

CABLE TELEVISION FRANCHISE AGREEMENT

between

CLACKAMAS COUNTY, OREGON

and

**Comcast of Tualatin Valley, Inc.; Comcast of
Illinois/Ohio/Oregon, LLC; Comcast of Oregon II, Inc.**

TABLE OF CONTENTS

1.	PURPOSE AND INTENT	1
2.	DEFINITIONS	1
3.	GRANT OF FRANCHISE	6
3.1	Grant	6
3.2	Use of Public Streets and Rights of Way.....	6
3.3	Duration and Effective Date of Franchise/Franchise Review.....	6
3.4	Franchise Area	7
3.5	Franchise Not Exclusive	7
3.6	Franchise Non-Transferable	7
3.7	[Reserved]	8
3.8	Franchise Acceptance.....	8
4.	CONSTRUCTION AND SERVICE REQUIREMENTS.....	9
4.1	General	9
4.2	Right of Inspection of Construction.....	9
4.3	Availability of Residential Service.....	9
4.3.1	Density for Normal Extension of Service.....	9
4.3.2	Isolated Areas	10
4.3.3	New Subdivisions	11
4.3.4	Annexation	11
4.4	Erection of Poles.....	11
4.5	Trimming of Trees or other Vegetation.....	11
4.6	Repair and Restoration of Streets, Public Ways and Grounds.....	12
4.7	Construction Codes.....	12
4.8	Reservations of Street Rights.....	12
4.9	Street Vacation and Abandonment	12
4.10	Movement of Facilities	13
4.11	Easements.....	13
4.12	Undergrounding.....	13
4.13	As Built	14
4.14	Emergency.....	14
5.	SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS.....	14
5.1	Equal and Uniform Service	14
5.2	System Configuration.....	14
5.3	Channel Capacity.....	15
5.4	Satellite Earth Stations.....	15
5.5	Interconnection	15
5.6	Emergency Alert Capability	17
5.7	Standby Power	17
5.8	Status Monitoring	17
5.9	Parental Control Lock.....	17

5.10	Technical Standards.....	17
5.11	Performance Testing.....	18
6.	SERVICES AND PROGRAMMING.....	19
6.1	Programming Categories.....	19
6.2	Changes in Video Programming Services.....	19
6.3	[Reserved].....	19
6.4	Leased Channel Service.....	19
6.5	Obscenity.....	19
6.6	Public, Educational and Government Use of System.....	20
6.6.1	Channels.....	20
6.6.2	Support for Access Costs.....	22
6.6.3	Access and Institutional Network Support Not Franchise Fees.....	22
6.6.4	Institutional Network (I-Net).....	23
6.6.5	Cable Service to Public Facilities.....	23
6.6.6	[Reserved].....	24
6.6.7	Change in Technology.....	24
6.6.8	Technical Quality.....	24
7.	FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS.....	24
7.1	Intent.....	24
7.2	Areas of Regulation and Administration.....	25
7.3	Rate regulation.....	25
7.4	Remedies for Franchise Violations.....	26
7.5	Remedies Not Exclusive.....	28
7.6	Consumer Protection Standards.....	28
7.6.1	Customer Service and Telephone Responsiveness.....	29
7.6.2	Service and Repair Calls.....	30
7.6.3	Disconnection.....	31
7.6.4	Credits Upon Outage.....	31
7.6.5	Downgrade Charges.....	32
7.6.6	Billing Information Required.....	32
7.6.7	Information to Subscribers.....	32
7.6.8	Complaint Resolution.....	34
7.6.9	Failure to Resolve Complaints.....	34
8.	GENERAL FINANCIAL AND INSURANCE PROVISIONS.....	34
8.1	Compensation.....	34
8.2	Faithful Performance Bond.....	36
8.3	Damages and Defense.....	36
8.4	Liability Insurance and Indemnification.....	37
9.	RIGHTS RESERVED TO GRANTOR.....	38
9.1	Grantor Acquisition of the Cable System.....	38
9.2	[Reserved].....	39
9.3	Right to Perform Franchise Fee Audit.....	39
9.4	Right of Inspection of Construction.....	39
9.5	Intervention.....	39
9.6	Right to Require Removal of Property.....	39
9.7	Inspection of Facilities.....	40
10.	RIGHTS OF INDIVIDUALS PROTECTED.....	40

10.1 Discriminatory Practices Prohibited	40
10.2 Unauthorized Monitoring or Cable Tapping Prohibited.....	40
10.3 Privacy and Other Rights	41
10.4 Permission of Property Owner Required	41
10.5 Sale of Subscriber Lists and Personalized Data Prohibited	41
11. TERMINATION AND EXPIRATION	41
11.1 Revocation.....	41
11.2 [Reserved]	42
11.3 Renewal	42
11.4 Continuity of Service Mandatory	43
12. OPERATION AND MAINTENANCE	43
12.1 Open Books and Records	43
12.2 Communications with Regulatory Agencies.	44
12.3 Reports	44
12.4 Safety	45
13. MISCELLANEOUS PROVISIONS.....	46
13.1 Compliance with Laws.....	46
13.2 Severability and Preemption.....	46
13.3 Captions.....	46
13.4 No Recourse Against the Grantor	47
13.5 Nonenforcement by Grantor	47
13.6 Force Majeure.....	47
13.7 Entire Agreement	47
13.8 Consent.....	47
13.9 Notices and Time Limit for Grantee Communications	48
13.10 Consistency of Franchise with Cable Act.....	48
13.11 Future Changes in Law	48
13.12 [Reserved]	Error! Bookmark not defined.
13.13 Notice.....	48
13.14 Public Disclosure.....	49
13.15 Time is of the Essence	49
13.16 Reservation of Rights.....	49

1. **PURPOSE AND INTENT**

- 1.1 Clackamas County, Oregon (hereafter Grantor) is authorized to and by this Franchise Agreement does grant to Comcast of Tualatin Valley, Inc.; Comcast of Illinois/Ohio/Oregon, LLC; Comcast of Oregon II, Inc. (hereafter Grantee) a non-exclusive franchise, through 3/22, 2015 revocable as provided herein, to construct, operate and maintain a cable communications system in the franchise area comprised of a portion of the area within the unincorporated territory of the Grantor.
- 1.2 The purpose of this Franchise Agreement is to create a binding, enforceable contract between Grantor and Grantee.

2. **DEFINITIONS**

For the purposes of this Franchise Agreement and all attachments included hereto, the following words, terms, phrases, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used in this franchise which are not defined hereunder but defined in the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996 (Cable Act) shall have the meaning specified in the Cable Act definition.

- a. "Access" or "Community Access" or Public, Educational and Government (PEG) Access" means the availability for use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of designated channels on the Cable System to acquire, create, and distribute non-commercial programming not under the Grantee's editorial control.
- b. "Access Channel" or "Public, Educational or Government Access (PEG) Channel" means any channel or portion of a channel utilized for non-commercial programming, where any member of the general public or any organization may be a programmer, without charge by the Grantee, on a non-discriminatory basis.
- i. "Educational Access Channel" means any channel or portion of a channel available for educational programming by individuals or institutions.
- ii. "Government Access Channel" means any channel or portion of a channel available for programming by government agencies.
- iii. "Public Access Channel" means any channel or portion of a channel where any member of the general public or any non-commercial organization may be a programmer on a non-discriminatory basis, subject to operating rules formulated by the Grantor or its designee. Such rules shall not be designed to control the content of public access programming.

Nothing in this Franchise shall prevent the Grantor or its designee from carrying out fundraising activities to supplement access capital or operating funds consistent with applicable federal law and regulations, and such fundraising activity shall not in itself constitute a commercial use of access channels.

- c. "Affiliate" When used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
- d. "Basic Cable Service" means any service tier that includes the retransmission of local television broadcast signals as well as the PEG Channels required by this Franchise.
- e. "Broadcast Signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by the cable communications system off-the-air, whether by microwave link, by satellite receiver, or by other means.
- f. "Cable Act" means collectively the federal Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as amended.
- g. "Cable Operator" means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly or through one or more Affiliates own a significant interest in such Cable System or who otherwise control or are responsible for, through any arrangement, the management and operations of such a Cable System.
- h. "Cable Service" means a) the one-way transmission to subscribers of video programming or other programming service; and b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service covered by the Cable Act.
- i. "Cable Communications System" or "Cable System" or "System" shall have the meaning specified in the definition of "Cable System" in the Cable Act. In every case of its use in this Franchise, unless otherwise specified, the term shall refer to the Cable system constructed and operated by the Grantee in the County under this Franchise.
- j. "Channel" shall have the meaning specified in the definition of "Channel" in Section 602 of the Cable Act, 47 U.S.C. Section 522.4.
- k. "County" means Clackamas County, an Oregon statutory County, and all the territory within its boundaries.
- l. "County Commission" means the governing body of the Grantor.
- m. "Converter" means an electronic device for changing the frequency of a television signal.

- n. "FCC" means the Federal Communications Commission.
- o. "Franchise" or "Franchise Agreement" means the authorization granted by this document, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system. Unless otherwise specified, "Franchise" shall designate this agreement, including all referenced material, adopted in the appropriate manner by the Grantor.
- p. "Franchise Area" means those portions of the unincorporated area of Clackamas County served by Grantee as of the effective date of this franchise, which are generally shown in Exhibit A.
- q. "Grantee" or "Franchisee" means Comcast of Tualatin Valley, Inc., Comcast of Illinois/Ohio/Oregon, LLC, and Comcast of Oregon II, Inc., and their lawful successors, transferees, or assignees thereof.
- r. "Grantor" means Clackamas County, a statutory County in the State of Oregon.
- s. "Gross Revenues" means all amounts earned by the Grantee and derived from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area in accordance with Generally Accepted Accounting Principles. "Gross Revenues" shall include, without limitation, amounts for all Cable Services, premium services, advertising, revenues on sales of goods or services by third parties such as home shopping networks, installations, leasing, renting or selling of system capacity, revenue received from programmers as payment for programming content cablecast on the cable system, and all other revenues derived from the operation of Grantee's Cable System to provide cable services within the Franchise Area, regardless of whether initially recorded to another entity and however characterized.

"Gross Revenues" shall also include any amounts received or earned by any Affiliate of the Grantee in whatever form and from all sources, derived from the operation of the Grantee's Cable System to provide cable services within the Franchise Area. However, "Gross Revenues" shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute "Gross Revenues" of both the Grantee and the Affiliate, shall be counted only once for purposes of determining "Gross Revenues."

The definition of "Gross Revenues" includes those revenues collected as franchise fees and paid to the County. "Gross Revenues" shall exclude revenues from high speed cable modem service unless it is determined to be a Cable Service under federal law or regulation, any amounts received for managed I-Net from the County or Institutional Subscriber,

reimbursements by programmers of marketing costs incurred by Grantee for introduction of new programming pursuant to written marketing agreements, bad debt written off by Grantee in the normal course of business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected, and any taxes of general applicability collected from subscribers and paid to a governmental entity.

- t. "Institutional Service" means video, audio, data and other services provided to institutional subscribers on an individual application, private channel basis. These services may include, but are not limited to, two-way video, audio or digital signals among or between institutions.
- u. "Institutional Network" means that part of a cable communications network designed principally for the provision of non-commercial and non-entertainment, institutional services to schools, public agencies or other non-profit agencies for use in connection with the ongoing operations of such institutions.
- v. "Institutional Subscriber" means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.
- w. "Leased Channel" means any channel or portion of a channel available for programming by persons or entities other than Grantee for a fee or charge.
- x. "Monitoring" means observing a one way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.
- y. "Premium Channel" means a channel on which television signals are delivered to subscribers for a special fee or charge over and above the regular charges for standard subscriber service, on a per program, per channel, or other subscription basis.
- z. "Person" means any corporation, partnership, proprietorship, individual, organization, or other entity authorized to do business in the State of Oregon, or any natural person.
- aa. "Programmer" means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other storage methods or media, to subscribers, by means of the cable communications system.
- bb. "Programming" means the process of causing television programs or other patterns of signals in video, voice or data formats to be transmitted on the Cable System, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the Cable System.
- cc. "Record" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without

limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, magnetic and laser disk files, and photographs, to the extent related to the enforcement or administration of this Franchise.

- dd. "Resident" means any natural person residing within the Franchise Area.
- ee. "Residential Service" means services delivered on the residential subscriber network.
- ff. "Residential Subscriber" means a resident who receives services on the residential subscriber network.
- gg. "Residential Network" means a cable communications system or Cable System.
- hh. "School" means any public or private primary or secondary school, college, or university, but excluding home schools and private primary and secondary institutions that are not registered by the State of Oregon pursuant to ORS 354.505-.525.
- ii. "Section" means any Section, Subsection or provision of this Franchise Agreement.
- jj. "Streets and Public Ways" means the surface of and the space above and below any public street, roads, sidewalk, alley, public lands and waterways used as public rights-of-way or other public way of any type whatsoever, now or hereafter existing as such within the Franchise Area, and any easements, rights of way or other similar means of access to the extent Grantor has the right to allow Grantee to use them, and except the airwaves above a right-of-way with regard to cellular or other nonwire communications or broadcast services.
- kk. "Subscriber" means a Person who lawfully receives Cable Service over the Cable System with Grantee's express permission.
- ll. "Tapping" means observing a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.
- mm. "Year" means a full twelve-month calendar year, unless designated otherwise, such as a "fiscal year."

3. GRANT OF FRANCHISE

3.1 Grant

Grantor hereby grants to the Grantee a non-exclusive and revocable franchise from and after the effective date hereof, revocable as provided herein, to construct, operate and maintain a cable communications system within the Franchise area. This franchise constitutes the authority, right, privilege and obligation to provide Cable Services and other lawful communications services over the facilities of the Cable Communications System as required and conditioned by the provisions of this Franchise Agreement.

This franchise is subject to the laws of the United States and the State of Oregon, and to the general codes of Clackamas County enacted pursuant thereto affecting matters of general county concern and not merely existing contractual rights of Grantee, whether now existing or hereinafter enacted. In particular this Franchise supersedes the Grantor's Cable Code and ordinances in any matter in which the Franchise and the Code and ordinances are in conflict. The Grantor shall make a good faith effort to notify the Grantee of any County proceedings which would substantially affect the Grantee's operations, and shall upon request supply the Grantee with copies of any County laws or regulations affecting Grantee's operations.

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

3.2 Use of Public Streets and Rights of Way

For the purpose of constructing, operating and maintaining a cable communications system in the Franchise Area, the Grantee may erect, install, audit, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the public streets and ways within the Franchise Area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. Prior to construction or alteration within County road rights-of-way, the Grantee shall in each case request permits as required in Chapter 7.03 of the County Code and file plans as required with the appropriate agencies of Grantor and in accordance with any agreements with utility providers and companies, pay applicable fees, and receive approval as necessary before proceeding. Nothing in this section shall relieve the Grantee of the obligations of Section 4.5 regarding the trimming of trees and other vegetation.

3.3 Duration and Effective Date of Franchise/Franchise Review

Except as otherwise provided herein for revocation, the term of this franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be five (5) years from the effective date of this agreement, at

which time the franchise shall expire and be of no force and effect. The effective date of the franchise shall be the date of acceptance by Grantee, unless the Grantee fails to file the Franchise acceptance in accordance with Section 3.8 herein, in which event this Franchise shall be null and void.

3.4 Franchise Area

The franchise area shall be that area designated on the attached map, Exhibit A. Any future expansions of franchise area as shown on Exhibit A must be approved by the Board of Commissioners, as an amendment to this franchise.

3.5 Franchise Not Exclusive

The franchise granted herein is not exclusive. This franchise shall not be construed as any limitation, subject to the provisions of Section 13, upon the right of the Grantor, through its proper officers, to grant to other persons or corporations, rights, privileges or authority the same as, similar to or different from the rights, privileges or authority herein set forth, in the same or other streets and public ways or public places by franchise, permit or otherwise subject to the provisions of Section 13.11 herein.

3.6 Franchise Non-Transferable

Subject to Section 617 of the Cable Act (47 U.S.C. Section 537), no transfer of the Franchise or change in control of Grantee shall occur without the prior written consent of Grantor, provided that such consent shall not be unreasonably withheld, delayed or conditioned.

No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, interest of Grantee in the Franchise or Cable System in order to secure indebtedness, and no such consent shall be required for change in control or transfer of an ownership interest or other interest in Grantee or interest in the Franchise to the parent of Grantee or another Affiliate of Grantee, and any action which is the result of a merger of the parent of Grantee or any action which is the result of a merger of another Affiliate of Grantee. Grantee shall provide written notice to Grantor of any transaction as described in this paragraph within sixty (60) days of such transaction.

If the Grantee wishes to transfer this franchise, the Grantee and Grantor shall proceed pursuant to Section 617 of the Cable Act and related rule makings of the FCC. Grantee shall give Grantor written notice of the proposed transfer, and shall request consent of the transfer by the Grantor. Grantee shall furnish all information required by law and/or reasonably requested by Grantor with respect to the consideration of the transfer. For the purpose of determining whether it will consent to such transfer, Grantor may inquire into the legal, financial, and technical qualifications of the prospective transferee to perform the obligations of the Grantee under this Franchise Agreement. The Grantee shall assist Grantor in any such inquiry.

In cases where the Grantor finds it inappropriate to give unconditional consent to the proposed transfer, the Grantor may offer its consent upon such terms and conditions as it deems reasonably appropriate, provided however, any such terms and conditions so attached shall be related to the legal, financial and technical qualifications of the proposed transferee and to the resolution of outstanding and unresolved issues of Grantee's noncompliance with the terms and conditions of this Franchise. Any transfer of ownership effected without the written consent of the Grantor shall render this franchise subject to revocation, provided that any such consent shall not be unreasonably withheld. The Grantor shall have one hundred twenty (120) days to act upon any request for approval of a transfer that contains or is accompanied by such information as is required in accordance with FCC regulations and by the Grantor. If the Grantor fails to render a final decision on the request within said one hundred twenty (120) days, the request shall be deemed granted unless the Grantee and the Grantor agree to an extension of time.

The Grantee, upon any transfer as heretofore described, shall within thirty (30) days thereafter file with the Grantor a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such sale, lease, mortgage, assignment or transfer, certified and sworn to as correct by the Grantee.

Every such transfer as heretofore described shall be deemed void and of no effect unless Grantee shall within thirty (30) days after the same shall have been made, file such certified copy as is required.

3.7 [Reserved]

3.8 Franchise Acceptance

The Grantee, within sixty (60) days after the tender by the Grantor to Grantee of the Franchise Agreement adopted by the Grantor, shall file in the office of the Grantor's cable franchise manager a written acceptance executed by the Grantee, in the form attached hereto as Exhibit B. In the event Grantee fails to file the acceptance as required herein, then this Franchise shall be null and void.

3.9 Competitive Equity

The Grantee acknowledges and agrees that the Grantor may be required by federal law, and reserves the right, to grant one or more additional franchises to provide Cable Service within the Franchise Area. If any additional competitive franchise is granted by the Grantor to provide Cable Service in the Grantee's Franchise Area pursuant to the Cable Act, which franchise contains material terms and conditions that are more favorable or less burdensome terms or conditions than this Franchise Agreement, then, except to the extent that state or federal laws or regulations permit or require more favorable or less burdensome terms or conditions, the Grantor agrees that it shall amend this Franchise to ensure that, considering all the circumstances including any limitations on its regulatory authority, the material provisions of such other franchises and this Franchise are, taken together, materially equivalent to the extent required by law. "Material terms and conditions" include, but are not limited to: franchise fees; insurance; system build-out requirements; performance bonds or similar

instruments; public, education and government access channels and support; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity. The parties agree that, notwithstanding any provision of this subsection 3.9, the Grantor shall not be obligated to comply with the provisions of this subsection to the extent doing so would cause the Grantor to violate applicable laws or FCC rules. Video Programming services delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

4. CONSTRUCTION AND SERVICE REQUIREMENTS

4.1 General

The Grantee shall maintain on its cable system a minimum practical capacity of one hundred and twenty (120) activated Channels, as those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided. The Grantee shall also provide for the support of Institutional Network uses for public purposes as provided for in Section 6.6.4. In all its construction and service provision activities, Grantee shall meet or exceed the construction, extension, service and technical performance requirements, set forth in this Franchise Agreement.

Prior to beginning any construction, Grantee shall provide Grantor with a construction schedule for work in the Streets. All construction shall be performed in compliance with this Agreement and all applicable Grantor ordinances and codes. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, grantees, permittees, and franchisees so as to reduce as far as possible the number of Street cuts.

4.2 Right of Inspection of Construction

Grantor shall have the right to inspect all construction or installation work performed within the Franchise Area and to make such tests as it shall find necessary to ensure compliance with construction or installation standards of this Franchise Agreement and other pertinent provisions of law.

4.3 Availability of Residential Service

4.3.1 Density for Normal Extension of Service

The Grantee shall make service available to every potential subscriber:

- 1) Whose dwelling is one of a minimum of twenty (20) dwelling units per cable mile, or six (6) dwelling units per 1/4 mile, from the nearest existing cable plant; or

- 2) existing cable plant would pass an average of twenty (20) homes per cable plant mile.

No charge shall be made by the Grantee to subscribers for: the extension of the cable system under this subsection; nor the provision of a cable drop to the premises of any subscriber requesting service, so long as the drop does not exceed 125 (one-hundred twenty-five) feet in length. However, nothing in this section shall prevent the Grantee from imposing the normal, published installation charge to any subscriber.

4.3.2 Isolated Areas

Potential subscribers requesting service but not entitled to availability of service under Section 4.3.1 shall be provided service under the following circumstances, through contractual agreement between the Grantee and the person requesting service for payment of line extension construction costs:

- 1) Grantee shall provide service at its normal, published installation charge for the initial 125 (one-hundred twenty-five) feet of extension.
- 2) The subscriber and the Grantee shall share equally the actual cost of the extension for the distance over 125 (one-hundred twenty-five) feet but less than five hundred (500) feet.
- 3) The subscriber shall pay all costs for the extension for the distance greater than five hundred (500) feet.
- 4) The amount of cable extension as measured in feet, which is the basis for the cost sharing, will be computed as follows:

The starting point shall be a point at the nearest reasonably usable existing cable plant using public right-of-way, exclusive of a street crossing; provided that the Grantee shall make a reasonable effort to secure and use private rights of way if the use of such rights of way reduces the cost of the line extension to the subscriber. The actual length of cable needed from the starting point to the subscriber's home shall be the total number of feet. The cost of the project from the starting point to the home shall be divided by the total number of feet. The resultant cost per foot shall be used to compute each party's share. Street bores or crossings needed to bring the existing cable plant to the requesting subscriber's side of the street shall be included as part of any line extension greater than 125 (one-hundred twenty-five) feet, otherwise these costs shall not be charged to the subscriber.

4.3.3 New Subdivisions

- 1) Subject to Sections 4.3.1 and 4.3.2 and reasonable access provided to Grantee by developer or owner of the subdivision, Grantee will be required to build, activate, proof and sell cable in new subdivisions within sixty (60) days of the time when fifty percent (50%) of the subdivision's potential dwelling units have been issued building permits, or twenty-five percent (25%) of the subdivision's potential dwelling units have contracted for cable television service, whichever is less.
- 2) Grantee shall be responsible for ascertaining building permit activity in new subdivisions.
- 3) Where jurisdictional approval of a subdivision includes provision for the construction of separate phases of the subdivision, each phase will be considered a separate subdivision for the purpose of this section.

4.3.4 Annexation

In the event any portion of the Franchise Area is annexed by a city, resulting in that portion having two or more cable communications franchises, then to the extent permitted by law, the Grantee's rights hereunder shall continue in effect but the Grantee shall not be required to construct a cable system passing the same homes as are passed by an existing cable system operating under the authority of an existing city franchise.

4.4 Erection of Poles

If additional poles in an existing aerial utility system route are required, Grantee shall negotiate with the utility company or provider for the installation of the needed poles. Grantee shall not erect, for any reason, any pole on or along any street or public way in an existing aerial utility system unless approved by the Grantor. The Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions, and shall comply with all applicable ordinances, resolutions, rules and regulations of the Grantor.

4.5 Trimming of Trees or other Vegetation

In the conduct of its business, it may be necessary for Grantee to trim trees or other vegetation in order to provide space for its facilities. Tree or vegetation trimming shall be done only in accordance with the codes and other rules and regulations of Grantor and if the tree or vegetation is located on private property, with the permission of the owner of the property on which the tree or vegetation stands. Nothing contained in this Franchise Agreement shall be deemed to empower or authorize Grantee to cut, trim or otherwise disturb any trees or other vegetation, whether ornamental or otherwise.

4.6 Repair and Restoration of Streets, Public Ways and Grounds

Whenever the Grantee shall disturb the surface or otherwise damage any street, alley, public highway, other public way or ground for any purpose mentioned herein, it shall repair and restore the same to the condition in which it was prior to the opening or other damage thereof. When any opening is made by the Grantee in any hard surface pavement, in any street alley, public highway or other way, the Grantee shall promptly refill the opening and restore the pavement to its original condition. The Grantor may refill and/or repave in case of neglect of the Grantee; provided that Grantor first notifies and provides Grantee fifteen (15) days to cure, unless additional time is granted in writing by the Grantor. The cost incurred by Grantor including the cost of inspection, supervision and administration shall be paid by the Grantee. All excavations made by the Grantee in the streets, alleys, public highways or other ways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and codes of Grantor as now or hereafter in effect.

4.7 Construction Codes

The Grantee shall strictly adhere to all applicable building, zoning or other laws and codes currently or hereafter in force in Grantor's jurisdiction. The Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference, as determined by the Grantor, with the use of said public or private property by any person. In the event of such interference, Grantor may require the removal of Grantee's lines, cables and appurtenances from the property in question.

4.8 Reservations of Street Rights

Nothing in this Franchise Agreement shall be construed to prevent any public work of the Grantor, including without limitation constructing sewers, grading, paving, repairing and/or altering any street, alley, or public highway, or laying down, repairing or removing water mains or maintaining, repairing, constructing or establishing any other public property. If any property of the Grantee shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or any other public improvement, then on reasonable notice from the Grantor all such property including poles, wires, conduits or other appliances and facilities shall be removed, replaced or relocated in a timely manner as shall be directed by the Grantor, so that the same shall not interfere with the said public work of the Grantor, and such removal, replacement or relocation shall be at the expense of the Grantee. In the event of failure, neglect or refusal of the Grantee, to relocate its facilities or to repair, restore, or reconstruct such street, the Grantor may do such work or cause it to be done, and the cost thereof to the Grantor shall be paid by the Grantee.

4.9 Street Vacation and Abandonment

In the event any street, alley, public highway or portion thereof used by the Grantee shall be vacated by the Grantor, or the use thereof discontinued by the Grantee, during the term of this franchise, the Grantee shall forthwith remove its

facilities therefrom unless specifically permitted in writing to continue the same by the new controlling jurisdiction or property owner, as appropriate. At the time of removal thereof the Grantee shall restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in such condition as may be reasonably required by Grantor. In the event of failure, neglect or refusal of the Grantee, to repair, restore, or reconstruct such street, the Grantor may do such work or cause it to be done provided that Grantor first notifies and provides Grantee fifteen (15) days to cure, unless additional time is granted in writing by the Grantor. The cost incurred by Grantor including the cost of inspection, supervision and administration shall be paid by the Grantee.

4.10 Movement of Facilities

In the event it is necessary temporarily to move or remove any of the Grantee's wires, cables, poles or other facilities placed pursuant to this Franchise, in order to lawfully move a large object, vehicle, building or other structure over the streets, alleys or highways of the Grantor, Grantee, upon reasonable notice, shall move at the expense, paid in advance, of the person requesting the temporary removal such of its facilities as may be required to facilitate such movements; provided that, if the Grantor is the party requesting the removal, for movement of buildings or structures or other public purposes of the Grantor, then the removal shall be done at the expense of the Grantee. Should Grantee fail to remove or relocate any such facilities by the date established by Grantor, Grantor may effect such removal or relocation provided that Grantor first notifies and provides Grantee fifteen (15) days to cure, unless additional time is granted in writing by the Grantor. The cost incurred by Grantor including the cost of inspection, supervision and administration shall be paid by the Grantee.

If public funds, other than the funds of Grantor, including passed-through funds, are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the relocation of facilities as provided under Sections 4.9, 4.10 and 4.12 hereof, Grantee shall be afforded equal treatment subject to applicable law and regulations and Grantor shall, upon written request of the Grantee, use its best efforts to make application for such funds on behalf of the Grantee.

4.11 Easements

When Grantee secures easements in its own name, as in the case of construction in multiple dwelling units, it shall use a standard easement form that has been provided to the Grantor upon request or, if not a standard form, shall provide a copy of the easement document to the Grantor, upon request.

4.12 Undergrounding

- a) Cable must be installed underground where (1) all existing utilities are placed underground, (2) statute, ordinance, policy or other regulation of Grantor requires utilities to be placed underground, (3) overhead utility lines are placed underground (Grantee shall bear the cost of such movement of its facilities unless specific exemption is given by Grantor in

any individual case or unless preemptive state or federal law or regulation provides otherwise), (4) Grantee is unable to get or maintain proper clearances, (5) underground easements are obtained from developers of new residential areas, or (6) utilities are overhead but residents prefer underground (service to be provided at cost to resident).

- b) Grantee shall use conduit or its functional equivalent on 100% of undergrounding, except for drops from poles, pedestals or vaults to subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with utility companies or providers, common trenches for underground construction wherever available.

4.13 As Built

Grantee shall maintain strand map drawings of the system or the functional equivalent of the Cable System, and make them available to the Grantor for inspection upon request. Strand drawings or their functional equivalent shall be updated as changes occur in the Cable System. The Grantee shall provide to the Grantor, on request, a copy of strand maps showing the location of the Grantee's facilities in the streets and public ways within the Franchise Area.

4.14 Emergency

In the event of a situation or circumstance which creates or is contributing to an imminent danger to health, safety or property, the Grantor, may remove or relocate Grantee's cable system without prior notice. Subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution, Grantor will defend, indemnify and hold Grantee harmless for any negligent actions or gross negligence by Grantor's employees or agents pursuant to this Section 4.14.

5. SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS

5.1 Equal and Uniform Service

Reasonable efforts shall be made to provide equal and uniform access, Cable Service and rates to customers within the Franchise Area.

5.2 System Configuration

The communications system shall consist, at a minimum, of a residential network with bidirectional communications capacity for subscriber interaction if any, required for selection or use of Cable Service, including but not limited to pay-per-view, VOD and other interactive cable services as determined by Grantee.

5.3 Channel Capacity

The residential cable system shall maintain a minimum channel capacity of the equivalent of one hundred and twenty (120) activated Channels. The system shall throughout the franchise term carry reverse signals in the upstream direction. In addition, the System shall have capacity for Institutional Network services. The system performance, capacity and services offered may be reviewed to assure the system keeps pace with changes in technology and is at least comparable to other systems in the Portland Metropolitan area.

5.4 Satellite Earth Stations

Grantee shall provide a sufficient number of earth stations or its equivalent to receive signals from operational communications satellites or its equivalent that carry cable television services accessible to the Grantee throughout the life of the franchise to enable Grantee to carry out its obligations under this Franchise.

5.5 Interconnection

- a) Grantee shall continue without limitation all interconnections in effect on the effective date of this Franchise.
- b) Grantee shall interconnect the Cable System with any cable system in a geographically adjacent system (meaning a cable system that adjoins or overlaps with the Franchise Area), not owned or operated by Grantee or an affiliate of Grantee, upon the directive of the Grantor, for the purpose of permitting the transmission of PEG Access programming signals between the systems, and the carriage of such signals on the PEG Access Channels. The Grantor shall not direct interconnection in this case except under circumstances where it can be accomplished without undue burden or excessive cost to the Subscribers. Grantee shall not be required to interconnect with the other cable system unless the cable operator of that system is willing to do so and pay for its own costs of constructing and maintaining the interconnect up to the demarcation point, which shall be at a meet point located at or near the border of the neighboring jurisdictions, except as may otherwise be agreed by the parties. Grantee shall use reasonable efforts to agree with the other cable operator upon mutually convenient, cost-effective and technically viable interconnection of the PEG Access Channel signals. Grantee agrees to not object to or impede any connection established by a Grantor designated access provider, whether on the property of the Grantor, a designated access provider, or another cable operator, by means of which another cable operator obtains access to the PEG Access Channels, and not to object or impede the transmission of such signals by any other cable operator. The Grantee shall not charge the other party a fee for PEG programming in connection with transporting PEG signals or programming on Grantee's Cable System to the meet point or other location agreed upon between Grantee and the other cable operator.
- c) Grantee shall interconnect the Cable System with any cable system that is geographically adjacent to the Franchise Area that is owned or operated by Grantee or an affiliate of Grantee, for the purpose of permitting the transmission of PEG Access programming signals between the systems, and the carriage of such signals on the PEG Access Channels throughout the Franchise Area. The

interconnection shall be done at Grantee's sole expense. If the Grantor after the effective date of this Franchise Agreement requests that its Government Access programming be carried on Grantee's other cable systems that are not geographically adjacent to the Franchise Area or that are outside the Franchise Area, Grantor shall be responsible for all costs associated with its request, provided that such request is technically viable and does not require additional channel space or obligation in Grantee's other cable systems not geographically adjacent to or outside the Franchise Area.

d) In the event the Grantor designated cable operator with authority to construct a cable system to the PEG origination points within the Franchise Area opts not to connect at the origination points and instead requests access to PEG Access Channels through an interconnection with Grantee's facilities within the Franchise Area, including within Grantee's headend or facilities, Grantee shall use reasonable efforts to agree with the other cable operator upon mutually convenient, cost-effective and technically viable interconnection at the PEG Access Channel signals.

e) Notwithstanding the foregoing, interconnection may be waived by the Grantor if not technically feasible. Grantee may after consultation with Grantor, terminate an interconnection for any period where an interconnecting system is delivering signals in a manner that endangers the technical operation of Grantee's Cable System.

f) Nothing in this Section alters Grantee's Channel obligations for Access programming or the number of designated Access Channels delivered to Residential Subscribers on Grantee's Cable System. Unless the Grantor directs otherwise, or an affected jurisdiction objects, any interconnection shall allow Access Channels to operate without disruption or delay across and within the Franchise Area.

h) It is Grantee's responsibility to ensure that the signals it transmits by means of any interconnection suffer no material degradation when compared to the quality of the signals as received from the designated access providers. It is not the Grantee's responsibility to ensure that the signals provided to the interconnect by another interconnecting system meet industry standards.

i) Any equipment and construction costs borne by Grantee in connection with the obligation to provide for PEG Access Channel interconnection shall be considered "external cost" as such term is used in 47 C.F.R. § 76.922 on the date of this Franchise, and as such, the cost is permitted under federal law and regulation to be passed through to Subscribers, to the extent and in a manner provided for in federal regulations governing the same. The costs of interconnection shall be in addition to any PEG capital contribution made by Grantee pursuant to 6.6.2 hereof, and shall not be deducted from the amount of such contribution.

5.6 Emergency Alert Capability

- a) Grantee shall provide Emergency Alert capability in full compliance with applicable FCC requirements. Grantee and the County shall establish procedures to override video and audio on all Channels of the Cable System to provide emergency messages consistent with the FCC's directives.
- b) The Grantor shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall indemnify and hold harmless the Grantee, its employees, officers and assigns from any claims arising from use of the cable system or the EAS including, but not limited to, reasonable attorneys' fees. Additionally, subject to limits of the Oregon Tort Claims Act and the Oregon Constitution, Grantor will defend, indemnify and hold harmless the Grantee for the negligent actions or gross negligence by Grantor's employees or agents pursuant to this Section 5.6(b).

5.7 Standby Power

Grantee shall provide standby power generating capacity at the cable communications system control center and all hubs and any fiber optic nodes. Grantee shall maintain standby power system supplies, rated at least at four (4) hours duration, throughout the trunk and distribution networks. In addition, Grantee shall have in place and shall have filed with the Grantor throughout the Franchise term, a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two hours.

5.8 Status Monitoring

Grantee shall continue to utilize status monitoring of the cable system which can continually monitor the system for signal quality on the forward and return spectrums of the system. In addition, the Grantee shall maintain status monitoring for all power supplies in its headend(s) and hub(s) as well as the distribution system.

Status monitoring shall be capable of notifying the Grantee, 24/7 of system problems including utility power outages that will negatively affect its customers.

5.9 Parental Control Lock

Grantee shall provide subscribers (by sale or lease or otherwise), upon request, with a manual or electronic parental control locking device or digital code that permits inhibiting the viewing of any channel.

5.10 Technical Standards

The Federal Communications Commission (FCC) Rules and Regulations, Part 76, Subpart K (Technical Standards), as now or hereafter constituted, shall apply, and may be enforced by the Grantor. The Grantor may establish and enforce higher or additional reasonable technical standards, following consultation with the Grantee,

to the extent that applicable law allows the Grantor to do so without the consent of the Grantee.

- a) Residential Network, Forward Signals. The residential network shall be capable of carrying a minimum of one hundred and twenty (120) video Channels. The combined forward trunk and distribution system shall deliver signals to each subscriber's television receiver that meet or exceed applicable FCC specifications on each and every video channel.
- b) Reverse Signals. The reverse system of the residential network shall have the capability of providing return signals from any subscriber terminal to the head end of the system which is intended to receive the return signals. The return system will be sufficient if it delivers such signals so as to meet or exceed the following specifications:

The system capability includes transmission of digital or data signals.

5.11 Performance Testing.

Grantee shall perform all system tests required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this franchise. These tests shall include, at a minimum:

- Initial proof of performance for any construction
- Semi-annual compliance tests
- Tests in response to subscriber complaints
- Tests requested by the Grantor to demonstrate franchise compliance.

Written records of all system test results performed by or for the Grantee shall be maintained, and shall be available for Grantor inspection upon request.

System tests shall be performed at intervals of no greater than every six months, at a minimum of five (5) randomly chosen subscriber television receiver connections representative of all three systems of the entire franchise area, or connections to the system which are the equivalent of standard subscriber connections, including 100-foot drops and converters. Grantor shall be given the opportunity to review and approve test sites in advance. At least one (1) of the test locations shall be the far end of the distribution trunk cables. The tests may be witnessed by representatives of the Grantor, and Grantee shall inform the Grantor of the time and place of each test no less than three weeks prior to the test. Completed written test reports shall be submitted to the Grantor upon request. The Grantor may conduct independent tests of the system for which the Grantee shall give its fullest cooperation. If one or more of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated at the locations which failed, and at least five (5) additional randomly chosen locations. If results of a second test indicate failure of the system to meet the technical performance requirements of this Franchise, then the Grantor may apply such remedies as it deems appropriate, unless the circumstances of the failure are caused by conditions which are beyond the Grantee's control, as determined, acknowledged and verified by the Grantor.

6. SERVICES AND PROGRAMMING.

6.1 Programming Categories.

To the extent Grantor has regulatory authority under federal law, Grantee shall provide video programming services in at least the following broad categories:

1. News & Information
2. Sports
3. General Entertainment
4. Arts, Culture, Performing Arts
5. Children / Family
6. Science
7. Travel Information
8. Weather Information
9. Governmental and Educational Programming
10. Movies
11. Religious Programming
12. Foreign language / Ethnic Programming

The identification of these broad categories of programming in no way infers regulatory authority by the Grantor over specific programming services or networks which may be carried on the Cable Communications System, except for PEG Access programming, as further described herein.

6.2 Changes in Video Programming Services.

Grantee shall provide written notice to the County and to subscribers for any proposed deletions, additions, or rearrangements of individual programming service at least thirty (30) days in advance. The County reserves the right to regulate to the fullest extent permitted by law to ensure maintenance of the mix, level and quality of service.

6.3 [RESERVED]

6.4 Leased Channel Service.

The Grantee shall offer leased channel service to the extent required by 47 U.S.C. Section 532 (Section 612 of the Cable Act), or regulations adopted thereunder.

6.5 Obscenity.

The Grantee shall not transmit over the Cable System programming which is obscene or otherwise unprotected by the Constitution of the United States, or the State of Oregon, provided, however, Grantee shall in no way be responsible for programming over which it has no editorial control, including public, educational and governmental access programming.

6.6 Public, Educational and Government Use of System.

6.6.1 Channels.

- 1) Grantee shall provide to the Grantor, for independent administration by the Grantor or its designee throughout the term of the Franchise, one Government channel, one Public Access channel, one Regional Public Access Channel, and two Educational channels, for a total of five (5) Access Channels to be cablecast throughout the Franchise Area. The Government channel may be used for Government programming based on policy or need. The Public channel may be used for general public programming. The Educational channels may be used for general educational programming, such as Community College programming and/or K-12 programming.
- 2) The Grantor may require Grantee to provide an additional activated Downstream Channel for a particular type of PEG Access under this Section, when a Channel for a particular type of PEG Access programming meets the criteria set forth below. Upon Grantee's request, a public hearing will be conducted regarding the need for one (1) additional channel, to a maximum total of six (6) Access Channels. The Grantor shall give Grantee at least one hundred twenty (120) days prior notice of required additional Access Channels.
 - a) Public Access Channels: Grantor must show that during any eight (8) consecutive weeks, the Public Access Channel is in use for Locally Produced, Locally Scheduled Original Programming eighty percent (80%) of the time, seven (7) days per week, for any consecutive five (5) hour block during the hours from noon to midnight; or
 - b) Educational Access Channels: During any eight (8) consecutive weeks, the Educational Access Channel is in use for Locally Scheduled Original Programming eighty percent (80%) of the time, five (5) days per week, Monday through Friday, for any consecutive five (5) hour block during the hours from 6:00 AM to 11:00 PM; or
 - c) Governmental Access Channels: During any eight (8) consecutive weeks, the Governmental Access Channel is in use for Locally Scheduled Original Programming eighty percent (80%) of the time, five (5) days per week, Monday through Friday, for any consecutive five (5) hour block during the hours from 6:00 AM to 11:00 PM; and,

the applicable PEG Access Channel expansion criteria as set forth in Subsections a, b, or c, shall have been met, or exceeded, by the Grantor or the Designated Access Provider with responsibility for

programming the PEG Access Channel. For the purpose of Section 6.6.1(2):

- i) "Locally Produced" means programming produced in the Clackamas, Multnomah, or Washington Counties, or the Vancouver/Clark County, Washington metropolitan areas; and
 - ii) "Original Programming" means Programming in its initial cablecast on the Cable System or in its first or second repeat; and
 - iii) "Locally Scheduled" means that the scheduling, selection, and or playback of Original Programming on a per-program basis is determined in consultation with, or pursuant to the operating procedures of, the Designated Access Provider or, with respect to programming received over the interconnection, the provider transmitting the programming over the interconnection. However, carriage on any Access Channel of all or a substantial portion of any non-local programming which duplicates programming otherwise carried by Grantee as part of its Basic or Expanded Basic Cable Services shall not be considered "Locally Scheduled."
- 3) Upon written notification to Grantor, Grantee may convert four (4) of the five (5) analog PEG Access Channels (channels 23 public access, 27 educational access, 28 educational access, 30 government access) and the one additional Access Channel if activated pursuant to Section 6.6.1.2 above to digital format. Grantee shall provide advance written notification to Limited Basic or Basic Service customers at least 30 days in advance of the digital conversion, and shall provide to each Limited Basic or Basic Service customer one (1) digital transport adapter and remote ("DTA") or its equivalent as part of the service package at no cost to the subscriber. Additional DTAs will be available at Grantee's customary charge. The channel number designation for the digital PEG Access Channels shall be the same as it was prior to digital conversion, and the signal quality of the digital PEG Access Channels shall be equivalent to commercial programming on Grantee's Cable System.
- 4) At such time that Grantee migrates its cable service to an all-digital platform, Grantee shall convert the activated analog PEG Access Channels to digital channels. One (1) additional digital channel shall be made available for use by Grantor or Designated Access Provider, for a total of six (6) digital Access Channels (or seven (7) digital Access Channels if the Grantor has activated the additional Access channel pursuant to subsection 6.6.1.2 prior to Grantee's conversion to all digital platform), provided that the requirements of Subsection 6.6.1.2 are met with respect to Public, Government or Educational Access.

6.6.2 Support for Access Costs.

Grantee shall provide the Grantor \$1.00 per month, per Residential Subscriber in the Franchise Area currently collected and paid to Grantor immediately prior to the effective date of this Franchise Agreement, provided that Grantee shall have sixty (60) days from the effective date of this Franchise to provide \$1.00 per month, per Residential Subscriber in the franchise area set forth in the former franchise between Grantor and TCI Cablevision of Oregon Inc. (subsequently transferred to Grantee), for capital costs related to public, educational, and governmental access or institutional network facilities including but not limited to equipment acquisition or replacement, or such lesser amount if authorized by Grantor. The Grantee shall make such payments quarterly, following the effective date of this agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter.

If Grantor enters into a franchise agreement or amends an existing franchise agreement with another cable operator after the effective date of this Franchise to provide Cable Service in all or any portion of the Grantee's Franchise Area that includes PEG financial support calculated based on a per month, per residential subscriber basis that is less than \$1.00 per month, per residential subscriber, then Grantee shall be entitled to reduce the PEG contribution to match that of the other cable operator or operators.

The Grantor shall provide a report annually to the Grantee on the use of the funds provided to the Grantor under this Section 6.6.2. The annual report shall be submitted to Grantee within 120 days of the close of the Grantor's fiscal year, which fiscal year runs for 12 consecutive months from July 1 to and including June 30. Grantee may review records of the Grantor regarding the use of funds described in such report. The Grantor agrees that the report shall document the amounts spent or encumbered for operating support for PEG access.

6.6.3 Access and Institutional Network Support Not Franchise Fees.

- 1) The Grantee agrees that financial support for Access arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect the Grantee's obligations to pay franchise fees to the Grantor. The Grantee agrees that although the sum of Franchise Fees and the payments set forth in this Section may total more than five percent (5%) of the Grantee's Gross Revenues in any twelve (12) month period, the additional commitments shall not be offset or otherwise credited in any way against any franchise fee payments under this Franchise Agreement.
- 2) The Grantor recognizes franchise fees and certain additional commitments are external costs as defined under the Federal Communications Commission rate regulations in force at the time of adoption of this Franchise Agreement and the Grantee has the right

and ability to include franchise fees and certain other commitments on the bills of cable customers.

6.6.4 Institutional Network (I-Net)

The Grantee shall continue to provide managed fiber optic institutional network connections to I-Net users as of the effective date of this Franchise: Clackamas County 911 C-Com, 2200 Kaen Road, Oregon City, OR; Kellogg Creek, 11525 SE McLaughlin, Milwaukie, OR; and Tri-Cities, 15941 S. Agnes Ave, Oregon City, OR (for Institutional purposes and associated maintenance at Grantee's customary rates for data transport).

Grantee may enter into written agreements for managed institutional network connections to other facilities owned and occupied by the County and located within the Franchise Area, and shall continue without charge the one (1) static IP address and cable modem currently in place as of the effective date of this Franchise at the Boring Fire Station, 28655 SE Highway 212, Boring, OR.

6.6.5 Cable Service to Public Facilities

As a voluntary initiative, the Grantee, upon request, shall provide without charge, a Standard Installation and one (1) outlet of Basic Cable, expanded Basic Service, or digital equivalent, to those administrative buildings owned and occupied by the County, fire station(s), police station(s), K-12 School(s), and Clackamas Community College that are within the Franchise Area, including areas of expanded service during the term of the Franchise, and passed by its Cable System; provided, however, those buildings or portions of buildings housing or occupied by prison/jail populations shall be excluded. Such installations shall be provided to the facilities within sixty (60) days of Grantor's request. In the event a franchise is issued to a competitor within Grantee's Franchise Area, Grantee shall not be required to provide the services described in this Section 6.6.5 to any buildings that are receiving, without charge, similar services from another cable operator. The Cable Service provided shall not be distributed by Grantor beyond the originally installed outlet without written authorization from the Grantee; provided, however, Grantor may distribute the Cable Service throughout the building for County purposes at Grantor's cost including necessary equipment to maintain signal quality so long as Grantor's use does not adversely affect Grantee's signals outside of any such building. The Cable Service provided shall not be used for commercial or public viewing purposes. The County shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required

(defined as a drop not to exceed 125 (one-hundred twenty-five) feet), unless the County or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation.

6.6.6 [Reserved]

6.6.7 Change in Technology

In the event Grantee makes any change in the Cable System and related equipment and facilities or in Grantee's signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access Programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment at its facilities to ensure that the capabilities of Access Providers or Access Programmers are not diminished or adversely affected by such change. Designated Access Providers shall be responsible for acquisition of necessary equipment at their respective facilities.

6.6.8 Technical Quality.

- 1) Grantee shall maintain all Upstream and Downstream Access Channels and interconnections of Access Channels at the same or better level of technical quality and reliability provided for its Residential Network and required by this Franchise and all other applicable laws, rules and regulations for Residential Subscriber Channels.
- 2) Grantee shall have no responsibility for the technical production quality of the Access programming distributed on the Access Channels.
- 3) The Grantee shall not cause any programming other than emergency alert signals to override Access Programming on any Access Channel, except by specific written permission from the Access Provider.

7. FRANCHISE REGULATION AND CUSTOMER SERVICE STANDARDS

7.1 Intent

It is the intent of the Grantor to administer and enforce the provisions of this Franchise. Grantor may delegate all or a part of its administrative and regulatory authority under this franchise to an agency designated by the Grantor.

7.2 Areas of Regulation and Administration

The Grantor (or its designee) has authority for regulation in the following areas:

- a) Administering and enforcing the provisions of this Franchise Agreement, including the adoption of administrative rules and regulations to carry out this responsibility.
- b) Coordination of the operation of public, government and educational access channels.
- c) Interfacing the Grantee's technical, programming and operational assistance and support to public agency users, such as County departments, schools and health care institutions.
- d) Formulating and recommending long-range cable communications policy for the franchise area.
- e) Disbursing and utilizing franchise revenues paid to the Grantor.
- f) Regulating rates, to the extent permitted by law.
- g) Customer service, to the extent permitted by law.
- h) Planning and facilitating development of public uses of the cable system on the residential and institutional networks, both within the County and through interconnection with adjacent systems.

7.3 Rate regulation

- a) Rate Regulation Right Reserved. Grantor reserves the right to regulate Grantee's rates and charges to the full extent authorized by applicable federal, state and local law, as these may change during the period of the Franchise; and to establish rate regulation policies and guidelines for carrying out its authority.
- b) Notice of Change in Rates and Charges. Throughout the term of this Franchise, Grantee shall give all subscribers within the Franchise Area at least thirty (30) days notice of proposed rate changes, as required by FCC. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns.
- c) Rate Discrimination Prohibited. Grantee shall apply non-discriminatory rates and charges to all subscribers purchasing similar services, regardless of race, color, creed, sex, marital or economic status, age, national origin, or sexual preference, except as otherwise provided herein; provided that nothing in this Franchise shall prevent the Grantee from establishing discounted rates and charges for low-income subscribers or elderly subscribers, or from temporarily reducing or waiving rates and charges in connection with promotional campaigns.

- d) The provisions of this Section 7.3 shall be subject to the provisions of 47 U.S.C. Section 543 (Section 623 of the Cable Communications Act of 1984), as amended from time to time. It is not intended that this Section expand or diminish the rights of the Grantee and Grantor in relation to regulation of rates and charges under those provisions of the Act, and any provision of this Section or of any other provision of this Franchise that purports to expand or diminish such rights shall be deemed superseded by those provisions of the Act.

7.4 Remedies for Franchise Violations

- a) If Grantor believes that Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged violation.

The date of the violation will be the date of the event and not the date Grantee receives notice of the violation except in cases where Grantee did not know and could not reasonably have been expected to know that a violation occurred, in which case penalties shall accrue from the date Grantee knew or should have known of the violation. Without limiting the foregoing, Grantee is presumed to know whether it violated a customer service standard that is measured based upon aggregate performance.

Grantee shall have thirty (30) calendar days from the date of receipt of such notice to:

- 1) Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and request a hearing in accordance with subsection (e) below, or;
 - 2) Cure the violation, or;
 - 3) Notify Grantor that Grantee cannot cure the violation within the thirty (30) days, and notify the Grantor in writing of what steps the Grantee shall take to cure the violation including the Grantee's projected completion date for such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with subsection (c) below.
- b) In the event that the Grantee notifies the Grantor that it cannot cure the violation within the thirty (30) day cure period, Grantor shall, within thirty (30) days of Grantor's receipt of such notice, set a hearing. At the hearing, Grantor shall review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are found in Grantor's sole discretion to be reasonable, the same may be approved by the Grantor, who may waive all or part of the penalties for such extended cure period in accordance with the criteria set forth in subsection (g) of this section. Following the

hearing, Grantor may also in its sole discretion, modify Grantee's proposed extended cure period.

- c) In the event that the Grantee fails to cure the violation within the thirty (30) day basic cure period, or within an extended cure period approved by the Grantor pursuant to subsection (b), the Grantor shall set a hearing to determine what penalties, if any, shall be applied.
- d) In the event that the Grantee contests the Grantor's assertion that a violation has occurred, and requests a hearing in accordance with subsection (a)(1) the Grantor shall set a hearing within sixty (60) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what penalties shall be applied.
- e) In the case of any hearing pursuant to this section, Grantor shall notify Grantee of the hearing in writing and at the hearing, Grantee shall be provided an opportunity to be heard and to present evidence in its defense. The Grantor may also hear any other Person interested in the subject, and may provide additional hearing procedures as Grantor deems appropriate.
- f) If, after the hearing, Grantor determines that a violation exists, Grantor may utilize one or more of the following remedies:
 - 1) Order Grantee to correct or remedy the violation within a reasonable time frame as Grantor shall determine;
 - 2) Establish the amount of liquidated damages, taking into consideration the criteria provided for in subsection (g) of this Section as appropriate in Grantor's discretion;
 - 3) In the case of a substantial material default of a material provision of this Franchise, revoke this Agreement, and/or
 - 4) Pursue any other legal or equitable remedy available under this Franchise or any applicable law.

The determination as to whether a violation of this Franchise Agreement has occurred shall be within the sole discretion of the Grantor, and shall be in writing. Grantee may appeal the decision of Grantor to a court of competent jurisdiction as provided by Oregon law.

- g) Subject to Grantee's right to cure as provided in this Section, in the event that Grantor determines that Grantee has violated any material provision of this Franchise as provided herein, Grantor may assess as liquidated damages up to \$500.00 per incident for a non-continuing violation and up to \$1,000.00 per incident for a continuing violation, not to exceed \$65,000.00 per year. For the purpose of this Section, the term "per incident" means a single occurrence of a violation without regard to number of customers.

If within 30 days after written receipt of notice of any asserted violation from the Grantor the Grantee corrects the asserted violation, or if correction is not reasonably possible with the 30 day period, the Grantee initiates good faith efforts satisfactory to the Grantor within the 30 day period to cure the asserted violation and the efforts continue in good faith, then no liquidated damages or other remedy shall be imposed.

The liquidated damages set forth in this section of this Franchise may be reduced or waived at the discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- 1) Whether the violation was unintentional;
- 2) The nature of any harm which resulted;
- 3) Whether there is a history of overall compliance, and/or;
- 4) Whether the violation was voluntarily disclosed, admitted or cured.

Grantor shall provide Grantee with written notice that it intends to elect liquidated damage remedies set forth herein. If Grantor elects to recover liquidated damages for any item set forth in this Section, Grantor agrees that such recovery shall be its exclusive remedy except for Grantor's right to seek specific performance for the time period in which liquidated damages are assessed, provided, however, once Grantor has ceased to assess liquidated damages as set forth in this Section, Grantor may pursue any other available remedies.

Grantee shall pay any liquidated damages assessed by Grantor within 30 days after they are assessed. If penalties are not paid within that time period, Grantor may pursue enforcement proceedings pursuant to this Section 7.4.

7.5 Remedies Not Exclusive

Except as provided in Section 7.4 of this Franchise Agreement, Grantor has the right to apply any one or any combination of the remedies provided for in this Franchise, including without limitation all remedies provided for in this Section 7, and may without limitation pursue any rights, remedies or actions that it may have in law or equity regardless of whether they are specifically mentioned in this Franchise.

7.6 Consumer Protection Standards

The Grantee shall meet minimum Federal Consumer Protection Standards and the customer service standards set forth herein shall be binding unless amended by written consent by the parties. The term "normal operating conditions" shall mean

those service conditions within the control of Grantee as defined under 47 C.F.R. Section 76.309 (c)(4)(ii).

7.6.1. Customer Service and Telephone Responsiveness

- 1) The Grantee shall maintain an office within Clackamas County. The office must be adequately staffed and able to respond to subscribers and the public not less than fifty (50) hours per week, with a minimum of nine (9) hours per day on weekdays and five (5) hours on Saturdays. Grantee shall have the option to substitute the office requirement by providing for pick up or drop off of equipment free of charge in any one of the following manners: (a) by having Grantee representative going to the customer's residence, (b) by using a mailer, or (c) by establishing or using a local business office in Clackamas County.
- 2) As used herein, "adequately staffed" means toll-free telephone lines are open and customer service representatives are available to respond in at least the following ways: to accept payments; to exchange or accept returned converters or other company equipment; to respond to inquiries; and to schedule and conduct service or repair calls.
- 3) Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational twenty-four (24) hours a day, including weekends and holidays.
- 4) The Grantee shall maintain, on average as verifiable by statistical data, sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers measured as follows:
 - a) Under normal operating conditions, the customer will receive a busy signal less than 3% of the time during any quarter.
 - b) Under normal operating conditions, telephone answer time by a trained customer representative, including wait time, shall not exceed thirty (30) seconds. Grantee may use an Automated Response Unit ("ARU") or Voice Response Unit ("VRU") in answering and distributing calls from customers. If a foreign language option is provided, and the subscriber does not enter an option, the menu may default to the first tier menu of English options. After the first tier menu (not including a foreign language rollout) has run through three (3) times, if customers do not select any option, the ARU or VRU may forward the call to a queue for a live representative. Grantee may reasonably substitute this requirement with another method of handling calls from customers who do not have touch-tone telephones. These standards shall be met no less than ninety (90) percent of

the time under normal operating conditions, measured on a quarterly basis. Measurement of this standard shall include all calls received by Grantee from subscribers whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting. If a call needs to be transferred, transfer time shall not exceed an additional 30 seconds.

7.6.2 Service and Repair Calls.

- 1) Under normal operating conditions, at least 95% of the time measured on a quarterly basis, requests from subscribers for repair and maintenance service must be responded to, and repairs must commence within twenty-four (24) hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within twenty-four (24) hours under normal circumstances. All other repairs should be completed within seventy-two (72) hours under normal circumstances.

- 2) Under normal operating conditions, at least ninety-five percent (95%) of the time measured on a quarterly basis, as a normal operating procedure, upon subscriber request the Grantee shall offer either a specific appointment time or a pre-designated block of time (not to exceed four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon, and after 5:00 p.m.

The Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

If a Grantee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

- 3) As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request the Grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).
- 4) Under normal operating conditions, at least ninety-five percent (95%) of the time measured on a quarterly basis, where the service requested is installation of service, standard installations shall be performed by the Grantee within seven (7) business days after an order has been placed. "Standard" installations, for the purposes of

this Section, shall mean those that are located up to one-hundred twenty-five (125) feet from the existing distribution system.

7.6.3 Disconnection

- 1) The Grantee may disconnect a subscriber if:
 - a) at least thirty (30) days have elapsed without payment after the due date for payment of the bill of the affected subscriber; and
 - b) the Grantee has provided at least ten (10) days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- 2) Regardless of Subsection 1 hereof, the Grantee may disconnect a subscriber for cause at any time if the Grantee in good faith determines that the subscriber has tampered with or abused company equipment, is abusive or threatening to employees or representatives, or is or may be engaged unlawfully in theft of cable services, or is causing a system violation of FCC rules or regulations.

Nothing in these standards shall limit the right of Grantee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to Grantee's equipment, abusive and/or threatening behavior towards Grantee's employees and representatives, or, unless prohibited by law, refusal to provide credit history information or refusal to allow Grantee to validate the identity, credit history and credit worthiness via an external credit agency.

- 3) The Grantee shall promptly disconnect any subscriber who so requests from the Grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by the Grantee. No charge may be imposed by the Grantee for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to Grantee, the Grantee shall under normal operating conditions, within thirty (30) days return to such subscriber the amount of the deposit, if any, collected by Grantee from such subscriber, less any disputed amounts owed to Grantee for cable services or charges prior to the date of disconnection.

7.6.4 Credits Upon Outage

Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request the Grantee shall provide a pro-rated twenty-four (24) hour credit to the subscriber's account

for any period of four (4) hours or more during which that subscriber experienced the effective loss or substantial impairment of video or audio service on the system.

7.6.5 Downgrade Charges

Grantee may impose Downgrade Charges only if:

- 1) The Subscriber has been notified, at the time of initiating Cable Services, of Grantee's Downgrade Charges; and
- 2) The Downgrade Charge does not exceed the Grantee's costs of performing the downgrade as determined under FCC rate regulation rules, subject to applicable law.

7.6.6 Billing Information Required

The Grantee's bill to subscribers shall itemize each category of service, equipment, or other applicable fees, and state clearly the charge therefore. The Grantee shall make its best effort to inform subscribers as clearly as possible when payments are due and when late fees and disconnection may occur.

7.6.7 Information to Subscribers

- 1) Upon installing initial service to or reconnecting each customer, and upon request thereafter, the Grantee shall advise the customer, in writing, of:
 - a) the equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;
 - b) the amount and criteria for any deposit required by Grantee, if applicable, and the manner in which the deposit will be refunded;
 - c) the Grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;
 - d) the toll-free telephone number and address of the Grantee's office to which complaints and inquiries may be reported;
 - e) The company's practices and procedures for protecting against invasions of subscriber privacy;
 - f) service termination policy;
 - g) billing procedures shall be clearly explained in the manual and in addition, the company's phone number for information and requesting the manual shall be placed on

the part of the bill retained by customers;

- h) the notice and referral information, as set forth in Subsection 2 hereof;
- i) liability specifications;
- j) converter/subscriber terminal policy; and
- k) breach of agreement policy.

2) Notice to Subscribers.

- a) The Grantee shall inform the Grantor and subscribers within thirty (30) days, prior to any changes in programming or increases in rates, costs, or charges to subscribers, or any channel repositioning within the control of Grantee.
- b) All Grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all Grantee prepared promotional materials must clearly and accurately disclose price terms and any restrictions for use. Likewise, in the case of telephone orders, the Grantee shall take appropriate steps to ensure that Grantee customer service representatives clearly and accurately disclose price terms and any restrictions for use to potential customers in advance of taking the order.
- c) The Grantee shall, upon request by the Grantor and at least annually, send written notice to all subscribers that any complaints or inquiries not satisfactorily handled by the Grantee may be referred to the Grantor or its designee, giving the address and phone number of the appropriate Grantor office. Subject to availability of space on customer bills, such notification may be included as a message on billing statement and the costs related to providing the notice shall be borne by Grantee to the extent allowed by federal law. In the event the Grantor wishes to include its own statement with Grantee customer bills, the Grantor or its designee shall bear the cost of the printing and production of such notice, and incremental cost of mailing, if any; the Grantee shall be responsible for inserting and mailing out the notice. Grantee must also provide the name, address and phone number of the Grantor on subscriber's monthly bills unless Grantor in writing requests that such information be omitted.

3) **Written Complaint Acknowledgment.**

Within ten (10) days following receipt of a written complaint, received at the Grantee's principal business from a subscriber or the Grantor, the Grantee shall provide an acknowledgment to the subscriber of receipt of the complaint and of any action the Grantee has taken or intends to take in response to the complaint. This requirement does not apply to complaints submitted for processing by a regulatory agency other than the County, such as the FCC.

7.6.8 Complaint Resolution

- 1) The Grantor may take all necessary steps to ensure that all subscribers and members of the general public have recourse to a satisfactory hearing of any complaints, where there is evidence that the Grantee has not settled the complaint of the person initiating the complaint.
- 2) For purposes of this section, a "complaint" is a grievance received by Grantee pursuant to Section 7.6.7(3) of this Franchise related to Cable Service provided within the Franchise Area that is reasonably remediable by the Grantee, but does not include grievances regarding the content of programming or information services other than grievances regarding broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the customer's problem satisfactorily to the customer.

7.6.9 Failure to Resolve Complaints

If Grantee fails to resolve a complaint within thirty (30) days following the date on which a complaint was made to the Grantor and communicated to Grantee, then Grantee shall be deemed in violation of the Franchise, and Grantor may assert any of the remedies set out in Section 7.4 and Section 11.

8. GENERAL FINANCIAL AND INSURANCE PROVISIONS

8.1 Compensation

a) **Franchise Fee.**

As compensation for the Franchise to be granted, and in consideration of permission to use the streets and public ways of the Grantor for the construction, operation, and maintenance of a cable communications system within the Franchise Area and to defray the costs of franchise regulation, the Grantee shall pay to Grantor an amount equal to five percent (5%) of the Gross Revenues through the operation of the cable system under this Franchise. In the event any law or valid rule or

regulation applicable to this franchise limits franchise fees below the five percent (5%) of Gross Revenues required herein, the Grantee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, then Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five percent (5%).

Within 30 days of a request from Grantor, Grantee will make available an up-to-date list of all affiliated entities receiving Gross Revenues as such revenues are defined in this Franchise.

In the event the obligation of Grantee to compensate Grantor through franchise fees is lawfully suspended or eliminated, in whole or in part, then the Grantee shall pay to Grantor compensation equivalent to the compensation paid to Grantor by other similarly situated users of the streets for Grantee's use of the Streets, to the extent Grantor has the legal right to require such compensation.

b) Bundling

If Cable Services subject to the Franchise fee required under this Franchise are sold to Subscribers in conjunction with non-Cable Services, the Franchise fee shall be applied only to the value of the Cable Services, as reflected on the books and records of Grantee, in accordance with applicable FCC or state rules, regulations, standards or orders. Grantee shall not allocate revenue between Cable Services and non-Cable Services for the purpose or with the intent of evading or substantially reducing Grantee's Franchise fee obligations to Grantor.

c) Payment of Franchise Fees.

- 1) Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence. At the time of quarterly payment, the Grantee shall submit a written report to the Grantor, verified by an officer of Grantee, which shall contain an accurate statement of all Gross Revenues related to operation of the cable system franchised hereunder, in sufficient detail to enable the Grantor to verify the accuracy of franchise fee payments.
- 2) No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by Grantor.
- 3) In the event that a franchise fee payment or other sum is not received by the Grantor on or before the due date, or is underpaid,

the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the legal interest rate in the State of Oregon.

- 4) Payment of the franchise fees under this Franchise Agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be imposed by Grantor.

8.2 Faithful Performance Bond

- a) Within 60 days of the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the Grantor, with good and sufficient surety approved by the Grantor in the total sum of one hundred fifty thousand dollars (\$150,000.00), conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of this Franchise. Such bond shall be maintained by the Grantee throughout the term of this Franchise.
- b) Grantee shall pay all premiums charged for any bond required under Section 8.2 (a), and unless the County Commission specifically directs otherwise, shall keep the same in full force and effect at all times through the later of either:
 - 1) The remaining term of this Franchise; or
 - 2) If required by the Grantor, the removal of all of Grantee's system installed in Grantor's Streets and Public Ways.
- c) The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days written notice first given to the Grantor. The bond shall be subject to the approval of the Grantor's Attorney as to its adequacy under the requirements of Section 8.2. During the term of the bond, Grantee shall file with the Grantor a duplicate copy of the bond along with written evidence of payment of the required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without thirty (30) days prior written notice to the Grantor.
- d) In a form approved by the Grantor, the Grantee may provide an irrevocable letter of credit, guaranty in lieu of bond, or other form of financial assurance in lieu of a faithful performance bond. The alternative form of financial assurance shall give the Grantor substantially the same rights and guarantees provided by a faithful performance bond.

8.3 Damages and Defense

- a) The Grantee shall defend, indemnify and hold harmless Grantor and its officers, agents, and employees, from and against all claims and damages including but not limited to attorney fees, arising as a result of construction, operation and maintenance of the Cable System, the provision of Cable

Services or otherwise under this franchise, except for the negligent or grossly negligent acts of the Grantor, its officers, agents and employees, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise. Grantor shall give Grantee prompt written notice of any claim subject to this Section 8.3. Grantor may retain its own separate counsel at its sole cost and expense.

- b) If the Grantee fails to defend as required in Section 8.3 (a), above, then the Grantee agrees to and shall pay all expenses incurred by Clackamas County, and its officers, agents, and employees, in defending itself with regard to all claims, damages and penalties mentioned in Section 8.3 (a), above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the value of any services rendered by any employees of the Grantor.

8.4 Liability Insurance and Indemnification

- a) The Grantee shall maintain automobile and Worker's Compensation insurance, as well as public liability and property damage insurance, that protects the Grantee and the Grantor, its officers, agents and employees, from any and all claims for damages or personal injury including death, demands, actions and suits brought against any of them arising from operations under this Franchise or in connection therewith, as follows:
- b) The insurance shall provide coverage at all times for not less than \$1,000,000 for personal injury to each person, \$1,000,000 aggregate for each occurrence, and \$500,000 for each occurrence involving property damages, plus costs of defense; or a single limit policy of not less than \$1,000,000 covering all claims per occurrence, plus costs of defense. The insurance shall be equal to or better than commercial general liability insurance.

The minimum amounts of insurance set out in Subsection b) of this Section shall be increased from time to time to the extent necessary to provide coverage at least as great as the limits on the County's liability under the Oregon Tort Claims Act.

The evidence of coverage for Workers' Compensation shall show that it includes State of Oregon Statutory Limits, and Employer's Liability limits of at least \$1,000,000

Any insurance carrier shall have an A.M. Best rating of A or better, and be authorized to do business in the State of Oregon.

- c) The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the County and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only

one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

- d) The insurance shall provide that the insurance shall not be canceled or materially altered so as to be out of compliance with the requirements of this Section 8.4 without thirty (30) days written notice first being given to the Grantor. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this Section 8.4 within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in the amounts required, for the duration of this Franchise.
- e) Grantee shall file within sixty (60) days of the effective date of this Franchise and shall maintain on file with the Grantor a certificate of insurance certifying the coverage required above, which certificate shall be subject to the approval of the County Attorney as to the adequacy of the certificate and of the insurance certified under the requirements of this Section 8.4. At a minimum, the certificate shall be signed by a representative with authority to bind the insurance carrier.

The certificate shall show that the general liability portion of the insurance includes:

- 1) Broad form property damage;
 - 2) Products and completed operations;
 - 3) Explosion, collapse, and underground exposures;
 - 4) Contractual liability; and
 - 5) Owners and contractors protective coverage.
- f) Failure to maintain adequate insurance as required under this Section 8.4 shall be cause for immediate termination of this Franchise by the County.
 - g) The Grantee shall also indemnify, defend and hold harmless the County and its officers, agents and employees for any and all claims for damages or personal injury which exceed the limits of insurance provided for in this Section.

9. RIGHTS RESERVED TO GRANTOR

9.1 Grantor Acquisition of the Cable System

The parties shall be subject to the provisions of 47 U.S.C. 547 (Section 627 of the Cable Act), as amended from time to time. It is not intended that this Franchise Agreement diminish the rights of either the Grantor or the Grantee under Section 627 of the Act, and any provision of this Franchise

Agreement that purports to diminish such rights shall be deemed superseded by the Act.

9.2 [Reserved]

9.3 Right to Perform Franchise Fee Audit

The Grantor shall have the right to perform, or cause to have performed, a formal audit of the Grantee's and any of its Affiliates' books and records for the sole purpose of determining the Gross Revenues of the Grantee generated in any manner through the operation of the Cable System under this Franchise and the accuracy of amounts paid as franchise fees to the Grantor by the Grantee, provided that any audit must be commenced not later than three (3) years after the date on which franchise fees for any period being audited were due. The cost of any such audit shall be borne by the Grantor, except that if through the audit it is established that the Grantee has made underpayment of three percent (3%) or more in franchise fees than required by this Franchise, then the Grantee shall, within thirty (30) days of being requested to do so by the Grantor, reimburse the Grantor for the cost of the audit up to \$15,000.00.

The Grantor agrees to require a third party auditor to execute a nondisclosure agreement with Grantee in connection with any such audit if the auditor will have access to Grantee's confidential or proprietary information.

9.4 Right of Inspection of Construction

The Grantor or its representatives shall have the right to inspect all construction or installation work performed pursuant to the provision of this Franchise Agreement and to make such tests as it shall find necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.

9.5 Intervention

The Grantee shall not hinder the Grantor's lawful intervention in any suit or proceeding to which the Grantee is a party which may have a direct adverse effect upon the construction, upgrade, maintenance or operation of the Cable System.

9.6 Right to Require Removal of Property

At the expiration of the term for which the Franchise is granted providing no renewal is granted, or upon its revocation, as provided for herein, the Grantor shall have the right to require the Grantee to remove, at Grantee's own expense, all or any part of the cable system from all streets and public ways within the Franchise Area. If the Grantee fails to do so, the Grantor may perform the work and collect the cost thereof from the Grantee. The cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of the Grantee effective upon placement in the lien books of the Grantor. Notwithstanding the other provisions of this Section, the Grantee, by written notice to the Grantor, may elect to abandon underground cable in place, in which event the Grantee shall have no further obligation hereunder as to the abandoned cable; except that the Grantor may nevertheless, by written notice, require the Grantee to remove cable

as deemed necessary by the Grantor to provide space for other authorized uses or to accomplish or enable the accomplishment of other public purposes.

9.7 Inspection of Facilities

Grantor may inspect upon request any of the Grantee's facilities and equipment to confirm compliance with this Franchise Agreement at any time upon at least twenty-four (24) hours notice, during regular business hours, or, in case of an emergency, upon demand without prior notice.

10. RIGHTS OF INDIVIDUALS PROTECTED

10.1 Discriminatory Practices Prohibited

- a) The Grantee shall not deny service, deny access, or otherwise unlawfully discriminate against subscribers, programmers, or persons on the basis of race, color, religion, national origin, sex, age, disability, income, or, except as otherwise provided herein, the area in which such person lives. The Grantee shall comply at all times with all applicable federal, state, or local laws, rules and regulations relating to nondiscrimination.
- b) The Grantee shall use best efforts to assure maximum practical availability of Grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited.
- c) For hearing impaired customers, the Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, the Grantee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.
- d) Upon request by a subscriber or potential subscriber, the Grantee shall make a reasonable effort as determined by Grantor and as required by the Federal Government to provide information required under Section 7.6.7 or otherwise provided in the normal course of business, in both English and the primary language of the requestor.
- e) Nothing in this Section shall be construed to prohibit: 1) the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns; or 2) Grantee from offering reasonable discounts to senior citizens or discounts to economically disadvantaged citizens.

10.2 Unauthorized Monitoring or Cable Tapping Prohibited

The Grantee shall not, nor shall Grantee allow any other person, agency, or entity to tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without the subscriber's

written consent or a valid court order or a valid request from a law enforcement agency permitting the tapping.

10.3 Privacy and Other Rights

The Grantee and the Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy and any other civil right of any subscriber, programmer, or person resulting from any device or signal associated with the cable communications system. The Grantee shall not place in the building, structure or any facility of any subscriber any equipment capable of two-way communications, without the written consent of the subscriber, revocable at the discretion of the subscriber, and shall not utilize the two-way communications capability of the system for unauthorized or illegal subscriber surveillance of any kind. For purposes of this subsection, tenants who occupy premises shall be deemed to be subscribers, regardless of who actually pays for the service. Written consent, as required herein, shall not be required of any subscriber by Grantee as a condition of receiving any other cable service.

10.4 Permission of Property Owner Required

No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Grantee shall be installed by the Grantee without first securing the written permission of the owner or tenant of any property involved except where there is an existing utility easement or other easement reserved by plat or other conveyance. If such permission or easement is later lawfully revoked, whether by the original or a subsequent owner or tenant or Grantor, the Grantee shall remove forthwith on request of the owner or tenant any of its equipment and promptly restore the property to its original condition. The Grantee shall perform all installations and removals in a workmanlike manner and shall be responsible for any damage to residences or other property caused by the installation.

10.5 Sale of Subscriber Lists and Personalized Data Prohibited

The Grantee shall be subject to 47 U.S.C Section 551 (Section 631 of the Cable Act), as amended from time to time, regarding limitations on the cable company's collection and use of personally identifiable information, and other issues involving the protection of subscriber privacy.

11. TERMINATION AND EXPIRATION

11.1 Revocation

Should the Grantor seek to revoke this Franchise after following the due process procedures set forth Section 7.4 of this Franchise, including the public hearing described therein, the Grantor shall give written notice to Grantee of such intent. The notice shall set forth the specific nature of the noncompliance. The Grantee shall have ninety (90) days from receipt of such notice to object in writing and to state its reasons for such objection. In the event the Grantor has not received a satisfactory response from Grantee, it may then seek revocation of the Franchise at a second public hearing. The Grantor shall cause to be served upon the

Grantee, at least thirty (30) business 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.

At the designated hearing, Grantee 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 Grantor, 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 at Grantee's request and expense.

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

The Grantor may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Grantor's rights under the Franchise in lieu of revocation of the Franchise.

The parties agree that the limitation of Grantor liability set forth in 47 U.S.C. § 555a is applicable to this Franchise Agreement.

11.2 [Reserved]

11.3 Renewal

Upon expiration of the Franchise, Grantor and Grantee agree that any proceedings undertaken by Grantor that relate to the renewal of this Franchise shall be governed by and comply with the renewal provisions of Section 626 of the Cable Communications Policy Act of 1984, as amended from time to time (47 U.S.C. Section 546). It is not intended that this Franchise diminish the rights of either the Grantor or the Grantee under the Act, and any provisions of this Franchise that purports to diminish such rights shall be deemed superseded by the Act.

Grantor shall notify Grantee of all of its assessments regarding the identity of future cable related community needs and interests taking into consideration the costs thereof, as well as the past performance of Grantee under the then current Franchise term, to the extent such assessments are conducted pursuant to Section 626 of the Cable Act. Grantor further agrees that such assessments shall

be provided to Grantee promptly so that Grantee has adequate time to submit a proposal under said Section 626 and complete renewal of the Franchise prior to expiration of the its term.

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

Grantee and Grantor consider the terms set forth in this Section 11.3 to be consistent with the express provisions of 47 U.S.C. Section 546.

11.4 Continuity of Service Mandatory

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to upgrade, rebuild, modify, or sell the system, the Grantee shall make its best effort to ensure that all subscribers receive continuous uninterrupted service.

12. OPERATION AND MAINTENANCE

12.1 Open Books and Records

The Grantor shall have the right as necessary or desirable for effectively administering and enforcing the Franchise, to inspect at any time upon reasonable notice, all records of the Grantee relating to the provision of Cable Service under this Franchise, which relate to the operation of the cable system within the Franchise Area. Access to such records shall be maintained or made available at no cost to the Grantor within Clackamas County or at Grantee's local business office during normal business hours (if maintained locally) or provided within ten (10) days of notice from the County for such records (if not available locally). Access to the aforementioned records shall not be denied by the Grantee to representatives of the Grantor on the basis that said records contain "proprietary information", nor on the basis that they contain trade secrets unless the Grantor cannot protect the trade secrets from disclosure under Oregon law. To the extent allowed under Oregon law, the Grantor shall protect proprietary information including trade secrets of the Grantee from disclosure.

The Grantee shall also provide, in the manner set forth in this Section and as provided in Section 13.14, the following information: (a) for the specific purpose of a bona fide audit or enforcement effort being conducted by the Grantor, the true and entire cost of construction, upgrade and replacement of plant and equipment for the cable system authorized under this Franchise; the true and entire cost of the maintenance, administration and operation of the cable system, including any operations or revenue generated from the cable system by any parent company or affiliate within the Franchise Area indicated or implicated as direct or indirect revenue to the Grantee from the provision of Cable Services; and (b) the amount collected by the Grantee from Subscribers of Cable Services of the Grantee's

Cable System under this Franchise and the character and extent of the Cable Service rendered therefore to them.

The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years.

12.2 Communications with Regulatory Agencies.

A list and copies of all material written petitions, applications, communications, and reports submitted by the Grantee, and also by any Affiliate, to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting Cable Services authorized pursuant to this Franchise Agreement, shall be submitted to the Grantor upon request. In addition, copies of any communications to and from any regulatory agency pertaining to any alleged, apparent or acknowledged violation of an applicable rule or law of the agency related to or affecting operations of the Cable System within the Franchise Area, shall be immediately submitted to the Grantor, if the communications are to or from the Grantee, or upon written request from the Grantor if the communications are to or from an Affiliate.

12.3 Reports

- a) Within thirty (30) calendar days after the end of each fiscal quarter of the Grantee, Grantee shall, upon request of the Grantor, submit to the Grantor a report of all trouble call complaints received by or referred to Grantee within the report quarter. The reports shall contain, at a minimum, the name, address, and telephone number of the complaining party, the specific nature of the complaint, remedial action taken if any, and the current status of the complaint. Upon request by the Grantor, Grantee shall also provide outage reports, summary statistics on patterns of complaints or service problems, and other customer service information, provided that such information may be reasonably generated by the Grantee.

- b) Annual Report.

No later than three-and-one-half (3 ½) months following the end of the Grantee's fiscal year each year, Grantee shall present a written report upon request to the Grantor which shall include:

- 1) Financial reports that are normally prepared for the Grantee for the previous fiscal year, including gross revenues from all sources, gross subscriber revenues from each category of service, as well as an income statement, statement of cash flow, and a balance sheet.

All financial reports required under this section shall be presented to the Grantor accompanied by such notes and explanations as are required to fully understand the reports. Such notes and explanations shall include, but not be limited to, an explanation of any and all deductions made from Gross Revenues in order to

arrive at the calculation of franchise fees to be paid to the Grantor.

- 2) A summary of the previous year's activities including, but not limited to, subscriber totals in each category and new services.

c) Monitoring and Compliance Reports.

Upon request, the Grantee shall provide a written report of any FCC technical performance tests for the residential network required in FCC Rules and Regulations as now or hereinafter constituted. In addition, the Grantee shall upon request provide reports of the test and compliance procedures established by this Franchise Agreement, no later than thirty (30) days after the completion of each series of tests.

d) Additional Reports.

The Grantee shall prepare and furnish to the Grantor, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary and appropriate to determine whether Grantee is in compliance with applicable terms of this Franchise. Grantee will provide Grantor with such information in such format as Grantee customarily prepares reports.

- e) All reports and records required under this or any other Section shall be furnished to Grantor at the sole expense of Grantee. Grantee shall not be required to develop or create reports that are not part of its normal business procedures and reporting or that have not been defined specifically within this Franchise in order to meet the requirements of this Franchise.

12.4 Safety

- a) The Grantee shall, at all times, employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to employees of the Grantor.
- b) The Grantee shall install and maintain its wires, cable, fixtures, and other equipment, including the drop to the subscriber's premise, in accordance with the requirements of the National Electrical Safety Code (NESC) and National Electrical Code (NEC), and in such manner that they shall not interfere with the installations of any public utility.
- c) All lines, equipment and connections in, over, under, and upon either the streets and public ways of Grantor or private property within boundaries of Grantor, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

13. MISCELLANEOUS PROVISIONS

13.1 Compliance with Laws

The Grantee shall comply with all federal and state laws and regulations, including regulations, rules and orders of any administrative agency thereof, as well as all general ordinances, resolutions, rules and regulations of the Grantor heretofore or hereafter adopted or established during the entire term of this Franchise, provided that any such ordinances, resolutions, rules and regulations of the Grantor hereafter adopted or established shall not conflict or interfere with the existing rights of the Grantee hereunder.

13.2 Severability and Preemption

Subject to the provisions of Section 13.7 below, if any section, subsection, sentence, clause, phrase, term, provision, condition, covenant, or portion of this Franchise Agreement is for any reason held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this Franchise shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this Franchise shall be valid and enforceable to the fullest extent permitted by law.

If any material provision of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal law, rules, regulations or decision so that the intent of these provisions is frustrated, the parties agree to immediately negotiate replacement provisions to fulfill the purpose and intent of the superseded provisions consistent with applicable law.

In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Franchise, then the provision shall be read to be preempted 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, the parties shall discuss the regulatory changes and mutually agree to modify the Franchise consistent with such regulatory change.

13.3 Captions

The captions to sections throughout this Franchise Agreement are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

13.4 No Recourse Against the Grantor

Except as provided under applicable law, the Grantee shall have no recourse whatsoever against the Grantor or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Franchise Agreement or any part thereof is determined to be invalid.

13.5 Nonenforcement by Grantor

The Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise Agreement by reason of any failure of the Grantor to enforce prompt compliance.

13.6 Force Majeure

If by reason of force majeure the Grantee is unable in whole or in part to carry out its obligations hereunder, the Grantee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of the government of the United States of America, or of the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; documented work delays caused by waiting for utility providers to service or monitor utility poles to which Grantee's facilities are attached and documented unavailability of materials and/or qualified labor to perform the work necessary; and similar occurrences outside the control of the Grantee. The Grantee agrees, however to give its best efforts to remedy as soon as possible, under the circumstances, the cause or causes preventing Grantee from carrying out its responsibilities and duties under this Franchise Agreement.

13.7 Entire Agreement

This Franchise Agreement contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties. Any ordinances or parts or ordinances that conflict with the provisions of this Franchise are superseded by this Franchise.

13.8 Consent

Wherever the consent or approval of either the Grantee or the Grantor is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

13.9 Notices and Time Limit for Grantee Communications

All communications with the County by the Grantee referred to in this Franchise shall be made through the Office of Cable Communications Franchise Manager, unless otherwise specified in this Franchise. Grantee shall provide any written communication required by this franchise within sixty (60) days of being requested to do so by the Grantor, in each case in which no other specific minimum time limit for a communication is identified in the Franchise.

13.10 Consistency of Franchise with Cable Act

The parties intend and believe that all of the provisions hereof are consistent with and permitted by the Cable Communications Policy Act of 1984, the Cable Act of 1992 and the Telecommunications Act of 1996, as amended.

13.11 Future Changes in Law

If future changes to binding federal or state law affect any material provision of the Franchise, including but not limited to the scope of Grantor's authority to regulate Grantee and its activities within the Franchise Area and the streets and public ways, the parties agree that they will take any action necessary, or revise this Franchise Agreement where applicable, to be consistent with the scope of such change in law. In the event the parties are unable to agree to a modification of this Franchise within sixty (60) days, either party may: 1) seek appropriate legal remedies to amend the Franchise, or 2) shorten the franchise to thirty-six (36) months from the date following conclusion of the sixty (60) day period, at which point either party may invoke the renewal procedures under 47 U.S.C. § 546. Each party agrees to participate in up to sixteen (16) hours of negotiation during the sixty (60) day period.

13.12 [Reserved]

13.13 Notice

Any notice provided for under this Franchise shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such address as the receiving party specifies in writing:

If to the County: Cable Communications Manager
 Clackamas County
 2051 Kaen Road
 Oregon City, OR 97045

If to the Grantee: Comcast Cable.
 Attention: Government Affairs
 9605 SW Nimbus Avenue
 Beaverton, OR 97008-7198

13.14 Public Disclosure

Subject to the Oregon Public Records Law, whenever, pursuant to this Franchise Agreement, Grantee shall make available for inspection by the Grantor or submit to the Grantor reports containing information considered proprietary by the Grantee, the Grantor shall not disclose or release such reports or information to the public without Grantee's written consent provided Grantee noted such information as confidential and/or proprietary in writing at the time of submission.

13.15 Time is of the Essence

Whenever this Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence.

13.16 Reservation of Rights

Notwithstanding any provision to the contrary, the parties reserve any and all rights at law or in equity regarding any enforcement proceeding or other matters hereunder.

EXHIBIT A: FRANCHISE AREA


Need to Provide updated service area Map

EXHIBIT B: ACCEPTANCE

ACCEPTANCE

Comcast Cable
9605 SW Nimbus Avenue
Beaverton, OR 97008-7198

The undersigned, Comcast of Tualatin Valley, Inc.; Comcast of Illinois/Ohio/Oregon, LLC and Comcast of Oregon II, Inc. do hereby accept the Franchise granted pursuant to Board Order No. 2010-16, passed and approved on February 18, 2010, and does hereby agree that it will comply with and abide by all of the provisions, terms and conditions of the Franchise, subject to applicable federal, state and local law.

BY: 
TITLE: Senior Vice President & Controller
DATE: 3/22/10

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Renewal
Of the Cable Television
Franchise Agreement For Use of the
County Rights-of-Way By
Comcast of Oregon II, Inc., Comcast
of Tualatin Valley, Inc., and Comcast
of Illinois/Ohio/Oregon, LLC.

ORDER NO. 2010-16

This matter coming on at this time, and it appearing that Comcast of Oregon II, Inc., Comcast of Tualatin Valley, Inc., and Comcast of Illinois/Ohio/Oregon, LLC., (Collectively Comcast) has been providing cable television service utilizing the County rights-of-way pursuant to a franchise agreement that expired on March 31, 2009 and;

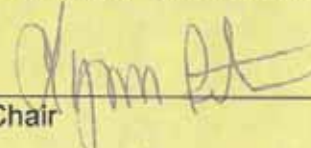
It further appearing that the County and Comcast have conducted extensive negotiations as provided by federal law concerning the franchise renewal and;


It further appearing that the issuance of a renewal subject to the terms and conditions of the attached Franchise Agreement would be in the best interests of the citizens of the County;

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Franchise Agreement be approved and executed, and be subject to the terms and conditions as specified in the Agreement for a term of five (5) years as specified in Section 3.3.

DATED this 18th day of February, 2010

BOARD OF COUNTY COMMISSIONERS


Chair


Recording Secretary