

Cable Franchise Agreement  
by and between  
Loudoun County, Virginia  
and  
Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC

**Dated: July 12, 2023**

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THIS CABLE FRANCHISE AGREEMENT (the "Franchise" or "Agreement") is entered into by and between Loudoun County, a duly organized county under the applicable laws of the Commonwealth of Virginia (the "County") and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC (the "Franchisee").

WHEREAS, Franchisee has requested and the County wishes to grant Franchisee a nonexclusive franchise to construct, install, maintain, extend, and operate a Cable System in the Franchise Area as designated in this Franchise;

WHEREAS, the County is a "franchising authority" in accordance with Title VI of the Communications Act (*see* 47 U.S.C. §522(10)) and is authorized to grant one or more nonexclusive cable franchises pursuant to the Code of Virginia, Va. Code Ann. § 15.2- 2108.20(A) and the Loudoun County Ordinance on Cable Television Franchising and Regulation, Chapter 805 of the Loudoun County Codified Ordinances ("Cable Ordinance");

WHEREAS, the County has identified the future cable-related needs and interests of the County and its citizens, has considered the financial, technical, and legal qualifications of Franchisee, and has determined that Franchisee's plans for operation of its Cable System are adequate, in a full public proceeding affording due process to all parties;

WHEREAS, the County has found Franchisee to be financially, technically, and legally qualified to operate the Cable System;

WHEREAS, the County has determined that in accordance with the provisions of the Cable Ordinance the grant of a nonexclusive renewal franchise to Franchisee is consistent with the public interest; and,

WHEREAS, the County and Franchisee have reached agreement on the terms and conditions set forth herein and the parties have agreed to be bound by those terms and conditions.

NOW, THEREFORE, in consideration of the County's grant of a renewal franchise to Franchisee, Franchisee's promise to provide Cable Service to residents of the County pursuant to and consistent with the Cable Ordinance, pursuant to the terms and conditions set forth herein, the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged,

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

## **1. DEFINITIONS**

Except as otherwise provided herein, the definitions and word usages set forth in the Cable Ordinance are incorporated herein and shall apply in this Agreement. Unless otherwise expressly stated, words not defined herein or in the Cable Ordinance shall be given the meaning set forth in Title 47 of the United States Code, as amended, and, if not defined therein, the words shall be given their common and ordinary meaning. In addition, for capitalized terms, phrases, words, and their derivations used in this Agreement, the following definitions shall apply:

1.1. *Access Channel*: A video Channel, which Franchisee shall make available to the County without charge for non-commercial public, educational, or governmental (PEG) use for the transmission of PEG access video programming as directed by the County.

1.2. *Affiliate*: Any Person who, directly or indirectly, owns or Controls, is owned or Controlled by, or is under common ownership or Control with the Franchisee.

1.3. *Basic Service*: The lowest service tier, which includes the retransmission of local television broadcast signals as well as the PEG Channels required by this Franchise.

1.4. *Cable Ordinance*: Loudoun County Ordinance on Cable Television Franchising and Regulation, Chapter 805 of the Loudoun County Codified Ordinance, to the extent authorized under and consistent with federal and state law.

1.5. *Cable Service* or *Cable Services*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(6).

1.6. *Cable System* or *System*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(7), meaning Franchisee's 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 the Franchise Area.

1.7. *Channel*: Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4).

1.8. *Communications Act*: The Communications Act of 1934, as amended.

1.9. *Control*: The ability to exercise *de facto* or *de jure* control over day-to-day policies and operations or the management of corporate affairs.

1.10. *County*: Loudoun County, organized and existing under the laws of the Commonwealth of Virginia, and the area within its territorial limits.

1.11. *Dwelling Unit*: Any building or structure, or portion thereof, that has independent living quarters, including provisions for cooking, sanitation, and sleeping, and that is designed for residential occupancy.

1.12. *Educational Access Channel*: An Access Channel available for the use solely of the local public schools or institutions of higher education in the Franchise Area for non-commercial educational use.

1.13. *FCC*: The United States Federal Communications Commission, or successor governmental entity thereto.

1.14. *Force Majeure*: An event or events reasonably beyond the ability of Franchisee to anticipate and control. This includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions,

epidemics, pandemics, public health emergencies, hurricanes, tornadoes, government actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which Franchisee's facilities are attached or to be attached or conduits in which the Franchisee's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

1.15. *Franchise Area*: The area within the territorial limits of the County, but therein excluding areas of incorporated towns.

1.16. *Franchisee*: Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC, and its lawful and permitted successors, assigns, and transferees.

1.17. *Government Access Channel*: An Access Channel available for use solely by the County for non-commercial government use.

1.18. *Gross Revenue*: All amounts which are derived, directly or indirectly, by Franchisee from the operation of the Cable System to provide Cable Service in the Franchise Area. The Franchisee shall maintain its books in accordance with generally accepted accounting principles ("GAAP"). Gross Revenue shall include, without limitation, the following:

1.18.1. Any Cable Service revenue received from Subscribers, including but not limited to revenue for Basic Service, expanded basic service, other tier services, additional outlets, and pay-per-view service, or for the distribution of any other Cable Service, as defined by federal law, over the System.

1.18.2. Revenue received from Subscribers for Cable Service installation, change in service and reconnection charges and similar fees;

1.18.3. Revenue received from Subscribers for converters, remote controls or other equipment leased or rented to Subscribers in connection with the delivery of Cable Services to such Subscribers;

1.18.4. Revenue received from Subscribers for service charges and late fees attributable to delinquent Cable Service accounts;

1.18.5. Revenue received from third parties, including advertising revenue, home shopping commissions, leased access payments (subject to subsection 1.17.12 below), and studio and other facilities or equipment rentals. In computing Gross Revenue from sources other than Franchisee's Subscribers, including without limitation, revenue derived from the sale of advertising, home shopping services, guide sales, the lease of channel capacity on its Cable System, or any other such revenues derived from the operation of the Cable System, the amount of such revenues attributable or allocated to Franchisee in accordance with GAAP shall be the aggregate revenue received by Franchisee from such sources during the period in question multiplied by a fraction, the numerator of which shall be the number of Franchisee's Subscribers in the Franchise Area as of the last day of such period and the denominator of which shall be the number of regional or national Subscribers as of the last day of such period. For example, Franchisee sells two ads: Ad "A" is broadcast nationwide; Ad "B" is broadcast only within Virginia. Franchisee has 100 Subscribers in the Franchise Area, 500 Subscribers in Virginia, and

1000 Subscribers nationwide. Gross Revenue as to the Franchise Area from Ad "A" is 10% of Franchisee's revenue therefrom. Gross Revenue as to the Franchise Area from Ad "B" is 20% of Franchisee's revenue therefrom.

I. I 8.6. Fees collected from Subscribers for the payment of cable franchise fees to be paid to the County; such cable franchise fees shall not be deemed to be taxes and are not deducted from the total gross revenue figure on which Franchise fees are paid.

Provided, however, that Gross Revenue shall not include:

1.18.7. Revenues received by any Affiliate or other Person from the Franchisee in exchange for supplying goods or services used by Franchisee to provide Cable Service over the Cable System;

1.18.8. Bad debts written off by Franchisee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected;

1.18.9. Refunds, rebates, or discounts made to Subscribers or other third parties;

1.18.10. Any revenues from services classified as Non-Cable Services under federal or state law;

1.18.11. Any revenue of Franchisee or any other Person which is received directly from the sale of merchandise through any Cable Service distributed over the Cable System, except for that portion of such revenue which represents or can be attributed to a Subscriber fee or a payment for the use of the Cable System for the sale of such merchandise (such as the home shopping commission provided for in Section 1.17.5 above), which portion shall be included in Gross Revenue;

1.18.12. The sale of Cable Services on the Cable System for resale in which the purchaser is required to collect cable franchise fees from purchaser's customer;

1.18.13. The provision of Cable Services to public institutions as required or permitted herein;

1.18.14. Any tax of general applicability imposed upon Franchisee or upon Subscribers by a city, state, federal or any other governmental entity and required to be collected by Franchisee and remitted to the taxing entity (including, but not limited to, sales/use tax, gross receipts tax, excise tax, utility users tax, public service tax, communication taxes, and non-cable franchise fees), subject to applicable law;

1.18.15. Any foregone revenue which Franchisee chooses not to receive in exchange for its provision of free or reduced cost cable or other communications services to any Person, including without limitation, employees of Franchisee; provided, however, that such foregone revenue which Franchisee chooses not to receive in exchange for trades, barter, services, or other items of value shall be included in Gross Revenue;

1.18.16. Sales of capital assets or sales of surplus equipment;

1.18.17. Program launch fees;

1.18.18. Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing; and

1.18.19. Any fees or charges collected from Subscribers or other third parties for PEG Grant or INET payments

1.19. *High-Definition (HD)*: A display format for digital television transmissions with video transmitted in a 16:9 aspect ratio with a resolution of up to 1080i or such higher resolution as determined by the Franchisee in its sole discretion.

1.20. *Information Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(24).

1.21. *Non-Cable Services*: Any service that does not constitute the provision of Cable Service, as defined under Section 602 of the Communications Act, 47 U.S.C. § 522(6).

1.22. *Normal Business Hours*: Those hours during which most similar businesses in the community 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.

1.23. *Normal Operating Conditions*: Those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or rebuild of the Cable System. See 47 C.F.R. § 76.309(c)(4)(ii).

1.24. *PEG*: Public, educational, and governmental.

1.25. *Person*: An individual, sole proprietorship, partnership, association, joint stock company, trust, corporation, governmental entity, or any other form of entity or organization.

1.26. *Public Rights-of-Way*: The surface, the air space above the surface, and the area below the surface of any public street, road, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, easement, or similar property in which the County now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining, a Cable System. No reference herein, or in any franchise agreement, to the "Public Rights-of-Way" shall be deemed to be a representation or guarantee by the County that its interest or other right of control to use such property is sufficient to permit its use for such purposes, and a Franchisee shall be deemed to gain only those rights to use as are properly in the County and as the County may have the undisputed right and power to give. Public Rights-of-Way do not include the

airwaves above a right-of-way with regard to cellular or other non-wire communications or broadcast services.

1.27. *Service Interruption:* The loss of picture or sound on one or more cable channels.

1.28. *Subscriber:* A Person who lawfully receives Cable Service delivered over Cable System with Franchisee's express permission.

1.29. *Telecommunication Services:* Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(53).

1.30. *Title VI:* Title VI of the Communications Act.

1.31. *Transfer of the Franchise:* Any transaction in which (i) ownership of fifty percent (50%) of the voting interest of Franchisee is acquired in any transaction or series of transactions, by a Person or group of Persons acting in concert, none of whom already owns five percent (5%) or more of the Franchisee, singularly or collectively, or (ii) control of more than fifty percent (50%) of the right of control of Franchisee is acquired in any transaction or series of transactions, by a person or a group of persons acting in concert, none of whom already controls five percent (5%) or more of such right of control, singularly or collectively, or (iii) there is any other change which accomplishes a change in actual working or de facto ownership of control of the Franchisee by minor interest holders in whatever manner exercised.

1.32. *Unserved:* A Dwelling Unit not currently receiving Cable Service from Franchisee and which requires a Cable System plant extension in order to provide such Cable Service.

1.33. *Video Programming:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(20).

## **2. GRANT OF AUTHORITY<sup>1</sup> LIMITS AND RESERVATIONS**

2.1. *Grant of Authority:* Subject to the terms and conditions of this Agreement and the Cable Ordinance, the County hereby grants the Franchisee the right to own, construct, operate, and maintain a Cable System along the Public Rights-of-Way within the Franchise Area, in order to provide Cable Service. Nothing in this Agreement shall be construed to prohibit the Franchisee from offering any service over the Cable System that Franchisee is authorized to provide under Federal, State, or local law without additional authority from the County. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Agreement.

2.2. *Term:* This Franchise Agreement shall become effective on 1/14/2023. The term of this Franchise Agreement shall be ten (10) years from the Effective Date unless the Franchise is earlier revoked as provided herein.

2.3. *Grant Not Exclusive:* The Franchise and the right it grants to use and occupy the Public Rights-of-Way to provide Cable Services shall not be exclusive, and the County



reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use themselves, at any time during the term of this Franchise Agreement.

2.3.1. If the County grants a competitive franchise which, in the reasonable opinion of the Franchisee, contains more favorable or less burdensome terms or conditions than this Franchise Agreement, the Franchisee may notify the County that it wishes to renegotiate certain specified provisions of the Franchise Agreement. Within thirty (30) days after the Franchisee provides such notice, both parties must begin to negotiate in good faith, and either party to this Franchise Agreement may request changes to amend this Agreement so that neither the Franchisee's Franchise Agreement nor the authorization of the competitor contains material terms that are more favorable or less burdensome than the other. For purposes of this section, the franchise, must be viewed as a whole, not on a provision-by-provision basis, and must be compared with due regard for the circumstances existing at the time each franchise was granted.

2.3.2. In the event an application for a new cable television franchise is filed with the County proposing to serve the Franchise Area, in whole or in part, the County shall serve or require to be served a copy of such application upon Franchisee by registered or certified mail or via nationally recognized overnight courier service.

2.3.3. In the event that a cable operator provides Cable Service to residents of the County under a franchise, or other authorization, issued by the state or federal government that is unavailable to the Franchisee, the Franchisee shall have a right to request Franchise amendments that relieve the Franchisee of regulatory burdens that create a competitive disadvantage to the Franchisee. In requesting amendments, the Franchisee shall file a petition seeking to amend the Franchise. Such petition shall: (1) indicate the presence of a non-franchised competitor or one that has a state or federal franchise; (2) identify the basis for Franchisee's belief that certain provisions of the Franchise place Franchisee at a competitive disadvantage; and (3) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. The Board of Supervisors shall hold a public hearing to evaluate the petition and hear the views of interested parties. The County shall not unreasonably withhold consent to the Franchisee's petition.

2.4. *Franchise Agreement Subject to Federal Law:* Notwithstanding any provision to the contrary herein, this Franchise Agreement is subject to and shall be governed by all applicable provisions of federal law as it may be amended, including but not limited to the Communications Act.

## 2.5. *No Waiver:*

2.5.1. The failure of the County on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement or the Cable Ordinance shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the County, nor to excuse Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

2.5.2. The failure of the Franchisee on one or more occasions to exercise a right under this Franchise Agreement or the Cable Ordinance, or to require performance under this Franchise Agreement, shall not be deemed to constitute a waiver of such right or of performance of this Agreement, nor shall it excuse the County from performance, unless such right or performance has been specifically waived in writing.

*2.6. Construction of Franchise Agreement:*

2.6.1. The provisions of this Franchise Agreement shall be liberally construed to effectuate their objectives. In the event of a conflict between the Cable Ordinance and this Agreement, pursuant to Section 805.17(a) of the Cable Ordinance and by adoption of this Agreement by resolution, the conflicting provision of the Cable Ordinance is waived and this Agreement shall prevail.

2.6.2. Nothing herein shall be construed to limit the scope or applicability of Section 625 Communications Act, 47 U.S.C. § 545.

2.6.3. Should any change to state law have the lawful effect of materially altering the terms and conditions of this Franchise, then the parties shall modify this Franchise Agreement to the mutual satisfaction of both parties to ameliorate the negative effects on the Franchisee of the material alteration. If the parties cannot reach agreement on the above-referenced modification to the Franchise Agreement, then Franchisee may terminate this Agreement without further obligation to the County or, the parties may agree to submit the matter to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association.

2.7. *Police Powers:* Nothing in the Franchise Agreement shall be construed to prohibit the reasonable, necessary and lawful exercise of the County's police powers. However, if the reasonable, necessary and lawful exercise of the County's police power results in any material alteration of the terms and conditions of this Franchise, then the parties shall modify this Franchise Agreement to the mutual satisfaction of both parties to ameliorate the negative effects on the Franchisee of the material alteration. If the parties cannot reach agreement on the above-referenced modification to the Franchise Agreement, then Franchisee may terminate this Agreement without further obligation to the County or, the parties may agree to submit the matter to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Notice to terminate under this Section shall be given to the County in writing, with such termination to take effect no sooner than one hundred and twenty (120) days after giving such notice. Franchisee shall also be required to give its then current Subscribers not less than ninety (90) days prior written notice of its intent to cease Cable Service operations.

2.8. *Acceptance of Franchise:* Franchisee hereby accepts the Franchise, warrants and represents that it has examined this Agreement and all of the provisions of the Cable Ordinance, subject to Sections 2.6 and 2.7 above, and accepts and agrees to be bound by all of the provisions contained in the Cable Ordinance and this Agreement.

2.9. *Nature of Authority:* The authority granted herein, subject to the terms and conditions of this Agreement and Cable Ordinance, shall be known as the "Franchise."

## 2.10. *Commitments by Franchisee*

2.10.1. The Franchisee agrees to use its good faith efforts, at its own expense, actively and diligently to conduct the prosecution of all applications to the FCC, other governmental regulatory bodies or private parties necessary to permit the continuation and extension of its operations in accordance with this Agreement and the Cable Ordinance. Franchisee is not required to extend its System or construct plant within private rights-of-way for which Franchisee is unable to secure easements or other rights of access on reasonable terms and conditions after good faith, active and diligent efforts at application for such agreements or rights of access.

2.10.2. The Franchisee shall provide notice to the County of any applications for any waivers, exceptions, or declaratory rulings from the FCC or any other federal or state regulatory agency specifically regarding the Franchise with the County.

## 3. **PROVISION OF CABLE SERVICE**

### 3.1. *Service Area:*

3.1.1. The Franchisee shall extend the Cable System whenever the Franchisee receives a request for Cable Service from a potential Subscriber and there is an average of at least twenty (20) Dwelling Units per mile along a line extension route to the Subscriber's residence, measured in strand footage along the Public Right-of-Way. The distance shall be measured beginning at the nearest technically feasible point of the then-existing Cable System that is closest to the address requesting service (the "Starting Point"), and ending at the point on the Public Right-of-Way nearest to the point where the requesting potential Subscriber's route of vehicular ingress or egress contacts the Public Right-of-Way (the "End Point"). For purposes of this Section 3, a house, apartment unit, or other residence shall only be counted as a "Dwelling Unit" if it is Unserved, occupied, and the point of cable access is located within three hundred (300) feet drop distance of the Franchisee's distribution cable in the Public Right-of- Way.

3.1.2. The Franchisee shall extend its Cable System to potential Subscribers at no cost to said potential Subscribers other than the Franchisee's standard charge for a standard service drop (the "Standard Installation Fee"), provided that, if the point at which electric utility facilities enter the building (the "Entry Point") is located more than three hundred (300) feet drop distance from the Tap installed to serve that Subscriber, the Franchisee may charge an installation fee equal to the Standard Installation Fee, plus the actual cost of construction of Cable System facilities in excess of the 300-foot distance. The Franchisee may require such cost to be paid in advance of beginning any project. For purposes of this section, a "Tap" is a passive device located on a pole or in a pedestal in the Public Right of Way that is installed on the distribution cable and that is the connection point for the cable drop to the Subscriber premises.

3.1.3. **Cost Sharing:** The Cable System shall be further extended to all areas in the Franchise Area that do not meet the requirements of Section 3.1.1 above, upon the

request of one or more Dwelling Unit owners in such areas, based upon the following cost calculation:

3.1.3.1. The cost of extending the Cable System to serve any such area shall be calculated by (i) dividing the capital cost of extending the Cable System to pass each of the requesting Unserved Dwelling Unit owners by the number of Unserved Dwelling Units requesting Cable Service in such area, and (ii) subtracting the average cost of extending Cable Service per mile to Unserved Dwelling Units that meet the density requirement specified in Section 3.1.1 above. The resulting cost shall equal the per-address contribution to be paid by each Dwelling Unit owner requesting extension of Cable Service in that particular area of the Franchise Area. The Franchisee may require that the per Dwelling Unit contribution be paid in advance of construction. The Franchisee shall not be obligated to proceed with any cost estimate older than ninety (90) days.

3.1.3.2. The applicable formula shall be:

$$\frac{\$. - CA}{LE - P} - SC$$

Where:

3.1.3.2.1. C equals the cost of construction of new plant from the Starting Point, as defined in Section 3.1.1;

3.1.3.2.2. LE equals the number of Unserved Dwelling Units requesting Cable Service in the proposed line extension area, who subsequently pay a contribution in aid;

3.1.3.2.3. CA equals the average cost of construction per mile;

3.1.3.2.4. P equals 20; and

3.1.3.2.5. SC equals the per Unserved Dwelling Unit contribution in aid of construction in the proposed line extension area, to be paid by the Dwelling Unit owner.

### 3.2. *Line Extension Procedures:*

3.2.1. Time for Completing Extension: Any potential Subscriber located in an area of the Franchise Area without Cable Service may request such Cable Service from the Franchisee. In areas meeting the requirements of Section 3.1.1 above, the Franchisee shall extend Cable Service to each requesting potential Subscriber within one hundred eighty (180) days of confirming that the density requirement has been met and receiving all necessary permits, easements, and pole attachment licenses, subject to Force Majeure (including the performance of make-ready work), and any advance payments required under Section 3.1.2. The Franchisee shall expeditiously seek all necessary permits and pole attachment licenses, and, subject to Section 8.1, shall comply with all reasonable requests from the County for information

regarding the status of any applications for such permits and licenses, and for copies of any documentation related to such applications.

3.2.2. Survey in Low Density Areas: If the Franchisee determines that a request for Cable Service does not meet the standard of twenty (20) occupied Dwelling Units per strand mile, under Section 3.1.1, and a person or persons requesting service wish to pursue a contribution in aid of construction, the Franchisee, shall, within sixty (60) days following the request for Cable Service, conduct a survey to determine the number of Dwelling Units and businesses in the immediate area and shall inform the person or persons requesting service of the possible contribution in aid of construction (see Section 3.1.2 above) that will be charged. Based on the location requesting service, surveys or estimates may be completed by desktop, walkout, or other means, at Franchisee's discretion. The survey shall also be provided to the County upon request of the person requesting service. The County may request additional information reasonably related to any such survey or estimate, including average cost of construction calculations, the location of the Starting Point (as defined in Section 3.1.1), the location of the End Point (as defined in Section 3.1.1), location and number of Dwelling Units passed, and area maps showing the extension route. The Franchisee shall provide such information to the County within fifteen (15) business days of the County's request. Based on the information provided, if the County reasonably believes that the request for Cable Service meets the standard of twenty (20) occupied Dwelling units per strand mile, under Section 3.1.1, a walk-out of the proposed request shall be provided at the County's request. The Franchisee shall also provide the person requesting service with a copy of the Franchisee's measurements and calculations. In addition, the County may request such a survey and the additional information described above for any location in the Franchise Area, in its sole discretion; the Franchisee shall comply with any such request by the County within thirty (30) days. All surveys or estimates, and the information included therewith, are valid for ninety (90) days. The Franchisee shall apply for all necessary permits and pole attachment licenses within ninety (90) days of receiving the contribution in aid of construction from all participating Dwelling Units. Cable Service(s) shall be made available and fully activated to all requesting Dwelling Units which have made a contribution in aid of construction within one hundred eighty (180) days of receipt of all necessary permits and pole attachment licenses by the Licensee, subject to Force Majeure (including the performance of make-ready work). The Franchisee shall expeditiously seek all necessary permits and pole attachment licenses, and subject to Section 8.1, shall comply with all reasonable written requests from the County for information regarding the status of any applications for such permits and licenses, and for copies of any documentation related to such applications.

3.2.3. Long Drop Cost Estimate; Trenching: If the Entry Point serving a Dwelling Unit or business is located more than three hundred (300) feet from the Tap, upon written request from the Dwelling Unit or business owner, the Franchisee shall provide the technical specifications required to be met for the Dwelling Unit or business owner to dig his own trench and install appropriate conduit, consistent with the technical specifications of the Franchisee. If the owner elects to conduct trenching and install appropriate conduit at the owner's expense, the Franchisee's cost estimate shall be modified accordingly. The owner shall not install other facilities in the conduit, or permit any third party to do so, without first notifying Comcast in writing, and ensuring at all times that the presence of such facilities in the conduit complies with all applicable safety and technical code requirements. The Franchisee shall not be responsible for the maintenance, repair, or replacement of such conduit.

3.3. *Availability of Cable Service:* Franchisee shall make Cable Service available to all residential Dwelling Units within the Service Area in conformance with Sections 3.1 and 3.2, and Franchisee shall not discriminate between or among any individuals in the availability of Cable Service. The Franchisee may make Cable Service available to any commercial establishment in the Franchise Area that requests such service, provided that each such establishment enters into a separately negotiated contract with the Franchisee.

3.4. *Cable Service to Public Buildings:* Subject to Section 6.6, Franchisee shall provide without charge within the Franchise Area one service outlet activated for Basic Service to each existing public building listed in Exhibit A. During the term of this Agreement, the County may, subject to the provisions of Sections 3.1 and 3.6, designate up to five (5) additional locations per year, subject to a maximum during the Term of twenty-five (25) additional locations, to receive one service outlet activated for Basic Service. Such additional locations may include public schools, public libraries, locations occupied by the Sheriffs Office, locations occupied by fire and rescue operations, and other locations occupied or used by the County government for public purposes. For all service outlets, if it is necessary to extend Franchisee's trunk or feeder lines more than three hundred (300) feet drop distance solely to provide service to any such school or public building, the County shall have the option either of paying Franchisee's direct costs for such extension in excess of three hundred (300) feet drop distance, or of releasing Franchisee from the obligation to provide service to such building. Furthermore, Franchisee shall be permitted to recover, from any public building owner entitled to the courtesy service described above, the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than three hundred (300) feet of drop cable; provided, however, that Franchisee shall not charge for the provision of Basic Service to the additional service outlets once installed. The County may extend its one outlet to additional locations throughout the building at its own installation expense without an additional monthly fee for Basic Service.

3.5. *Access to Private Property:* The Franchisee shall not be required to serve potential Subscribers in developments or buildings that are subject to exclusive arrangements with other providers or to which the Franchisee cannot obtain physical access under reasonable terms and conditions after good faith negotiations with the owner or manager of the property.

3.6. *Delays in Extension of Service:* The Franchisee shall not be excused from the timely performance of its obligations to provide Cable Service as provided for in Section 3.1 except for the following occurrences:

3.6.1. Any Force Majeure situation as defined herein;

3.6.2. Unreasonable failure or delay by the County to issue any permits or permission upon a timely and complete application submitted to the County by the Franchisee or its contractor representative and tender of any required permit fee, or any other unreasonable delay or failure to act by County as may be necessary for the Franchisee to provide Cable Service;

3.6.3. Not reasonably foreseeable federal and state governmental actions, inaction, or restrictions;

3.6.4. In developments or buildings that the Franchisee is unable to provide Cable Service for technical reasons or which require non-standard facilities which are not available on a commercially reasonable basis; and,

3.6.5. Delays beyond the control of the Franchisee that the Franchisee could not reasonably have anticipated regarding the availability, shipment and arrival of necessary equipment, cables, electronics, hardware or other materials, the availability of qualified labor to perform the necessary work, protracted underground excavation, third-party refusal to allow necessary access to poles or other rights-of-way facilities, easement availability, changes in contractors or contractor personnel or any other valid factor reasonably justified in writing to the County by the Franchisee.

3.7 *Subscriber Surveys*: Upon the request of the County, but not more than once every three (3) years during the term of the Franchise Agreement, the Franchisee shall conduct a Subscriber satisfaction survey pertaining to quality of service, which may be transmitted to Subscribers in the Franchisee's invoice for Cable Services. The results of such survey shall be provided to the County on a timely basis and in any case not less than three months after the survey has been distributed to the Subscribers.

3.8. *Performance Evaluation Sessions*: The County and the Franchisee shall hold scheduled performance evaluation sessions.

3.8.1. Performance evaluation sessions shall be held no more than once every three years during the Term of the Franchise. All such evaluation sessions shall be publicized in advance and be open to the public.

3.8.2. Performance evaluations may address any subject addressed by the franchise agreement. The Franchisee shall reasonably cooperate with the evaluation and shall, subject to the confidentiality provision of Section 9.2 of this Agreement, supply the County with all relevant information requested.

3.8.3. If the evaluation indicates noncompliance which could result in a violation of any of the material provisions of this Agreement, the County shall provide notice in accordance with, and Franchisee shall respond and/or cure in accordance with, Section 13 of this Agreement. In addition, if the parties believe that an amendment of this Agreement is necessary to address an issue identified in a performance review, either party may propose such an amendment and attempt to negotiate the identified changes with the other party. Any modification of this Franchise Agreement shall be in compliance with Section 14.10.

#### **4. SYSTEM OPERATION**

4.1. *Provision of Maps to the County*: The Franchisee shall provide to the County an up-to-date strand map of the Cable System, annually as part of the Annual Report.

4.2. *Additional Maps*: Upon thirty (30) days' written request, the Franchisee shall provide the County with additional strand maps as needed by the County, to assist the County in evaluating specific requests for extension from residents.

4.3. *Changes in Service:* Franchisee agrees to give the County Administrator thirty (30) days prior written notice of changes in the mix, or quality of the Cable Services. 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 notices required by this section may be provided electronically and by any other reasonable means (such as video scroll message) through which notifications are provided to Subscribers.

## **5. SYSTEM FACILITIES**

5.1. *System Characteristics:* Franchisee's Cable System shall meet or exceed the following requirements:

5.t.t. The System shall remain at least equivalent to a digital passband of 50-860 MHz.

5.t.2. The System shall be designed to be an active two-way plant for subscriber interaction, if any, required for selection or use of Cable Service. The digital offerings shall include some high definition Cable Service.

5.1.3. The Cable System shall be operated in a manner such that it is in compliance with FCC standards and requirements with respect to interference. The Cable System shall be operated in such a manner as to minimize interference with the reception of off- the-air signals by a Subscriber. The Franchisee shall ensure that signals carried by the Cable System, or originating outside the Cable System wires, cable, fibers, electronics and facilities, do not ingress or egress into or out of the Cable System in excess of FCC standards. In particular, the Franchisee shall not operate the Cable System in such a manner as to pose unwarranted interference with emergency radio services, aeronautical navigational frequencies, any airborne navigational reception in normal flight patterns, or any other type of wireless communications, pursuant to FCC regulations.

5.2. *Interconnection:* The Franchisee shall design its Cable System so that it may be interconnected with other cable systems and open video systems in the Franchise Area. Interconnection of systems may be made by direct cable connection, microwave link, satellite, or other appropriate methods.

5.3. *Standby Power:* The Franchisee shall provide standby power generating capacity at the headend and at all hubs. The Franchisee shall maintain motorized standby power generators capable of at least twenty-four (24) hours duration at the headend and all hubs, with automatic response systems to alert the Franchisee when commercial power is interrupted. Franchisee shall perform periodic testing of the headend generator in accordance with industry practice. The power supplies serving the distribution plant shall be capable of providing power to the Cable System for not less than two (2) hours, according to manufacturer specifications in the event of an electrical outage.

5.4. *Emergency Alert System:* Franchisee shall comply with the Emergency Alert System requirements of the FCC in order that emergency messages may be distributed over the System.



5.5. *Technical Standards:* The Cable System shall meet or exceed the applicable technical standards set forth in 47 C.F.R. § 76.601.

5.6. *Leased Access Channels:* The Franchisee shall provide Leased Access Channels as required by federal law.

5.7. *Relocation:* If Franchisee is required to protect, support, temporarily dislocate, temporarily or permanently remove or relocate its facilities under this Agreement or the Cable Ordinance through action of the County, the County shall follow Virginia Department of Transportation (VDOT) regulations as to the treatment of Franchisee in requiring Franchisee to protect, support, temporarily dislocate, temporarily or permanently remove or relocate its facilities. Franchisee shall be given reasonable notice and access to the public utilities' facilities at the time that such are impacted under this provision. In the event public or private funds are not available to Franchisee to cover the cost of a required change under this Section, Franchisee reserves the right to pass its costs, or incremental costs, through to its Subscribers in accordance with applicable law.

5.7.1. Franchisee shall comply with applicable VDOT regulations as to removing or relocating its equipment and facilities within VDOT controlled public rights-of-way.

5.8. *Undergrounding:* In the event the County develops an undergrounding project for which it plans to utilize County funds to reimburse utilities for the cost of said undergrounding, it shall notify Franchisee of such project to allow Franchisee to plan for relocation of its facilities contemporaneously with other utilities, and discuss with Franchisee how Franchisee may be eligible for such funding consistent with equitable principles and applicable law. In the event that such funds are not available or do not cover the entire cost of the relocation, Franchisee reserves the right to pass its costs, or in the case of partial reimbursement, its incremental cost, through to its Subscribers in accordance with applicable law.

## **6. PEG SERVICES**

### **6.1. PEG Set Aside**

6.1.1. In order to ensure universal availability of public, educational and government programming, within one (1) year of the Effective Date of this Agreement, Franchisee shall provide three (3) HD PEG Access Channels on the Basic Service Tier. The HD PEG Access Channels shall be designated as follows: one (1) dedicated County Government Access Channel, one (1) Government Access Channel dedicated to carrying programming related to towns within the County, and one (1) Education Access Channel dedicated to the Loudoun County Public Schools (collectively, "PEG Channels"). Franchisee shall maintain the current standard definition (SD) PEG Access Channels for one (1) year following the provision of the corresponding HD PEG Access Channels. After such time, the corresponding SD PEG Access Channels can be reclaimed by Franchisee. The SD PEG Access Channel dedicated to higher education shall be maintained for the term of the Franchise Agreement, provided, however, that if the George Mason University Channel, or another channel that is (i) operated by

a Virginia college or university; (ii) already carried on the Cable System, and (iii) designated by the County as an Educational Access Channel, is provided to the Franchisee in HD format, the Franchisee shall convert the corresponding existing SD PEG Access Channel to HD within six months of the date that the HD programming is provided. PEG Access Channels shall require no equipment other than the equipment used by a Subscriber to receive commercial Cable Services. The County acknowledges that if a Subscriber does not have the equipment necessary to receive commercial Cable Services in HD, the Subscriber will not be able to view PEG Channels in HD without obtaining the appropriate HD equipment and subscribing to a service package that includes HD service.

6.1.2. In addition to the PEG Access Channels in Section 6.1.1, upon one hundred eighty (180) days prior written notice, the County may request one additional HD PEG Access Channel when the cumulative time on all the existing Access Channels combined meets the following standards: at least eighty percent (80%) of the cumulative time of sixty (60) hours per week over a consecutive sixteen (16) week period has been programmed with original, non-character generated, non-commercial, non-duplicative locally produced PEG Access Channel programming. Any upgrade of current return lines or construction of new return lines required to provide the additional PEG Access Channel shall be at the Franchisee's expense. Franchisee reserves the right to pass its costs of upgrading or construction new return lines through to Subscribers in accordance with applicable law.

6.1.3. The SD PEG Access Channels shall be carried on the channel numbers assigned to them in Exhibit B. PEG Access Channel assignments shall be the same throughout the Franchise Area. Relocation of the PEG Access Channel assignments shall not take place any more frequently than every three (3) years unless it is deemed by the Franchisee to be reasonably necessary. If the Franchisee decides to relocate the channel designation for any of the PEG Access Channels, it must provide thirty (30) days prior written notice to the County, and shall reimburse the County, and/or PEG users, up to seven thousand dollars (\$7,000), for all reasonable documented out-of-pocket costs incurred by the County or other PEG users, including, but not limited to, technical costs, logo modifications, stationary, promotion, and advertising. Alternatively, the Franchisee may choose to supply such equipment itself, provided such equipment is satisfactory in the reasonable judgment of the County or the affected PEG users. The requirements herein shall not apply to PEG Access Channel relocations due to factors not within Franchisee's control, including changes in the channel designation of must carry Channels or other federal, state, or local requirements.

6.1.4. The County and PEG users shall transmit PEG Access Channel programming on the channels set aside by Franchisee, as listed in Exhibit B.

6.1.5. The term "PEG Access Return Line" refers to any of the fiber optic connections referred to in this Section 6.1.5. Franchisee shall maintain the PEG Access Return Lines existing as of the Effective Date of this Agreement, and any PEG Access Return Lines that are upgraded or replaced during the term of this Agreement. The existing PEG Access Return Lines are:

6151 A fiber optic connection between the County Administration Building at 1 Harrison Street SE in Leesburg to Comcast's Sterling

headend facility, which transports the programming of the County Government Access Channel and the Education Access Channel dedicated to the Loudoun County Public Schools;

6.1.5.2. A fiber optic connection between the Leesburg Town Government Center at 25 West Market Street in Leesburg to Comcast's Sterling headend facility.

In addition, if the origination point of either the Government Access Channel or the Educational Access Channel operated by the Loudoun County Public Schools is moved, the Franchisee shall provide and maintain a new PEG Access Return Line consisting of a fiber optic link, the necessary encoding and decoding equipment, and necessary coordination to allow for the transmission of PEG access video signals that meet FCC standards for picture quality as currently exist or may be amended, from the new location to the Cable System headend, within twelve (12) months after a written request from the County. Any upgrade of current PEG Access Return lines or construction of new PEG Access Return Lines shall be at the Franchisee's expense. Franchisee reserves the right to pass its costs of upgrading or construction new return lines through to Subscribers in accordance with applicable law. The PEG Access Return Lines shall interconnect with the facilities of the County, the Loudoun County Public Schools, or the Towns, as appropriate, at the corresponding PEG Access origination location. Additional fiber optic links, to support the Government Access Channel dedicated to carrying programming related to towns within the County, may be required under the terms of Franchisee's cable franchise agreement entered into with such towns. The Franchisee shall, without cost to the County, provide, install, and maintain in good working order the equipment necessary for transmitting the PEG Access Channel signals from the headend to Subscribers. Franchisee shall transmit the PEG Access Channel video signals to Subscribers without material degradation from the perspective of the viewer in quality and at the same level of technical quality and reliability as the signals of the C-SPAN channels and other similar commercial signals carried by Franchisee.

6.1.6. The PEG Access Channels shall be carried on the Basic Service tier. Franchisee may implement HD carriage of the PEG Access Channels in any manner (including selection of compression, utilization of IP, and other processing characteristics), provided that the technical quality and reliability requirements of Section 6.1.5 are met.

## *6.2. PEG Support*

6.2.1. In support of the County's production of local PEG programming, Franchisee shall provide an annual grant to the County ("PEG Grant"). Such grant shall be used by the County for PEG access equipment, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, or for renovation or construction of PEG access facilities.

6.2.2. The annual PEG Grant provided by Franchisee hereunder shall be the sum of one dollar (\$1.00) per month, per Subscriber in the Franchise Area. The annual PEG Grant payment, along with a brief summary of the Subscriber information upon which it is

based, shall be delivered to the County within sixty (60) days after the beginning of each calendar year during the Franchise Term.

6.2.3. Franchisee shall carry all components of the PEG Access Channel signals including, but not limited to, properly formatted closed captioning associated with the programming.

6.3. *PEG Indemnification.* All local producers and users of any of the PEG facilities or Access Channels shall agree in writing to hold harmless the Franchisee and the County, from any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations, or other requirements of local, state or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name, or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which result from the use of a PEG facility or Access Channel. Furthermore, all local producers and users of any of the PEG facilities or Access Channels shall agree in writing, and the County shall require that such local producer or user agree in writing, to authorize Franchisee to transmit programming consistent with this Agreement.

6.4. *Franchisee Shall Assure High Technical Quality of Access Channels:* The technical quality of the transmission path for Access Channels from headend to Subscriber shall be at least equal to the same technical quality as the Channels used by Franchisee to transmit the signals of the C-SPAN channels and other similar commercial Channels. Franchisee shall ensure that there is no material degradation, from the perspective of the viewer in the Access Channel signals that are received by the Franchisee for distribution by Franchisee over the Cable System.

6.5. *Itemization.* To the extent permitted by federal law, the Franchisee shall be allowed to recover the costs arising from the provision of the PEG Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill. The parties agree that none of such costs constitutes or is part of any Franchise fee, and all such costs fall within one or more of the exceptions listed in 47 U.S.C. § 542.

6.6. *Treatment of In-Kind Compensation:*

6.6.1. Complimentary Service, The County and Franchisee agree that Franchisee's provision of Basic Cable Service, the equipment needed to receive such service, the connections identified in Section 3.4 and listed in Exhibit A, and the maintenance of the PEG Access Return Lines provided pursuant to Section 6.1.5 are "Complimentary Service." The upgrade or construction of fiber optic PEG Access Return Lines provided pursuant to Section 6.1.5 are not deemed "Complimentary Service." Complimentary Service may be terminated by Franchisee, at its sole discretion, upon one hundred twenty (120) days' written notice to the County, subject to the County's right to continue to receive any or all of the Complimentary Services at a cost not to exceed Franchisee's marginal cost, as provided in Section 6.6.2. Franchisee shall identify the marginal cost of the Complimentary Services as part of its notice to the County.

6.6.2. County Options: Upon receipt of the notice described above, the County shall have the right to discontinue receipt of all or any portion of Complimentary Service provided by Franchisee. The County also shall have the option of paying Franchisee the marginal cost identified in the Franchisee's notification. The Franchisee shall provide the County with all the calculations and supporting information used by Franchisee in calculating the marginal cost charge of any Complimentary Service at least sixty (60) days before imposing any such charge, and shall respond promptly to requests for information from the County regarding such calculations and information. Franchisee and County do not waive any rights under applicable law regarding Complimentary Service.

6.6.3. FCC 621 Order: In the event the FCC's 2019 Third Report and Order In the Matter of Implementation of Section 621 of the Cable Act is reversed as to the proper treatment of complimentary cable services, whether as a result of a subsequent FCC order, a final non-appealable court decision, or federal legislation, within thirty (30) days of the result becoming final Franchisee will discontinue any charges for Complimentary Service, and provide such services to the County free of charge. Any additional levels of Cable Service, outlets, or service locations ordered by the County shall continue to be subject to regular non-discriminatory market rates.

6.7. *Changes in Technology*: If the County desires to implement additional functionality on one or more of the PEG Channels comparable to an Additional Functionality available on any other channel on the Basic Service Tier, the Franchisee shall meet with the County to discuss the possibility of making such functionality available, provided that implementation of such functionality does not require the use of additional capacity on the Cable System, or impose any out-of-pocket cost, or create any other burden, on Franchisee. For purposes of this Section 6.7, "Additional Functionality" shall mean any function that permits greater or improved subscriber interaction with video programming delivered by the Cable System or access to information regarding the content of such video programming. If the Franchisee makes changes to the Cable System that require improvements to access facilities or equipment to maintain the then-existing signal quality or picture quality, or other then-existing functions or capabilities, the Franchisee shall make any necessary changes to the Franchisee's headend and distribution facilities or equipment within thirty (30) days so that PEG facilities and equipment may be used as intended in this Agreement at no cost to the County.

## **7. COMMUNICATIONS TAX AND FRANCHISE FEE**

7.1. *Communications Tax*: Franchisee shall comply with the provisions of Section 58.1-645 *et seq.* of the Code of Virginia, pertaining to the Virginia Communications Sales and Use Tax, as amended (the "Communications Tax"), and Sections 7.2 through 7.6 of this Agreement shall not have any effect, for so long as the Communications Tax or a successor state or local tax that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, is imposed on the sale of Cable Services by the Franchisee to Subscribers in the Franchise Area.

7.2. *Payment of Franchise Fee to County*: In the event that the Communications Tax is repealed and no successor state or local tax is enacted that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, Franchisee shall pay to the County a franchise fee

of five percent (5%) of annual Gross Revenue, beginning on the effective date of the repeal of such tax (the "Repeal Date"). Beginning on the Repeal Date, the terms of Section 7.2 through 7.6 of this Agreement shall take effect. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than thirty (30) days following the end of each calendar quarter. Should Franchisee submit an incorrect amount, Franchisee shall be allowed to add or subtract that amount in a subsequent quarter, but no later than ninety (90) days following the close of the calendar year for which such amounts were applicable; such correction shall be documented in the supporting information required under Section 7.3 below.

*7.3. Supporting Information:* Each Franchise fee payment shall be accompanied by a brief report prepared by a representative of Franchisee showing the basis for the computation, and a breakdown by major revenue categories (such as Basic Service, premium service, etc.). The County shall have the right to reasonably request further supporting information for each Franchise fee payment, subject to the confidentiality provision of Section 9.2.

*7.4. Limitation on Franchise Fee Actions:* The period of limitation for recovery of any Franchise fee payable hereunder shall be five (5) years from the date on which payment by Franchisee is due.

*7.5. Bundled Services:* This Section 7.5 shall only apply if state or federal law does not otherwise address the computation of franchise fees or gross revenues in connection with the provision of Cable Service as part of a bundle or package with any Non-Cable Service. If the Franchisee bundles Cable Service with Non-Cable Service, the Franchisee shall allocate such revenue in accordance with GAAP. The Franchisee agrees that it will not intentionally or unlawfully allocate such revenue for the purpose of evading the Franchise fee payments under this Agreement. In the event that the Franchisee or any Affiliate shall bundle, tie, or combine Cable Services (which are subject to the franchise fee) with Non-Cable Services (which are not subject to the franchise fee), so that Subscribers pay a single fee for more than one class of service or receive a discount on Cable Services, to the extent such allocation is in accordance with GAAP, a *pro rata* share of the revenue received for the bundled, tied, or combined services shall, to the extent reasonable, be allocated to gross revenues for purposes of computing the franchise fee. To the extent there are published charges and it is reasonable, the *pro rata* share shall be computed on the basis of the published charge for each of the bundled, tied, or combined services, when purchased separately. However, the parties agree that tariffed telecommunications services that cannot be discounted under state or federal law or regulations are excluded from the bundled allocation obligations in this section. It is understood that in some cases equipment and other non-service charges may be allocated at full retail price due to requirements related to sales taxes or similar tax requirements.

#### *7.6. Audit*

*7.6.1.* Subject to the confidentiality requirements of Section 9.2 of this Agreement, the County, or such Person or Persons designated by the County, shall have the right to inspect and copy records and the right to audit and to recompute any amounts determined to

be payable under this Franchise, without regard to by whom they are held. If an audit discloses an overpayment or underpayment of franchise fees, the County shall notify the Franchisee of such overpayment or underpayment within ninety (90) days of the date the audit was completed, and provide an explanation for the County's conclusions. The County, in its sole discretion, shall determine the completion date for any audit conducted hereunder. Audit completion is not to be unreasonably delayed by either party. Franchisee shall have thirty (30) days from the receipt of the report to provide the County with a written response agreeing to or refuting the results of the audit, including any substantiating documentation.

7.6.1.1. 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 County by the Franchisee 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 thirty (30) days of reaching an impasse. All costs for and associated with the mediator will be split evenly between the County and the Franchisee. 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.

7.6.1.2. The Franchisee shall pay any "Final Settlement Amount" due the County as a result of the audit within thirty (30) days of written notice, provided that a copy of the audit is delivered to the Franchisee by the County and is agreed upon by both parties. Once the parties agree upon a Final Settlement Amount and such amount is paid by the Franchisee, the County shall have no further rights to audit or challenge the payment(s) for that period.

7.6.2. Subject to the confidentiality requirements of Section 9.2 of this Franchise, the Franchisee shall be responsible for providing to the County all records necessary to confirm the accurate payment of franchise fees. The Franchisee shall maintain such records for five (5) years. The County's audit expenses shall be borne by the County unless the audit determines the payment to the County should be increased by more than five percent (5%) in the audited period, in which case the costs of the audit, not to exceed seventeen thousand five hundred dollars (\$17,500), shall be paid by the Franchisee to the County within thirty (30) days following written notice to the Franchisee by the County, which notice shall include a copy of the audit report. If recomputation results in additional revenue to be paid by Franchisee to the County, such amount shall be subject to an interest charge of the Prime rate plus one percent (1%). If the audit determines that there has been an overpayment by the Franchisee, the Franchisee may credit any overpayment against its next quarterly payment; and, the County shall waive the interest charge on any past due amounts that were a result of such overpayment by the Franchisee. The auditor shall not be compensated on a success based formula, e.g., payment based on a percentage of any underpayment, if any.

7.6.3. The audit provisions set forth in this subsection shall similarly apply to the PEG support payments specified in subsection 6.2.2 of this Franchise.

## **8. CUSTOMER SERVICE**

Customer Service Requirements are set forth in Exhibit C, which shall be binding unless amended by written consent of the parties.

## **9. REPORTS AND RECORDS**

9.1 *Open Books and Records:* Upon reasonable written notice to the Franchisee and with no less than thirty (30) business days' written notice to the Franchisee, the County shall have the right to inspect Franchisee's books and records pertaining to Franchisee's provision of Cable Service in the Franchise Area at any time during Normal Business Hours and on a nondisruptive basis, as are reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the section or subsection of the Franchise which is under review, so that Franchisee may organize the necessary books and records for appropriate access by the County. Franchisee shall not be required to maintain any books and records for Franchise compliance purposes longer than five (5) years.

### *9.2 Confidentiality:*

9.2.1. Notwithstanding anything to the contrary set forth herein, Franchisee shall not be required to submit information to the County that it reasonably deems to be proprietary or confidential in nature, nor submit to the County any of its or an Affiliate's books and records not relating to the provision of Cable Service in the Franchise Area, except as provided in this Section 9.2.

9.2.1.1. To the extent an exemption under the Virginia Freedom of Information Act permits the County to maintain the confidentiality of submitted information, the Franchisee shall submit documents, records, or other materials containing such information to the County, and the County shall maintain the confidentiality of such information and not disclose it to any public request.

9.2.1.2. If no exemption under the Virginia Freedom of Information Act exists that would permit the County to maintain the confidentiality of requested information, the Franchisee shall submit to the County a statement attesting to the reason(s) the Franchisee believes the information must be withheld, and make the applicable documents, records, or other materials available for inspection at a mutually agreeable time and place within Loudoun County by the County or its representatives, which may include County employees, accountants, attorneys, consultants, or other agents, and neither the County nor such representatives shall take possession of the documents, records, or other materials, nor engage in any act that would jeopardize the confidentiality of such information.

9.2.1.3. Notwithstanding Section 9.2.1.2, the Franchisee shall deliver to the County the maps, reports, and other appropriate documents (the "Required Reports") containing all information required by (i) the following sections of this Agreement: 3.2.2 (construction cost survey), 3.7 (subscriber survey), 4.1 (maps), 9.5 (quarterly report), and 9.6 (annual report); and (ii) the following sections of Exhibit C of the Agreement: 2(E) (call-answering), 3(A) (installations), 4(F) (Service Calls), 9 (customer complaints), and 6(G) (subscriber mailings). The Required Reports shall be provided in physical form, or electronically, in accordance with the respective section. The Franchisee may identify any



confidential or proprietary information in the Required Reports in accordance with Section 9.2.1.4, and the County shall protect such confidential or proprietary information to the extent possible in accordance with Section 9.2.2 and applicable law.

9.2.1.4. To preserve its rights in the confidentiality of any information, Franchisee must provide the following documentation to the County: (i) specific identification in the applicable documents, records, or other materials of the information that Franchisee deems to be confidential; and (ii) a statement attesting to the reason(s) the Franchisee believes the information is confidential

9.2.2. At all times, the County shall take reasonable steps to (i) protect the proprietary and confidential nature of any books, records, maps, plans or other County-requested documents that are provided pursuant to this Agreement to the extent they are designated as such by the Franchisee, and (ii) to ensure that such confidential information is disclosed only to those employees, representatives, and agents of the County that have a need to know in order to enforce this Franchise. Nothing in this Section shall be read to require the Franchisee to violate federal or state law protecting Subscriber privacy.

9.3. *Records Required:* Franchisee shall at all times maintain:

9.3.1. Records of all written complaints for a period of three years after receipt by Franchisee. The term "complaint" as used herein refers to complaints about any aspect of Cable Service or Franchisee's cable operations, including, without limitation, complaints about employee courtesy. Complaints recorded will not be limited to complaints requiring an employee service call;

9.3.2. Records of outages for a period of three years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

9.3.3. Records of service calls for repair and maintenance for a period of three years after resolution by Franchisee, indicating the date and time service was requested, and (if different), the date and time the problem was resolved;

9.3.4. Records of installation/reconnection and completed service extensions for a period of three years after the request was fulfilled by Franchisee, indicating the date of request and the date and time service was installed/reconnected; and

9.3.5. A public file containing all documents required by the FCC's Public Inspection File rules and regulations.

9.4. *Federal Communications (FCC) Testing:* Within fourteen (14) days of a written request by the County, a written report of test results of applicable FCC performance testing will be provided to the County Administrator/Designee.

9.5. *Quarterly Reports:* In full satisfaction of the requirements of Section 805.11(b) of the Cable Ordinance, upon thirty (30) days written request of the County,

Franchisee shall provide quarterly reports to the County of at least the following statistical information:

9.5.1. Number of repair service requests received in the previous quarter.

9.5.2. Breakdown by type of complaint received (ex. "complete outage" or "snowy picture", etc.).

9.5.3. Breakdown by cause of problem (ex. "Subscriber equipment" or "drop/converter" or "system", etc.).

9.5.4. Average hold time for Subscriber service telephone calls that were received in the previous quarter.

9.5.6. Percentage of telephone calls that were answered within 30 seconds during the previous quarter.

9.5.7. Percentage of calls received within the previous quarter which were abandoned before being answered by a live operator.

9.5.8. Percentage of time when all incoming trunk lines were in a busy condition.

9.6. *Annual Report:* In full satisfaction of the requirements of Section 805.11(a) of the Cable Ordinance, unless this requirement is waived in whole or in part by the County, and no later than one hundred twenty (120) days after the end of the calendar year, the Franchisee shall submit a written report to the County, in a form reasonably satisfactory to the County, which shall include:

9.6.1. The number of homes passed by Franchisee's Cable System;

9.6.2. The number of Cable Service Subscribers served by Franchisee's Cable System;

9.6.3. Projected construction for the succeeding twelve months, to the extent such plans are known by the Franchisee;

9.6.4. A copy of, or link to, the Franchisee's rules, regulations and policies available to Subscribers of the Cable system, including but not limited to (i) all Subscriber rates, fees and charges; (ii) copies of the Franchisee's contract or application forms for Cable Services; and (iii) a detailed summary of the Franchisee's policies concerning the processing of Subscriber complaints; delinquent Subscriber disconnect and reconnect policies; Subscriber privacy and any other terms and conditions adopted by the Franchisee in connection with the provision of Cable Service to Subscribers;

9.6.5. A copy of, or link to, Franchisee's audited financial statements prepared for the Franchisee's bondholders or equivalent financial document acceptable to the County or the annual SEC Form 10-K filing for the Franchisee's ultimate parent entity;

9.6.6. A list of Persons holding five percent (5%) or more of the voting stock or interests of Franchisee, or link to Franchisee's ultimate parent entity SEC Form 10-K filing, which, in combination with Section 9.6.7 below, shall fully satisfy all of the requirements of Section 805.1 l(e) of the Cable Ordinance;

9.6.7. A list of officers and members of the Board of Directors of Franchisee and its parents and Franchisee's subsidiaries, if any, or similar officers if the Franchisee is not a corporation, or a link to Franchisee's ultimate parent entity SEC Form 10-K filing, which, in combination with Section 9.6.6 above, shall fully satisfy all of the requirements of Section 805.1 l(e) of the Cable Ordinance.

9.6.8. The map required to be provided annually by Section 4.1.

9.7. Upon written request, the Franchisee shall submit to the County copies of each petition, application, report, and communication that specifically relates to and materially affects the provision of Cable Service within the Franchise Area that are transmitted by the Franchisee to any federal, state, or other regulatory commissions, agencies, or courts.

## **10. INSURANCE AND INDEMNIFICATION**

### **10.1 Insurance:**

10.1.1. Franchisee shall at all times maintain in full force and effect, at its own cost and expense, during the Franchise Term, the following insurance coverage by a company authorized to do business in the Commonwealth of Virginia:

10.1.1.1. Commercial General Liability Insurance in the amount of one million dollars (\$1,000,000) combined single limit for personal injury or death of any one person or property damage to the property of any one person, and two million dollars (\$2,000,000) combined single limit for personal injury or death of any two or more persons or property damage to the property of any two or more persons. Such insurance shall cover the construction, operation and maintenance of the Cable System, and the conduct of Franchisee's Cable Service business in the Franchise Area.

10.1.1.2. Automobile Liability Insurance in the amount of one million dollars (\$1,000,000) combined single limit for bodily injury and property damage coverage.

10.1.1.3. Workers' Compensation Insurance meeting all legal requirements of the Commonwealth of Virginia.

10.1.1.4. Employers' Liability Insurance in the following amounts: (A) Bodily Injury by Accident: \$100,000; and (8) Bodily Injury by Disease: \$100,000 employee limit; \$500,000 policy limit.

10.1.2. The County, its officers, boards, commission, agents, and employees shall be designated as additional insureds under each of the insurance policies required in this Article 10 except Worker's Compensation and Employer's Liability Insurance.

10.1.3. The insurance policies mentioned above shall state that the policies are extended to cover the liability assumed by the Franchisee under the terms of the Agreement. Franchisee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Section 10.1. Franchisee shall provide the County 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.

10.1.4. Each of the required insurance policies shall be with sureties qualified to do business in the Commonwealth of Virginia, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

10.1.5. Within thirty (30) days after the Effective Date, Franchisee shall deliver to the County Certificates of Insurance showing evidence of the required coverage.

10.2. *Indemnification:*

10.2.1. The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the County and its officials, boards, commissions, agents, and employees against any and all claims, suits, causes of action, proceedings, and judgments for damages arising out of the operation of the Cable System under this Franchise. These damages include, but are not limited to, penalties arising out of copyright infringements and antitrust violations and damages arising out of the failure by the Franchisee to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by the Franchisee's Cable System, whether or not any act or omission complained of is authorized, allowed, or prohibited by the Franchise and/or arising out of the Franchisee improperly crossing private property.

10.2.2. The indemnity set forth in this Section is conditioned upon the County's giving the Franchise prompt notice of the commencement or making of any suit or action covered by this Section such that Franchisee has reasonable time to respond to such suit or action. Nothing in this Section shall be deemed to prevent the County from cooperating with the Franchisee and participating in the defense of any litigation by its own counsel at its sole cost and expense. No recovery by the County of any sum by way of the Security Fund herein shall be a limitation upon the liability of the Franchisee to the County under the insurance and indemnification provisions herein, except that sums received by the County shall be deducted from any recovery which the County establishes against the Franchisee under this Agreement.

10.2.3. Franchisee shall have the right to defend, settle or compromise any claim or action arising hereunder, and Franchisee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the County does not consent to the terms of any such settlement or compromise agreed to by the claimant or claimants, then Franchisee shall not settle the claim or action, but its obligation to indemnify the County shall in no event exceed the amount of such otherwise agreed upon settlement.

10.2.4. Franchisee shall not be required to indemnify the County for negligence or willful misconduct on the part of the County or its officials, boards, commissions, agents, or employees causing any claim or damages.

## **11. TRANSFER OF FRANCHISE**

11.1. *County Approval Required.* Subject to Section 617 of the Communications Act, 47 U.S.C. § 537, no Transfer of the Franchise shall occur without the prior consent of the County, provided that such consent shall not be unreasonably withheld, delayed or conditioned.

11.2. *No Consent Required.* No such consent shall be required, however, for the following:

11.2.1. A transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, or interest of the Franchisee in the Franchise or Cable System in order to secure indebtedness, or otherwise excluded under Section 1.32 above; and,

11.2.2. Transfer of an ownership or other interest in Franchisee to the parent of Franchisee or to another Affiliate of Franchisee; transfer of an interest in the Franchise or the rights held by the Franchisee under the Franchise to the parent of Franchisee or to another Affiliate of Franchisee; any action which is the result of a merger of the parent of the Franchisee; or any action which is the result of a merger of another Affiliate of the Franchisee.

## **12. RENEWAL OF FRANCHISE**

12.1. The County and Franchisee agree that any proceedings undertaken by the County that relate to the renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Communications Act, 47 U.S.C. § 546.

12.2. Notwithstanding anything to the contrary set forth herein, Franchisee and the County agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the County and Franchisee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the County may grant a renewal thereof.

12.3. Franchisee and the County consider the terms set forth in this Article 12 to be consistent with the express provisions of Section 626.

## **13. ENFORCEMENT AND TERMINATION OF FRANCHISE**

13.1. *Notice of Violation:* In the event that the County believes that Franchisee has not complied with the terms of the Franchise, the County shall informally discuss the matter with Franchisee. If these discussions do not lead to resolution of the problem, the County shall notify Franchisee in writing of the exact nature of the alleged noncompliance.

13.2. *Franchisee's Right to Cure or Respond:* Franchisee shall have thirty (30) days from receipt of the written notice described in Section 13.1 to: (i) respond to the County, if Franchisee contests (in whole or in part) the assertion of noncompliance; (ii) cure such default; or (iii) 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 County of the steps being taken and the projected date that they will be completed.

13.3. *Public Hearing:* In the event that Franchisee fails to respond to the written notice described in Section 13.1 pursuant to the procedures set forth in Section 13.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 13.2(iii) above, if it intends to continue its investigation into the default, then the County shall schedule a public hearing. The County shall provide Franchisee at least thirty (30) business days prior written notice of such hearing, which will specify the time, place, and purpose of such hearing, and provide Franchisee the opportunity to be heard.

13.4. *Enforcement:* Subject to applicable federal and state law and the terms and conditions of this Agreement, the County may apply one or a combination of the following remedies if the County, after the hearing in Section 13.3, determines that the Franchisee is in default of any provision of the Franchise:

13.4.1. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

13.4.2. Pursue liquidated damages in accordance with Section 13.7, if applicable; or

13.4.3. Commence an action at law for monetary damages or seek other equitable relief; or

13.4.3. In the case of a substantial material default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 13.5; or,

13.4.4. Apply any other remedy provided for in this Agreement or applicable federal, state, or local laws.

13.5. *Revocation:* Should the County seek to revoke the Franchise, the County shall give written notice to Franchisee of its intent. The notice shall set forth the exact nature of the noncompliance. The Franchisee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the County has not received a satisfactory response from Franchisee, it may then seek termination of the Franchise at a public hearing. The County shall cause to be served upon the Franchisee, 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.

13.5.1. At the designated hearing, Franchisee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees, or consultants of the County, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete verbatim record and transcript shall be made of such hearing.

13.5.2. Following the public hearing, Franchisee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter the County shall determine (i) whether a substantial material default of a material provision of the Franchise has occurred; (ii) whether such default is excusable; and (iii) whether such default has been cured or will be cured by the Franchisee. The County shall also determine whether to revoke the Franchise based on the information presented, or, where applicable, grant additional time to the Franchisee to effect any cure. If the County determines that the Franchise shall be revoked, the County shall promptly provide Franchisee with a written decision setting forth its reasoning. Franchisee may appeal such determination of the County to an appropriate court, which shall have the power to review the decision of the County *de novo*. Franchisee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Franchisee's receipt of the determination of the franchising authority.

13.5.3. The County may, at its sole discretion, take any lawful action which it deems appropriate to enforce the County's rights under the Franchise in lieu of revocation of the Franchise. Nothing herein or in the Cable Ordinance is intended to allow duplicative recovery from or payments by Franchisee or its surety(s).

13.6. *Security Fund*: To ensure the performance of its obligations under this Franchise, the Franchisee shall establish a security fund in the form of a letter of credit for the County in the amount of fifty thousand dollars (\$50,000.00). Recovery under the letter of credit shall be in accordance with the procedures set forth in Section 13.7.3. If at the time of recovery under the letter of credit by the County, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the Franchisee to the County until it is paid. Within thirty (30) days of being notified that any amount has been recovered by the County, the Franchisee shall restore the letter of credit to the total amount specified above. The County may not draw from letter of credit while an action has been instituted by Franchisee to challenge the amount owed. No performance bond is required under this Agreement.

### 13.7. *Liquidated Damages*:

13.7.1. Because the Franchisee's failure to comply with provisions of this Franchise may result in injury to the County, because it may be difficult to quantify the extent of such injury, and in full satisfaction of Section 805.15 of the Cable Ordinance, the County and the Franchisee agree that, subject to the procedures in Section 13.7.3, liquidated damages may be assessable against the Franchisee for certain violations of provisions this Franchise, and that such liquidated damages may be chargeable to the Franchisee's Security Fund up to the limits specified below in the event of non-payment by the Franchisee. On an annual basis from the Effective Date of this Franchise, liquidated damages in total will not exceed twenty thousand dollars (\$20,000). The Franchisee hereby agrees that the liquidated damages specified herein are reasonable and do not constitute a penalty or fine. The liquidated damages shall not apply when caused by Force Majeure events and shall only apply from the date of notice being provided to the Franchisee unless otherwise provided for or consistent with the time periods of notice and cure specific to certain liquidated damages.

13.7.1.1. Failure to supply information, reports, or filings lawfully required under the Franchise: \$200 per day for each day the violation continues;

13.7.1.2. Failure to provide Cable Service to a customer, in accordance with the requirements of this Franchise Agreement, when such failure is reported by the customer to the County and referred to the Franchisee by the County: \$50 per day, not to exceed \$1000 in the aggregate;

13.7.1.3. Failure to file, obtain, maintain or replenish the security fund in a timely fashion: \$150 per day for each day that the security fund has not been filed, obtained, maintained, or replenished in accordance with this Agreement;

13.7.1.4. Failure to indemnify the County as required by this Agreement: \$200 per day for each day after written notice has been provided by the County of such failure;

13.7.1.5. Failure to comply with this Agreement's Customer Service Standards with respect to customer complaints, when such failure is reported by the customer to the County and referred to the Franchisee by the County: \$50 per complaint;

13.7.1.6. Failure to Respond (as defined in this Agreement's Customer Service Standards) to a Subscriber's request for repair or adjustment, when such failure is reported by the customer to the County and referred to the Franchisee by the County: \$50 per occurrence;

13.7.1.7. For violation of applicable technical standards established by the FCC: \$100 per day for each unrelated violation for each day the violation continues;

13.7.1.8. For effecting or attempting to effect a Transfer for which approval is required without such approval: \$500 per day for each day the violation continues;

13.7.1.9. For violation of any or all of the quarterly customer service standards: \$750 for the first violation; \$1000 for any violation within 12 months after the first violation; and, \$1250 for any violation within 12 months after the second or any subsequent violation;

13.7.1.10. For failure to comply with the requirements for the provision of PEG programming: \$100 per day;

13.7.1.11. For failure, unless such failure is beyond the Franchisee's control, of the EAS to perform in the event of a public emergency or vital information situation: \$500 per occurrence.

13.7.2. The County Administrator or Board may reduce or waive any of the above-listed liquidated damages if the County Administrator or Board determines that such waiver is in the best interests of the County.



13.7.3. In full satisfaction of the obligations, requirements, and procedures of Section 805.15 of the Cable Ordinance, if the County Administrator, following notice to the Franchisee to cure any failure to comply with this Agreement that might result in liquidated damages pursuant to the Agreement, he or she shall issue to the Franchisee, by certified mail, a notice of intention to assess liquidated damages. The notice shall set forth the basis of the assessment, and shall inform the Franchisee that liquidated damages will be assessed from the date of the notice unless the assessment notice is appealed for hearing before the Board and the Board rules (1) that the violation has been corrected, or (2) that an extension of the time or other relief should be granted, or (3) the Board disagrees with the findings of the County Administrator. If the Franchisee desires a hearing before the Board, it shall send a written notice of appeal, by certified mail, to the County Administrator within ten (10) days of the date on which the County Administrator sent the notice of intention to assess liquidated damages. After the hearing, if the Board sustains, in whole or in part, the County Administrator's assessment of liquidated damages, the County Administrator may at any time thereafter draw upon the security fund for the amount reviewed by the Board after providing the Franchisee thirty (30) days to pay said amount. Unless the Board indicates to the contrary, said liquidated damages shall be assessed beginning with the date on which the County Administrator sent the notice of intention to assess liquidated damages and continuing thereafter until such time as the violation ceases, as determined by the County Administrator.

## 14. MISCELLANEOUS PROVISIONS

14.1. *Actions of Parties:* In any action by the County or Franchisee 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, delayed, or conditioned.

14.2. *Administration.* The administration of this Agreement, including the Cable Ordinance, shall be vested in the County Administrator of Loudoun County, or his or her designee.

### 14.3. *Representations and Warranties*

14.3.1. Franchisee hereby warrants, represents, acknowledges, and agrees that:

14.3.1.1. The Franchisee is qualified to do business in Virginia;

14.3.1.2. The Franchisee has the requisite power and authority under applicable law and Franchisee's organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the Effective Date of this Agreement, to enter into and legally bind the Franchisee to this Agreement and to take all actions necessary to perform all of its obligations pursuant to this Agreement;

14.3.1.3. Franchisee is financially able to perform all commitments made in this Agreement and agrees to provide financial statements evidencing this ability;

14.3.1.4. The Franchisee upon accepting this Franchise, does so relying upon its own investigation and understanding of the power and authority of the County to grant the Franchise. Section 15.2-2 I 08 of the Code of Virginia (1950, as amended) authorizes the County to grant this Franchise;

14.3.1.5. The Franchisee has carefully read the terms and conditions of this Franchise and the Cable Ordinance and is willing to and does accept all of the risks of the meaning of such terms and conditions;

14.3.1.6. To the best of its knowledge there is no action or proceeding pending or threatened against the Franchisee which questions its ability to perform under this Agreement;

14.3.1.7. Insofar as the legal capacity of the Franchisee to carry out any obligation pursuant to this Agreement is concerned, the execution of, and performance pursuant to, this Agreement will not result in the breach or violation of any provision of the by- laws of the Franchisee or of any statute, regulation, agreement, judgment, or decree to which it is subject;

14.3.1.8. None of the officers, directors, or managers of the Franchisee has any ownership interests that would be in violation of Section 613 of the Communications Act of 1934, 47 U.S.C. 533, and amendments thereto; and,

14.3.1.9. The Franchisee enters into this Agreement willingly and without coercion, undue influence, or duress, has not misrepresented or omitted material facts, has not entered into this Agreement with the intent to act contrary to its provisions, and represents and warrants that, for the term of this Agreement, it will be bound by the terms and conditions of this Agreement and the Cable Ordinance.

14.3.2. The Franchisee by acceptance of this Franchise acknowledges that it has not been induced to enter into this Franchise by any understanding or promise or other statement whether oral or written by or on behalf of the County or by any other Person concerning any term or condition of this Franchise not expressed herein or in the Cable Ordinance.

14.3.3. The rights and remedies of the parties pursuant to this Agreement are cumulative, except as otherwise provided in this Agreement, and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to this subject matter of this Agreement. A waiver of any right or remedy by a party at one time shall not affect the exercise of said right or remedy or any other right or other remedy by such party at any other time.

14.4. *Filing Requirements:* When not otherwise prescribed herein, all matters herein required to be filed with the County shall be filed with the County Administrator.

14.5. *No Person, Firm, or Corporation Shall be Arbitrarily Refused Service:* Subject to this Agreement, no person, firm, or corporation in the Franchise Area shall be arbitrarily refused Cable Service; provided, however, that the Franchisee shall not be required to

provide Cable Service to any Subscriber who does not pay the applicable connection fee or monthly Cable Service charge.

14.6. *Binding Acceptance:* This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors, and assigns, and the promises and obligations herein shall survive the expiration date hereof.

14.7. *Preemption:* In the event that federal or state law, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent, and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the County.

14.8. *Force Majeure:* Franchisee 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, where such noncompliance or alleged defaults occurred or were caused by a Force Majeure, provided that the Franchisee takes prompt and diligent steps to bring itself back into compliance and to comply as soon as reasonably possible, under the circumstances, with the Agreement without unduly endangering the health, safety, and integrity of the Franchisee's employees or property, or the health, safety, and integrity of the public, the Public Rights-of-Way, public property, or private property. Franchisee shall furnish the County with prior written notice of the noncompliance when possible.

14.8.1. Furthermore, the parties hereby agree that it is not the County's intention to subject Franchisee to penalties, fines, forfeitures, or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on Subscribers, or where strict performance would result in practical difficulties and hardship being placed upon Franchisee which outweigh the benefit to be derived by the County and/or Subscribers.

14.9 *Notices:* Unless otherwise expressly stated herein, notices required under the Franchise shall be (a) delivered personally to the addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested; (b) sent by overnight or commercial air courier; or (c) delivered electronically for notices related to information covered by FCC regulations 47 CFR 76, Subpart T. Each party may change its designee by providing written notice to the other party.

14.9.1 Notices to Franchisee shall be mailed to:

Comcast  
1215 East Fort Avenue, Suite 103  
Baltimore, MD 21230  
Attn.: Government Affairs Department

14.9.2 with a copy to:

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

14.9.3 Notices to the County shall be mailed to:

County Administrator  
Loudoun County  
P.O. Box 7000  
1 Harrison Street SE  
Fifth Floor  
Leesburg, Virginia 20175

14.9.4 With copies to:

Department of Information Technology  
Loudoun County  
P.O. Box 7300  
41975 Loudoun Center Place  
Leesburg, Virginia 20175

County Attorney  
Loudoun County  
P.O. Box 7000  
1 Harrison Street SE  
Fifth Floor  
Leesburg, Virginia 20175

14.10 *Entire Agreement*: This Franchise and the Exhibits hereto constitute the entire agreement between Franchisee and the County. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

14.11 *Captions*: The captions and headings of articles and sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

14.12 *Severability*: If any section, subsection, 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, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term

of the Franchise. In the event of a subsequent change in applicable law so that the provision which had been held invalid is not longer invalid, said provision shall thereupon return to full force and effect without further action by the County and shall thereafter be binding on Franchisee and the County.

14.13 *Recitals*: The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

14.14 *Cable System Removal*: Franchisee shall not be required to remove, relocate, or sell its Cable System or any portion thereof as a result of revocation, termination, denial of renewal, or any other lawful action to forbid or disallow the Franchisee from providing Cable Services, if the Cable System is actively being used to provide any other lawfully authorized services not governed by the Cable Act. Nothing in this section shall be deemed to waive any express right of the County granted pursuant to any subsequent state or federal legislation.

**SIGNATURE PAGE FOLLOWS**

AGREED To THIS */ft? )'///* DAY OF */4. ud* , 2023.

Loudoun County

By: *h Af* \_\_\_\_\_

[Name] *2.N t/e'''1 rree+*  
[Title] *G,CA.Y''/y Ae£M,- r'''*

Approved as to form:

*t u u - J*  
\_\_\_\_\_  
Name *I*  
Deputy County Attorney

Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC

By: *[Signature]*  
Michael Parker  
Regional Senior Vice President

#### EXHIBITS

Exhibit A: County Buildings to be Provided Free Cable Service

Exhibit B: PEG Channels

Exhibit C: Customer Service Standards



## EXHIBIT A

### COUNTY BUILDINGS TO BE PROVIDED FREE CABLE SERVICE

Facility	Type	Num	Street	Suite	City	State	Zip
FIRE & RESCUE,LOUDOUN	EMERGENCY	21730	RED RUM DR		ASHBURN	<b>VA</b>	20147
FIRE & RESCUE,LOUDOUN	EMERGENCY	21660	RED RUM DR	#138	ASHBURN	<b>VA</b>	20147
FIRE DEPT,PHILOMON	EMERGENCY	36560	JEB STUART RD		PHILOMONT	<b>VA</b>	20131
FIRE STN 19,LOUDOUN	EMERGENCY	25216	LOUDOUN COUNTY PKWY		CHANTILLY	VA	20152
SHERIFF,L COUNTY	EMERGENCY	21010	DULLES TOWN CIR		STERLING	VA	20166
SHERIFF'S OFC,LOUDOUN	EMERGENCY	25216	LOUDOUN COUNTY PKWY		CHANTILLY	VA	20152
TRAINING CTR,FIRE RES	EMERGENCY	16600	COURAGE CT		LEESBURG	VA	20175
COUNTY,LOUDOUN	GOVERNMENT	46105	LOUDOUN PARK LN		STERLING	<b>VA</b>	20164
FAMILY SERVICES,DEPTOF	GOVERNMENT	21641	RIDGETOP CIR	#101	STERLING	<b>VA</b>	20166
HOMELESS SHEL,LOUDOUN	GOVERNMENT	19520	MEADOWVIEW CT		LEESBURG	VA	20175
SAFETY CENTER,STERLING	GOVERNMENT	46700	MIDDLEFIELD DR		STERLING	<b>VA</b>	20165
SENIOR CENTER,CASCADES	GOVERNMENT	21060	WHITFIELD PL		STERLING	<b>VA</b>	20165
YOUTHCENTERLOUDOUN	GOVERNMENT	16451	MEADOWVIEW CT		LEESBURG	<b>VA</b>	20175
MAILROOM,LOUDOUN	GOVERNMENT	16550	COURAGE CT		LEESBURG	<b>VA</b>	20175
TECH CTR,INFORMAT	GOVERNMENT	41975	LOUDOUN CENTER PL		LEESBURG	<b>VA</b>	20175
CEDAR LANE,ELEMENTA	SCHOOL	43700	TOLAMAC DR		ASHBURN	<b>VA</b>	20147
DISCOVERY,ELEMENTA	SCHOOL	44020	GRACE BRIDGE DR		ASHBURN	<b>VA</b>	20147
DOMINION,HIGH SCH	SCHOOL	21326	AUGUSTA DR		STERLING	<b>VA</b>	20164
ELEM SCHOOL,GOSHEN POST	SCHOOL	24945	LOBO DR		ALDIE	<b>VA</b>	20105
ELEMENTARY,ALGONKIA	SCHOOL	20196	CARTER CT		STERLING	<b>VA</b>	20165
ELEMENTARY,ARCOLA	SCHOOL	41740	TALL CEDAR <b>PKWY</b>		ALDIE	<b>VA</b>	20105
ELEMENTARY,ASHBURN	SCHOOL	44062	FINCASTLE DR		ASHBURN	<b>VA</b>	20147
ELEMENTARY,DOMINION	SCHOOL	44045	BRUCETON MILLS CIR		ASHBURN	<b>VA</b>	20147
ELEMENTARY,HILLSIDE	SCHOOL	43000	ELLZEY DR		ASHBURN	<b>VA</b>	20148
ELEMENTARY,LINCOLN	SCHOOL	18048	LINCOLN RD		PURCELLVILI	VA	20132
ELEMENTARY,LOWES!SL	SCHOOL	20755	WHITEWATER DR		STERLING	<b>VA</b>	20165
ELEMENTARY,MEADOWLA	SCHOOL	729	SUGARLAND RUN DR		STERLING	<b>VA</b>	20164
ELEMENTARY,POTOMACK	SCHOOL	46465	ESTERBROOK CIR		STERLING	<b>VA</b>	20165
ELEMENTARY,ROLLINGR	SCHOOL	500	E FREDERICK DR		STERLING	<b>VA</b>	20164
ELEMENTARY,SANDERSC	SCHOOL	43100	ASHBURN FARM PARK		ASHBURN	<b>VA</b>	20147
ELEMENTARY,SELDON	SCHOOL	43345	COTON COMMONS DR		LEESBURG	<b>VA</b>	20176
ELEMENTARY,STERLING	SCHOOL	200	WCHURCH RD		STERLING	<b>VA</b>	20164
ELEMENTARY,SUGARLAN	SCHOOL	65	SUGARLAND RUN DR		STERLING	<b>VA</b>	20164
FOREST GROVE,ELEMENTA	SCHOOL	46245	FOREST RIDGE DR		STERLING	<b>VA</b>	20164
HARMONY ,SCHOOL	SCHOOL	38174	W COLONIAL HWY		HAMILTON	<b>VA</b>	20158
HIGH SCHOOL,BRIARWOO	SCHOOL	22525	BELMONT RIDGE RD		ASHBURN	<b>VA</b>	20148
HIGH SCHOOL,BROADRUN	SCHOOL	21670	ASHBURN RD		ASHBURN	<b>VA</b>	20147
HIGH SCHOOL,FREEDOM	SCHOOL	25450	RIDING CENTER DR		CHANTILLY	<b>VA</b>	20152



HIGH SCHOOL,PARKVIEW	SCHOOL	400	W LAUREL AVE	STERLING	VA	20164
HIGH SCHOOL,POTOMACF	SCHOOL	46400	ALGONKIAN PKWY	STERLING	VA	20165
HIGH SCHOOL,RIVERSIDE	SCHOOL	19019	UPPER BELMONT PL	LEESBURG	VA	20176
HIGH SCHOOL,STONEBRI	SCHOOL	43100	HAY RD	ASHBURN	VA	20147
HUTCHINSON FM,ELEMENTA	SCHOOL	42819	CENTER ST	CHANTILLY	VA	20152
JOHN CHAMPE,H S	SCHOOL	41535	SACRED MOUNTAIN ST	ALDIE	VA	20105
LIBERTY,ELEMENTA	SCHOOL	25491	RIDING CENTER DR	CHANTILLY	VA	20152
MIDDLE SCHOOL.EAGLE RIDGE	SCHOOL	42901	WAXPOOL RD	BROADLAND:	VA	20148
MIDDLE SCHOOL,FARMWELL	SCHOOL	44281	GLOUCESTER PKWY	ASHBURN	VA	20147
MIDDLE SCHOOL,MICHAEL	SCHOOL	26020	TICONDEROGA RD	CHANTILLY	VA	20152
MIDDLE SCHOOL,SENECARI	SCHOOL	98	SENECA RIDGE DR	STERLING	VA	20164
MIDDLE SCHOOL,STERLING	SCHOOL	201	WHOLLY AVE	STERLING	VA	20164
MIDDLE,BELMONT RIDGE	SCHOOL	19045	UPPER BELMONT PL	LEESBURG	VA	20176
MOOREFIELD,ES	SCHOOL	22325	MOOREVIEW PKWY	ASHBURN	VA	20148
NEWTON LEE,ELEMENTA	SCHOOL	43335	GLOUCESTER PKWY	ASHBURN	VA	20147
PETRO 4111,QUARLES	SCHOOL	42000	SE LOUDOUN CTR	LEESBURG	VA	20175
PUBLIC SCHOOL,LOUDOUN	SCHOOL	21000	EDUCATION CT	#104 ASHBURN	VA	20148
PUBLIC SCHOOLS,LOUDOUN CO	SCHOOL	42000	SE LOUDOUN CTR	LEESBURG	VA	20175
RIDGE ELEMTRY,CARDINAL	SCHOOL	26155	BULL RN PST	CHANTILLY	VA	20152
RIDGE HIGH SC,ROCK	SCHOOL	43460	LOUDOUN RESERVE DR	ASHBURN	VA	20148
RIVER BEND,MIDDLE	SCHOOL	46240	ALGONKIAN PKWY	STERLING	VA	20165
SCHOOLS,LCPS	SCHOOL	21000	EDUCATION CT	#121 ASHBURN	VA	20148
SCHOOLS.LOUDOUN	SCHOOL	21000	EDUCATION CT	#120 ASHBURN	VA	20148
SCHOOLS.LOUDOUN	SCHOOL	21000	EDUCATION CT	#156 ASHBURN	VA	20148
SCHOOLS,LOUDOUN	SCHOOL	21000	EDUCATION CT	#120 ASHBURN	VA	20148
STUART WELLER,ELEMENTA	SCHOOL	20700	MARBLEHEAD DR	ASHBURN	VA	20147
TRAINING CTR,LCPS	SCHOOL	43711	PARTLOW RD	ASHBURN	VA	20147

**EXHIBIT B**  
**PEG CHANNELS**

County Government Channel:	Channel 23
Town Government Channel:	Channel 67
Loudoun County Public Schools Channel:	Channel 18
Higher Education Channel (George Mason Univ.):	Channel 99

## **EXHIBITC**

### **CUSTOMER SERVICE STANDARDS**

These standards shall apply to the Franchisee to the extent it is providing Cable Services over the Cable System in the Franchise area.

#### **SECTION 1: DEFINITIONS**

A. Customer Service Center: In full satisfaction of all of the requirements of Sections 805.09(e) and 805.10(a)(S) of the Cable Ordinance, and as used in 47 C.F.R. § 76.309(c)(1)(v), the Franchisee must provide for the pick up or drop off of equipment in one of the following manners: (i) by having a Franchisee representative going to the Subscriber's residence, (ii) by using a mailer, or (iii) by establishing a customer service center in the County, and is providing for the making of payments in one or more of the following manners: (i) on-line; (ii) by mail; (iii) bill payment locations located in the County; or, (iv) by establishing a customer service center in the County.

8. Respond: Franchisee's investigation of a Service Interruption by receiving a Subscriber call and opening a trouble ticket, if required.

C. Service Call: The action taken by the Franchisee to correct a Service Interruption the effect of which is limited to an individual Subscriber.

D. Significant Outage: A significant outage of the Cable Service shall mean any Service Interruption lasting at least four (4) continuous hours that affects at least ten percent (10%) of the Subscribers in the Franchise Area.

E. Standard Installation: Installations where the subscriber is within one hundred fifty (150) feet of trunk or feeder lines.

#### **SECTION 2: TELEPHONE AVAILABILITY**

A. The Franchisee shall maintain a toll-free number to receive all calls and inquiries from Subscribers in the Franchise Area and/or residents regarding Cable Service. Franchisee representatives trained and qualified to answer questions related to Cable Service in the Franchise Area must be available to receive reports of Service Interruptions twenty-four (24) hours a day, seven (7) days a week, and other inquiries at least forty-five (45) hours per week. Franchisee representatives shall identify themselves by name when answering this number.

8. Franchisee may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. If a foreign language routing option is provided, and the Subscriber

does not enter an option, the menu will default to English. If Franchisee uses an ARU or VRU, the system shall offer Subscribers a clear means of reaching a live representative.

C. Under Normal Operating Conditions, calls received by the Franchisee shall be answered within thirty (30) seconds. The Franchisee shall meet this standard for ninety percent (90%) of the calls it receives at all call centers receiving calls from Subscribers, as measured on a cumulative quarterly calendar basis. Measurement of this standard shall include all calls received by the Franchisee at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after thirty (30) seconds of call waiting.

D. Under Normal Operating Conditions, callers to the Franchisee shall receive a busy signal no more than three (3%) percent of the time during any calendar quarter.

E. Upon request from the County, but in no event more than once a quarter thirty (30) days following the end of each quarter, the Franchisee shall report to the County the following for all call centers receiving calls from Subscribers except for temporary telephone numbers set up for national promotions:

- (1) Percentage of calls answered within thirty (30) seconds as set forth in Subsection 2.C.
- (2) Percentage of time customers received busy signal when calling the customer service number as set forth in Subsection 2.D.

Subject to consumer privacy requirements, underlying activity will be made available to the County for review upon reasonable request.

F. At the Franchisee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the County of such a change at least thirty (30) days in advance of any implementation.

### SECTION 3: INSTALLATIONS AND SERVICE APPOINTMENTS

A. All installations will be in accordance with FCC rules, including but not limited to, appropriate grounding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of the Franchisee-supplied equipment and Cable Service. Drop wires in underground service areas that are temporarily placed above ground shall be buried within thirty (30) calendar days, except in those situations where weather conditions make trenching impractical. If Franchisee, after timely submission, experiences a delay in obtaining permits or location markings needed before burying a drop cable, and the delay makes it impractical for Franchisee to complete the work within the required time period, after the required permits or location markings have been obtained, Franchisee shall promptly notify the County in writing and complete the work in question within fifteen (15) days.

B. Standard Installations shall be performed within seven (7) business days after an order is placed or a later date as requested by a Subscriber.

The Franchisee shall meet this standard for ninety-five percent (95%) of the Standard Installations it performs, as measured on a calendar quarter basis.

C. The Franchisee shall provide the County with a report upon request from the County, but in no event more than once a quarter thirty (30) days following the end of each quarter, noting the percentage of Standard Installations completed within the seven (7) day period or at a later date as requested by a Subscriber. Subject to consumer privacy requirements, underlying activity will be made available to the County for review upon reasonable request.

At the Franchisee's option, the measurements and reporting of above may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the County of such a change not less than thirty (30) days in advance.

D. The Franchisee will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls and other activities of a maximum four (4) hours scheduled time block during Normal Business Hours. At the Franchisee's discretion, the Franchisee may offer Subscribers appointment arrival times other than these four (4) hour time blocks, if agreeable to the Subscriber. These hour restrictions do not apply to weekends.

E. Upon the customer's request, the Franchisee's service representatives will have the ability to issue service credits, at their discretion, to address customer complaints related to missed appointments.

F. Under Normal Operating Conditions, the Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If the Franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the customer.

G. Between the time a new customer is signed up for service and the time service is installed, he or she shall be afforded a right of rescission.

F. The Franchisee shall have a Customer Service Center as defined in these Customer Service Standards.

#### SECTION 4: SERVICE INTERRUPTIONS AND OUTAGES

A. The Franchisee shall exercise commercially reasonable efforts to limit any scheduled Significant Outage for the purpose of maintaining, repairing, or constructing the Cable System. Under Normal Operating Conditions, the Franchisee may schedule a Significant Outage for a period of more than four (4) hours during any twenty-four (24) hour period only after (i) notifying the County at least fifteen (15) days before the date of the Significant Outage, and (ii) making commercially reasonable efforts to provide each affected Subscriber in the Franchise

Area fifteen (15) days prior notice of the proposed Significant Outage. No notice shall be required where such Significant Outage occurs between the hours of 12:00 midnight and 5:00 AM or in emergency situations or other situations necessitating expedited work.

B. Franchisee representatives who are capable of responding to Service Interruptions must be available to Respond twenty-four (24) hours a day, seven (7) days a week.

C. Under Normal Operating Conditions, the Franchisee must Respond to a call from a Subscriber regarding a Service Interruption or other service problems within the following time frames:

(1) Within twenty-four (24) hours, including weekends, of receiving Subscriber calls respecting Service Interruptions in the Franchise Area.

(2) The Franchisee must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or the County of a Cable Service problem.

D. Under Normal Operating Conditions, the Franchisee shall complete Service Calls within seventy-two (72) hours of the time Franchisee commences to Respond to the Service Interruption, not including weekends and situations where the Subscriber is not reasonably available for a Service Call to correct the Service Interruption within the seventy-two (72) hour period.

E. The Franchisee shall meet the standard in Subsection C and D. of this Section for ninety percent (90%) of the Service Calls it completes, as measured on a quarterly basis.

F. The Franchisee shall provide the County with a report upon request from the County, but in no event more than once a quarter within thirty (30) days following the end of each calendar quarter, noting the percentage of Service Calls completed within the seventy-two (72) hour period not including Service Calls where the Subscriber was reasonably unavailable for a Service Call within the seventy-two (72) hour period as set forth in this Section. Subject to consumer privacy requirements, underlying activity will be made available to the County for review upon reasonable request. At the Franchisee's option, the above measurements and reporting may be changed for calendar quarters to billing or accounting quarters. The Franchisee shall notify the County of such a change at least thirty (30) day in advance.

G. Under Normal Operating Conditions, the Franchisee shall provide a credit upon Subscriber request when all Channels received by that Subscriber are out of service for a period of four (4) consecutive hours or more. The credit shall equal, at a minimum, a proportionate amount of the affected Subscriber(s) monthly recurring charges for the time Cable Service was out. In order to qualify for the credit, the Subscriber must promptly report the problem and allow the Franchisee to verify the problem if requested by the Franchisee. If Subscriber availability is required for repair, a credit will not be provided for such time, if any, that the Subscriber is not reasonably available. Such credits shall be reflected on Subscriber billing statements within the time period required by Section 7(0), below.

H. Under Normal Operating Conditions, if a Significant Outage affects all Video Programming Cable Services for more than twenty-four (24) consecutive hours, the Franchisee shall issue an automatic credit to the affected Subscribers in the amount equal to their monthly recurring charges for the proportionate time the Cable Service was out. Such credits shall be reflected on Subscriber billing statements within the time period required by Section 7(0), below.

I. The Franchisee shall keep maintenance crew and repair staff to meet the Franchisee's obligations under these Customer Service Standards.

## SECTION 5: CUSTOMER COMPLAINTS

Under Normal Operating Conditions, the Franchisee shall investigate Subscriber complaints referred by the County within seventy-two (72) hours. If the Franchisee is unable to resolve such a complaint within the initial seventy-two hour period, and will be unable to resolve the complaint within a total of five (5) business days, the Franchisee shall notify the County of the delay. In any event, however, all such complaints must be resolved within fifteen (15) days of the initial complaint. The County may require reasonable documentation to be provided by the Franchisee to substantiate the request for additional time to resolve the problem. For purposes of this Section, "resolve" means that the Franchisee shall perform those actions, which, in the normal course of business, are necessary to investigate the Customer's complaint and advise the Customer of the results of that investigation.

## SECTION 6: BILLING

A. Subscriber bills must be itemized to describe Cable Services purchased by Subscribers and related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. Franchisee shall, without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, PEG Grants, taxes and/or other governmentally imposed fees. The Franchisee shall maintain records of the date and place of mailing of bills.

B. Every Subscriber with a current account balance sending payment directly to Franchisee shall be given at least fifteen (15) days from the date statements are mailed to the Subscriber until the payment due date.

C. A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill which lists the due date as upon receipt; however, the current portion of that bill shall not be considered past due except in accordance with Subsection 6.B. above.

D. Any Subscriber who, in good faith, disputes all or part of any bill shall have the option of withholding the disputed amount without disconnect or late fee being assessed until the dispute is resolved provided that:

(1) The Subscriber pays all undisputed charges;

- (2) The Subscriber provides notification of the dispute to Franchisee at least five (5) days prior to the due date; and
  - (3) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.
  - (4) It shall be within the Franchisee's sole discretion to determine when the dispute has been resolved.
- E. Under Normal Operating Conditions, the Franchisee shall initiate investigation and resolution of all billing complaints received from Subscribers within five (5) business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.
- F. The Franchisee shall provide on each bill a telephone number and an email address or other electronic means for Subscribers to contact the Franchisee. The County, furthermore, hereby requests that Franchisee omit publishing information specified in 47 C.F.R. § 76.952.
- G. The Franchisee shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the County upon request.
- H. The Franchisee shall provide all Subscribers with the option of paying for Cable Service by check or an automatic payment option where the amount of the bill is automatically deducted from a checking account designated by the Subscriber. Based on credit history, at the option of the Franchisee, the payment alternative may be limited.

## SECTION 7: DEPOSITS, REFUNDS AND CREDITS

- A. The Franchisee may require refundable deposits from Subscribers with 1) a poor credit or poor payment history, 2) who refuse to provide credit history information to the Franchisee, or 3) who rent Subscriber equipment from the Franchisee, so long as such deposits are applied on a non-discriminatory basis. The deposit the Franchisee may charge Subscribers with poor credit or poor payment history or who refuse to provide credit information may not exceed an amount equal to an average Subscriber's monthly charge multiplied by six (6). The maximum deposit the Franchisee may charge for Subscriber equipment is the cost of the equipment which the Franchisee would need to purchase to replace the equipment rented to the Subscriber.
- B. The Franchisee shall refund or credit the Subscriber for the amount of the deposit collected for equipment, which is unrelated to poor credit or poor payment history, after one year and provided the Subscriber has demonstrated good payment history during this period. The Franchisee shall pay interest on other deposits if required law.
- C. Under Normal Operating Conditions, refund checks will be issued within next available billing cycle, or thirty (30) days, following the resolution of the event giving rise to the refund, (e.g. equipment return and final bill payment).



D. Credits for Cable Service will be issued no later than the Subscriber's next available billing cycle, or thirty (30) days, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

E. Bills shall be considered paid when appropriate payment is received by the Franchisee or its authorized agent. Appropriate time considerations shall be included in the Franchisee's collection procedures to assure that payments due have been received before late notices or termination notices are sent.

## SECTION 8: RATES, FEES AND CHARGES

A. The Franchisee shall not, except to the extent expressly permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to Franchisee equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to a situation in which the Subscriber reconnects Franchisee equipment incorrectly) or by the failure of the Subscriber to take reasonable precautions to protect the Franchisee's equipment (for example, a dog chew).

B. The Franchisee shall provide reasonable notice to Subscribers of the possible assessment of a late fee on bills or by separate notice.

## SECTION 9: DISCONNECTION/DENIAL OF SERVICE

A. The Franchisee shall not terminate Cable Service for nonpayment of a delinquent account unless the Franchisee provides a notice of the delinquency and impending termination. The notice shall be provided by email or other direct means to the Subscriber to whom the Cable Service is billed. The notice of delinquency and impending termination may be part of a billing statement.

B. Cable Service terminated in error must be restored without charge within twenty-four (24) hours of notice. If a Subscriber was billed for the period during which Cable Service was terminated in error, a credit shall be issued to the Subscriber if the Service Interruption was reported by the Subscriber.

C. Nothing in these standards or this Agreement shall limit the right of the Franchisee to deny Cable Service for good cause, including but not limited to, non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to the Franchisee's equipment, abusive and/or threatening behavior toward the Franchisee's employees or representatives, or refusal to provide credit history information or refusal to allow the Franchisee to validate the identity, credit history and credit worthiness via an external credit agency.

D. Charges for cable service will be discontinued no later than the next business day following the requested termination of service by the Subscriber, except equipment charges may

by applied until equipment has been returned. No period of notice prior to requested tennination of service can be required of Subscribers by the Franchisee. No charge shall be imposed upon the Subscriber for or related to total disconnection of Cable Service or for any Cable Service delivered after the effective date of the disconnect request, unless there is a delay in returning Franchisee equipment or early tennination charges apply pursuant to the Subscriber's service contract. If the Subscriber fails to specify an effective date for disconnection, the Subscriber shall not be responsible for Cable Services received after the next business day following the date the disconnect request is received by the Franchisee. For purposes of this subsection, the tenn "disconnect" shall include Subscribers who elect to cease receiving Cable Service from the Franchisee and to receive Cable Service or other multi-channel video service from another Person or entity.

## SECTION 10: COMMUNICATIONS WITH SUBSCRIBERS

A. All Franchisee personnel, contractors and subcontractors contacting Subscribers or potential Subscribers outside the office of the Franchisee shall wear a clearly visible identification card bearing their name and photograph. The Franchisee shall make reasonable effort to account for all identification cards at all times. In addition, all Franchisee representatives shall wear appropriate clothing while working at a Subscriber's premises. Every service vehicle of the Franchisee and its contractors or subcontractors shall be clearly identified as such to the public. Specifically, Franchisee vehicles shall have the Franchisee's logo plainly visible. The vehicles of those contractors and subcontractors working for the Franchisee shall have the contractor's/subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to the Franchisee.

B. All contact with a Subscriber or potential Subscriber by a Person representing the Franchisee shall be conducted in a courteous manner.

C. The Franchisee shall send annual notices to all Subscriber inforning them that any complaints or inquiries not satisfactorily handled by the Franchisee may be referred to the County.

D. All notices identified in this Section shall be by either:

(1) A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or

(2) A separate electronic notification.

E. The Franchisee shall provide reasonable notice to Subscribers of any pricing changes or additional changes (excluding sales discounts, new products or offers) and, subject to the forgoing, any changes in Cable Services, including channel line-ups. Such notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if within the control of the Franchisee, and the Franchisee shall provide a copy of the notice to the County including how and where the notice was given to Subscribers. 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 notices required by this section may be provided electronically and by any other reasonable means (such as video scroll message) through which notifications are provided to Subscribers.

F. The Franchisee shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Subsection 10.E., at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of the Franchisee:

- (1) Products and Cable Service offered;
- (2) Prices and options for Cable Services and condition of subscription to Cable Services. Prices shall include those for Cable Service options, equipment rentals, installation, downgrades, late fees and other fees charged by the Franchisee related to Cable Service;
- (3) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;
- (4) Channel positions of Cable Services offered on the Cable System;
- (5) Complaint procedures, including the name, address and telephone number of the County, but with a notice advising the Subscriber to initially contact the Franchisee about all complaints and questions;
- (6) The availability of a parental control device;
- (7) Franchisee practices and procedures for protecting against invasion of privacy; and
- (8) Where to locate the address and telephone number of the Franchisee's office to which complaints may be reported.

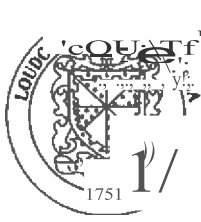
A copy of notices required in this Subsection 10.F., subject to Subsection 10.E., will be given to the County at least thirty (30) days prior to making significant changes in the information required if the reason for notice is due to a change that is within the control of Franchisee and as soon as possible if not with the control of Franchisee.

G. Notices of changes in rates shall indicate the Cable Service new rates and old rates, if applicable.

H. Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, the specific channel location. In addition, should the channel location or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

I. Every notice of termination of Cable Service shall include the following information:

- (1) The name and address of the Subscriber whose account is delinquent;
- (2) The amount of the delinquency for all Cable Services billed;
- (3) The date by which payment is required in order to avoid termination of Cable Service;  
**and,**
- (4) The telephone number for the Franchisee where the Subscriber can receive additional information about their account and discuss the pending termination



Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

Office of the County Administrator

1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0200 • Fax (703) 777-0325

At a public hearing of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison Street, S.E., Leesburg, Virginia, on Wednesday, July 12, 2023, at 6:00 p.m.

IN RE: Comcast Cable TV Franchise Agreement Renewal (2011 & 2022: Countywide)

Chair Randall moved that the Board of Supervisors approve the Comcast Cable TV Franchise Agreement Renewal provided as Attachment I to the July 12, 2023, Board of Supervisors Public Hearing Staff Report.

Chair Randall further moved that the Board of Supervisors authorize the County Administrator, or his designee, to execute the Agreement, in final form approved by the County Attorney, or his designee, as proposed in the July 12, 2023, Public Hearing Staff Report.

Seconded by Supervisor Umstattd.

Voting on the Motion: Supervisors Buffington, Glass, Kershner, Letourneau, Randall, Turner, Saines, and Umstattd - Yes; None - No; Supervisor Briskman- Absent for the vote.

A COPY TESTE:

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DEPUTY CLERK TO THE LOUDOUN  
COUNTY BOARD OF SUPERVISORS