial institution of any right, title or interest of Grantee in the Franchise or in the Cable System in order to secure indebtedness; or (ii) a transfer to an entity directly or indirectly owned and/or controlled by Comcast Corporation; or (iii) subject to the provisions of subsection 14.2(B), the sale, conveyance, transfer, exchange or release of less than fifty percent (50%) of Grantee's equitable ownership in the Cable System or this Franchise.

SECTION 15. REMOVAL OF CABLE SYSTEM

Grantee shall apply for and obtain encroachment permits, licenses, authorizations or approvals as may be necessary for removal of the Cable System. Grantee shall pay any and all fees, costs and expenses associated with the removal of its Cable System and shall deposit with the City an acceptable security deposit, if required, prior to the removal of any part of its Cable System. Grantee shall be responsible for the restoration of all affected public and private property, public buildings and Rights-of-Way that may be damaged during the removal of its Cable System or due to the removal of its Cable System. The removal shall be completed within twelve (12) months following the date of this Franchise's expiration, termination, forfeiture or revocation unless the City and Grantee agree in writing to a different length of time. In the event the Grantee fails to remove all of its Cable System, the City may remove same and charge the cost of removal to the letter of credit and bonds. The City also has the right, in accordance with applicable law, to condemn any remaining part of the Cable System and take ownership accordingly. Grantee shall not be required to remove its Cable System or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Grantee from providing Cable Service, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Equal Employment and Non-discrimination

Throughout the term of this Franchise, Grantee shall fully comply with all equal employment and non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Localism

(A) Whenever practicable, Grantee shall make its employment opportunities in the City, to provide, install, sell, market and deliver its Cable Services, available to City residents to apply. Additionally, Grantee shall make a reasonable effort to coordinate with the State of Maryland's, or

other State or County Employment or Social Service Agencies', workforce programs when posting employment opportunities (e.g. Maryland Workforce Exchange).

(B) Wherever practicable, Grantee shall make a reasonable effort to allow City businesses to contend for supplying goods and providing services to install, sell, market and deliver Grantee's Cable Services.

16.3 Notices

(A) The agents for the receipt of notice shall be:

To the City:

City of Hagerstown
1 East Franklin Street
Hagerstown, MD 21740
Attention: City Administrator

To the Grantee:

Comcast Cable
1215 East Fort Avenue, Suite 103
Baltimore, MD 21230
Attention: Government Affairs Department

With copies to:

Comcast Cable Northeast Division
676 Island Pond Rd.
Manchester, NH 03109
Attention: Government Affairs Department

(B) All notices shall be in writing and deemed served upon receipt.

16.4 Captions and Headings

The captions and headings of the sections and subsections set forth herein are intended solely to facilitate the reading hereof. Such captions and headings shall not affect the meaning or interpretation of this Franchise.

16.5 Attorneys' and Consultants' Fees, Costs and Expenses

If any action or suit arises in connection with this Franchise other than renewal proceedings, the prevailing party (either the City or Grantee, as the case may be) shall be entitled to recover all of its reasonable attorneys' fees, consultants' costs and expenses and other costs and expenses in connection therewith in accordance with applicable law, in addition to such other relief as the court may deem proper.

16.6 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.7 Authority to Amend

This Franchise may be amended at any time by written agreement between the parties.

16.8 Venue

Venue for any judicial dispute between the City and Grantee arising under or out of this Franchise shall be in Circuit Court in Washington County, Maryland, or federal court in Baltimore, Maryland.

16.9 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.10 Waiver

The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision. The failure of the Grantee at any time to require performance by the City of any provision hereof shall in no way affect the right of the Grantee hereafter to enforce the same. Nor shall the waiver by the Grantee of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.11 Cumulative Rights

The rights and remedies reserved to the City by this Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City may have with respect to the subject matter of this Franchise.

16.12 Construction of Agreement

This Franchise shall be governed, construed and enforced in accordance with the laws of the State of Maryland (as amended), the Cable Act as amended, any applicable rules, regulations and orders of the FCC, and any other applicable local, State and federal laws, rules regulations, legislation or orders (as such now exist, are later amended or subsequently adopted).

16.13 Actions of the City or Grantee

In any action by the City or Grantee mandated or permitted under the terms hereof, it shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or

consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

16.14 Entire Agreement

This Franchise and Exhibit and a letter agreement dated November 22, 2022 represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral and written negotiations between the parties.

16.15 Time Is of the Essence

In determining whether a party has complied with this Franchise, the parties agree that time is of the essence.

16.16 Severability

If any Section, subsection, paragraph or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

IN WITNESS WHEREOF, this Franchise is signed by the parties hereto as of the day and year first above written.

ATTEST:

CITY OF HAGERSTOWN:

City Clerk

Mayor

ATTEST:

COMCAST OF CALIFORNIA/
MARYLAND/PENNSYLVANIA/
VIRGINIA/WEST VIRGINIA, LLC

Title: _____

Title: _____

EXHIBIT A - CUSTOMER SERVICE STANDARDS

I. POLICY

The Grantee shall be permitted the option and autonomy to first resolve citizen Complaints without delay and interference from the City.

Where a given Complaint is not addressed by the Grantee to the citizen's satisfaction, the City may intervene.

These Standards are intended to be of general application; however, the Grantee shall be relieved of any obligations hereunder if it is unable to perform due to force majeure. The Grantee is free to exceed these Standards for the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

II. DEFINITIONS

When used in these Customer Service Standards (the "Standards"), the following words, phrases, and terms shall have the meanings given below.

"Complaint" shall mean a Customer expression of dissatisfaction that is within Grantee's control and requires a corrective measure on the part of Grantee, whether written or oral, that is directed to Grantee's system office or to the City for resolution. This does not include routine inquiries, service requests and initial contacts where an issue is concurrently resolved to the Subscriber's satisfaction.

"Customer" or "Subscriber" shall mean any person who lawfully receives cable service from the Grantee.

"Customer Service Representative" (or "CSR") shall mean any person employed by the Grantee to assist, or provide service to Customers, whether by answering public telephone lines, answering Customers' questions, or performing other customer service related tasks.

"Normal Business Hours" shall mean those hours during which most similar businesses in the City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.

"Normal Operating Conditions" shall mean those service conditions that are within the control of the Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages not within the control of the Grantee, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

"Service Interruption" shall mean the loss of picture or sound on one or more cable channels.

III. CUSTOMER SERVICE

A. Courtesy

All employees of the Grantee shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with Customers.

B. Accessibility

1. Grantee's customer service centers and bill payment locations will be open at least during Normal Business Hours and will be conveniently located. The Grantee shall post a sign at service centers advising Customers of its hours of operation. The Grantee shall maintain options for bill payment within the City and convenient options for processing change of service requests, addressing Customer inquiries and requests and for equipment return and exchange. Grantee may satisfy equipment return and/or exchange through in-person locations within the Hagerstown Metropolitan area, pickup and/or replacement at Subscribers' addresses, or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer). Subscribers may utilize, at their preference, any options for equipment return or exchange made available by the Grantee. The Grantee shall provide free exchanges of faulty converters at the Customer's address.

2. The Grantee shall maintain local telephone access lines or a toll-free telephone number that shall be available 24 hours a day, seven days a week for service/repair requests.

3. The Grantee shall have technicians on call 24 hours a day, seven days a week, including legal holidays.

4. During Normal Business Hours and under Normal Operating Conditions, the Grantee shall retain trained Customer Service Representatives and have telephone line capacity available to ensure that telephone calls to service/repair and billing inquiries are answered within 30 seconds or less, and that any transfers to a customer service representative are made within 30 seconds. These standards shall be met no less than 90 percent of the time, under Normal Operating Conditions, measured quarterly.

5. After Normal Business Hours, the telephone lines may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Customer Service Representative on the next business day.

6. Under Normal Operating Conditions, the total number of calls receiving busy signals shall not exceed 3% of the total telephone calls. This standard shall be met 90 percent or more of the time measured quarterly.

7. Grantee shall not be required to acquire equipment or perform surveys to measure compliance with any of the telephone answering standards above unless and until the City requests such action(s) based on a historical record of complaints indicating a clear failure to comply.

C. Responsiveness

1. Residential Installation

a. The Grantee shall complete all standard residential installations requested by Customers within seven (7) business days after the order is placed, under Normal Operating Conditions 95% of the time measured on a quarterly basis, unless the Customer requests a later date for installation. "Standard" residential installations are those located within 125 feet from the existing distribution system. If the Customer requests a nonstandard residential installation, or the Grantee determines that a nonstandard residential installation is required, the Grantee shall provide the Customer in advance with a total installation cost estimate and an estimated date of completion.

b. Absent unusual circumstances, all new underground cable drops from the curb to the home shall be buried in accordance with the requirements of applicable regulations, and within a reasonable period of time (but no later than fourteen (14) days, weather permitting) from the initial installation, or at a time mutually agreed upon between the Grantee and the Customer. Grantee shall not be held in non-compliance with these burial requirements caused by delays in the receipt of all necessary easements, permits, locates, or other required authorizations, when the delay is not the fault of the Grantee.

2. Service Appointments

a. The appointment window alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the Customer. Absent unusual circumstances, the Grantee may not cancel an appointment with a Customer after close of business on the day before the scheduled appointment.

b. If Grantee's representative is running late for an appointment with a Customer and will not be able to keep the appointment as scheduled, the Customer will be contacted. The appointment will be rescheduled, as necessary, at a time, consistent with Grantee's standard service hours, which is convenient for the Customer.

c. The Grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, provided that the technician has all necessary parts and equipment to complete the specified work order. If the Customer is absent when the technician arrives, the technician shall leave notification of timely arrival.

3. Outages and Service Interruptions

a. In the event of a system outage (loss of reception on all channels) resulting from Grantee equipment failure affecting five (5) or more Customers, the Grantee shall respond promptly and shall remedy the problem as quickly as is feasible.

b. Under Normal Operating Conditions, the Grantee shall begin working on Service Interruptions promptly and in no event later than twenty four (24) hours after the interruption becomes known.

c. The Grantee shall keep an accurate and comprehensive file of any and all Complaints received during the existing and preceding calendar year regarding the Cable System or its operation of the Cable System, in a manner consistent with the privacy rights of Customers, and the Grantee's actions in response to those Complaints. The Grantee shall provide the City an executive summary upon fifteen (15) days' written request which shall include information concerning Complaints.

d. Under Normal Operating Conditions, the Grantee shall use its best efforts to begin working on all outages and service interruptions for any cause beyond the control of the Grantee within thirty-six (36) hours, after Grantee becomes aware that the conditions beyond its control have subsided but not later than forty-eight (48) hours.

4. TV Reception

a. The Grantee shall render efficient service, make repairs promptly, and make reasonable efforts to interrupt service only for good cause and for the shortest time possible. Under Normal Operating Conditions, the Grantee shall make reasonable efforts to provide prior notice to Subscribers and the City before interrupting service for proactive planned maintenance or construction, except where such interruption is expected to be three (3) hours or less in duration, or performed between the hours of 12 A.M and 6 A.M. Such notice shall be provided by methods reasonably calculated to give Subscribers actual notice of the planned interruption.

b. If a Customer experiences poor signal quality attributable to the Grantee's equipment, the Grantee shall begin actions to correct the problem within the next business day or twenty-four (24) hours, whichever is later, following the Customer notification of the service problem provided that the Customer is available and the repair can be made within the allotted time. If an appointment is necessary, the Customer may choose the blocks of time described in Section 2(a). At the Customer's request, the Grantee shall repair the problem at a time within Grantee's standard service hours, which is convenient for the Customer.

5. Problem Resolution. A Customer Service Representative shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the Customer Service Representative shall be referred to the appropriate supervisor or department for resolution.

6. Billing, Credits, and Refunds

a. The Grantee shall allow at least fifteen (15) days for payment of a Customer's service bill. If the Customer's service bill is not paid within forty-five (45) days, the Grantee may perform a disconnect of the Customer's service. Grantee shall provide Customers with at least fourteen (14) days' written notice prior to disconnection, which may be part of the Customer's service bill.

b. The Grantee shall issue refund checks promptly but no later than either the Customer's next available billing cycle following resolution of the request or within thirty (30) days, whichever is later, or the return of the equipment supplied by the Grantee if service is terminated.

c. Credits for service will be issued no later than the Customer's next available billing cycle following the determination that a credit is warranted.

7. Notice/Work. Except in the case of an emergency involving public safety or service interruption to a large number of Subscribers, the Grantee shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed. Nothing herein shall be construed as authorizing access or entry to private property, unless such right to access or entry is otherwise provided by law. Any work on private property shall be conducted in accordance with an agreement between the Grantee and property owner. If damage is caused by any Grantee activity, the Grantee shall reimburse the property owner for the cost of the damage or replace or repair the damaged property to a condition reasonably comparable to the condition of such property before the Grantee's activity commenced. Adjacent or affected property owners shall be reasonably notified in advance of major construction or installation projects in the Rights-of-Way or on private property. In the case of an emergency, the Grantee shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made.

D. Customer Information

1. Upon installation, and at any time the Customer may request, the Grantee shall provide the following information, in clear, concise written form:

- a. Products and services offered by the Grantee, including its channel lineup;
- b. The Grantee's complete range of service options and the prices for those services;
- c. Instruction on the use of cable TV service;
- d. The Grantee's billing, collection and disconnection policies;
- e. Customer privacy requirements;
- f. All applicable Complaint procedures, including the telephone numbers and where to find the mailing addresses of the Grantee and the contact at the City;
- g. Use and availability of parental control/lock out devices;
- h. Where to locate the days, times of operation, and location of service centers.

2. Customers will be notified of any changes in rates, programming services or channel positions in writing. Notice must be given to Customers a minimum of thirty (30) days in advance of such changes if the change is within the control of Grantee. Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or charge of any kind imposed by any federal agency, State or the City on the transaction between Grantee and the Customer. Advance notice is not required for the launch of new channels when offered on a subscription basis or added to an existing service tier at no additional cost to the Subscriber. The written notices required by this section may be provided electronically and by any other reasonable means (such as video scroll message) through which notifications are usually, customarily, and typically provided to Subscribers.

3. All officers, agents, and employees of the Grantee or its contractors or subcontractors who personally visit any residential dwelling shall be issued identification cards bearing their name and photograph. The Grantee shall account for all identification cards at all times. Every vehicle of the Grantee shall be visually identified to the public as working for the Grantee. Every vehicle of a subcontractor or contractor, used for installation or maintenance activities, shall be labeled with the name of the contractor or subcontractor, and shall be further identified as contracting or subcontracting for the Grantee.

4. Each CSR, technician or employee of the Grantee in each contact with a Customer shall state the estimated cost of the service, repair, or installation prior to delivery of the service or before any work is performed, and shall provide the Customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work is to be performed.

E. Safety

The Grantee shall install and locate its facilities, cable system, and equipment in compliance with all federal, state and local safety standards applicable to similarly-situated users of the Right-of-Way including cable operators, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever the Grantee receives notice that an unsafe condition exists with respect to its equipment, the Grantee shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

IV. COMPLAINT PROCEDURE

A. Complaints to the Grantee

1. The Grantee shall establish written procedures for receiving, acting upon, and resolving Complaints without intervention by the City (except where necessary) and shall publicize such procedures through printed documents at the Grantee's sole expense.

2. Within fifteen (15) calendar days after receiving a Complaint, the Grantee shall notify the Customer of the results of its investigation and its proposed action or credit.

3. The Grantee shall also notify the Customer of the Customer's right to file a Complaint with the City in the event the Customer is dissatisfied with the Grantee's decision, and shall explain the necessary procedures for filing such Complaint with the City.

4. The Grantee's Complaint procedures shall be filed with the City.

B. Complaints to the City

1. Any Customer who is dissatisfied with any proposed disposition of a Complaint by the Grantee or who has not received a decision within the fifteen (15) calendar day period shall be entitled to have the Complaint reviewed by the City.

2. The Customer may initiate the review either by calling the City or by filing a written request together with the Grantee's written decision, if any, with the City.

3. The Customer shall make such filing and notification within twenty (20) days of receipt of the Grantee's decision or, if no decision has been provided, within thirty (30) days after filing the original Complaint with the Grantee.

4. If the City decides that further evidence is warranted, the City shall require the Grantee and the Customer to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions.

5. The Grantee and the Customer shall produce any additional evidence, including any reports from the Grantee, which the City may deem necessary to an understanding and determination of the Complaint.

6. If the City determines that the Complaint is valid and that the Grantee did not provide the complaining Customer with the proper solution and/or credit, the City may assert noncompliance in accordance with Section 13.1 of the Franchise.

C. Overall Quality of Service

The City may evaluate the overall quality of Customer service provided by the Grantee to Customers:

1. In conjunction with any performance evaluation provided for in the Franchise; or

2. At any other time, in its sole discretion, based on the number of Complaints received by the Grantee or the City, and the Grantee's response to those Complaints.

D. Procedures for Remedying Violations

If the City has reason to believe that the Grantee has failed to comply with any of these Standards, or has failed to perform in a timely manner, the City may assert noncompliance in accordance with Section 13.1 of the Franchise.