



8000 E. Iliff Ave.
Denver, CO 80231

Jane S. Brautigam, City Manager
City of Boulder
1777 Broadway, Second Floor
P.O. Box 791
Boulder, CO 80302

Dear Ms. Brautigam:

The purpose of this letter agreement is to set forth several commitments between Comcast of Colorado IV, LLC ("Comcast") and the city of Boulder, Colorado (the "City") that are in addition to the Franchise Agreement to be adopted by Ordinance (the "Franchise Agreement"). These items have been negotiated in good faith and agreed to as part of the informal franchise renewal process pursuant to 47 U.S.C. § 546(h), and specifically relate to the unique community needs that exist in the City. This letter agreement shall take effect on May 1, 2015, and shall terminate at 11:59 p.m. on April 30, 2025.

- A. **Channel Capacity and Use – High Definition ("HD") Digital Access Channels:** Pursuant to Section 12.2 of the Franchise, Comcast is required to provide at no cost to the City one outlet of Basic Service and Digital Starter Service to all City owned and occupied buildings. In addition to those Section 12.2 requirements, and at the time that the City activates an HD Digital Access Channel pursuant to Section 9.2 of the Franchise, Comcast shall provide to the City, at no cost to the City, one (1) outlet of basic HD service and one (1) HD cable box to be located at the Channel 8 office, for the sole purpose and use by the City to monitor the HD Digital Access Channel's signal.
- B. **Promotion of PEG Programming:** Following the Effective Date of the Franchise, Comcast will work with the City to assist in the promotion of PEG programming, which includes the following:
1. Upon reasonable advanced notice but not more than two (2) times during the term of the Franchise, Comcast will provide one (1) cable box message to Subscribers' cable boxes that receive messages per quarter per year for a total of four (4) messages in a calendar year;
 2. Upon reasonable advanced notice but not more than three (3) times during the term of the Franchise, Comcast will include one (1) written bill message to Subscribers as part of their bills, provided that space for such bill message is available; and
 3. Comcast shall use reasonable efforts to accommodate PEG promotional spots received from the City on a reasonable basis in Comcast's cross-channel ad avails, up to a minimum of 25, 30 second spots per year, with the intention of accommodating additional spots if available at Comcast's reasonable discretion. Any such ad avails provided for PEG promotional spots shall be at no cost to the City or its designated access providers; however, the City or its designated access

provider shall be responsible for all the necessary production costs and shall deliver the ad avail in the format and method requested by Comcast.

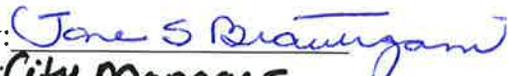
The terms and conditions of this letter agreement are binding upon the City and Comcast and their successors and assigns. Comcast agrees that a violation of these terms by Comcast may be considered by the City as a material violation of the Franchise, subject to the provisions of Section 13 of the Franchise. It is understood that fulfillment of these obligations is also necessary and part of the consideration to secure the renewed Franchise.

Sincerely,
Comcast of Colorado IV, LLC

By: 
Its: Matthew Chambers
VP - Finance and Accounting
Date: 4/29/15

Acknowledged and agreed to this 14 day of May 2015.

City of Boulder, Colorado

By: 
Its: Jane S. Brautigan
City Manager
Date: 5-14-15

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

CABLE FRANCHISE AGREEMENT

**COMCAST OF COLORADO IV, LLC
AND
THE CITY OF BOULDER, COLORADO**

May 1, 2015

**COMCAST OF COLORADO IV, LLC AND
THE CITY OF BOULDER, COLORADO**

CABLE FRANCHISE AGREEMENT

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EXHIBIT A: Customer Service Standards

EXHIBIT B: Report Form

**COMCAST OF COLORADO IV, LLC AND
CITY OF BOULDER, COLORADO**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word “shall” is always mandatory and not merely directory.

1.1 “Access” means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the City and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:

a. “Public Access” means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.

b. “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

c. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.4 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, including specifically the Cable Act, the Boulder

Cable Code and the City's Design and Construction Standards, that determines the legal standing of a case or issue.

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

1.7 "Basic Service" is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise Agreement, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 "Boulder Cable Code" means Title 11, Chapter 6 of the Boulder Revised Code 1981 (B.R.C. 1981), as the same may be amended from time to time.

1.9 "Broadcast Channel" means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.10 "Broadcast Signal" means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.11 "Cable Act" means the Title VI of the Communications Act of 1934, as amended.

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

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

1.14 "Cable System" means any facility, including Grantee's, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Public Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system

that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.15 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.16 “City” is the city of Boulder, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.17 “City Council” means the Boulder City Council, or its successor, the governing body of the City.

1.18 “Colorado Communications and Utility Alliance” or “CCUA” means the non-profit entity formed by franchising authorities and/or local governments in Colorado or its successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.19 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.20 “Demarcation Point” means up to and including the modulator where the City signal is converted into a format to be transmitted over a fiber connection to the Grantee.

1.21 “Designated Access Provider” means the entity or entities designated now or in the future by the City to manage or co-manage Access Channels and facilities. The City may be a Designated Access Provider.

1.22 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.23 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to interconnection points on the Cable System.

1.24 “Dwelling Unit” means one room or rooms with internal connections for residential occupancy and including bathroom and kitchen facilities. Multiple Dwelling Units exist if there is more than one meter for any utility, address to the property or kitchen; or if there are separate entrances to rooms which could be used as separate Dwelling Units; or if there is a lockable, physical separation between rooms in the Dwelling Unit such that a room or rooms on each side of the separation could be used as a Dwelling Unit or rooms with no internal connections.

1.25 “Effective Date” means May 1, 2015.

1.26 “FCC” means the Federal Communications Commission.

1.27 “Fiber Optic” means a transmission medium of optical fiber cable, along with all

associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.28 “Franchise” shall mean a nonexclusive authorization granted in accordance with the Boulder Cable Code to install cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the construction, operation, maintenance and repair of a cable system along the public rights of way within all or a specified area of the City. Any such authorization, in whatever form granted, shall not mean or include: a) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City; b) any permit or authorization required in connection with operations on public streets, rights of way or other property, including, without limitation, permits for attaching devices to poles or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along public rights of way; c) agreements required for the use of conduits and poles, whether publicly or privately owned; or d) express or implicit authorization to provide service to, or install a cable system on, private property without owner consent (except for use of compatible easements pursuant to section 621(a)(2) of the Cable Act, 47 USC § 541(a)(2)).

1.29 “Franchise Agreement” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.30 “Franchise Area” means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise Agreement.

1.31 “Franchise Fee” means that fee payable to the City described in Subsection 3.1.

1.32 “Grantee” means Comcast of Colorado IV, LLC or its successor, transferee or assignee.

1.33 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the City. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use, allocated on a *pro rata* basis using total Cable Service subscribers within the City;

- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- revenues derived from sales of advertising that are made available to Grantee's Cable System Subscribers within the City and shall be allocated on a *pro rata* basis using total Cable Service Subscribers reached by the advertising;
- all commissions, rep fees, Affiliate fees, or rebates paid to National Cable Communications ("NCC") and Comcast Spotlight ("Spotlight") or their successors associated with sales of advertising on the Cable System within the City allocated on a *pro rata* basis using total Cable Service subscribers reached by the advertising;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- revenues from program guides;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the City.

(A) "Gross Revenues" shall not include:

- actual Bad Debt write-offs, except any portion that is subsequently collected;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Government (PEG) Fees;
- launch fees and marketing co-op fees; and,
- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(B) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card

value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee's calculations.

(C) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.33 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the City within three (3) months of making such changes, and as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to 1.33(D) below.

(D) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the City reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.34 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.35 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.36 "Manager" means the City Manager of the City or designee.

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

1.38 "Premium Service" means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.39 "Public Right(s)-of-Way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the City now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System. No reference herein to a "Public Right-of-Way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit

its use for such purposes, and Grantee shall be deemed to gain only those rights to use as are properly in the City and as the City may have the undisputed right and power to give.

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

1.41 “Standard Drop” means an aerial connection extending no more than 125 feet from the potential Subscriber’s demarcation point to the point nearest the property line on the public right-of-way, or if closer, to the nearest point on the Cable System from which Cable Service can be provided to that Subscriber.

1.42 “State” means the State of Colorado.

1.43 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee’s regular and nondiscriminatory terms and conditions for receipt of service.

1.44 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Subscribers.

1.45 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.46 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.47 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.48 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.49 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise Agreement, are formally incorporated and made a part of this Franchise Agreement by this reference:

- 1) *Exhibit A*, entitled Customer Service Standards.

- 2) *Exhibit B*, entitled Report Form.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Public Rights-of-Way within the City to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise Agreement and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise Agreement shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise Agreement. This Franchise Agreement and all rights and privileges granted under the Franchise are subject to the City's police and other powers. However, once the Franchise grant is effective, this Franchise Agreement is a contract and except as to those changes which are the result of the City's exercise of its police and other powers, neither City nor Grantee may take any unilateral action which materially changes the explicit mutual promises in this contract. Subject to the foregoing, Grantee does not waive its right to challenge the lawfulness of any particular amendment to the Boulder Cable Code or any other provision of the City code on the ground that a particular action is in excess of the City's power under Colorado or federal law or violates the Colorado or the United States Constitution.

(B) Nothing in this Franchise Agreement shall be deemed to waive the lawful requirements of any generally applicable City ordinance. The issuance of the Franchise does not deprive the City of any powers, rights or privileges it now has or may later acquire in the future to use, perform work on or to regulate the use of and to control the City's Public Rights-of-Way covered by the Franchise, including without limitation the right to perform work on its roadways, Public Rights-of-Way and drainage facilities, by constructing, altering, renewing, paving, widening, grading, blasting or excavating; and the right to build and install systems and facilities, with or without a franchise. Grantee is free to challenge any unilaterally imposed requirement of the City as unlawful and/or in excess of the City's police power, but not on the grounds that it imposes police power requirements over and above this Franchise Agreement.

(C) Each and every term, provision or condition herein is subject to the provisions of Applicable Law. In the event of a conflict between the Boulder Cable Code as it existed on the Effective Date of this Franchise Agreement and this Franchise Agreement, the Franchise Agreement shall control, except where expressly provided otherwise in this Franchise Agreement. However, although the exercise of rights hereunder is subject to the Boulder Cable Code, the Boulder Cable Code is not a contract. Nothing in this Section 2.1 shall prevent Grantee from challenging a particular amendment to the Boulder Cable Code as an impairment of this Franchise Agreement.

(D) This Franchise Agreement shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional compensation conditions for use of the Public Rights-of-Way, should Grantee provide service other than Cable Service.

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

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

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

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

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

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

(H) This Franchise Agreement does not authorize Grantee to provide Telecommunications Service, or to construct, operate or maintain Telecommunications facilities. This Franchise Agreement is not a bar to the provision of non-Cable Services, or to the imposition of any lawful conditions on Grantee with respect to Telecommunications, whether similar, different or the same as the conditions specified herein. This Franchise Agreement does not relieve Grantee of any obligation it may have to obtain from the City an authorization to provide Telecommunications Services, or to construct, operate or maintain Telecommunications facilities, or relieve Grantee of its obligation to comply with any such authorizations that may be lawfully required.

2.2 Use of Public Rights-of-Way

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

appurtenant to the operation of a Cable System within the City. Grantee, through this Franchise Agreement, is granted extensive and valuable rights to operate its Cable System for profit using the City's Public Rights-of-Way in compliance with all applicable City construction codes and procedures. As trustee for the public, the City is entitled to fair compensation as provided for in Section 3 of this Franchise Agreement to be paid for these valuable rights throughout the term of the Franchise Agreement.

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

2.3 Effective Date and Term of Franchise Agreement

This Franchise Agreement and the rights, privileges and authority granted hereunder shall take effect on May 1, 2015 (the "Effective Date"), and shall terminate at midnight on April 30, 2024 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

The Franchise granted herein shall be nonexclusive, and subject to all prior franchises, rights, interests, easements or licenses granted by the City to any Person to use any Public Right-of-Way for any purpose whatsoever, including the right of the City to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder.

2.5 Competitive Equity

(A) The Grantee acknowledges and agrees that the City reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the City. If the City grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise Agreement, then the City agrees that the obligations in this Franchise Agreement will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but

are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; 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 so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

(B) The modification process for this Franchise Agreement, as provided for in Section 2.5 (A), shall only be initiated by written notice by the Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise Agreement; (2) identifying the Franchise Agreement terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise Agreement amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.5 (B), the City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise Agreement modifications, and that such negotiation will proceed and conclude within a ninety-day (90) time period, unless that time period is reduced or extended by mutual agreement of the Parties. If the City and Grantee reach agreement on the Franchise Agreement modifications pursuant to such negotiations, then the City shall amend this Franchise Agreement to include the modifications.

(D) In the alternative to Franchise Agreement modification negotiations as provided for in Section 2.5 (C), or if the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise Agreement by substituting the franchise agreement or other similar lawful authorization that the City grants to another provider of Cable Services (with the exception of any system design requirements unique to the competitive provider) so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise Agreement with the franchise agreement entered into by the City with the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.5(A) through (D) to the contrary, the City shall not be obligated to amend or replace this Franchise Agreement unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the City.

(F) Subject to Section 15, Severability, in the event that state or federal laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this Franchise Agreement, then the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such state or federal law, rule,

or regulation is subsequently repealed, rescinded, amended, or otherwise changed, so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

2.6 Familiarity with Franchise Agreement

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise Agreement and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise Agreement, and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act. The City and Grantee agree that this Franchise Agreement is a negotiated agreement and that for the purpose of interpretation neither City nor Grantee shall be deemed the drafter of this Franchise Agreement.

2.7 Effect of Acceptance

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

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise Agreement and in consideration of permission to use the City's Public Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the City, throughout the duration of and consistent with this Franchise Agreement, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the

performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

A written report, verified by an authorized representative of Grantee and containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount, shall accompany each payment to the City or be sent concurrently under separate cover. Such report shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year this Franchise is in effect, furnish to the City a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

Upon thirty (30) days' prior written notice, but no more frequently than annually, the City, including the City's Auditor or his/her authorized auditors, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise Agreement. Pursuant to subsection 1.33, as part of the Franchise Fee audit/review, the City shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for City subscribers during the audit period. To the extent that the City does not believe that the relevant data supplied is sufficient for the City to complete its audit/review, the City may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the City to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the City related to audits, whichever is less), Grantee shall pay the total reasonable cost of the audit/review, such cost not to exceed seven thousand dollars (\$7,000) for each year of the audit period. The City's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the City.

3.7 Late Payments

In the event any payment due quarterly is not received within thirty (30) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated

from the date the payment was originally due until the date the City receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the City.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the City through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City compensation equivalent to the compensation paid to the City by other similarly situated users of the City's Public Rights-of-Way for Grantee's use of the City's Public Rights-of-Way, such payments shall be the equivalent of five percent (5%) of Grantee's Gross Revenues (subject to the other provisions contained in this Franchise Agreement), to the extent consistent with Applicable Law.

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise Agreement, the City is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise Agreement may be amended unilaterally by the City to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the City hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the City of such amendment, so long as all cable operators in the City are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

No term or condition in this Franchise Agreement, including the funding required by Section 9, shall in any way modify or affect Grantee's obligation to pay Franchise Fees. Although the total sum of Franchise Fee payments and additional commitments set forth elsewhere in this Franchise Agreement may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, Grantee agrees that the additional commitments herein are not Franchise Fees as defined under any federal law, nor are they to be offset or credited against any Franchise Fee payments due to the City, nor do they represent an increase in Franchise Fees.

3.12 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business

license fees or other payments. Payment of the Franchise Fees under this Franchise Agreement shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the City upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise Agreement terminates for any reason, the Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of the Grantee to the City by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The City shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise Agreement in the public interest.

(B) Nothing in this Franchise Agreement shall limit nor expand the City's right of eminent domain under State law; provided, however, that in any condemnation action no award shall be made for the value of the Franchise or the use of Public Rights-of-Way.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual

orientation, marital, military or economic status, or physical or mental disability or geographic location within the City. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or

(C) The offering of rate discounts for Cable Service; or

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise Agreement, Grantee shall maintain on file with the City a complete schedule of applicable rates and charges for Cable Services provided under this Franchise Agreement. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the City, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross-Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross-subsidization.

4.6 Reserved Authority

Both Grantee and the City reserve all rights they may have under the Cable Act and any other relevant provisions of Applicable Law.

4.7 Time Limits Strictly Construed

Whenever this Franchise Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise Agreement and sufficient grounds for the City to invoke any relevant remedy.

4.8 Amendment Procedure

Any amendment to this Franchise Agreement shall be made pursuant to the provisions of the Boulder Cable Code as it existed on the Effective Date of this Franchise Agreement. Within thirty (30) days of receipt of written notice that a Party wishes to amend this Franchise Agreement, the City and Grantee shall meet to discuss the proposed amendment(s). If the Parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the City Council for its approval. If so approved by the City Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise Agreement. If mutual agreement is not reached, there shall be no amendment.

4.9 Performance Evaluations

(A) Biennial performance evaluations shall be conducted pursuant to the terms of the Boulder Cable Code provided that the City give Grantee thirty (30) days written notice prior to holding any performance evaluation. All such evaluation sessions shall be conducted by the City.

(B) Special evaluation sessions may be held at any time by the City during the term of this Franchise Agreement, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced one (1) week in advance in any manner within the discretion of the City. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the City, provided Grantee receives appropriate advance notice.

(D) Topics that may be discussed at any evaluation session may include, but are not limited to, Cable System construction and performance, Grantee's compliance with the Boulder Cable Code and this Franchise Agreement, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise Agreement; judicial and FCC rulings; line extension policies; and the City or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise Agreement.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the City and shall provide such information and documents as the City may reasonably require to perform the evaluation.

4.10 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by ordinance or resolution, or as the same may be superseded by legislation or final court order.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

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

4.11 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise Agreement by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise Agreement or to procure a substitute for such obligation which is satisfactory to the City. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the City and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise Agreement, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) Grantee shall, at its sole cost and expense, indemnify, hold harmless, and faithfully defend the City, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its cable system by Grantee, its employees, Affiliates or agents; copyright infringements or a failure by Grantee to secure consents from the owners, authorized distributors, or franchisees of programs to be delivered by the Cable System; the conduct of Grantee's business in the City; or in any way arising out of Grantee's enjoyment or exercise of the Franchise granted hereunder, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by Applicable Law or this Franchise Agreement, except in cases where liability is: (a) solely caused by the gross negligence of the person or persons covered by the indemnity; or (b) results from programming contributed or produced by the City and transmitted over the Cable System.

(B) Without limiting the foregoing, Grantee shall, at its sole cost and expense, fully indemnify, defend, and hold harmless the City, and its officers, agents, and employees from and against any and all claims, suits, actions, liability, and judgments for damages or otherwise subject to Section 638 of the Cable Act, 47 U.S.C. § 558, arising out of or alleged to arise out of the construction, operation, maintenance or repair of its system by Grantee, its employees, affiliates or agents, including without limitation any claim against Grantee for invasion of the right of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any person, firm, or corporation. This indemnity does not apply to intervention by the City in regulatory proceedings brought by Grantee or to the programming carried on any channel set aside for public, educational, or government use, or channels leased pursuant to 47 U.S.C. § 532, unless Grantee was in any respect engaged in determining the editorial content of the program, or adopts a policy of pre-screening programming for the purported purpose of banning or regulating indecent or obscene programming, and except for programming contributed or produced by Grantee.

(C) The indemnity provision includes, but is not limited to, the City's reasonable attorneys' fees consented to by Grantee and payment for any reasonable labor and expenses of the city attorney's office at the going rate for legal services in Boulder County. Such consent shall not be unreasonably withheld.

(D) Grantee shall indemnify the City for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the City arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Public Rights-of-Way in a timely manner in accordance with any relocation required by the City.

(E) Grantee shall also indemnify, defend and hold the City harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the City in granting this Franchise Agreement to the extent such actions are consistent with this Franchise Agreement and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise Agreement.

(F) The fact that Grantee carries out any activities under this Franchise Agreement through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(G) The provisions of this Section 5.1 shall not be construed to limit the liability of Grantee for damages.

5.2 Insurance

Grantee shall maintain adequate insurance throughout the Term as required by the Boulder Cable Code as of the Effective Date.

5.3 Letter of Credit

(A) If there is a claim by the City of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the City may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the City, to the City as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the City in the amount of One Hundred Thousand dollars (\$100,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a Letter of Credit to the City as set forth in Subsections 5.4 (A) and (B) above, if the City is a member of CCUA, and if Grantee provides a Letter of Credit to CCUA in an amount agreed to between Grantee and CCUA for the benefit of its members, in order to collectively address claims reference in 5.4 (A), Grantee shall not be required to provide a separate Letter of Credit to the City.

(D) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the City sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the City to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or

breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the City, as the same may be amended from time to time by the City Council acting by ordinance or resolution.

(E) The City shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with the City's Customer Service Standards, attached hereto as Exhibit A and incorporated herein by this reference, as the same may be amended from time to time. Grantee reserves the right to challenge any future customer service ordinance that it believes is inconsistent with its contractual rights under this Franchise Agreement.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in Applicable Law.

6.3 Subscriber Contracts

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

6.4 Advance Notice to City

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the City in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the City, Grantee shall identify the City on Subscriber bills as the Franchising Authority.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the City. The City, including the City's auditors, shall have access to, and the right to inspect any books or records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise Agreement or Applicable Law. Grantee shall not deny the City access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The City may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection of this Franchise Agreement or Applicable Law shall be furnished to the City, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the City inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary or appropriate for the performance of any of the City's duties, administration or enforcement of this Franchise Agreement, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The City shall protect Grantee's confidential commercial data, identified as such by Grantee, from disclosure under the Colorado Open Records Act, § 24-72-204, C.R.S. The City agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the City believes it must release any such confidential books and records in the course of enforcing this Franchise Agreement, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with Applicable Law, advise Grantee, provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time, and shall withhold release for the maximum period permitted by law to provide the Grantee the opportunity to seek court protection against the release of the requested documents. Grantee shall reimburse the City for all reasonable costs and attorneys fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

- (A) Grantee shall at all times maintain, and shall furnish to the City upon 30-days

written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Public Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the City's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the City. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the City;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the City, except for information involving the privacy rights of individual Subscribers, is public information and shall be treated as such.

(C) "As-built" drawings for all construction completed by Grantee since the City's last request for such drawings.

(D) Grantee shall maintain for a period of at least six months those records listed in Section 11-6-6(d) of the Boulder Cable Code.

7.4 Annual Reports

No later than ninety (90) days after the end of its fiscal year, Grantee shall submit to the City a written report, in a form acceptable to the City, which shall include, but not necessarily be limited to, the following information:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise Agreement;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);

(C) The number of homes passed, beginning and ending plant miles, any

services added or dropped, and any technological changes occurring in the Cable System;

- (D) A statement of planned construction, if any, for the then-current year;
- (E) A copy of the most recent annual report Grantee filed with the SEC or other governing body; and
- (F) A list of officers and members of Grantee's board of directors and its parent;
- (G) An ownership report, indicating all persons who at the time of filing control or won an interest in the Franchise of ten percent or more;
- (H) A report on the Cable System's technical test and measurements; and
- (I) A summary of the number and type of outages (an outage being a loss of sound or video on any signal or a significant deterioration of any signal affecting Subscribers) known by Grantee, specifying all details of each outage known to Grantee and the cause thereof.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the City. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the City during normal business hours at Grantee's local business office.

(B) On or before April 30, July 31, October 31 and January 31 of each year this Franchise Agreement is in effect and for one month thereafter, Grantee shall provide the City a quarterly executive summary in the form attached hereto as Exhibit B, which shall include the following information from the preceding quarter:

- (1) A summary of service calls, identifying the number and nature of the requests and their disposition;
- (2) A log of all service interruptions;

(3) A summary of customer complaints referred by the City to Grantee; and,

(4) Such other information as reasonably requested by the City, including but not limited to a summary of escalated complaints, indentifying both the number and nature of the complaints received and an explanation of their disposition.

The provisions of this subsection (B) shall survive for one full quarter after the expiration, or termination for any reason, of this Franchise Agreement.

7.7 Failure to Report/Maintain Records

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise Agreement or such other reports as the City may reasonably request (not including clerical errors or errors made in good faith), or to keep any records required to be kept may, at the City 's option, be deemed a breach of this Franchise Agreement.

7.8 False Statements

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

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Colorado news, weather & information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture and performing arts;
- (G) Foreign language;
- (H) Science/documentary;

(I) National news, weather and information (including direct coverage of federal and/or state legislative proceedings); and,

(J) Public, Educational and Government Access, to the extent required by this Franchise Agreement.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the City.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date shall be deemed the mix and quality of Cable Services required under this Franchise Agreement throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if the Federal Communications Commission or a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires

the Cable System in accordance with this Franchise Agreement, Grantee shall cooperate with the City, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System; and in the event of a change of Grantee not caused by a breach of this Franchise Agreement by Grantee, Grantee shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the City may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the City or a permanent Cable Operator is selected. If the City is required to fulfill this obligation for Grantee, Grantee shall reimburse the City for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) The City shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself, for Access purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise Agreement. As used in this Section, such "Access Facilities" includes the Channels, services, facilities, equipment, technical components and/or financial support provided under this Franchise Agreement, which is used or useable by and for Public Access, Educational Access, and Government Access ("PEG" or "PEG Access").

(B) Grantee shall cooperate with City in City's efforts to provide Access programming, but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

9.2 Channel Capacity and Use

(A) On the Effective Date, Grantee shall make available to City five (5) Downstream Channels for PEG use as provided for in this Section.

(B) Grantee shall have the right to temporarily use any Public Access or Government Access Channel, or portion thereof, within sixty (60) days after a written request for such temporary use is submitted to City, if such Public Access or Government Access Channel is not fully utilized. A Public Access or Government Access Channel shall be considered "fully utilized" if substantially unduplicated programming is delivered over it more than an average of

38 hours per week over a calendar year. Programming that is repeated on a Public Access or Government Access Channel up to two times per day shall be considered “substantially unduplicated programming.” Character-generated programming shall be included for purposes of this subsection, but may be counted towards the total average hours only with respect to two (2) Channels provided to the City. If a Public Access or Government Access Channel will be used by Grantee in accordance with the terms of this subsection, the institution to which the Public Access or Government Access Channel has been allocated shall have the right to require the return of the Public Access or Government Access Channel or portion thereof. The City shall request return of such Public Access or Government Access Channel space by delivering written notice to Grantee stating that the institution is prepared to fully utilize the Public Access or Government Access Channel, or portion thereof, in accordance with this subsection. In such event, the Public Access or Government Access Channel or portion thereof shall be returned to such institution within sixty (60) days after receipt by Grantee of such written notice.

(C) Standard Definition (“SD”) Digital Access Channels.

(1) Grantee shall provide four (4) Activated Downstream Channels for PEG Access use in a standard definition (“SD”) digital format in Grantee’s Basic Service (“SD Access Channel”). Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the Demarcation Point at the designated point of origination for the SD Access Channel. Grantee shall transport and distribute the SD Access Channel signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards.

(2) With respect to signal quality, Grantee shall not be required to carry an SD Access Channel in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute the SD Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Section 9.2(C).

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

(4) SD Access Channels may require SD Subscribers to buy or lease special equipment, available to all SD Subscribers. Grantee is not required to provide free SD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(5) If Grantee does not carry the Audio Information Network of Colorado as

part of its commercial service, and it is available for carriage, Grantee shall continue to provide an FM band PEG channel for carriage of the Audio Information Network of Colorado service on the Basic or Expanded Basic Service tier for at least twelve (12) months from the Effective Date of this Franchise Agreement. The termination of such service on the Cable System shall be publicized by Grantee at its sole cost through bill messages provided to Subscribers at 12 months, 6 months and 3 months prior to the time such service is terminated.

(D) High Definition (“HD”) Digital Access Channels.

(1) Upon written request and within one hundred twenty (120) days of the Effective Date, Grantee shall activate one (1) HD Access Channel, for which the City may provide Access Channel signals in HD format to the Demarcation Point at the designated point of origination for the Access Channel. After the third anniversary of the Effective Date, and with at least 120 day written notice to Grantee, the City may request, and Grantee shall provide on its Cable System, one (1) additional Activated Downstream Channel for PEG Access use in a High Definition (“HD”) digital format (“HD Access Channel or Channels”). Activation of HD Access Channels shall only occur after the following conditions are satisfied:

(a) The City shall, in its written notice to Grantee as provided for in this Section, confirm that it or its Designated Access Provider has the capabilities to produce, has been producing and will produce programming in an HD format for the newly activated HD Access Channel(s); and,

(b) There will be a minimum of five (5) hours per-day, five days per-week of HD PEG programming available for each HD Access Channel.

(2) The City shall be responsible for providing the HD Access Channel signal in an HD digital format to the Demarcation Point at the designated point of origination for the HD Access Channel. For purposes of this Franchise Agreement, an HD signal refers to a television signal delivering picture resolution of either 720p or 1080i, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) Grantee shall transport and distribute the HD Access Channel signal on its Cable System and shall not unreasonably discriminate against HD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards. With respect to signal quality, Grantee shall not be required to carry a HD Access Channel in a higher quality format than that of the HD Access Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel signal without degradation. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. Upon reasonable written request by the City, Grantee shall verify signal delivery to Subscribers with the City, consistent with the requirements of this Section 9.2(D).

(4) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

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

(6) Grantee shall cooperate with the City to procure and provide, at City's cost, all necessary transmission equipment from the Designated Access Provider channel origination point, at Grantee's headend and through Grantee's distribution system, in order to deliver the HD Access Channels. The City shall be responsible for the costs of all transmission equipment, including HD modulator and demodulator, and encoder or decoder equipment, and multiplex equipment, required in order for Grantee to receive and distribute the HD Access Channel signal, or for the cost of any resulting upgrades to the video return line. The City and Grantee agree that such expense of acquiring and installing the transmission equipment or upgrades to the video return line qualifies as a capital cost for PEG Facilities within the meaning of the Cable Act 47 U.S.C.A. Section 542(g)(20)(C), and therefore is an appropriate use of revenues derived from those PEG Capital fees provided for in this Franchise Agreement.

(E) Grantee shall simultaneously carry the one (1) HD Access Channels provided for in Section 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the SD Access Channels provided pursuant to Subsection 9.2(C). At such time as Grantee activates the second HD Access Channel, the number of SD Access Channels Grantee is obligated to provide in Section 9.2(C) shall be reduced from four (4) to three (3).

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise Agreement are otherwise met. Grantee may implement HD carriage of the PEG channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event the City believes that Grantee fails to meet this standard, City will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

9.3 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of SD and HD Access Channel assignments. Grantee shall also use reasonable efforts to institute common SD and HD Access Channel assignments among the local governments served by the same Headend as City for compatible Access programming, for example, assigning all Educational Access Channels programmed by higher education organizations to the same Channel number. In addition, Grantee will make reasonable efforts to locate HD Access Channels provided pursuant to Subsection 9.2(D) in a location on its HD Channel line-up that is easily accessible to

Subscribers.

9.4 Relocation of Access Channels

Grantee shall provide City and all Subscribers within City with a minimum of sixty (60) days' notice, and use its best efforts to provide one hundred and twenty (120) days notice, prior to the time Public, Educational, and Government Access Channel designations are changed.

9.5 Web-Based Video On Demand and Streaming

(A) Within one hundred twenty (120) days after written request of the City, Grantee shall additionally provide the City with a one-time grant of funding, in an amount not to exceed TWENTY-FIVE THOUSAND dollars (\$25,000), which the City shall use to acquire and/or replace equipment to facilitate cable and web-based Access programming.

(B) The City's Designated Access Provider(s) may provide web-based video on demand programming on line; provided however, that such Designated Access Provider(s) shall be responsible for its own costs related to a video on demand server, broadband connection and service and any other associated equipment.

(C) Any costs incurred by Grantee in facilitating the web-based on demand Access programming described in this Section 9.5 may be recovered from Subscribers by Grantee in accordance with Applicable Law.

9.6 Support for Access Costs

During the term of this Franchise Agreement, Grantee shall provide fifty cents (\$0.50) per month per Subscriber (the "PEG Contribution") until a new rate is made effective as set forth below, to be used solely for capital costs related to Public, Educational and Government Access and the web-based on demand Access programming described in Section 9.5, or as may be permitted by Applicable Law. Following City Council decision, made by motion, Grantee shall provide the City with up to seventy-five cents (\$0.75) per month per Subscriber. Prior to the implementation of any change in the amount of this support the City shall give Grantee one hundred and twenty (120) days' written notice of the City Council's decision and any change will only be implemented concurrent with Grantee's annual price increase. Additional increases may be required by ordinance (including a mandatory public hearing) no sooner than 42 months after the Effective Date, to an amount over seventy-five cents (\$0.75), but in no event will the amount exceed a total of One Dollar (\$1.00) per Subscriber per month and such amount must be applicable to all franchised cable operators in the City. Prior to the implementation of any change in the amount of this support the City must give Grantee one hundred and twenty (120) days' written notice of the City Council's decision and any change will only be implemented concurrent with Grantee's annual price increase. No fees shall be charged on gratis accounts. The City shall be solely responsible for all liability to any third party arising out of the City's use of PEG use capital funds that will be collected and paid to the City. Grantee shall make PEG Contribution payments quarterly, following the effective date of this Franchise 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 thirty (30) days following the end of the quarter. If this Franchise expires or terminates for any reason, Grantee is required to make the final PEG Contribution. City shall have sole discretion to allocate the expenditure of such payments for any capital costs related to PEG Access. The parties agree that this Franchise Agreement shall provide City discretion to utilize Access payments for new internal network connections and enhancements to the City's existing network..

9.7 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to City. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any 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 so long as such support is used for capital Access purposes consistent with this Franchise Agreement and Applicable Law.

9.8 Access Channels on Basic Service or Lowest Priced HD Service Tier

All SD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of Basic Service. All HD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.9 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access services or programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of City's Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change. If the City implements a new video delivery technology that is currently offered and can be accommodated on the Grantee's local Cable System then the same provisions above shall apply. If the City implements a new video delivery technology that is not currently offered on and/or that cannot be accommodated by the Grantee's local Cable System, then the City shall be responsible for acquiring all necessary equipment, facilities, technical assistance, and training to deliver the signal to the Grantee's headend for distribution to subscribers.

9.10 Technical Quality

Grantee shall maintain all upstream and downstream Access services and Channels on its side of the Demarcation Point at the same level of technical quality and reliability required by this Franchise Agreement and all other Applicable Law. Grantee shall provide routine maintenance for all transmission equipment on its side of the Demarcation Point, including

modulators, decoders, multiplex equipment, and associated cable and equipment necessary to carry a quality signal to and from City's facilities for the Access Channels provided under this Franchise Agreement, including the business class broadband equipment and services necessary for the video on demand and streaming service described in Section 9.5. Grantee shall also provide, if requested in advance by the City, advice and technical expertise regarding the proper operation and maintenance of transmission equipment on the City's side of the Demarcation Point. The City shall be responsible for all initial and replacement costs of all HD modulator and demodulator equipment, web-based video on demand servers and web-based video streaming servers. The City shall be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by any negligent or intentional act or omission by City staff. The Grantee shall be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by any negligent or intentional act or omission of Grantee's staff. The City will be responsible for the cost of repairing and/or replacing any HD PEG Access and web-based video on demand transmission equipment that Grantee maintains that is used exclusively for transmission of the City's and/or its Designated Access Providers' HD Access programming.

9.11 Access Cooperation

City may designate any other jurisdiction which has entered into an agreement with Grantee or an Affiliate of Grantee based upon this Franchise Agreement, any CCUA member, the CCUA, or any combination thereof to receive any Access benefit due City hereunder, or to share in the use of Access Facilities hereunder. The purpose of this subsection shall be to allow cooperation in the use of Access and the application of any provision under this Section as City in its sole discretion deems appropriate, and Grantee shall cooperate fully with, and in, any such arrangements by City.

9.12 Return Lines/Access Origination

(A) Grantee shall continuously maintain the previously constructed return lines throughout the Term of the Franchise Agreement, in order to enable the distribution of Access programming to Subscribers on the Access Channels; provided, however, that Grantee's maintenance obligations with respect to a particular location shall cease if it is no longer used by the City to originate Access programming.

(B) Grantee shall construct and maintain new Fiber Optic return lines to the Headend from production facilities of new or relocated Designated Access Providers delivering Access programming to Subscribers as requested in writing by the City. All actual construction costs incurred by Grantee from the nearest interconnection point to the Designated Access Provider shall be paid by the City or the Designated Access Provider. New return lines shall be completed within one (1) year from the request of the City or its Designated Access Provider, or as otherwise agreed to by the parties. If an emergency situation necessitates movement of production facilities to a new location, the parties shall work together to complete the new return line as soon as reasonably possible.

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

10.1 Public Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the City, of which the Grantee is made aware, regarding Public Right-of-Way issues that may impact the Cable System.

10.2 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the City, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Public Right-of-Way cuts within the City.

10.3 General Standard

Grantee shall construct, operate and maintain the Cable System subject to the supervision of all of the authorities of the City who have jurisdiction in such matters and in strict compliance with all Applicable Law, including specifically the Boulder Cable Code and the City's Design and Construction Standards. All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

10.4 Permits Required for Construction

Prior to doing any work in the Public Right-of Way or other public property, Grantee shall apply for, and obtain, all required permits from the City. As part of the permitting process, the City may impose such conditions and regulations including but not limited to those necessary for the purpose of protecting any structures in such Public Rights-of-Way, proper restoration of such Public Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Public Right-of-Way. Grantee shall pay all applicable fees for the requisite City permits received by Grantee.

10.5 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.6 Compliance with Applicable Codes

(A) City Construction Codes. Grantee shall comply with all applicable City construction codes, including, without limitation, the International Building Code and other building codes, the International Fire Code, and the International Mechanical Code, zoning codes and regulations, and the City's Design and Construction Standards.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and

regulations of the Federal Aviation Administration and all Applicable Law.

(C) Safety Codes. Grantee shall comply with all federal, State and City safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.7 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the City regarding geographic information mapping systems for users of the Public Rights-of-Way.

10.8 Minimal Interference

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

10.9 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Public Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.10 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Law concerning hazardous substances relating to Grantee's Cable System in the Public Rights-of-Way.

(B) Upon reasonable notice to Grantee, the City may inspect Grantee's facilities in the Public Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise Agreement, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to indemnify the City against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances arising out of or related to Grantee's Cable System.

10.11 Locates

Prior to doing any work in the Public Right-of-Way, Grantee shall give appropriate notices to the City and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time.

Within forty-eight (48) hours after any City bureau or franchisee, licensee or permittee notifies Grantee of a proposed Public Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unallocated underground facilities in the area of the proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.12 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by Ordinance or resolution.

10.13 Underground Construction and Use of Poles

(A) When required by Applicable Law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Public Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the City or Subscribers unless funding is generally available for such

relocation to all users of the Public Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) If installing cable lines aerially, Grantee shall utilize existing poles and conduit wherever possible.

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

(E) This Franchise Agreement does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the City.

(F) The Grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for Fiber Optic cable in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the City in any construction by the Grantee that involves trenching or boring, provided that the City has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the City to lay its cable, conduit and Fiber Optic cable in the Grantee's trenches and bores, provided the City shares in the reasonable cost of the trenching and boring. The City shall be responsible for maintaining its respective cable, conduit and Fiber Optic cable buried in the Grantee's trenches and bores under this paragraph.

10.14 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.15 Burial Standards on Private Property

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards when burying lines on private property. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Public Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.

Feeder lines shall be buried at a minimum depth of eighteen (18) inches.

Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.

Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

Grantee shall comply with the City's Design and Construction Standards when buying lines on public property.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.16 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.17 Repair and Restoration of Property

(A) Notice of Damage. The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Prompt Restoration. Whenever Grantee disturbs or damages any Public Right-of-Way, other public property or any private property, Grantee shall promptly restore the Public Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Public Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Public Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the City may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and

equipment, the Grantee shall pay the City.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by ordinance or resolution.

10.18 Use of Conduits by the City

The City may install or affix and maintain wires and equipment owned by the City for City purposes in or upon any and all of Grantee's ducts, conduits or equipment in the Public Rights-of-Way and other public places if such placement does not interfere with Grantee's use of its facilities, without charge to the City, to the extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. This right shall not extend to affiliates of Grantee who have facilities in the right-of-way for the provision of non-cable services. For the purposes of this subsection, "City purposes" includes, but is not limited to, the use of the structures and installations for City fire, police, traffic, water, telephone, and/or signal systems, but not for Cable Service or transmission to third parties of telecommunications or information services in competition with Grantee. Grantee shall not deduct the value of such use of its facilities from its Franchise Fee payments or from other fees payable to the City.

10.19 Common Users

(A) For the purposes of this subsection:

(1) "Attachment" means any wire, optical fiber or other cable, and any related device, apparatus or auxiliary equipment, for the purpose of voice, video or data transmission.

(2) "Conduit" or "Conduit Facility" means any structure, or section thereof, containing one or more Ducts, conduits, manholes, handhole or other such facilities in Grantee's Cable System.

(3) "Duct" means a single enclosed raceway for cables, Fiber Optics or other wires.

(4) "Licensee" means any Person licensed or otherwise permitted by the City to use the Public Rights-of-Way.

(5) "Surplus Ducts or Conduits" are Conduit Facilities other than those occupied by Grantee or any prior Licensee, or unoccupied Ducts held by Grantee as emergency use spares, or other unoccupied Ducts that Grantee reasonably expects to use within two (2) years from the date of a request for use.

(B) Grantee acknowledges that the Public Rights-of-Way have a finite capacity for containing Conduits. Therefore, Grantee agrees that whenever the City determines it is impracticable to permit construction of an underground Conduit system by any other Person which may at the time have authority to construct or maintain Conduits or Ducts in the Public Rights-of-Way, but excluding Persons providing Cable Services in competition with Grantee, the City may require Grantee to afford to such Person the right to use Grantee's Surplus Ducts or Conduits in common with Grantee, pursuant to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by Grantee and the Licensee. Nothing herein shall require Grantee to enter into an agreement with such Person if, in Grantee's reasonable determination, such an agreement could compromise the integrity of the Cable System.

(C) A Licensee occupying part of a Duct shall be deemed to occupy the entire Duct.

(D) Grantee shall give a Licensee a minimum of one hundred twenty (120) days notice of its need to occupy a licensed Conduit and shall propose that the Licensee take the first feasible action as follows:

(1) Pay revised Conduit rent designed to recover the cost of retrofitting the Conduit with multiplexing, Fiber Optics or other space-saving technology sufficient to meet Grantee's space needs;

(2) Pay revised Conduit rent based on the cost of new Conduit constructed to meet Grantee's space needs;

(3) Vacate the needed Ducts or Conduit; or

(4) Construct and maintain sufficient new Conduit to meet Grantee's space needs.

(E) When two or more Licensees occupy a section of Conduit Facility, the last Licensee to occupy the Conduit Facility shall be the first to vacate or construct new Conduit. When Conduit rent is revised because of retrofitting, space-saving technology or construction of new Conduit, all Licensees shall bear the increased cost.

(F) All Attachments shall meet local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Grantee and the Licensee. Grantee may, at its option, correct any attachment deficiencies and charge the Licensee for its costs. Each Licensee shall pay Grantee for any fines, fees, damages or other costs the Licensee's attachments cause Grantee to incur.

(G) In order to enforce the provisions of this subsection with respect to Grantee, the City must demonstrate that it has required that all similarly situated users of the Public Rights-of-Way to comply with the provisions of this subsection.

10.20 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any City Public Right-of-Way, or upon the addition to the City of any area in which Grantee owns or operates any such facility, Grantee shall, at the City's request, submit to the City a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise Agreement.

10.21 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Public Rights-of-Way, Grantee shall submit for the City's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the City permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Public Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the City. Until such time as Grantee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes, or may remove the facilities at Grantee's expense and Grantee shall reimburse the City within thirty (30) days after receipt of a written invoice.

10.22 Movement of Cable System Facilities for City Purposes

If the City generally makes funds available to users of the Public Rights-of-Way for the relocation of those users' facilities in the Public Rights-of-Way for City purposes, Grantee shall be entitled to its pro rata share of such funds.

10.23 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.24 Reservation of City Use of Public Right-of-Way

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

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

10.25 Tree Trimming

Subject to obtaining advance permission from the Manager, which shall not be unreasonably refused, Grantee may prune or cause to be pruned, using pruning practices approved by the City Forester, any tree that overhangs the City's Public Rights-of-Way so as to prevent the branches of such trees from coming into contact with the wires of the Cable System. At the option of the City, such trimming may be done by it or by Grantee, but in either case, at the expense of Grantee. Grantee shall comply with any general ordinance or regulations of the City regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Public Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.26 Inspection of Construction and Facilities

The City may conduct inspections of the Cable System including, without limitation, the headend, construction areas and Subscriber installations to assess, among other things, Grantee's compliance with this Franchise Agreement and Applicable Law. Inspection does not relieve Grantee of its obligation to build the Cable System in compliance with all provisions of this Franchise Agreement and Applicable Law.

10.27 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise Agreement and all Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise Agreement and the Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver no less than one hundred ten (110) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the City's permitting process and all Applicable Law.

(D) Grantee and City shall meet, at the City's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise Agreement or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The City may notify Grantee on or after five (5) years after the Effective Date, that the City will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not be limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation and/or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the City to provide necessary information upon the City's reasonable request as part of the technology assessment. If confidential or proprietary information is requested by the City, Grantee shall provide such information subject to the terms of a non-disclosure agreement acceptable to both parties.

(C) At the discretion of the City, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related community needs and interests undertaken by the City pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise Agreement, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the City no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

(A) Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise Agreement in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the City shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

(B) The City shall permit only appropriately trained and authorized Persons to operate the EAS equipment provided pursuant to this subsection.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

(A) Grantee shall, at Grantee's expense, perform the following tests on its Cable System:

(1) All tests required by the FCC;

(2) All other tests reasonably necessary to determine compliance with technical standards adopted by the FCC at any time during the term of this Franchise Agreement; and

(3) All other tests as otherwise specified in this Franchise Agreement.

(B) At a minimum, Grantee's tests shall include:

(1) Cumulative leakage index testing of any new construction;

(2) Semi-annual compliance and proof of performance tests in conformance with generally accepted industry guidelines;

(3) Tests in response to Subscriber or Designated Access Provider complaints;

(4) Periodic monitoring tests, at intervals not to exceed six (6) months, of Subscriber (field) test points, the Headend, and the condition of standby power supplies; and

(5) Cumulative leakage index tests, at least annually, designed to ensure that one hundred percent (100%) of Grantee's Cable System has been ground or air tested for signal leakage in accordance with FCC standards.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the City upon reasonable request.

(D) If the FCC no longer requires proof of performance tests for Grantee's Cable System during the term of this Franchise Agreement, Grantee agrees that it shall continue to conduct proof of performance tests on the Cable System in accordance with the standards that were in place on the Effective Date, or any generally applicable standards later adopted, at least once a year, and provide written results of such tests to the City upon request.

(E) The FCC semi-annual testing is conducted in January/February and July/August of each year. If the City contacts Grantee prior to the next test period (*i.e.*, before December 15 and June 15 respectively of each year), Grantee shall provide City with no less than seven (7) days prior written notice of the actual date(s) for FCC compliance testing. If City notifies Grantee by the December 15th and June 15th dates that it wishes to have a representative present during the next test(s), Grantee shall cooperate in scheduling its testing so that the representative can be present. Notwithstanding the above, all technical performance tests may be witnessed by representatives of the City.

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

11.7 Additional Tests

Where there exists other evidence which, in the judgment of the City, casts doubt upon the reliability or technical quality of Cable Service, the City shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

(A) the nature of the complaint or problem which precipitated the special tests;

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

SECTION 12. SERVICE AVAILABILITY, INTERCONNECTION AND SERVICE TO SCHOOLS AND PUBLIC BUILDINGS

12.1 Service Availability

(A) In General. Except as otherwise provided in herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the City. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request.

(B) Residential Subscribers. Except where Grantee is unable to obtain required easements or permits and subject to Section 12.1(D), upon the request of a potential Subscriber, Grantee shall extend Cable Service at its then-prevailing installation charge for such service to any residence located within the City as of the Effective Date. There shall be no charge for extending plant to a point where Cable Service can be provided with a Standard Drop, or (if closer) to a point on the property line of the potential Subscriber from which service can be provided to the potential Subscriber. There shall be no charge for extending plant to areas with a residential density of twenty-five (25) residences per mile of Cable System plant. There shall be no charge for extension of plant for residences located within the City as of January 1, 2004. Where these standards are not satisfied, Grantee may condition service extensions at the then-prevailing charge upon the person or persons requesting service agreeing to pay a *pro rata* share of the cost of extending the plant to a point where service can be provided with a Standard Drop. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance. For purposes of this subsection, in areas where Grantee has not constructed Cable System lines as of the Effective Date, each dwelling unit within a Multiple Dwelling Unit will count as a residential unit if and only if Grantee can obtain access to the Multiple Dwelling Unit on reasonable terms and conditions.

(C) Commercial Subscribers; Annexations After Effective Date. For non-residential locations in the City and for areas annexed to the City after the Effective Date, except where Grantee is unable to obtain required easements or permits and subject to Section 12.1(E), Grantee shall provide Cable Service upon request at its then-prevailing installation charge, but may charge for any required plant extension except where fifteen (15) commercial locations per mile of Cable System plant agree to subscribe to Grantee's cable service for one year at commercial rates in which case there shall be no charge for plant extension. Notwithstanding the foregoing, Grantee may charge any potential customer located in a mall or strip mall for any line

extension greater than 100' required to cross a parking lot to provide Cable Service.

(D) No Service Required. Grantee is not required to provide Cable Service to any:

(1) Occupant of a mall or strip mall where such occupant is unwilling to pay its portion of any applicable line extension costs;

(2) Commercial occupant of commercial structures above the first floor, where inside wiring necessary to provide the Cable Service is not already present, or where the owner or occupant is unwilling to install or pay for the inside wiring necessary to provide the Cable Service;

(3) Occupant of unlawful dwelling units; or,

(4) Potential customer in a building or building complex where Grantee is denied access.

(E) Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The City acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the Public Right of Way at a Multiple Dwelling Unit.

12.2 Connection of Public Facilities

Grantee shall, at no cost to the City, provide one outlet of Basic Service and Digital Starter Service to all City owned and/or occupied buildings, schools and public libraries located in areas where Grantee provides Cable Service, so long as these facilities are already served or are located within 150 feet of its Cable System. For purposes of this subsection, "school" means all State-accredited K-12 public and private schools. Such obligation to provide free Cable Service shall not extend to areas of City buildings where the Grantee would normally enter into a commercial contract to provide such Cable Service (e.g., golf courses, airport restaurants and concourses, and recreation center work out facilities). Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes. The Cable Service provided shall not be distributed beyond the originally installed outlets without authorization from Grantee, which shall not be unreasonably withheld.

12.3 Provision of Broad Categories of Services

This Section shall be interpreted consistent with the limitations set forth in 47 U.S.C. §544(b)(2)(B). In addition to such other service requirements as may be contained in this agreement, Grantee agrees to continue to provide the twelve locally-available FM radio stations,

or if lower, the number of locally available FM radio stations from which Grantee can obtain retransmission consent at no cost (the term costs refers to a payment made to an FM station for the right to carry the station's signal and does not include copyright payments that may be required) for at least twelve (12) months from the Effective Date of this Franchise Agreement. The termination of FM radio service on the Cable System shall be publicized by Grantee at its sole cost through bill messages provided to Subscribers at 12 months, 6 months, and 3 months prior to the time such service is terminated.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Notice of Violation; Right to Cure

(A) If the City reasonably believes that Grantee has failed to perform any obligation under this Franchise Agreement, has violated this Agreement or has failed to perform in a timely manner, the City shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify the City, that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the City may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the City orders a meeting in accordance with subsection (A)(3), the City shall set a meeting to investigate said issues or the existence of the alleged default. The City shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the City determines that a default exists, the City shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the City shall determine. In the event Grantee does not cure within such time to the City's reasonable satisfaction, the City may:

(1) Withdraw an amount from the letter of credit as monetary damages;

(2) Commence the procedures for the revocation of the Franchise pursuant to

subsection 13.3; or,

(3) Pursue any other legal or equitable remedy available under this Franchise Agreement or any Applicable Law.

(D) The determination as to whether a material breach of this Franchise Agreement has occurred shall be within the discretion of the City, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

13.2 Material Breach

In addition to revocation of the Franchise in accordance with other provisions of this Franchise Agreement, the City may revoke the Franchise and rescind all rights and privileges associated with this Franchise Agreement in the following circumstances, each of which represents a material breach of this Franchise Agreement:

(A) If Grantee fails to perform any material obligation under this Franchise Agreement or under any other agreement, ordinance or document regarding the City and Grantee;

(B) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;

(C) If Grantee attempts to evade any material provision of this Franchise Agreement or to practice any fraud or deceit upon the City or Subscribers;

(D) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors; or

(E) If Grantee makes a material misrepresentation of fact in the application for the Franchise or the negotiation of this Franchise Agreement.

13.3 Procedure for Revocation of Franchise and Termination of Franchise Agreement

(A) Pursuant to the procedures herein, the Franchise granted by this Franchise Agreement may be revoked by the City Council and this Franchise Agreement may be terminated for Grantee's failure to construct, operate or maintain the Cable System as required by this Franchise Agreement, or for any other material breach of this Franchise Agreement.

(B) Upon completing the procedures set forth in subsection 13.1 and prior to forfeiture, revocation of the Franchise or termination of this Franchise Agreement, the City Council shall hold a public hearing, upon at least forty-five calendar days' prior written notice, at which time Grantee and the public shall be given an opportunity to be heard. At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared

equally between the parties. The City Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(C) Following the public hearing, the City Council may determine whether to revoke the Franchise based on the evidence presented at the hearing, and other evidence of record. If the City Council determines to revoke a Franchise, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to Grantee. Grantee shall be bound by the City's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(1) Grantee shall be entitled to such relief as the court may deem appropriate.

(2) The City Council may at its sole discretion take any lawful action which it deems appropriate to enforce the City's rights under the Franchise Agreement in lieu of revocation of the Franchise Agreement.

13.4 Remedies in the Case of Revocation or Abandonment

(A) If the City revokes the Franchise and terminates this Franchise Agreement pursuant to this Section 13, or if, for any other reason, Grantee abandons or fails to operate or maintain service to its Subscribers as required by the Franchise, the City may, subject to Applicable Law:

(1) Order the removal of the above-ground Cable System facilities and such underground facilities from the City at Grantee's sole expense within a reasonable period of time as determined by the City. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore; or

(2) By resolution of the City Council, acquire ownership or effect a transfer of the Cable System at fair market value, with no value assigned to the Franchise itself, with the price adjusted to account for other equitable factors that may be considered consistent with Applicable Law.

(B) If Grantee fails to complete any removal required by subsection 13.4 (A)(1) to the City's satisfaction, after written notice to Grantee, the City may cause the work to be done and Grantee shall reimburse the City for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the City may recover the costs through the letter of credit provided by Grantee.

(C) If the Grantee abandons its Cable System during the Franchise term, or fails to

operate its Cable System in accordance with its duty to provide continuous service, the City, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City; or obtain an injunction requiring the Grantee to continue operations. If the City is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the City or its designee for all reasonable costs, expenses and damages incurred.

(D) The City may seek legal and equitable relief to enforce the provisions of this Franchise Agreement.

13.5 What Constitutes Abandonment

As used in Section 13.4, above, abandonment means:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise Agreement over a substantial portion of the Franchise Area for four (4) consecutive days, unless the City authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise Agreement.

13.6 Receivership and Foreclosure

(A) At the option of the City, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

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

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

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

13.7 No Monetary Recourse Against the City

Grantee shall not have any monetary recourse against the City or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise Agreement or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the City under this Franchise Agreement are in addition to, and shall not be read to limit, any immunities the City may enjoy under federal, State or local law.

13.8 Alternative Remedies

No provision of this Franchise Agreement shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the Franchise Agreement or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise Agreement nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.9 Assessment of Monetary Damages

(A) The City may assess against Grantee monetary damages (i) up to five hundred dollars (\$500.00) per day for general construction delays, violations of PEG obligations or payment obligations, (ii) up to two hundred fifty dollars (\$250.00) per day for any other material breaches, or (iii) up to one hundred dollars (\$100.00) per day for defaults, and withdraw the assessment from the letter of credit or collect the assessment as specified in this Franchise Agreement. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. To assess any amount from the letter of credit, City shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and in this Franchise Agreement. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1(A), or such later date if approved by the City in its sole discretion, but may not be assessed until after the procedures in subsection 13.1 have been completed.

(B) The assessment does not constitute a waiver by City of any other right or remedy it may have under the Franchise Agreement or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs and expenses that are incurred by City by reason of the breach of this Franchise Agreement.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

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

(B) In addition to the procedures set forth in said Section 626(a), the City agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise Agreement term. Notwithstanding anything to the contrary set forth herein, Grantee and City agree that at any time during the term of the then-current Franchise Agreement, while affording the public adequate notice and opportunity for comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise Agreement and the City may grant a renewal thereof. Grantee and City consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and City are engaged in a renewal process, Grantee shall continue to provide Cable Service to its Subscribers on a month-to-month basis, on the same terms and conditions as provided in this Franchise Agreement and the Cable Code. During any such "hold over" period, Franchisee shall continue to pay the Franchise Fee as set forth above, in addition to honoring all other provisions of this Franchise Agreement.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the City, which consent shall be by the City Council/Commission, acting by ordinance/resolution.

(B) The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the City shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer and furnish all information required by Applicable Law and the City.

(D) In seeking the City's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the City may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) No Transfer application shall be granted unless the proposed transferee:

(1) Agrees in writing that it will abide by and accept the terms of the Boulder Cable Code, this Franchise Agreement and any additional terms and conditions that the City reasonably determines are needed to ensure compliance by the transferee with such Franchise Agreement;

(2) Agrees in writing to assume and be responsible for the obligations and liabilities of Grantee, known and unknown, under this Franchise Agreement and Applicable Law;

(3) Provides reasonable performance guarantees to the City that the City considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations by the proposed transferee;

(4) Agrees in writing that, except as provided in Section 626 of the Cable Act concerning use of previous non-compliance evidence in renewal proceedings following a transfer, approval by the City of the transfer shall not constitute a waiver or release of any rights of the City under this Franchise Agreement or Applicable Law whether arising before or after the effective date of the transfer; and

(5) Posts all required bonds, securities in a manner to ensure that there is no gap in coverage.

(F) The City shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The City and the Grantee may by mutual agreement, at any time, extend the 120 day period. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

(G) Within thirty (30) days of any transfer or sale, if approved or deemed granted by

the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise Agreement, subject to Applicable Law, and will not be required to file an additional written acceptance.

(H) In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(I) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for any sale, assignment or transfer of the Franchise Agreement or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that (i) the proposed assignee or transferee must show financial responsibility as may be determined necessary by the City and must agree in writing to comply with all of the provisions of the Franchise; (ii) Grantee affirms that it shall be responsible for all of Grantee's obligations and liabilities, known and unknown, under the Franchise Agreement and Applicable Law for all purposes, including but not limited to renewal under Section 626; (iv) required bonds, securities and the like must be maintained so that there is no gap in coverage, if there will be any change I the same as a result of the transaction; (v) Grantee and the party being added to the chain of control must agree in writing that there shall be no waiver or release of any right of the City (whether such right arises before or after the transaction) under this Franchise Agreement or Applicable Law, as a result of the transaction; and (vi) the party being added to the chain of control must be a wholly-owned subsidiary of Comcast Cable Holdings, LLC, and Comcast Cable Holdings, LLC must agree to guarantee unconditionally the performance of the Grantee and the party being added to the chain of control. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

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

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

In connection with the performance of work under this Franchise Agreement, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise Agreement, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise Agreement, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the City or the Grantee by written notice at any time. At the Effective Date of this Franchise Agreement:

Grantee's address shall be:

Comcast of Colorado, IV, LLC
1899 Wynkoop Street, Suite 550
Denver, CO 80202
Attn: Government Affairs

The City's address shall be:

City Manager
City of Boulder
1777 Broadway
Boulder, CO 80302

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise Agreement are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the City for all costs incurred in publishing this Franchise Agreement, if such publication is required.

16.5 Binding Effect; No Third Party Beneficiaries

This Franchise Agreement shall be binding upon the parties hereto, their permitted successors and assigns. This Franchise Agreement is entered into solely for the benefit of the Parties and shall not confer any rights upon any Person not a party to this Agreement.

16.6 No Joint Venture

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

16.7 Waiver

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

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

16.9 Time of Essence

In determining whether Grantee has substantially complied with this Franchise Agreement, the Parties agree that time is of the essence to this Franchise Agreement.

16.10 Entire Agreement

This Franchise Agreement and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.11 Applicable Law

This Agreement shall be construed in accordance with the laws of the State of Colorado and the Cable Act. Jurisdiction and venue for any judicial dispute between the City and Grantee arising under or out of this Franchise Agreement shall be in Boulder County District Court, Colorado, or in the United States District Court in Denver.

16.12 Counterparts

This Franchise Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties have set their hands to this Cable Franchise Agreement, which shall be effective as of May 1, 2015.

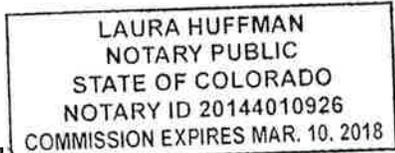
COMCAST OF COLORADO IV, LLC

By: *Matthew Chambers*
Title: Matthew Chambers
VP - Finance and Accounting

STATE OF Colorado)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me, a Notary Public, this 29th day of April, 2015, by Matthew Chambers.

Witness my hand and official seal.
My commission expires:



(seal)

Laura Huffman
Notary Public

CITY OF BOULDER

Jane S. Beauregard
City Manager

ATTEST:

Alisa D Lewis
City Clerk

APPROVED AS TO FORM:

Debra S Kalish
City Attorney's Office

Exhibit A

Customer Service Standards

I. POLICY

The Cable Operator should resolve citizen complaints without delay and interference from the Franchising Authority.

Where a given complaint is not addressed by the Cable Operator to the citizen's satisfaction, the Franchising Authority should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the Standards is identified, the Franchising Authority should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within the established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

These Standards are intended to be of general application, and are expected to be met under Normal Operating Conditions; however, the Cable Operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The Cable Operator is free to exceed these Standards to the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

These Standards supersede any contradictory or inconsistent provision in federal, state or local law (Source: 47 U.S.C. § 552(a)(1) and (d)), provided, however, that any provision in federal, state or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these Standards, shall not be considered contradictory or inconsistent with these Standards. In the event of a conflict between these Standards and a Franchise Agreement, the Franchise Agreement shall control.

These Standards apply to the provision of any Cable Service, provided by a Cable Operator over a Cable System, within the City Boulder, Colorado.

II. DEFINITIONS

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

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a Cable Operator, and provides any Cable Service or Other Service.

"Applicable Law" means, with respect to these standards and any Cable Operator's privacy policies, any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

"Cable Operator" shall mean the Grantee, as described in the Franchise Agreement, and the Grantee's employees, agents, Contractors or Subcontractors.

"Cable Service" shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) 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. Source: 47 U.S.C. § 522(6). For purposes of this definition, "video programming" is programming provided by, or generally considered comparable to programming provided by a television broadcast station. Source: 47 U.S.C. § 522(20). "Other programming service" is information that a Cable Operator makes available to all subscribers generally. Source: 47 U.S.C. § 522(14).

"Cable System" shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations, or (B) a facility that serves subscribers without using any public right of way. Source: 47 U.S.C. § 522(7).

"City" shall mean the city of Boulder, Colorado.

"Colorado Communications and Utilities Alliance" or "CCUA" shall mean an association comprised primarily of local governmental subdivisions of the State of Colorado, or any successor entity. The CCUA may, on behalf of its members, be delegated the authority to review, investigate or otherwise take some related role in the administration and/or enforcement of any functions under these Standards.

"Contractor" shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

"Customer" shall mean any person who receives any Cable Service from a Cable Operator.

"Customer Service Representative" (or "CSR") shall mean any person employed with or under contract or subcontract to a Cable Operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers' questions in person, receiving and processing payments, or performing any other customer service-related tasks.

"Escalated Complaint" shall mean a complaint that is referred to a Cable Operator by the Franchising Authority.

"Franchising Authority" shall mean the City.

"Necessary" shall mean required or indispensable.

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

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

“Other Service(s)” shall mean any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of Cable Service.

"Personally Identifiable Information" shall mean specific information about an identified Customer, including, but not be limited to, a Customer's (a) login information for the use of Cable Service and management of a Customer's Cable Service account, (b) extent of viewing of video programming or Other Services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, or (h) any other personal or private information. "Personally Identifiable Information" shall not mean any aggregate information about Customers which does not identify particular persons, or information gathered by a Cable Operator Necessary to install, repair or service equipment or Cable System facilities at a Customer's premises.

“Service Interruption” or “Interruption” shall mean (i) the loss or substantial impairment of picture and/or sound on one or more cable television channels.

“Service Outage” or “Outage” shall mean a loss or substantial impairment in reception on all channels.

“Subcontractor” shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

“Writing” or “written” as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these Standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

III. CUSTOMER SERVICE

A. Courtesy

Cable Operator employees, Contractors and Subcontractors shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with Customers.

B. Accessibility

1. A Cable Operator shall provide Customer service centers/business offices (“Service Centers”) which are conveniently located, and which are open during Normal Business Hours. Service Centers shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the Service Center: bill payment, equipment exchange, processing of change of service requests, and response to Customer inquiries and request.

Unless otherwise requested by the City, a Cable Operator shall post a sign at each Service Center, visible from the outside of the Service Center, advising Customers of its hours of operation and of the telephone number at which to contact the Cable Operator if the Service Center is not open at the times posted.

The Cable Operator shall use commercially reasonable efforts to implement and promote “self-help” tools and technology, in order to respond to the growing demand of Customers who wish to interact with the Cable Operator on the Customer’s own terms and timeline and at their own convenience, without having to travel to a Service Center. Without limitation, examples of self-help tools or technology may include self-installation kits to Customers upon request; pre-paid mailers for the return of equipment upon Customer request; an automated phone option for Customer bill payments; and equipment exchanges at a Customer’s residence in the event of damaged equipment. A Cable Operator shall provide free exchanges of faulty equipment at the Customer’s address if the equipment has not been damaged in any manner due to the fault or negligence of the Customer.

2. A Cable Operator shall maintain local telephone access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing/service inquiries.

3. A Cable Operator shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays.

4. If a customer service telephone call is answered with a recorded message providing the Customer with various menu options to address the Customer’s concern, the recorded message must provide the Customer the option to connect to and speak with a CSR within sixty (60) seconds of the commencement of the recording. During Normal Business Hours, a Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty (30) seconds or less from the time a Customer chooses a menu option to speak directly with a CSR or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a CSR. Under Normal Operating Conditions, this thirty (30) second telephone answer time requirement standard shall be met no less than ninety (90) percent of the time measured quarterly.

5. Under Normal Operating Conditions, a Customer shall not receive a busy signal more than three percent (3%) of the time. This standard shall be met ninety (90) percent or more of the time, measured quarterly.

C. Responsiveness

1. Guaranteed Seven-Day Residential Installation

a. A Cable Operator shall complete all standard residential installations or modifications to service requested by Customers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the Customer requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator shall provide the Customer in advance with a total installation cost estimate and an estimated date of completion.

b. All underground cable drops to the home shall be buried at a depth of no less than twelve inches (12"), or such other depth as may be required by the Franchise Agreement or local code provisions, or if there are no applicable Franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement, and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the Cable Operator and the Customer.

2. Residential Installation and Service Appointments

a. The "appointment window" alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four (4) hour time block between the hours of 8:00 a.m. and 6:00 p.m., six (6) days per week. A Cable Operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of Customers. For purposes of this subsection "appointment window" means the period of time in which the representative of the Cable Operator must arrive at the Customer's location.

b. A Cable Operator may not cancel an appointment with a Customer after the close of business on the business day prior to the scheduled appointment, unless the Customer's issue has otherwise been resolved.

c. If a Cable Operator is running late for an appointment with a Customer and will not be able to keep the appointment as scheduled, the Cable Operator shall take reasonable efforts to contact the Customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as Necessary at a time that is convenient to the Customer, within Normal Business Hours or as may be otherwise agreed to between the Customer and Cable Operator.

d. A Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the

Customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the Cable Operator. In such circumstances, the Cable Operator shall contact the Customer within forty-eight (48) hours.

3. Residential Service Interruptions

a. In the event of system outages resulting from Cable Operator equipment failure, the Cable Operator shall correct such failure within 2 hours after the 3rd Customer call is received.

b. All other Service Interruptions resulting from Cable Operator equipment failure shall be corrected by the Cable Operator by the end of the next calendar day.

c. Records of Complaints.

i. A Cable Operator shall keep an accurate and comprehensive file of any complaints regarding the Cable System or its operation of the Cable System, in a manner consistent with the privacy rights of Customers, and the Cable Operator's actions in response to those complaints. These files shall remain available for viewing by the Franchising Authority during normal business hours at the Cable Operator's business office, and shall be retained by the Cable Operator for a period of at least three (3) years.

ii. A Cable Operator shall provide the Franchising Authority an executive summary quarterly, which shall include information concerning Customer complaints referred by the Franchising Authority to the Grantee, a summary of service calls, a log of all Service Interruptions, and any other requirements of a Franchise Agreement, including a summary of complaints, but no Personally Identifiable Information. These summaries shall be provided within fifteen (15) days after the end of each quarter. Once a request is made, it need not be repeated and quarterly executive summaries shall be provided by the Cable Operator until notified in Writing by the Franchising Authority that such summaries are no longer required.

d. All Service Outages and Service Interruptions for any cause beyond the control of the Cable Operator shall be corrected within thirty-six (36) hours, after the conditions beyond its control have been corrected.

4. TV Reception

a. A Cable Operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC"). A Cable Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled Interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).

b. If a Customer experiences poor video or audio reception attributable to a Cable Operator's equipment, the Cable Operator shall:

- i. Assess the problem within one (1) day of notification;
- ii. Communicate with the Customer regarding the nature of the problem and the expected time for repair;
- iii. Complete the repair within two (2) days of assessing the problem unless circumstances exist that reasonably require additional time.

c. If an appointment is Necessary to address any video or audio reception problem, the Customer may choose a block of time described in Section III.C.2.a. At the Customer's request, the Cable Operator shall repair the problem at a later time convenient to the Customer, during Normal Business Hours or at such other time as may be agreed to by the Customer and Cable Operator. A Cable Operator shall maintain periodic communications with a Customer during the time period in which problem ascertainment and repair are ongoing, so that the Customer is advised of the status of the Cable Operator's efforts to address the problem.

5. Problem Resolution

A Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the Customer within four (4) hours and resolve the problem within forty eight (48) hours or within such other time frame as is acceptable to the Customer and the Cable Operator.

6. Billing, Credits, and Refunds

a. In addition to other options for payment of a Customer's service bill, a Cable Operator shall make available a telephone payment option where a Customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a CSR.

b. A Cable Operator shall allow at least thirty (30) days from the beginning date of the applicable service period for payment of a Customer's service bill for that period. If a Customer's service bill is not paid within that period of time the Cable Operator may apply an administrative fee to the Customer's account. The administrative fee must reflect the average costs incurred by the Cable Operator in attempting to collect the past due payment in accordance with Applicable Law. If the Customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, the Cable Operator may perform a "soft" disconnect of the Customer's service. If a Customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the Cable Operator may disconnect the Customer's service, provided it has provided two (2) weeks' notice to the Customer that such disconnection may result.

c. The Cable Operator shall issue a credit or refund to a Customer within 30 days after determining the Customer's entitlement to a credit or refund.

d. Whenever the Cable Operator offers any promotional or specially priced service(s) its promotional materials shall clearly identify and explain the specific terms of the promotion, including but not limited to manner in which any payment credit will be applied.

7. Treatment of Property

To the extent that a Franchise Agreement does not contain the following procedures for treatment of property, Operator shall comply with the procedures set forth in this Section.

a. A Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by a Cable Operator, any employee or agent of a Cable Operator during installation or construction shall be restored to their prior condition or replaced within seven (7) days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven (7) days after conditions permit. Trees and shrubs shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.

b. A Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the Franchising Authority, restore any property to as good condition as before the work causing such disturbance was initiated. A Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities. If compensation is requested by the Customer for damage caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred (100) percent of the actual cost of the damage.

c. Except in the case of an emergency involving public safety or Service Interruption to a large number of Customers, a Cable Operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry. Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law. In the case of an emergency, the cable operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made., unless such notice is waived by the Customer. For purposes of this subsection, "reasonable notice" shall be considered:

i. For pedestal installation or similar major construction, seven (7) days.

ii. For routine maintenance, such as adding or dropping service, tree trimming and the like, reasonable notice given the circumstances. Unless a Franchise Agreement has a different requirement, reasonable notice shall require, at a minimum,

prior notice to a property owner or tenant, before entry is made onto that person's property.

iii. For emergency work a Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

d. Cable Operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

D. Services for Customers with Disabilities

1. For any Customer with a disability, a Cable Operator shall deliver and pick up equipment at Customers' homes at no charge unless the malfunction was caused by the actions of the Customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up and ensure that it is working properly, and shall return the defective equipment to the Cable Operator.

2. A Cable Operator shall provide either TTY, TDD, TYY, VRS service or other similar service that are in compliance with the Americans With Disabilities Act and other Applicable Law, with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired Customer at no charge.

3. A Cable Operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with Section III.D.4) Customers.

4. Any Customer with a disability may request the special services described above by providing a Cable Operator with a letter from the Customer's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

E. Cable Services Information

1. At any time a Customer or prospective Customer may request, a Cable Operator shall provide the following information, in clear, concise written form, easily accessible and located on Cable Operator's website (and in Spanish, when requested by the Customer):

a. Products and services offered by the Cable Operator, including its channel lineup;

b. The Cable Operator's complete range of service options and the prices for these services;

- c. The Cable Operator's billing, collection and disconnection policies;
- d. Privacy rights of Customers;
- e. All applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the Cable Operator, and the FCC;
- f. Use and availability of parental control/lock out device;
- g. Special services for Customers with disabilities;
- h. Days, times of operation, and locations of the service centers;

2. At a Customer's request, a Cable Operator shall make available either a complete copy of these Standards and any other applicable customer service standards, or a summary of these Standards, in a format to be approved by CCUA and the Franchising Authority, which shall include at a minimum, the URL address of a website containing these Standards in their entirety; provided however, that if the CCUA or Franchising Authority does not maintain a website with a complete copy of these Standards, a Cable Operator shall be under no obligation to do so;

If acceptable to a Customer, Cable Operator may fulfill Customer requests for any of the information listed in this Section by making the requested information available electronically, such as on a website or by electronic mail.

3. Upon written request, a Cable Operator shall meet annually with the Franchising Authority to review the format of the Cable Operator's bills to Customers. Whenever the Cable Operator makes substantial changes to its billing format, it will contact the Franchising Authority at least thirty (30) days prior to the time such changes are to be effective, in order to inform the Franchising Authority of such changes.

4. Copies of notices provided to the Customer in accordance with subsection 5 below shall be filed (by fax or email acceptable) concurrently with the Franchising Authority and the CCUA.

5. A Cable Operator shall provide Customers with written notification of any change in rates for nondiscretionary Cable Services, and for service tier changes that result in a deletion of programming from a Customer's service tier, at least thirty (30) days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other Cable Services that a Customer has subscribed to, at the time the change in rates are announced by the Cable Operator.

6. All officers, agents, and employees of the Cable Operator or its Contractors or Subcontractors who are in personal contact with Customers and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the Cable Operator. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually

identified to the public as working for the Cable Operator. Whenever a Cable Operator work crew is in personal contact with Customers or public employees, a supervisor must be able to communicate clearly with the Customer or public employee. Every vehicle of a Subcontractor or Contractor shall be labeled with the name of the Contractor and further identified as contracting or subcontracting for the Cable Operator.

7. Each CSR, technician or employee of the Cable Operator in each contact with a Customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the Customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the Customer before the actual work is performed.

F. Customer Privacy

1. Notice to Customers Regarding Personally Identifiable Information; Definitions

(1) At the time of entering into an agreement to provide any Cable Service or Other Service to a Customer and at least once a year thereafter, the Cable Operator shall provide notice in the form of a separate, written statement to such Customer which clearly and conspicuously informs the Customer of—

(A) the nature of Personally Identifiable Information collected or to be collected with respect to the Customer and the nature of the use of such information;

(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

(C) the period during which such information will be maintained by the Cable Operator;

(D) the times and place at which the Customer may have access to such information in accordance with subsection (4) of this section; and

(E) the limitations provided by this section with respect to the collection and disclosure of information by the Cable Operator and the right of the Customer under 47 U.S.C. §§ 551(f) and (h) to enforce such limitations.

In the case of Customers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

(2) For purposes of this section F:

(A) the term “Personally Identifiable Information” does not include any record of aggregate data that does not identify particular persons;

(B) the term “Other Service” includes any wire or radio communications service provided using any of the facilities of the Cable Operator that are used in the provision of Cable Service; and

(C) the term “Cable Operator” includes, in addition to persons within the definition of Cable Operator, above, any person or group of persons who

(i) provides Cable Service over the Cable System and directly or through one or more Affiliates owns a significant interest in such Cable System

(ii) otherwise controls or is responsible for, through any arrangement, the management and operation of the Cable System;

(iii) is owned or controlled by, or under common ownership or control with, the Cable Operator; and

(iv) provides any wire or radio communications service.

2. Collection of Personally Identifiable Information Using Cable System

(1) Except as provided in paragraph (2) below, a Cable Operator shall not use the Cable System to collect Personally Identifiable Information concerning any Customer without the prior written or electronic consent of the Customer concerned.

(2) A Cable Operator may use the Cable System to collect such information in order to—

(A) obtain information Necessary to render a Cable Service or Other Service provided by the Cable Operator to the Customer; or

(B) detect unauthorized reception of cable communications.

3. Disclosure of Personally Identifiable Information

(1) Except as provided in paragraph (2) below, a Cable Operator shall not disclose Personally Identifiable Information concerning any Customer without the prior written or electronic consent of the Customer concerned and shall take such actions as are Necessary to prevent unauthorized access to such information by a person other than the Customer or Cable Operator.

(2) A Cable Operator may disclose such information if the disclosure is—

(A) Necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator to the Customer; ,

(B) subject to 47 U.S.C. §§ 551 (h) (Disclosure of information to governmental entity pursuant to court order), made pursuant to a court order authorizing such disclosure, if the Customer is notified of such order by the person to whom the order is directed;

(C) a disclosure of the names and addresses of Customers to any Cable Service or Other Service, if—

(i) the Cable Operator has provided the Customer the opportunity to prohibit or limit such disclosure, and

(ii) the disclosure does not reveal, directly or indirectly, the—

(I) extent of any viewing or other use by the Customer of a Cable Service or Other Service provided by the Cable Operator, or

(II) the nature of any transaction made by the Customer over the Cable System of the Cable Operator; or

(D) to a government entity as authorized under chapters 119, 121, or 206 of title 18, U.S.C. , except that such disclosure shall not include records revealing Customer selection of video programming from a Cable Operator.

4. Customer Access to Information

A Customer shall be provided access to all Personally Identifiable Information regarding that Customer that is collected and maintained by a Cable Operator. Such information shall be made available to the Customer at reasonable times and at a convenient place designated by such Cable Operator. A Customer shall be provided reasonable opportunity to correct any error in such information.

G. Safety

A Cable Operator shall install and locate its facilities, Cable System, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator shall investigate such condition immediately, and shall take such measures as are Necessary to remove or eliminate any unsafe condition.

H. Cancellation of New Services

In the event that a new customer requests installation of Cable Service and is unsatisfied with their initial Cable Service, and provided that the customer so notifies the Cable Operator of their dissatisfaction within 30 days of initial installation, then such customer can request disconnection of Cable Service within 30 days of initial installation, and the Cable Operator shall provide a credit to the customer's account consistent with this Section. The customer will be required to return all equipment in good working order; provided such equipment is returned in such order, then the Cable Operator shall refund the monthly recurring fee for the new customer's first 30 days of Cable Service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their Cable Service, to discretionary Cable Service such as PPV or movies purchased and viewed On Demand, or to customer moves and/or transfers of Cable Service. The service credit shall be provided in the next billing cycle.

IV. COMPLAINT PROCEDURE

A. Complaints to a Cable Operator

1. A Cable Operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts and shall have such procedures printed and disseminated at the Cable Operator's sole expense, consistent with Section III.E.1.e of these Standards.
2. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in Writing to a Cable Operator that it has violated any provision of these Customer Service Standards, any terms or conditions of the customer's contract with the Cable Operator, or reasonable business practices. If a representative of the Franchising Authority notifies the Cable Operator of a customer complaint that has not previously been made by the customer to the Cable Operator, the complaint shall be deemed to have been made by the customer as of the date of the Franchising Authority's notice to the Cable Operator.
3. At the conclusion of the Cable Operator's investigation of a customer complaint, but in no more than ten (10) calendar days after receiving the complaint, the Cable Operator shall notify the customer of the results of its investigation and its proposed action or credit.
4. A Cable Operator shall also notify the customer of the customer's right to file a complaint with the Franchising Authority in the event the customer is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the Necessary procedures for filing such complaint with the Franchising Authority.
5. A Cable Operator shall immediately report all customer Escalated Complaints that it does not find valid to the Franchising Authority.
6. A Cable Operator's complaint procedures shall be filed with the Franchising Authority prior to implementation.

B. Complaints to the Franchising Authority

1. Any Customer who is dissatisfied with any proposed decision of the Cable Operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the Franchising Authority.
2. The Customer may initiate the review either by calling the Franchising Authority or by filing a written complaint together with the Cable Operator's written decision, if any, with the Franchising Authority.
3. The Customer shall make such filing and notification within thirty (30) days of receipt of the Cable Operator's decision or, if no decision has been provided, within thirty (30) days after the last response to the Customer from the Cable Operator.

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

5. The Cable Operator and the Customer shall produce any additional evidence, including any reports from the Cable Operator, which the Franchising Authority may deem Necessary to an understanding and determination of the complaint.

6. The Franchising Authority shall issue a determination within fifteen (15) days of receiving the Customer complaint, or , if further evidence has been requested, after examining the materials submitted, setting forth its basis for the determination.

7. The Franchising Authority may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.

D. Verification of Compliance

A Cable Operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the Franchising Authority.

E. Procedure for Remedying Violations

1. If the Franchising Authority has reason to believe that a Cable Operator has failed to comply with any of these Standards, or has failed to perform in a timely manner, the Franchising Authority may pursue the procedures in its Franchise Agreement to address violations of these Standards in a like manner as other franchise violations are considered.

2. Following the procedures set forth in any Franchise Agreement governing the manner to address alleged Franchise violations, if the Franchising Authority determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the Franchise Agreement, the Franchising Authority may:

a. Impose assessments of up to one thousand dollars (\$1,000.00) per day, to be withdrawn from the Security Fund in addition to any franchise fee until the non-compliance is remedied; and/or

b. Order, after further hearing, such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these Standards; and/or

c. Reverse any decision of the Cable Operator in the matter; and/or

d. Grant a specific solution as determined by the Franchising Authority; and/or

e. Except for in emergency situations, withhold licenses and permits for work by the Cable Operator or its Subcontractors in accordance with Applicable Law; and/or

f. Pursue any other legal or equitable remedy available under the Franchise Agreement or Applicable Law.

3. Any assessment or remedy shall not constitute a waiver by the Franchising Authority of any other right or remedy it may have under the Franchise Agreement or Applicable Law including any right to recover from the Cable Operator any additional damages, losses, costs, and expenses, including actual attorney's fees that are incurred by the Franchising Authority by reason of, or arise out of non-compliance with these standards.