

CABLE FRANCHISE  
AGREEMENT

This Franchise Agreement ("Franchise") is between \_\_\_\_\_, hereinafter collectively referred to as "Franchising Authority," and \_\_\_\_\_, hereinafter referred to as "Grantee."

WHEREAS, Grantee has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in Grantee's proposal; and

WHEREAS, Grantee has submitted a proposal that is reasonable to meet the cable related community needs and interests during the proposed term of the franchise; and

WHEREAS, the Franchising Authority, having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise Agreement with the Grantee for the construction, operation, and maintenance of a Cable System on the terms set forth herein.

SECTION 1  
Definition of Terms

- 1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and the word "may" is permissive.
- A. "Basic Cable" means the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.
  - B. "Cable Act" means Title VI of the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, by the Cable Television Consumer Protection and Competition Act of 1992, and by the Telecommunications Act of 1996, and as the same may be further amended from time to time.
  - C. "Cable Services" means the one-way transmission, regardless of the technology used for transmission including internet protocol, or other future technological successors, 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.

- D. "Cable System" means a facility, consisting of a set of closed transmission 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 a community, 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 Cable Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c)) to the extent such facility is used in 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 Section 653 of title VI of the Cable Act; or (E) any facilities of any electric utility used solely for operating its electric utility system.
- E. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.
- F. "Franchise" means the initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to section 626 of the Cable Act), issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes the construction and operation of the Cable System.
- G. "Franchising Authority" means \_\_\_\_\_ or the lawful successor, transferee, or assignee thereof.
- H. "Grantee" means \_\_\_\_\_ or any lawful successor, transferee, or assignee thereof.
- I. "Gross Revenues" means all revenues received from subscribers for the provision of cable services, including franchise fees and all revenues received from non-subscribers for advertising disseminated through cable services and home shopping services. Gross revenues shall not include:
  - a) Amounts billed and collected from subscribers to recover any tax, surcharge, or governmental fee.
  - b) Any revenue not actually received, even if billed, such as bad debt provided, however, that all or part of any such bad debt that is

- written off but subsequently collected shall be included in Gross Revenues in the period collected;
- c) Any revenue received by any affiliate or any other person in exchange for supplying goods or services to the cable or video service provider;
  - d) Any amounts attributable to refunds, rebates, or discounts;
  - e) Any revenues from late fees, returned check fees, or interest;
  - f) Any revenue from the sale or rental of property, except such property the subscriber is required to buy or rent exclusively from the cable or video service provider to receive cable or video service;
  - g) Any revenue from services provided over the cable system or other wireline facilities use to distribute video programming services that are not classified as cable services or video services including without limitation revenue received from telecommunications services, information services but not excluding cable services or video services, Internet access services, and directory or Internet advertising revenues, including but not limited to yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such non-cable or non-video service is bundled with the sale of one or more cable or video service and sold for a single non-itemized price, the term "gross revenues" shall include only those revenues that are attributable to cable services or video services based on the provider's books and records and commercially reasonable standards;
  - h) Any revenue from sales to a reseller with respect to which the purchaser is required to pay a franchise fee, provided the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto;
  - i) Any amounts attributable to a reimbursement of costs, including but not limited to the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming; and
  - j) Any revenues from providing or maintaining inside wiring.
- J. "Incumbent cable service provider" means the cable service provider serving the largest number of subscribers in a particular municipality or unincorporated area of a parish on the effective date of this Agreement.
- K. "Person" means an individual, partnership, association, joint stock company, trust, corporation, limited liability company or governmental entity.
- L. "Public Right-of-Way" shall mean the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or waterway, under the control of Grantor. Also known as "Public Ways."

- M. "Service Area" means the present jurisdictional boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in Section 3.8.
- N. "Subscriber" means a Person who lawfully receives Cable Services of the Cable System with the Grantee's express permission.

SECTION 2  
Grant of Franchise

- 2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Right-of-Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, cover, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, power supplies, network reliability units and other related property or equipment as may be necessary or appurtenant to the Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or state law.
  - A. Pursuant to the terms of this Agreement, the Franchising Authority acknowledges that the Company is authorized to use and occupy the streets, alleys, public ways and thoroughfares of the Franchising Authority for the purpose of constructing, maintaining and operating its poles, wires, conduits, cables, anchors, towers, transmission lines, manholes, piers, abutments, and other structures and facilities used in or incidental to the provision of cable services to the public.
  - B. The Company's right to use and occupy said streets, alleys, public ways and thoroughfares of the Franchising Authority shall not be exclusive, and the Franchising Authority reserves the right to grant a similar use of said streets, (alleys, public ways and thoroughfares to any person, firm or corporation at any time during the period of this Agreement.
- 2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, this Franchise shall control. This Franchise supercedes and replaces any and all existing ordinances, agreements or resolutions addressing the matters covered herein.

- 2.3 Equal Protection. The right to use and occupy the Franchising Authority's Public Ways for the purpose herein provided shall not be exclusive; provided, however, that no Person shall enter into the Franchising Authority's Public Ways for the purpose: of constructing or operating a Cable System, or for the purpose of providing Cable Service or video programming service to any part of the Service Area, without first obtaining a Franchise, permit, license, authorization or other agreement from the Franchising Authority. In the event the Franchising Authority authorizes or permits any Person other than the Grantee to enter into the Franchising Authority's Public Ways for the purpose of constructing or operating a Cable System, or for the purpose of providing Cable Service or video programming service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, and the obligations imposed on the grantee thereunder shall be no less burdensome nor more favorable than the obligations imposed upon the Grantee hereunder, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.
- 2.4 Term. The Franchise granted hereunder shall be for an Initial Term of fifteen (15) years commencing on the effective date of the Franchise as set forth below, unless otherwise lawfully terminated in accordance with the terms of this Franchise. At the conclusion of the Initial Term, Grantee shall be entitled to an Extended Term, pursuant to Section 4.4, below.

### SECTION 3 Standards of Service

- 3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways. Except in the case of any emergency, the Company shall, in advance of any construction or repairs, comply with all applicable laws and ordinances of the Franchising Authority relative to permits regarding such construction or repair.
- 3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, the Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.
- 3.3 Relocation at Request of the Franchising Authority. If, at any time during the period of the franchise, the Franchising Authority shall lawfully elect to vacate, relocate, abandon, alter, reconstruct or change any street, sidewalk, alley or other public way, the Grantee, upon either thirty (30) day or other timeline as

defined by the Franchising Authority exceeding thirty (30) days, written notice by the Franchising Authority via certified mail to the Grantee, shall remove, re-lay and relocate its poles, overhead or underground wires, cables, conduits, manholes and other fixtures at its own expense. However, if public funds are available to any Person using such Public Way for the purpose of defraying the cost of any of the foregoing, the Grantor shall make application for such funds on behalf of the Grantee. Should the Grantee refuse or fail to remove its equipment or plans as provided for herein within thirty (30) days after written notification via certified) mail, the Franchising Authority shall have the right to cut and /or remove or do such work or cause it to be done. The Grantee shall in all cases have the right of abandonment of its property. Notwithstanding emergency, life threatening or public endangerment situations, the Grantee shall be consulted prior to any cutting or movement of its wires and be given the opportunity to perform the work itself. Notice of location, telephone number and contact person shall be given to the Grantee.

- 3.4 Relocation at Request of Third Party. The Grantee shall, on the request of any Person holding a lawful building moving permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from any Public Way, as necessary, any property of the Grantee, provided: (a) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (b) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this Section, "reasonable advance written notice" shall be no less than thirty (30) days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.
- 3.5 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System. The Grantee, or its designee, shall trim trees or other natural growth in contact with Grantee's wires or other equipment when such growth causes a safety hazard within the Public Way. Franchising Authority shall provide Grantee with a written request by certified mail to Grantee's Construction Department, as well as any and all necessary permits required by the Franchising Authority to perform this function. Should Grantee fail to remove the growth within fourteen (14) days of receipt of notice, the Franchising Authority may trim or otherwise remove the growth and the Grantee shall reimburse the Franchising Authority for all actual documented expenses of removal. All trimming, cutting or other removal of trees or natural growth shall be performed in accordance with the American National Standards (ANSI) for tree care operations as well as all local and state horticulture laws.
- 3.6 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable federal, state, and

local regulations and the National Electric Safety Code. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Service Area.

### 3.7 Aerial and Underground Construction.

- A. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, the Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, network reliability units, pedestals, or other related equipment.
- B. Notwithstanding anything to the contrary contained in this Section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Franchise, the Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.
- C. The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned commercial/residential developments within the Service Area requiring underground cable facilities. The Franchising Authority agrees to require as a condition of issuing any permit for open trenching to any utility or developer, that the utility or developer give the Grantee reasonable access to open trenches for deployment of cable facilities and written notice of the date of availability of trenches. Such notice must be received by the Grantee at least ten (10) business days prior to availability.

### 3.8 Extensions of Service. Grantee shall make commercially reasonable efforts to provide service to all areas of Municipality/Parish when requested by at least 20 residences per mile of the Municipality/Parish.

### 3.9 Public, Educational and Governmental Access.

#### A. Access Channels.

Grantee shall offer access channels to each of its Subscribers who receive all or any part of the Cable Services offered on the Cable System. Parishes with populations in excess of 50,000 shall be offered a minimum of three Public, Educational or Government channels, in any combination. Parishes with populations below 50,000 shall be offered a minimum of two channels. Parish/Municipality may use one PEG channel without restrictions relating to programming provided in this Section. If the channels are in existence prior to the granting of this franchise, they shall retain their prior channel position (number) unless both parties agree to change the channel position.

- (1) Government Access, -- a dedicated free two-way capable channel for non-commercial Government Access use to be administered by the Parish/Municipality. This channel shall be made available to all subscribers as part of any basic package without additional cost to the consumer. It is specifically understood that PBS style underwriting is permissible on this channel.
- (2) Additional Government Access Channel, -- a specifically designated free non-commercial two-way capable channel dedicated for Government Access. The Parish/Municipality may delegate responsibility for the oversight and programming of the Additional Government Access Channel. This channel shall become active upon the request of the Parish/Municipality and providing that the channel referred to above at Government Access is cablecasting local, regional or state programming over 10 hours per day, five days per week, over a quarterly period, exclusive of bulletin board programming. Declared states of emergency shall not be used in the computation of this programming period. This channel may be carried on any tier at the discretion of the Grantee.
- (3) Educational Access Channel -- a specifically designated free two-way capable channel dedicated for non-commercial local educational access use to be administered by the local school board located in the basic package. It is specifically understood that PBS style underwriting is permissible.
- (4) Public Access Channel -- a specifically designated free two-way capable channel dedicated for local access use to be administered by a board of directors appointed by the Parish/Municipality or its designees. The grantee may also appoint a representative to this board.

- (5) Additional PEG Channels -- a specifically designated free non-commercial two-way capable channels dedicated for PEG Access. The Parish/Municipality may delegate responsibility for the oversight and programming of the Additional Access Channels. This channels shall become active upon the request of the Parish/Municipality and providing that the minimum number of channels described above are in use and are cablecasting local, regional or state programming over 10 hours per day, five days per week, over a quarterly period, exclusive of bulletin board programming. One channel is excluded from this requirement as stated above. Declared states of emergency shall not be used in the computation of this programming period. This channel may be carried on any tier at the discretion of the Grantee. The total number of PEG channels shall not exceed five under any circumstances.
- (6) Channel Guides. All channel guides shall include the program schedule for all access channels provided that they are submitted electronically by the Grantor to Grantee during the time period specified by the Grantee to meet technical requirements. This period shall not ve unreasonable.

B. Access Support Payments

- (1) Grantee shall provide the Parish/Municipality with an annual grant for government access support in the amount of one percent (1%) of gross revenues, or the maximum allowed by federal law, payable quarterly on the same schedule as franchise fee payments providing the Parish/Municipality is, or shall be within a reasonable period, operating a PEG channel.

D. Interconnection.

- (1) Grantee shall cooperate with any other cable providers in the Parish/Municipality and the surrounding area to make feeds available to and/or receive feeds from such other cable systems at mutually agreeable locations, where economically and technologically feasible, in order to facilitate the receipt or distribution of programming for the PEG Access Facilities programming on a local and regional basis.
- (2) Grantee and Parish/Municipality shall jointly be responsible for coordination of technical arrangements with other cable service providers - in the Parish/Municipality and the surroundings area to implement interconnections pursuant to this Subsection. The

Parish/Municipality shall utilize its best efforts to facilitate such interconnection.

- E. Access Channel Designations. Grantee acknowledges and agrees that unless otherwise agreed in writing, the Access Channels activated and used by the Parish/Municipality will have the same Channel number designations as those that are currently utilized within the Parish/Municipality as of the Effective Date of this Franchise Ordinance.
- F. Public, Educational and Governmental Access Rules and Procedures. The use of Access Channels shall be in accordance with and subject to the rules and procedures adopted by the Grantee. Parish/Municipality or Parish/Municipality designated administrator as authorized under the Cable Act.
- G. Assistance with Soliciting Contributions Once per year, if requested by the Parish/Municipality, the Grantee shall provide its Subscribers an Access promotion.
- H. Ad Avail Grants. In order to promote Access Programming, Grantee will provide the Parish/Municipality ad avails each, rear at Grantee's lowest unit cost. The ad avails will be on a run of schedule basis and shall appear on Channels used by Grantee for local advertising.
- I. Technical Quality. Grantee shall maintain all Access channels, including interconnected Access channels, at the same level of technical quality and reliability required by the FCC's rules for residential cable television Subscribers.
- J. Proof of Performance Testing. To ensure high quality service on Access Channels, copies of results of FCC proof of performance testing of the Cable System shall be made available to the Parish/Municipality throughout the term of this Franchise upon request. Included in such proof of performance testing, to the extent feasible and subject to FCC Rules and regulations, Grantee will designate Cable System taps corresponding to each of the public buildings where programming is originated
- K. Change in Technology. Before Grantee makes any significant change in the Cable System and related equipment and facilities or inn its signal delivery technology Grantee will consult with the Parish/Municipality to determine the effect of such change upon the transmission or signal quality of PEG Access services or programming, and shall consider alternatives that are designed to minimize any adverse effects.
- L. Public Service Announcements. Grantee shall provide up to fifty 30-second to one-minute public service announcement spots to

Parish/Municipality government each month at no charge. Public service announcements shall promote public health, welfare and/or safe

3.10 Drops To Public Buildings.

A. Grantee shall provide installation and maintenance of at least one (1) cable drop, and one (1) outlet, providing monthly Expanded Basic table service, without charge, to each existing and new K through 12 grade schools and public buildings, including each library, police, sheriff and fire station, emergency preparedness office, American Red Cross Office, and public hospitals located within parish/Municipality. Drops and outlets that are in addition to the one free Drop and outlet required by this section shall be provided by Grantee at the cost of Grantee's time and material. Drops shall not exceed three hundred (300) feet from existing cable service. The extra installation cost of drops in excess of three hundred (300) feet shall be born by the institution connecting to the cable service. The service shall, however, be provided at no charge once installation is complete. Alternatively, at an institution's request, the institution may add outlets at its own expense, as long as such installation meets the Grantee's standards, which shall be made readily available to any public entity upon request. Additional outlets and services to Public Buildings are subject to the applicable commercial rate.

B. All such Cable Service outlets shall not be utilized for commercial purposes. The Parish/Municipality shall take reasonable precautions to prevent any use of the Grantee's Cable System in any inappropriate manner or that may result in loss or damage to the System. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, other than for those claims arising out of improper installation or faulty equipment.

3.11 Emergency Use. The Grantee shall comply with the applicable rules and regulations of the FCC regarding emergency alert systems (47 C.F.R. Part 11). If the Grantee provides an Emergency Alert System ("EAS"), then the Franchising Authority shall permit only appropriately trained and authorized Persons to berate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Grantee, its employees, officers and assigns harmless from any claims arising out of the Franchising Authority's use of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

3.12 Discrimination Prohibited. Grantee shall not, because of age race, greed, color, national origin, or sex unlawfully (i) refuse to hire or employ, (ii) bar or discharge

from employment, or (iii) discriminate against any person in terms, conditions or privileges of employment.

- 3.13 Customer Service Standards. Grantee shall, at minimum, comply with the FCC Customer Service Standards (47 C.F.R. §76.309). as they may from time to time be amended or revised

#### SECTION 4

#### Regulation by the Franchising Authority

##### 4.1 Franchise Fee.

- A. The Grantee shall pay to the Franchising Authority a franchise fee equal to five percent (5%) of Gross Revenues (as defined in Section 1.1 of this Franchise) received by the Grantee from the operation of the Cable System to provide Cable Services on an annual basis. In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due and payable on or before the thirtieth (30<sup>th</sup>) day of the month next following the month for which the franchise fee is due. The franchise fee payable hereunder shall be paid and received in lieu of any tax, license, charge, fee or any other character of charge for use and occupancy of the Public Ways. Each payment shall be accompanied by a brief report from a representative of the Grantee showing the basis for the computation.
- B. Late Fees. In the event that the Company shall fail to pay a sum of money for which it is obligated under this Agreement within thirty (30) days of the receipt of written demand therefor, the obligation shall be deemed delinquent; and, in addition to legal interest accruing from the date of delinquency, the Company shall pay a penalty of one and one-half (1 1/2%) percent of the principal sum due.

##### 4.2 Rates and Charges.

- A. The Franchising Authority may regulate rates for the provision of Basic Cable and equipment by Grantee consistence with the authority granted to the Franchising Authority by applicable law whether or not Grantee meets the definition of Cable Provider.
- B. The Grantee may charge a fee for the recovery of costs incurred to collect late payments for Cable Services if the following conditions have been met:
- (1) The Subscriber's bill sets forth when the fee will be assessed;

- (2) The fee is not assessed any earlier than the tenth (10th) day after the due date as reflected on the Subscriber's bill; and
- (3) The bill sets forth the amount of the fee.

Any fee imposed by the Grantee that does not exceed \$5.00 in 2007 dollars (as adjusted annually for inflation based on the Consumer Price Index) shall be presumed reasonable to cover the costs associated with the delinquent payment. The assessment of a fee pursuant to this Section shall not be construed as a limitation on the Grantee's right to charge any other lawful fees or charges.

#### 4.3 Renewal of Franchise.

- A. The Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as, the past performance of the Grantee under the then-current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of the Franchise prior to expiration of its term.
- B. Notwithstanding anything to the contrary set forth in this Section, the Grantee and the Franchising Authority agree that at any time during the term of the then-current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then-current Franchise and the Franchising Authority may grant a renewal thereof.
- C. The Grantee and the Franchising Authority consider the terms set forth in this Section to be consistent with the express provisions of Section 626 of the Cable Act.

#### 4.4 Conditions of Sale.

- A. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.
- B. The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given a reasonable opportunity, which shall be at least 12 months, to

effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during such period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System that is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during such period shall not be deemed to be a waiver, nor an extinguishment, of any rights of either the Franchising Authority or the Grantee.

- 4.5 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. Grantee shall notify Franchising Authority within thirty (30) days of the transfer of the Franchise, or transfer of Control of Grantee, to any entity controlling, controlled by, or under common control with Grantee. Such notice shall include a description of (1) the nature of the transaction; (2) the identity of the transferee; (3) the names and addresses of any new local management personnel; and (4) an acknowledgment that the transferee is bound by the terms and conditions of this Franchise. Grantee also shall provide new or updated copies of any and all filings required herein (e.g., certificates of insurance, bonds, etc.) in the name of the new entity. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness. Within thirty (30) days after receiving the request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

## SECTION 5 Compliance and Monitoring

- 5.1 Books and Records. The Grantee agrees that the Franchising Authority, upon thirty (30) days prior written notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the Section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority.

Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than ten (10) years. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

## SECTION 6 Insurance and Indemnification

- 6.1 Insurance Requirements. The Grantee shall maintain in full force and effect, at no cost and expense to the Franchising Authority, during the term of the Franchise, commercial general liability insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Franchising Authority shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a certificate of insurance showing evidence of the coverage required by this Section.
- 6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against (i) any liability for damages that arise out of the Grantee's construction, operation, or maintenance of its Cable System and (ii) any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a written claim or action pursuant to this Section. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority. The Grantee shall have the right to participate in or assume control of the defense of any such claim or action, including without limitation the right to select counsel. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

SECTION 7  
Enforcement and Termination of Franchise

- 7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority shall informally discuss the matter with the Grantee. If these discussions do not lead to resolution of the issue, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.
- 7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1: (a) to respond to the Franchising Authority, contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.
- 7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 7.2(c) above, if it intends to continue its investigation into the alleged default, then the Franchising Authority shall schedule a public hearing to investigate the default. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which notice shall specify the time, place and purpose of such hearing. At such hearing, the Grantee shall be provided a full and fair opportunity to be heard.
- 7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in Section 7.3, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:
- A. seek specific performance of any provision that reasonably lends itself to such remedy, as an alternative to damages; or
  - B. Commence an action at law for monetary damages or seek other equitable relief; or
  - C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 7.5.
- 7.5 Revocation.
- A. Should the Franchising Authority seek to revoke the Franchise after complying with the procedures set forth in Sections 7.1 through 7.4 above,

the Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority 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 revoke the Franchise.

- B. At the designated hearing, the Franchising Authority shall give the Grantee a full and fair opportunity to state its position on the matter, including without limitation the right to introduce evidence, to require the production of evidence, to question witnesses, and to obtain a transcript of the proceeding, after which the Franchising Authority shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de novo". Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.
- C. The Franchising Authority may, at its sole discretion, take any lawful action that it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

#### 7.6 Force Majeure.

- A. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other circumstances reasonably beyond the Grantee's ability to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their own utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.
- B. Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures

or revocation of the Franchise for so-called "technical" breach(es) or violations) of the Franchise, which shall include but are not limited to the following: (i) in instances or for matters where a violation or a breach by the Grantee of the Franchise was good faith error that resulted in no or minimal negative impact on the customers within the Service Area; or (ii) where strict performance with the terms of the Franchise would result in practical difficulties and hardship to the Grantee that outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

**SECTION 8**  
**Miscellaneous Provisions**

- 8.1 **Actions of Parties.** In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party 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.
  
- 8.2 **Entire Agreement.** This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority. Amendments to this Franchise shall be mutually agreed to in writing by the parties.
  
- 8.3 **Notice.** Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: (a) upon receipt when hand delivered with receipt/acknowledgment, or (b) upon receipt when sent by certified, registered mail, postage prepaid.

The notices or responses to the Franchising Authority shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The notices or responses to the Grantee shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in accordance with the provisions hereof.

8.4 Descriptive Headings. The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.5 Severability. If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

8.6 Effective Date. The effective date of this Franchise is \_\_\_\_\_, 20\_\_, pursuant to the provisions of applicable law. This Franchise shall expire on \_\_\_\_\_, 20\_\_, unless extended pursuant to Section 4.4 above.

Thus done, read, and signed, pursuant to the authority granted by the \_\_\_\_\_, and subject to applicable federal, state and local law on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

FRANCHISING AUTHORITY:

ATTEST

\_\_\_\_\_  
Clerk

By: \_\_\_\_\_  
Name:  
Title:

GRANTEE

ATTEST:

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title: