

Attachment A – CFAR Cable Services Franchise Application

MHCRC Standard Cable Services Franchise Requirements

Grant a franchise to **INSERT APPLICANT NAME** to operate a Cable System.

Section 1. NATURE AND TERM OF GRANT

1.1 Grant of Franchise.

(A) The **JURISDICTION** does hereby grant to **APPLICANT NAME** who is qualified to do business in Oregon, and to its successors and assigns, a franchise to construct, operate and maintain a Cable System to provide Cable Services and Institutional Services in the Streets of the Jurisdiction.

(B) Throughout this Franchise, the **INSERT JURISDICTION**, Oregon, shall be referred to as the “Jurisdiction” and **APPLICANT** shall be referred to as the “Grantee.”

1.2 Term of Franchise. This Franchise, and all rights, privileges, obligations and restrictions pertaining hereto, shall expire **INSERT AMOUNT** years from the Effective Date hereof, or on **INSERT DATE**, unless terminated sooner as provided in this Franchise.

1.3 Effective Date. The effective date of this Franchise shall be on the later of either **INSERT DATE** 60 days after the passage date of this Franchise by the **INSERT JURISDICTION**, unless the Grantee fails to file an Executed Agreement and Guaranty of this Franchise in accordance with Section 23 and 24 hereof, in which event this Franchise shall be null and void. The passage date of this Franchise is set forth on the last page of the original of this Franchise, as stamped by the **INSERT JURISDICTION CLERK OR RECORDER.**

1.4 Franchise Not Exclusive.

(A) This Franchise is not exclusive. The **INSERT JURISDICTION** expressly reserves the right to grant franchises, licenses, permits or other similar rights to other Persons, as well as the right in its own name, to use the Streets for similar or different purposes allowed Grantee hereunder.

(B) Competing Cable Systems.

If, after the effective date of this Franchise, **INSERT JURISDICTION** enters into and authorizes a Cable Services franchise, permit, license or other form of agreement with any person other than Grantee to enter the Streets for the construction and operation of a Cable System providing Cable Services within any part of Grantee’s Franchise Area in which Grantee is actually providing Cable Services, the material provisions of such agreement shall be reasonably non-discriminatory and competitively neutral with respect to the material provisions of this Franchise, unless otherwise restricted by law.

(C) Additional Provisions.

- (1) Grantee agrees and acknowledges that, solely for the purposes of Section 1.4(B), the provisions of any other franchise issued or administered by **INSERT JURISDICTION** with respect to the provision of Cable Services and in effect as of the effective date of this Franchise, are reasonably non-discriminatory and competitively neutral.

- (2) Grantee, by acceptance of this franchise, acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of **INSERT JURISDICTION** or by any other Person.

1.5 Charter and General Ordinances To the extent authorized by law, the Grantee's Franchise with **INSERT JURISDICTION** is subject to the Charter of **INSERT JURISDICTION** and any general ordinances and resolutions passed pursuant thereto, now in effect or hereafter made effective, affecting matters of general **INSERT JURISDICTION** concern and not materially in conflict with the Grantee's existing contractual rights, now in effect or hereafter made effective. Nothing in this Franchise shall be deemed to waive the requirements of the various codes, ordinances and resolutions of the **INSERT JURISDICTION** regarding permits, fees to be paid or the manner of construction. Grantee shall comply with all applicable **INSERT JURISDICTION** ordinances, resolutions, rules and regulations adopted or established pursuant to **INSERT JURISDICTION**'s lawful authority. Nothing in this franchise shall be deemed a waiver by Grantee or **INSERT JURISDICTION** of the rights of Grantee or **INSERT JURISDICTION** under applicable law.

Section 2. INTERGOVERNMENTAL AGREEMENT/ CABLE REGULATORY COMMISSION

2.1 Intergovernmental Agreement. The **INSERT JURISDICTION** has provided for regulation of this Franchise through a Cable Regulatory Commission ("Commission") created through an Intergovernmental Agreement (attached as Exhibit A). The **INSERT JURISDICTION** has agreed to be bound by the decisions and actions taken by the Commission pursuant to powers, duties, and responsibilities delegated to the Commission under the Intergovernmental Agreement. Unless specifically stated otherwise in this Franchise, the Commission shall be the representative and agent of the **INSERT JURISDICTION** in dealing with Grantee under the terms of this Franchise. In fulfilling the terms of this Franchise, Grantee is expected to rely upon, look to, communicate with, and comply with the decisions and orders of the Commission, its agents, and employees on all cable matters with respect to which the **INSERT JURISDICTION** has lawfully delegated the exercise of the **INSERT JURISDICTION**'s authority under this Franchise. Nothing in this Franchise is intended to empower the Commission to act contrary to the provisions of the Intergovernmental Agreement or this Franchise. The **INSERT JURISDICTION** retains all powers not expressly delegated to the Commission.

Section 3. DEFINITIONS

3.1 (A) Captions. Throughout this Franchise, captions to Sections are intended solely to facilitate reading and to reference the Sections and provisions of this Franchise. The captions shall not affect the meaning and interpretation of this Franchise.

(B) Definitions. For the purpose of this Franchise, and all Exhibits attached hereto, the following terms, phrases, and their derivations shall have the meanings given below unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.

3.2 "Access" means the availability for use of the Cable System by various agencies, institutions, organizations, groups and individuals in the community to acquire, create and distribute Non-Commercial Programming not under the Grantee's editorial control, including, but not limited to:

(A) "Public Access" means Access where organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary or designated Programmers or users having editorial control over their Programming;

(B) “Educational Access” means Access where schools are the primary or designated Programmers or users having editorial control over their Programming;

(C) “Government Access” means Access where governmental institutions are the primary or designated Programmers or users having editorial control over their Programming; and

(D) “PEG Access” means Public Access, Educational Access, and Government Access, collectively.

3.3 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit PEG Access Programming.

3.4 “Access Facilities” means the Channels, services, facilities, equipment, and/or technical components used or useable by and for PEG Access.

3.5 “Access Resources” means all operating support and other financial means by which PEG Access may be funded.

3.6 “Activation” or “Activated” means the status of any Capacity or part of the Cable System in which any Residential, Access or Institutional Service requiring the use of that Capacity or part may be made available without further installation of Cable System equipment, whether hardware or software.

3.7 “Affiliated Entity” means any entity having ownership or control in common with the Grantee, in whole or in part, including, without limitation, Grantee’s Parent Corporations and any subsidiaries or affiliates of such Parent Corporations.

3.8 “Basic Service Tier “ is the level of Programming service which includes, at a minimum, all Broadcast Channels, all PEG Access Channels required in this Franchise, and any additional Programming added by the Grantee.

3.9 “Broadcast Channels” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 (1996 Supp.).

3.10 “Cable Programming Service Tier” is any video Cable Services, other than Basic Service Tier or Pay Services.

3.11 “Cable Regulatory Commission” (“Commission”) means the Mt. Hood Cable Regulatory Commission, or its successor agency as designated by ordinance of the **INSERT JURISDICTION**.

3.12 “Cable Services” means (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;

3.13 “Cable System” means a system of plant, Facilities, equipment, and closed Signal transmission paths, including, without limitation, antennas, cables, amplifiers, towers, microwave links, studios, real and personal property, and any and all other conductors, home terminals, converters, remote control units, and all associated equipment or Facilities used to distribute Cable Services and Institutional Services and of producing, receiving, amplifying, storing, processing or distributing Signals, whether owned, rented, leased, leased-purchased or otherwise controlled by or within the responsibility of the Grantee.

3.14 “Capacity” means the capability of the Cable System to carry Signals.

3.15 “Capital” or “Capital Costs” means the expenditure of funds for services, products or other resources, whose useful life can be expected to exceed a period of one year or longer.

3.16 “Channel” means a time or frequency slot or technical equivalent on the Cable System, discretely identified and capable of carrying full motion color video, stereo or SAP (second audio pair) audio, and may include other non-video sub-carriers and digital information.

3.17 “Designated Access Provider” means the entity or entities designated by the **INSERT JURISDICTION** under Section 6.1 to provide Access in the Franchise Area, and whose duties may include the management of certain Access Facilities and Resources.

3.18 “Downstream” means the direction of Signals from the Headend to Subscribers or Interconnect points served by the Cable System.

3.19 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is lawfully occupied for residential purposes. Buildings with more than one set of facilities for cooking shall be considered multiple dwelling units unless the additional facilities are clearly accessory.

3.20 “Facility” means any tangible component of the Cable System.

3.21 “FCC” means the Federal Communications Commission.

3.22 “Fiber” means a transmission medium of optical fiber cable capable of carrying Cable Services by means of lightwave impulses.

3.23 “Franchise” means this franchise agreement, as fully executed by the **INSERT JURISDICTION** and the Grantee.

3.24 “Franchise Area” means the area of the **INSERT JURISDICTION** within which the Grantee is authorized to provide Cable Services, as set forth in Section 4, and as may be modified from time to time.

3.25 “Gross Revenues” means all amounts, in whatever form and from all sources, earned-either by the Grantee from the operation of Grantee’s Cable System within the **INSERT JURISDICTION**, or by any Affiliated Entity only to the extent such amounts are earned from the operation of Grantee’s Cable System to provide Cable Services within the **INSERT JURISDICTION**. “Gross Revenues” shall include, without limitation, amounts for the Basic Service Tier, Cable Programming Service Tiers, Pay Services, audio services, Subscriber installations and transactions, Leased Access, advertising, equipment rentals and all other revenues derived from the operation of Grantee’s Cable System to provide Cable Services. Revenues which are not directly attributable to specific customers, such as advertising revenue and home shopping commissions, shall be allocated to systems and jurisdictions on a per subscriber basis measured in a consistent manner from period to period. “Gross Revenues” shall also include amounts earned during any period regardless of whether: (1) the amounts are paid in cash, in trade or by means of some other benefit to the Grantee or any Affiliated Entity; (2) the goods or services with which the revenue is associated are provided at cost or the revenue amount can be matched against an equivalent expenditure; and (3) the amounts are initially recorded by the Grantee or an Affiliated Entity. “Gross Revenues” shall not be net of (1) any operating expense; (2) any accrual, including, without limitation, any accrual for commissions; or (3) any other expenditure, regardless of whether such expense, accrual or expenditure reflects a cash payment.

Notwithstanding the previous sentence, actual bad debt amounts written off, net of any amounts subsequently collected, may be deducted from Gross Revenue. “Gross Revenues”, however, shall not be double counted. Revenues of both Grantee and an Affiliated Entity that represent a transfer of funds between the Grantee and the Affiliated Entity, and that would otherwise constitute Gross Revenues of both the Grantee and the Affiliated Entity, shall be counted only once for purposes of determining Gross Revenues. Similarly, operating expenses of the Grantee which are payable from Grantee’s revenue to an Affiliated Entity and which may otherwise constitute revenue of the Affiliated Entity, shall not constitute additional Gross Revenues for purposes of this Franchise. “Gross Revenues” shall include amounts earned by Affiliated Entities only to the extent that Grantee could, in concept, have earned such types of revenue in connection with the operation of Grantee’s Cable System and recorded such types of revenue in its books and Records directly but for the existence of Affiliated Entities. “Gross Revenues” shall not include sales or other similar taxes imposed by law on Subscribers which the Grantee is obligated to collect, nor amounts received from PEG Institutions for use of the Institutional Network.

3.26 “Hazardous Substances” has the meaning given by ORS 465.200(16) (2007).

3.27 “Headend” means Grantee’s Facility for reception and dissemination of Signals on the Cable System, including cable, antennas, wires, satellite dishes, monitors, switchers, modulators, processors, equipment for the Interconnection of the Cable System with adjacent cable systems or other separate communications network, and all other related equipment and Facilities.

3.28 “Incremental” costs means the amount actually expended by Grantee in meeting an obligation under this Franchise which Grantee would not otherwise have expended in order to operate and conduct the business of its Cable System or to meet another obligation of this Franchise.

3.29 “Interconnect” or “Interconnection” means the provision by Grantee of technical, engineering, physical, financial, and all other necessary components to provide and adequately maintain a physical linking of Grantee’s Cable System with any other designated Access Facility, cable system or other separate communications network so that Cable Services and I-Net services of technically adequate quality may be sent to and received from such other systems.

3.30 “Institutional Network” or “I-Net” means dedicated capacity to provide one-way and bi-directional communication services to and among PEG Institutions and/or resources necessary to facilitate PEG Institutions’ effective use of I-Net capacity for conducting their business.

3.31 “Jurisdictions” in the plural means the Oregon cities of Fairview, Wood Village, Troutdale, and Gresham, together with Multnomah County, Oregon, and if any other city enters into the Intergovernmental Agreement and adopts this Franchise, and the Grantee executes the Franchise and files a guaranty by the Guarantor, as provided in Sections 25 and 26, such city shall also be included with the “Jurisdictions.” “Jurisdiction” in the singular means variously, depending on the context of usage, the **INSERT JURISDICTION** as Grantor of this Franchise, or the Cable Regulatory Commission created by the Jurisdictions pursuant to the Intergovernmental Agreement.

3.32 “Leased Access Channel” means any Channel or portion of a Channel commercially available for a fee or charge by Persons other than the Grantee, under the requirements of 47 USC § 532 (1996 Supp.).

3.33 “Non-Commercial” means use of the Cable System by any public, tax-exempt organization or by any other user for a purpose that is not intended to generate income for the user which may be subject to federal, state, or local income taxes.

3.34 “Pay Service” means video Signals delivered to Subscribers for a fee or charge over and above the regular charges for Basic Service Tier and Cable Programming Tier, on a per program, per Channel, or other subscription basis.

3.35 “PEG Institution” means any School; agency of government, excluding federal governments; public library; or not-for-profit organization, with at least one physical site located within the Franchise Area.

3.36 “Penalties” means any and all monetary penalties provided for in this Franchise.

3.37 “Person” means any individual, sole proprietorship, partnership, association, corporation or other form of organization authorized to do business in the State of Oregon, and includes any natural person.

3.38 “Programmer” means any Person responsible for Programming on the Cable System, including, without limitation, any Person who produces or otherwise provides Programming for transmission on the Cable System.

3.39 “Programming” means the process of causing television programs or other patterns of Signals to be transmitted on the Cable System, and includes all programs or patterns of Signals transmitted or capable of being transmitted, on the Cable System.

3.40 “Record” means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including, without limitation, all letters, correspondence, memoranda, minutes, notes, summaries or accounts of telephone conversations, summaries or accounts of personal conversations or interviews, reports, notebooks, sketches, summaries or accounts of meetings or conferences, opinions or reports of consultants or experts, invoices, billings, statements of accounts, studies, appraisals, analyses, contracts, agreements, charts, graphs, photographs and any other writings or recordings of every kind and description, including magnetic media, and all sound recordings, to the extent related to the enforcement or administration of this Franchise.

3.41 “Residential Services” means Cable Services delivered to single or multiple Dwelling Units.

3.42 “Residential Subscriber” means any Subscriber receiving Residential Services.

3.43 “School” means any public educational institution, including primary and secondary schools, community colleges, colleges, universities and extension centers, and all similarly situated private and parochial educational institutions which have received the appropriate accreditation from the State of Oregon and, where required, from other authorized accrediting agencies.

3.44 “Service Date” means the date that Grantee first offers, or plans to offer, Cable Services on a commercial basis to one or more Subscribers in the Franchise Area. Grantee shall memorialize the Service Date by notifying Grantor in writing of the same, which notification shall become a part of this Franchise.

3.45 “Section” or “Subsection” means a provision of this Franchise, unless specified as part of another document.

3.46 “Signal” means any analog or digital electrical or light impulses carried on the Cable System, which includes any combination of audio, video, voice or data.

3.47 “Standard Video Channel” means a portion of the electromagnetic frequency spectrum which is capable of delivering both the audio and video portions of a television signal at an acceptable level of quality to Residential Subscribers.

3.48 “Streets” means the surface of any public street, road, alley or highway, within the **INSERT JURISDICTION**, used or intended to be used by the general public for general transportation purposes to the extent the **INSERT JURISDICTION** has the right to allow the Grantee to use them, and the space above and below.

3.49 “Subscriber” means any Person who is lawfully receiving, for any purpose or reason, any Cable Services provided by Grantee by means of or in connection with the Cable System, whether or not a fee is paid for such service.

3.50 “Tier” means any package or cluster of Standard Cable Services offered by Grantee to Subscribers.

3.51 “Upstream” means the direction of Signals transmitted to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

3.52 “Year,” “Annual” or “Annually” means the period consisting of a full calendar year, beginning January 1 and ending December 31, unless otherwise provided in this Franchise.

Section 4. FRANCHISE AREA

4.1 Service Area. Subject to the provisions of this Franchise, Grantee is authorized to provide Cable Services within the corporate boundaries of the **INSERT JURISDICTION**, as such boundaries may change from time to time.

4.2 Service Date. Grantee shall notify the **INSERT JURISDICTION, INSERT APPLICANT’S PROPOSED AMOUNT OF TIME** from the Effective Date of this Franchise, of a Service Date as provided in Section 3.44.

4.3 Redlining Prohibited. Grantee shall not deny Cable Services to any group of subscribers or potential residential subscribers based upon the income level of residents of the local area in which such group resides, nor shall Grantee base decisions about construction or maintenance of its Cable System or Facilities based upon the income level of residents of the local area in which such group resides.

Section 5. PROGRAMMING AND CHANNEL CAPACITY

5.1 Channel Capacity. PLACEHOLDER

5.2 Broad Programming Categories.

(A) Grantee shall provide or enable the provision of at least the following broad categories of Programming:

- (1) Arts, culture and performing arts;
- (2) Foreign languages;
- (3) Programming addressed to diverse ethnic and minority interests in the **INSERT JURISDICTION**;

- (4) National, state and local government affairs; and
- (5) PEG Access Programming.

5.3 Obscenity. Grantee shall not transmit, or permit to be transmitted, over any Channel subject to its editorial control any Programming which is obscene under applicable law. Grantee shall be deemed to have transmitted or permitted a transmission of obscene Programming only if a court of competent jurisdiction has found that Grantee's officers or employees, acting in their authorized capacity, have knowingly permitted Programming which is obscene under applicable law to be transmitted over any Channel that is subject to Grantee's editorial control.

5.4 Parental Control Device. Upon request by any Subscriber, Grantee shall make available a parental control or lockout device 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.

5.5 Leased Access Channels. Grantee shall meet the Leased Access Channel requirements imposed by federal law.

5.6 Broadcast Channels. To the extent required by federal law, Grantee shall provide Broadcast Channels to all Residential Subscribers.

Section 6. PEG ACCESS

6.1 Designated PEG Access Providers.

(A) The **INSERT JURISDICTION** may designate up to three (3) Non-Commercial PEG Access providers, including itself, to control and manage the use of any or all Access Facilities and Resources provided by the Grantee under this Franchise. To the extent of such designation by the **INSERT JURISDICTION**, as between the Designated Access Provider and the Grantee, the Designated Access Provider shall have sole and exclusive responsibility for operating and managing such Access Facilities and Resources.

(B) Grantee shall cooperate with Designated Access Providers in the use of the Cable System and Access Facilities for the provision of PEG Access Programming. Grantee shall enter into operating agreements as may be necessary to facilitate and coordinate the provision of PEG Access, provided that all such operating agreements shall not be inconsistent with the terms of this Franchise.

6.2 Access Channel Capacity on the Residential Network.

(A) Initial Access Channels. Grantee shall provide eight Downstream Channels for distribution of Access Programming to all Residential Subscribers, with such Channel assignments as are set forth in Section 6.3(A).

(B) Additional Access Channels. Grantee shall Activate up to a total of 18 Channels, inclusive of the Access Channels under Section 6.2(A), upon request by the **INSERT JURISDICTION** for PEG Access use in order to meet a community need identified by a Designated Access Provider. These Channels shall have the capacity to carry entertainment quality and motion equivalent Channels, but may be reconfigured, at the **INSERT JURISDICTION**'s direction, to carry Channels which require less capacity.

6.3 Access Channel Assignments and Programming Information.

(A) PEG Channel Assignments. Grantee shall provide the following Channel assignments for PEG Access:

- (1) Channel 11 - public access
- (2) Channel 21 - public access
- (3) Channel 22 – public access
- (4) Channel 23 – public access
- (5) Channel 27 - educational access
- (6) Channel 28 - educational access
- (7) Channel 29 – government access
- (8) Channel 30 - government access

(B) Alteration of PEG Channel Assignments. PEG Access Channel assignments, as provided under this Section, may be adjusted or altered only with the written approval, in advance, by the **INSERT JURISDICTION**. Access Channel types, (i.e. Public, Educational, Government), as provided under this Section, may be adjusted by Designated Access Providers subject to approval by the **INSERT JURISDICTION**. If technology changes render Channel assignments obsolete, Grantee shall negotiate with the **INSERT JURISDICTION** to determine equitable placement of Access Channels.

(C) Access Channels on Lowest Service Tier. All Access Channels required by this Franchise shall be included by Grantee on the Basic Service Tier and therefore be made available to every Cable Services Subscriber, except as otherwise provided under this Franchise.

(D) Access Programming Information in Programming Guides.

- (1) Grantee shall include the PEG Access Channels and Programming information in any program guides provided to its Cable Services Subscribers, including, but not limited to on-screen, print and on-line program guides which include channel and program listings of any local Broadcast Channels. Grantee shall bear all capital, implementation and operating costs to include the PEG Access Channels and Programming information in the programming guides.
- (2) The Designated Access Providers shall provide to the Grantee, or its designee, the Access Channel and Programming information in an appropriate format and within the appropriate timeframe for insertion into the programming guides.

6.4 Access Channel Interconnect.

(A) **Access Channel Origination Point PLACEHOLDER**

(B) Interconnect Capacity. Grantee shall provide Activated Interconnection of the Cable System to other contiguous franchised cable services operators' systems in order to enable the carriage and routing of Access Channels and Programming. The Access Channel Interconnect shall enable the Designated Access Providers to use their Channel origination points as central collection, switching and dissemination points for PEG Access Programming, including the control of the Interconnection of such Programming with other cable communication systems.

(C) The **INSERT JURISDICTION** acknowledges that the Access Channel Interconnection requires cooperation from other cable services operators as to engineering, design, technical and operational issues. Therefore, the **INSERT JURISDICTION** shall make every reasonable effort to assist Grantee in achieving the

cooperation of interconnecting cable services operators necessary to establish the Activated Interconnects, and Grantee's Interconnection obligations under Section 6 shall be subject to such cooperation being obtained.

(D) Grantee shall implement and continue in effect all Access Channel Interconnections in a manner that permits the transmission of Access Channel signals on the Cable System which meet technical standards for transmission of local broadcast signals.

(E) Changes in Access Channel Origination Points. If the **INSERT JURISDICTION** designates new Access Channel origination points within the Franchise Area or if Grantee's Franchise Area changes so that the PEG Access Channels point of origination under Section 6.4(A) is within the Franchise Area, Grantee shall provide an Activated Interconnect for the PEG Access Channel signals at the Designated Access Provider's site.

6.5 Access Programming Interface with Grantee Video-On-Demand Capabilities. Grantee shall include up to 25 hours, at any given time, of Access Programming on its video-on-demand ("VOD") platform to be accessible free of charge to Cable Services Subscribers on the same basis as commercially offered VOD content. Grantee agrees to work in good faith with the Designated Access Providers to establish a mutually agreeable process for placing Access Programming on the VOD platform, including but not limited to, addressing programming technical formatting; identifying potentially offensive programming for disclaimers; and including program information in VOD program guides. Designated Access Providers are responsible for selecting the Access Programming and providing it to Grantee in an appropriate format. Grantee and the **INSERT JURISDICTION** recognize that future development of VOD technology may allow for the Designated Access Providers and Grantee to agree on a mutually acceptable alternative to including Access Programming on Grantee's VOD platform and increasing the amount of Access Programming available to Subscribers.

6.6 Live Origination Video Transport. PLACEHOLDER

6.7 Charges. All of the Channels, Cable System Capacity, capabilities, equipment, labor and other elements needed for the Grantee to provide PEG Access as required under this Section shall be provided without charge to the **INSERT JURISDICTION** or to any Designated Access Provider, except as specifically provided in this Section 6.

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

6.9 Technical Quality.

(A) Grantee shall maintain all Access Channels and Interconnections of Access Channels at the same level of technical quality and reliability required by this Franchise and all other applicable laws, rules and regulations for Residential Subscriber Channels.

(B) Grantee shall have no responsibility for the technical quality of the Access Programming distributed on the Access Channels.

(C) Use of the Cable System by Designated Access Providers shall not interfere with the technical quality or reliability of the Cable System.

Section 7. PEG INSTITUTIONAL NETWORK

(A) Grantee acknowledges that the **INSERT JURISDICTION** has acquired I-Net capacity, facilities, interconnects, services and resources from a variety of franchised cable services providers to design, construct and operate an Institutional Network and to facilitate PEG Institutions' uses of the I-Net. The parties acknowledge that the public interest would not be served by duplicating existing I-Net facilities or services provided under other cable services franchises.

(B) Grantee agrees that the **INSERT JURISDICTION** may use I-Net resources provided under this Franchise to support use by PEG Institutions of I-Net capacity, facilities, interconnects, services and resources not constructed, owned, controlled, operated or provided by Grantee.

(C) The **INSERT JURISDICTION** and Grantee may mutually agree on I-Net capacity, Interconnect, facilities and/or services to be provided by Grantee to meet identified I-Net needs of PEG Institutions. Grantee may deduct the agreed upon Incremental, direct costs of providing such I-Net capacity, facilities and/or services from I-Net funds provided under Section 8.1(A).

7.2 Interconnections. Upon request by the **INSERT JURISDICTION** based on an identified community need, Grantee shall provide an Activated Interconnect, within 120 days of such request, for the carriage and routing of I-Net Signals to and from any I-Net facilities provided by Grantee and I-Net facilities provided by other franchised cable service providers, including cable service providers serving jurisdictions contiguous with the Franchise Area. If the **INSERT JURISDICTION** authorizes such Interconnection, Grantee may credit the Incremental, direct cost of such Interconnection against payments made under Section 8.1(A).

Section 8. PEG ACCESS/ I-NET CAPITAL FUNDING

8.1 3% Gross Revenue Annual Setaside.

(A) Grantee shall pay to the **INSERT JURISDICTION** three percent (3%) of Gross Revenues Annually to support PEG Access and I-Net Capital Costs.

(B) The **INSERT JURISDICTION** intends to use one percent (1%) of funds paid under Section 8.1 to provide support for Designated Access Provider Capital Costs; one percent (1%) for grants to PEG Institutions for Capital projects related to use of the Cable System; and one percent (1%) to fund PEG Institutions' Capital requirements for use of the I-Net.

8.2 Payments. Following the effective date of this Franchise, Grantee shall make quarterly payments to the **INSERT JURISDICTION** under Section 8.1 for the preceding quarter Year period ending September 30, December 31, March 31, and June 30. Each quarterly payment shall be due and payable no later than forty-five (45) days after the quarter ending date.

8.3 PEG Access Support not Franchise Fees; Applicable Federal Law. Grantee agrees that financial support for Access Capital Costs arising from or relating to the obligations set forth in Section 8 shall in no way modify or otherwise affect Grantee's obligations to pay franchise fees to the **INSERT JURISDICTION**, subject to the requirements of Federal law. Grantee agrees that although the sum of franchise fees and the payments set forth in Section 8 may total more than five percent of Grantee's Gross Revenues in any 12-month period, the additional commitments are not to be offset or otherwise credited in any way against any franchise fee payments under this Franchise.

8.4 Audit Rights.

(A) The Grantee and its agents and representatives may arrange for and conduct audits, upon no less than thirty (30) days prior written notice and during normal business hours, for payments made under Section 8 to ensure that the PEG Access Capital funding has been utilized for PEG Access and Institutional Network Capital Costs in accordance with this Franchise. Grantee shall provide written notice to the **INSERT JURISDICTION** of the auditors' conclusions. The **INSERT JURISDICTION** shall have thirty (30) days to provide a written response. If the parties are unable to agree upon the auditors' conclusions, either party may submit the issue to arbitration under Section 22.3.

Section 9. SERVICE, CONSTRUCTION, AND INTERCONNECTION

9.1 Universal Service. Subject to Section 4, Grantee shall provide Cable Services under non-discriminatory rates and reasonable terms and conditions to all Subscribers in the Cable Services Franchise Area who reside in Dwelling Units within **INSERT APPLICANT'S SERVICE AREA**. Grantee shall not arbitrarily refuse to provide Cable Services to any Person within **INSERT APPLICANT'S SERVICE AREA** within the Cable Services Franchise Area.

9.2 Service Availability. Except as otherwise provided in this Franchise, Grantee shall provide Cable Services at its standard installation rates within seven (7) days of a request by any Person within **INSERT APPLICANT'S SERVICE AREA**. A request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee or receipt by Grantee of a verified verbal or written request.

9.3 Monthly Service and Installation of Schools. Upon request, Grantee shall provide without charge the Basic Service Tier, an expanded programming service Tier and one standard outlet to any School located within the Cable Services Franchise Area.

9.4 Quality and Workmanship. The Cable System constructed or erected by Grantee shall be of good quality and workmanship and shall be maintained in good repair and efficiency.

9.5 Inspection of Construction. The **INSERT JURISDICTION** shall have the right to inspect any construction or installation work performed under this Franchise. The **INSERT JURISDICTION** shall have the right to make such tests as it deems necessary to ensure compliance with the terms of this Franchise and applicable provisions of law.

Section 10. TECHNICAL AND OPERATIONAL STANDARDS AND REQUIREMENTS

10.1 Technical and Safety Standards.

(A) Grantee shall comply with FCC Rules and Regulations, Part 76, Subpart K (Technical Standards), now in effect or as may be amended from time to time.

(B) Grantee shall at all times employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public or to employees of the Grantee.

(C) Grantee shall install and maintain its Cable System in accordance with the requirements of the National Electrical Safety Code, and in such manner that the Cable System shall not interfere with any installations of the **INSERT JURISDICTION** or any public utility or Institutional utility, or any franchisee, licensee or permittee of the **INSERT JURISDICTION**.

(D) Grantee shall provide and put in use such equipment and appliances as shall control on a closed circuit basis and effectually carry all electric currents and Grantee television and other system Signal impulses in a manner so as to prevent injury to the wires, pipes, structures, and property belonging to the **INSERT JURISDICTION** or to any Person within the **INSERT JURISDICTION**.

(E) Grantee, at its own expense, shall repair, renew, change, and improve its Cable System from time to time as may be necessary to accomplish these purposes.

10.2 Performance Testing.

(A) Grantee shall perform the following tests on its Cable System:

- (1) All tests required by the FCC; and
- (2) Any other tests reasonably necessary to determine compliance with this Franchise or in response to subscriber complaints.

(B) Grantee shall maintain written Records of all results of its Cable System tests, performed by or for the Grantee. Such test results shall be available for inspection by the **INSERT JURISDICTION** upon request.

10.3 Specific Technical Facilities or Capabilities. The following specific technical facilities or capabilities shall be provided on the Cable System by the Grantee:

(A) 100% Emergency Standby Power. Grantee shall maintain standby power generating capacity throughout the Cable System that serves Subscribers within the Franchise Area. All standby power systems shall be rated to provide at least two (2) hours duration. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than two hours. This outage plan and evidence of requisite implementation resources shall be presented to the **INSERT JURISDICTION** upon request.

(B) Emergency Override. Grantee shall comply with all applicable federal regulation regarding emergency alert systems, including equipment standards and procedures for alerting capacities. The **INSERT JURISDICTION** may identify authorized emergency officials for activating the emergency alert system. The **INSERT JURISDICTION** may also develop a local plan containing methods of emergency alert system message distribution, subject to federal review and approval as provided by federal rules.

Section 11. CUSTOMER SERVICE AND CONSUMER PROTECTION

11.1 **INSERT JURISDICTION**'s Cable Television Consumer Protection Policy. Grantee shall comply with the **INSERT JURISDICTION**'s Cable Television Consumer Protection Policy.

11.2 Subscriber Contracts. Grantee shall not enter into contracts with Subscribers which are inconsistent in any material sense with the requirements of this Franchise.

Section 12. COMPENSATION AND AUDITING

12.1 Amount of Compensation. As compensation for the benefits and privileges under this Franchise and in consideration of permission to use the Streets of the **INSERT JURISDICTION**, the Grantee shall pay as a franchise fee to the **INSERT JURISDICTION**, throughout the duration of this Franchise, an amount equal to **INSERT AMOUNT**.

12.2 Payments and Quarterly Reports.

(A) Payments. Grantee's franchise fee payments to the **INSERT JURISDICTION** shall be computed quarterly following the effective date of this Franchise for the preceding quarter Year period ending September 30, December 31, March 31, and June 30. Each quarterly payment shall be due and payable no later than forty-five (45) days after the quarter ending date.

(B) Quarterly Reports. Each payment shall be accompanied by a written report to the **INSERT JURISDICTION**, verified by Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall be in a form satisfactory to the **INSERT JURISDICTION**.

12.3 Interest on Late Payments. Payments not received within forty-five (45) days from the quarter ending date shall be assessed interest compounded at the rate of one percent (1%) per month from the due date.

12.4 Cost of Publication. Grantee shall pay the cost of publication of this Franchise and any amendments thereto, as such publication is required by the **INSERT JURISDICTION**'s Charters..

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

12.6 Maximum Legal Compensation. The parties acknowledge that, at present, applicable federal law limits the **INSERT JURISDICTION** to collection of a maximum permissible franchise fee of five percent (5%) of Gross Revenues related to Cable Services. In the event that at any time during the duration of this Franchise, the **INSERT JURISDICTION** is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then the **INSERT JURISDICTION** may request a modification of this Franchise.

12.7 Additional Commitments not Franchise Fees. No term or condition in this Franchise shall in any way modify or affect the Grantee's obligation to pay franchise fees related to Cable Services in accordance with applicable law. Although the total sum of such franchise fee payments and additional commitments set forth elsewhere in this Franchise may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, Grantee agrees that the additional commitments in this Franchise are not franchise fees as defined under 47 U.S.C. § 542, nor are they to be offset or credited against any franchise fee payments due to the **INSERT JURISDICTION**, subject to applicable Federal law. Except as otherwise authorized by 47 U.S.C. § 542, and the regulations promulgated thereunder, Grantee shall not pass these additional commitments through to subscribers.

12.8 Acceptance of Payment and Recomputation. No acceptance of any payment pursuant to Section 8 or Section 12 of this Franchise shall be construed as an accord 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 **INSERT JURISDICTION** may have for further or additional sums payable. All amounts paid under Section 8 or Section 12 of this Franchise shall be subject to audit by the **INSERT JURISDICTION**. Grantee agrees to pay the **INSERT JURISDICTION** for:

(A) Interest on any underpayment of an amount due under Section 8 or Section 12 of this Franchise that is disclosed as the result of an audit, such interest to be calculated at a rate two percent (2%) per annum above the publicly announced prime rate of interest charged by Bank of America NT & SA, or its successors, to its

most credit worthy commercial customers as of the date of the audit (“Bank of America's Prime Rate”) or its successors or assigns as designated by the **INSERT JURISDICTION** from the date on which payment was due until the date on which full payment of the interest charge is received by the **INSERT JURISDICTION**. If such payment is not received within thirty (30) days of notice from the **INSERT JURISDICTION**, then interest shall be compounded daily from the date on which the payment was due until the date the **INSERT JURISDICTION** receives the payment.

(B) A Penalty of five percent (5%) of the underpayment shall be assessed and due within thirty (30) days of written notice from the **INSERT JURISDICTION**, if the **INSERT JURISDICTION**'s audit discloses that the Grantee has paid ninety-five percent (95%) or less of the principal amount owing for the period under audit. If such payment is not received within thirty (30) days of written notice from the **INSERT JURISDICTION**, then interest shall be compounded daily from the date on which the payment was due until the date on which the **INSERT JURISDICTION** receives the payment, such interest to be calculated at a rate two percent (2%) per annum above the publicly announced prime rate of interest charged by Bank of America NT & SA, or its successors, to its most credit worthy commercial customers as of the date of the audit (“Bank of America's Prime Rate”) or its successors or assigns as designated by the **INSERT JURISDICTION**.

12.9 Escrow. If the Grantee disputes the **INSERT JURISDICTION**'s determination of underpayment under Section 8 or Section 12 of this Franchise, the Grantee shall place the disputed amount in an escrow account at a financial institution with instructions agreed to by the **INSERT JURISDICTION** until final resolution.

12.10 Authority to Audit.

(A) The **INSERT JURISDICTION** and its agents and representatives shall have authority to arrange for and conduct audits under Section 13, within the Portland metropolitan region, upon no less than thirty (30) days prior written notice, and during normal business hours. The **INSERT JURISDICTION** may determine the scope of audit in each instance.

(B) The Grantee agrees to reimburse the **INSERT JURISDICTION** for:

- (1) The reasonable costs of such audit if the audit discloses that the Grantee has paid 95% or less of the fees owing under Sections 8 and 12 for the period at issue; or
- (2) One half of the reasonable costs of such audit if the audit discloses that the Grantee had paid more than 95% but less than 98% of the fees owing under Sections 8 and 12 for the period at issue.
- (3) The Grantee shall reimburse the **INSERT JURISDICTION** within 30 days of receipt of an invoice from the **INSERT JURISDICTION** showing such costs were actually incurred and were directly related to the audit.

12.11 Liability for Licenses and Taxes. Except as provided in Section 12.5, payment of the franchise fee and other financial obligations under this Franchise shall not exempt Grantee from the payment of any license fee, tax or charge on the business, occupation, property or income of Grantee that may be imposed by the **INSERT JURISDICTION**, except as may otherwise be provided in the ordinance or ordinances imposing such other license fee, tax or charge. The **INSERT JURISDICTION**'s right to impose any such license fee, tax or charge shall be subject to any limitations on the **INSERT JURISDICTION** under applicable law.

Section 13. GENERAL INDEMNIFICATION AND INSURANCE

13.1 Indemnification.

(A) General Indemnification. Grantee hereby agrees and covenants to indemnify, defend and hold the **INSERT JURISDICTION**, its officers, agents and employees, harmless from any claim for injury, damage,

loss, liability, cost or expense, including court and appeal costs and reasonable attorney fees or expenses, arising from any casualty or accident to Person or property by reason of any construction, excavation or any other act done under this Franchise, by or for Grantee, its agents or employees, or by reason of any neglect or omission of Grantee to keep its Cable System with all necessary Facilities in a safe condition, but not if arising out of or by reason of any negligence or willful misconduct by the **INSERT JURISDICTION**, its officers, agents or employees. The **INSERT JURISDICTION** shall provide Grantee with prompt notice of any such claim which Grantee shall defend with counsel of its own choosing and no settlement or compromise of any such claim will be done without the prior written approval of Grantee. Grantee and its agents, contractors and others shall consult and cooperate with the **INSERT JURISDICTION** while conducting its defense of the **INSERT JURISDICTION**.

(B) Indemnification for Relocation. Grantee also hereby agrees to indemnify the **INSERT JURISDICTION**, its officers, agents and employees, for any damages, claims, additional costs or expenses assessed against or payable by the **INSERT JURISDICTION** arising out of or resulting, directly or indirectly, from Grantee's failure to remove, adjust or relocate any of its Cable System in a timely manner in accordance with a reasonable relocation schedule furnished to Grantee by the **INSERT JURISDICTION** Engineer unless Grantee's failure arises directly from the **INSERT JURISDICTION**'s negligence or willful misconduct.

(C) Indemnification – Hazardous Substances. Grantee agrees to forever indemnify the **INSERT JURISDICTION**, its officers, agents and employees, from and against any claims, costs and expenses of any kind, whether direct or indirect, or pursuant to any state or federal law statute, regulation or order, for the removal or remediation of any leaks, spills, contamination or residues of Hazardous Substances, associated with, arising from or due to Grantee's structures or other Facilities in the Streets.

(D) Defense of the Franchise. Grantee agrees and covenants to indemnify, defend and hold the **INSERT JURISDICTION**, its officers, agents and employees, harmless from injury, damage, loss, liability, reasonable cost or expense, including expert witnesses and other consultants, court and appeal costs and reasonable attorney fees or expenses, arising from or in any way related to the grant of, or terms of, this Franchise. This agreement to indemnify, defend and hold harmless encompasses, but is not limited to, injury, damages, losses, liabilities, costs or expenses, including expert witnesses and other consultants, court and appeals costs and reasonable attorney fees and expenses that in any way arise in connection with a claim or defense that the **INSERT JURISDICTION**: (1) lacked authority under federal or state law, its charters, **INSERT JURISDICTION** codes or ordinances in granting this Franchise; (2) acted in any disparate or discriminatory manner against any incumbent franchisee or permittee in granting this Franchise; (3) granted this Franchise in violation of any contractual rights belonging to any incumbent franchisee or permittee.

13.2 Insurance.

(A) The Grantee shall maintain public liability and property damage insurance that protects the Grantee and the **INSERT JURISDICTION**, as well as the **INSERT JURISDICTION**'s officers, agents, and employees from any and all claims for damages or personal injury including death, demands, actions and suits brought against any of them arising from operations under this Franchise or in connection therewith. The insurance shall provide coverage at all times of not less than \$1,000,000 combined single limit for bodily injury liability and property damage liability per occurrence with an annual aggregate limit of not less than \$3,000,000. The limits of the insurance shall be subject to any changes as to maximum statutory limits of liability imposed on municipalities of the State of Oregon during the term of the Franchise. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the **INSERT JURISDICTION** and its officers, agents, and employees. Notwithstanding the naming of additional insureds,

the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing in this Franchise shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy. The insurance shall provide that the insurance shall not be canceled or materially altered without thirty (30) days prior written notice first being given to the **INSERT JURISDICTION**. If the insurance is canceled or materially altered within the term of this Franchise, Grantee shall provide a replacement policy with the same terms. Grantee agrees to maintain continuous uninterrupted coverage, in the terms and amounts required, for the duration of the Franchise.

(B) The Grantee shall maintain on file with the **INSERT JURISDICTION** a certificate of insurance certifying the coverage required above. The adequacy of the insurance shall be subject to the approval of the **INSERT JURISDICTION** City Attorney or authorized legal counsel. Failure to maintain liability insurance shall be cause for the **INSERT JURISDICTION** to declare a forfeiture of this Franchise under and subject to Section 20.1(C).

(C) In the alternative to providing a certificate of insurance to the **INSERT JURISDICTION** certifying liability insurance coverage as required in Section 13.2 (A), Grantee may provide the **INSERT JURISDICTION** with an Annual statement regarding its self-insurance. Grantee's self-insurance shall provide at least the same amount and scope of coverage for the Grantee and the **INSERT JURISDICTION**, its officers, agents and employees, as otherwise required under Section 13.2(A). The adequacy of such self-insurance shall be subject to the City Attorney's or authorized legal counsel's review and approval. Upon Grantee's election to provide self-insurance coverage under this Section 13.2 (C), any failure by the Grantee to maintain adequate self-insurance shall be cause for the **INSERT JURISDICTION** to declare a forfeiture of this Franchise under and subject to Section 21 of this Franchise.

(D) The **INSERT JURISDICTION** shall require as a condition of any separate agreement between the **INSERT JURISDICTION** and an Designated Access Provider that the Designated Access Provider shall include the Grantee as a named insured in the Designated Access Provider's liability insurance policy with respect to any claim for injury, damage, loss, liability, cost or expense arising from Programming or other transmission placed by Designated Access Provider on PEG Access Channels or the Institutional Network (but not if arising out of or by reason of any act done by the Grantee or its officers, agents or employees).

13.3 Faithful Performance Bond.

A) Upon the effective date of this Franchise, the Grantee shall furnish proof of the posting of a faithful performance bond running to the **INSERT JURISDICTION** with good and sufficient surety approved by the **INSERT JURISDICTION**, in the penal sum of not less than \$100,000, conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of the Franchise. Grantee shall pay all premiums charged for the bond, and shall keep the bond in full force and effect at all times throughout the term of the Franchise, including, if necessary, the time required for removal of all of Grantee's Cable System installed in the Streets. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days prior written notice first being given to the **INSERT JURISDICTION**. The bond shall be reviewed and approved as to form by the **INSERT JURISDICTION** City Attorney or authorized legal counsel.

(B) During the term of the Franchise, Grantee shall file with the **INSERT JURISDICTION** City Attorney or authorized legal counsel a duplicate copy of the bond along with written evidence of payment of the required premiums. However, in no event shall the **INSERT JURISDICTION** exercise its rights against

the performance bond under this Section 13.3 if a bona fide, good faith dispute exists between the **INSERT JURISDICTION** and the Grantee.

(C) Subject to the **INSERT JURISDICTION**'s prior approval, Grantee may provide an irrevocable letter of credit or other form of financial assurance in lieu of a faithful performance bond. The alternative form of financial assurance shall give the **INSERT JURISDICTION** substantially the same rights and guarantees provided by a faithful performance bond.

13.4 Construction Bond. During all times when Grantee is performing any construction work in or under the Streets requiring a Street opening permit, Grantee shall post a faithful performance bond running to the **INSERT JURISDICTION**, as is required for Street opening permits, with good and sufficient surety approved by the **INSERT JURISDICTION**, in the sum of \$100,000. The bond shall be conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition under Section 14. Grantee shall pay all premiums or other costs associated with maintaining the bond, and shall keep the same in full force and effect at all times during the construction work. The bond shall provide that it may be terminated upon final approval of Grantee's construction work in or under the Streets by the **INSERT JURISDICTION** Engineer. Upon such approval, the **INSERT JURISDICTION** agrees to sign all documents necessary to release the bond in accordance with the terms of this Section 13.4. During the duration of the construction work, Grantee shall file with the **INSERT JURISDICTION** City Attorney or authorized legal counsel a copy of the bond, along with written evidence of the required premiums. The bond shall be subject to the approval of the **INSERT JURISDICTION** City Attorney or authorized legal counsel as to its adequacy under the requirements of this Section 13.4.

Section 14. GENERAL STREET USE AND CONSTRUCTION

14.1 Construction.

(A) Subject to applicable regulations of the **INSERT JURISDICTION**, Grantee may perform all construction necessary for the operation of its Cable System. All construction and maintenance of any and all Facilities within Streets incident to Grantee's Cable System shall, regardless of who performs the construction, be and remain the Grantee's responsibility. Grantee shall apply for and obtain all permits necessary for construction or installation of any Facilities, and for excavating and laying any Facilities, within the Streets. Grantee shall pay all applicable fees upon issuance of the requisite construction permits by the **INSERT JURISDICTION** to Grantee.

(B) Construction Schedule and Maps.

- (1) Prior to beginning any new construction in the Streets, Grantee shall provide the **INSERT JURISDICTION** Engineer through the permitting process with an initial construction schedule for work in the Streets and the estimated total cost of such work together with its permit application. When construction of Grantee's Cable System in the Streets is completed, Grantee shall provide the **INSERT JURISDICTION** with maps showing the location of its installed Facilities in the Streets, as built. Such "as-built" maps shall be in a form acceptable to the **INSERT JURISDICTION** Engineer.
- (2) One (1) year after the effective date of this Franchise, and annually thereafter in the event of any alterations, Grantee shall provide a map to the **INSERT JURISDICTION** Engineer and the Commission, or its successor, showing the location of Grantee's Facilities in the Streets on a scale of three thousand five hundred feet (3,500') per inch or whatever scale the **INSERT JURISDICTION** and Grantee agree upon. Grantee shall also provide such maps in an

electronic format acceptable to the **INSERT JURISDICTION** and the Grantee. The level of detail in maps provided by Grantee shall be limited to that which is needed for the **INSERT JURISDICTION**'s administration of the Streets in order to protect Grantee's confidential business information and the security of Grantee's Cable System.

(C) Grantee may make excavations in Streets for any Facility needed for the maintenance or extension of the Grantee's Cable System. Prior to doing such work, Grantee shall apply for, and obtain, appropriate permits from the **INSERT JURISDICTION**, and give appropriate notices to any other franchisees, licensees or permittees of the **INSERT JURISDICTION**, or bureaus of the **INSERT JURISDICTION**, or other units of government owning or maintaining pipes, wires, conduits or other facilities which may be affected by the proposed excavation.

(D) In the event that emergency repairs are necessary, Grantee shall immediately notify the **INSERT JURISDICTION** of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within 48 hours after discovery of the emergency. Grantee shall comply with all applicable **INSERT JURISDICTION** regulations relating to such excavations or construction, including the payment of permit or license fees.

14.2 Locates. Grantee shall comply with the requirements of ORS 757.542-757.562 and ORS 757.993 (2005), and the rules and regulations promulgated thereunder in OAR Chapter 952.

14.3 Relocation. The **INSERT JURISDICTION** shall have the right to require Grantee to change the location of any of Grantee's Cable System within the Streets when the public convenience requires such change, and the expense thereof shall be paid by Grantee. Should Grantee fail to remove or relocate any such Facilities by the date established by the **INSERT JURISDICTION**, the **INSERT JURISDICTION** may effect such removal or relocation, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by the **INSERT JURISDICTION** due to Grantee's delay. If the **INSERT JURISDICTION** requires Grantee to relocate its Facilities located within the Streets, the **INSERT JURISDICTION** shall make a reasonable effort to provide Grantee with an alternate location within the Streets.

14.4 Restoration of Streets.

(A) Whenever Grantee disturbs the surface of any Street for any purpose, Grantee shall promptly restore the Street to at least its prior condition. When any opening is made by Grantee in a hard surface pavement in any Street, Grantee shall promptly refill the opening and restore the surface to a condition satisfactory to the **INSERT JURISDICTION** Engineer.

(B) If Grantee excavates the surface of any Street, Grantee shall be responsible for restoration and maintenance of the Street and its surface within the area affected by the excavation. The **INSERT JURISDICTION** may, after providing notice to Grantee, refill and/or repave any opening made by Grantee in the Street, and the expense thereof shall be paid by Grantee. The **INSERT JURISDICTION** reserves the right, after providing notice to Grantee, to remove and/or repair any work done by Grantee which, in the determination of the **INSERT JURISDICTION** Engineer, is inadequate. The cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee. All excavations made by Grantee in the Streets shall be properly safeguarded for the prevention of accidents. All of Grantee's work under Section 14.4 shall be done in strict compliance with all rules, regulations and ordinances of the **INSERT JURISDICTION**.

14.5 Maintenance and Workmanship.

(A) 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 **INSERT JURISDICTION**, or with any other pipes, wires, conduits, structures or other facilities that may have been laid in the Streets by or under the **INSERT JURISDICTION**'s authority.

(B) Grantee shall provide and use any equipment and appliances necessary to control and carry Grantee's Signals so as to prevent injury to the **INSERT JURISDICTION**'s property or property belonging to any Person within the **INSERT JURISDICTION**. Grantee, at its own expense, shall repair, renew, change and improve its Facilities from time to time as may be necessary to accomplish this purpose.

(C) Grantee shall not construct its Cable System in any manner that requires any Subscriber to install any cable, wire, conduits or other facilities, under or over a Street.

14.6 Acquisition of Facilities. Upon Grantee's acquisition of Facilities in any **INSERT JURISDICTION** Street, or upon the addition or annexation to the **INSERT JURISDICTION** of any area in which Grantee owns or operates any Facility in any Streets, the Grantee shall, at the **INSERT JURISDICTION**'s request, submit to the **INSERT JURISDICTION** a statement describing all Facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such Facilities to the extent the Grantee has possession of such information. At the **INSERT JURISDICTION**'s sole option, as expressed by ordinance adopted by the **INSERT JURISDICTION**, such Facilities shall immediately be subject to the terms of this Franchise within a reasonable period of time to bring the acquired Facilities into compliance with this Franchise.

14.7 Reservation of **INSERT JURISDICTION** Street Rights. Nothing in this Franchise shall prevent the **INSERT JURISDICTION** from constructing sewers; grading, paving, repairing and/or altering any Street; 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. However, if any of the Grantee's Cable System interferes with the construction or repair of any Street or public improvement, including construction, repair or removal of a sewer or water main, the Grantee's Cable System shall be removed or replaced in the manner the **INSERT JURISDICTION** shall direct. Any and all such removal or replacement shall be at the expense of the Grantee. Should Grantee fail to remove, adjust or relocate its Facilities by the date established by the **INSERT JURISDICTION** Engineer's written notice to Grantee, the **INSERT JURISDICTION** may effect such removal, adjustment or relocation, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by the **INSERT JURISDICTION** due to Grantee's delay.

14.8 Access to Grantee's Vaults. To facilitate safe working conditions, Grantee will control access to Grantee's vaults. **INSERT JURISDICTION** or its contractor will notify Grantee, in advance, of access needs and Grantee will provide qualified personnel. Grantee will bill the **INSERT JURISDICTION** or contractor for the cost of labor incurred for this work, and the **INSERT JURISDICTION** agrees to pay or have its contractor pay Grantee in accordance with such bills.

14.9 Street Vacation. If any Street or portion thereof used by Grantee is vacated by the **INSERT JURISDICTION** during the term of this Franchise, unless the Jurisdiction governing body specifically reserves to Grantee the right to continue its installation in the vacated Street, Grantee shall, without delay or expense to the **INSERT JURISDICTION**, remove its Facilities from such Street, and restore, repair or reconstruct the Street where such removal has occurred, and place the Street in such condition as may be required by the Jurisdiction governing body. In the event of failure, neglect or refusal of Grantee, after thirty days' notice by the Jurisdiction governing body, to restore, repair or reconstruct such Street, the **INSERT**

JURISDICTION may do such work or cause it to be done, and the cost thereof, as found and declared by **INSERT JURISDICTION**, shall be entered as a Jurisdiction lien against any property of Grantee which **INSERT JURISDICTION** may choose, and such lien shall be enforced in like manner and with like effect as other Jurisdiction liens.

14.10 Common Users.

(A) For the purposes of this Section:

- (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 Facility" means any structure, or section thereof, containing one or more ducts, conduits, manholes, handhole or other such facilities in the Grantee's Cable System.
- (3) "Duct" means a single enclosed raceway for conductors, optical fiber, wire or other cable.
- (4) "Licensee" means any person, firm, corporation, partnership, company, association, joint stock association or cooperatively organized association franchised, licensed or otherwise permitted by **INSERT JURISDICTION** to use the Streets.
- (5) "Surplus ducts or conduits" are Conduit Facilities other than those occupied by the Grantee or any prior Licensee, one unoccupied duct held by Grantee as an emergency use spare, and other unoccupied ducts that the Grantee reasonably expects to use within the next 18 months.

(B) Grantee acknowledges that the Streets have a finite capacity for containing conduits. Therefore, Grantee agrees that, whenever **INSERT JURISDICTION** determines it is impracticable to permit construction of an underground conduit system by any other Licensee, the **INSERT JURISDICTION** may require Grantee to afford to such person the right to use Grantee's surplus ducts or conduits in common with the Grantee, pursuant to the terms and conditions of an agreement for use of surplus conduits and ducts being entered into by the Grantee and the Licensee.

(C) If the Grantee and any Licensee fail or cannot otherwise agree to fair and equitable terms, conditions and regulations, including but not limited to a conduit rental rate, within a reasonable period of time, the Grantee and the Licensee shall enter into binding arbitration to determine such terms, conditions and regulations. In such arbitration, the arbitrators shall determine the conduit rental rate at a fair market rate. The binding arbitration shall be as provided in Section 22.3.

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

(E) The Grantee shall give a Licensee a minimum of one hundred and twenty (120) days notice of its need to occupy 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, optical fibers or other space-saving technology sufficient to meet the Grantee's space needs;
- (2) Pay revised conduit rent based on the cost of new conduit constructed to meet the Grantee's space needs;
- (3) Vacate ducts that are no longer surplus; or
- (4) Construct and maintain sufficient new conduit to meet the Grantee's space needs.

(F) When two (2) 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 of space-saving technology or construction of new conduit, all Licensees shall bear the increased cost.

(G) 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 the Grantee and the Licensee. The Grantee may, at its option, correct any attachment deficiencies and charge the Licensee for its costs. Each Licensee shall pay the Grantee for any fines, fees, damages or other costs the Licensee's attachments cause the Grantee to incur.

14.11 Discontinuing Use of Facilities. Whenever Grantee intends to discontinue using any Facility within the Streets, Grantee shall submit for the **INSERT JURISDICTION**'s approval a complete description of the Facility and the date on which the Grantee intends to discontinue using the Facility. Grantee may remove the

Facility or request that the **INSERT JURISDICTION** permit it to remain in place. Notwithstanding the Grantee's request that any such Facility remain in place, the **INSERT JURISDICTION** may require the Grantee to remove the Facility from the Street or modify the Facility to protect the public health and safety or otherwise serve the public interest. The **INSERT JURISDICTION** may require the 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 **INSERT JURISDICTION**. Until such time as Grantee removes or modifies the Facility as directed by the **INSERT JURISDICTION**, 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 Street, in the same manner and degree as if the Facility were in active use, and Grantee shall retain all liability for such Facility.

14.12 Hazardous Substances.

(A) Grantee shall comply with all applicable state and federal laws, statutes, regulations and orders concerning Hazardous Substances relating to Grantee's Cable System in the Streets.

(B) Grantee shall maintain and inspect its Cable System located in the Streets. Upon reasonable notice to Grantee, **INSERT JURISDICTION** may inspect Grantee's Facilities in the Streets 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, Grantee shall also remove all residue of Hazardous Substances related thereto.

(C) Grantee agrees to forever indemnify the **INSERT JURISDICTION** against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by **INSERT JURISDICTION** arising out of a release of Hazardous Substances caused by Grantee's Cable System in the Streets.

14.13 Undergrounding of Cable. Grantee is strongly encouraged to locate and construct its present and future cables underground. Grantee shall install its cables or other Facilities underground wherever all existing utilities already are underground, where all utilities are placed underground, or where statute or ordinance requires utilities to be placed underground. Previously installed aerial cable shall be undergrounded in concert, and on a reasonable cost-sharing basis, with other utilities pursuant to the general ordinances of the **INSERT JURISDICTION** or applicable State law, or in the event that an institutional utility or a public utility decides to underground its facilities on a voluntary basis, unless a Jurisdiction grants an exception.

14.14 Construction Codes. Grantee shall strictly adhere to all building and zoning codes currently or hereafter in effect. Grantee shall arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any Person. In the event of such interference, **INSERT JURISDICTION** may require the removal or relocation of the Grantee's lines, cables, and other appurtenances from the property in question.

14.15 Construction and Use of Poles.

(A) In the event Grantee cannot obtain the necessary poles and allied facilities agreements, and only in such event, then it shall be lawful for the Grantee to make all needed excavations in the Streets for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, conduits, supports for wires and conductors, and any other Facility needed for the maintenance or extension of Grantee's Cable System. All poles of the Grantee shall be erected between the curb and the sidewalk unless otherwise designated by the proper **INSERT JURISDICTION** authorities, and each pole shall be set whenever practicable at an extension of a lot line. A **INSERT JURISDICTION** shall have the right to require the Grantee to change the location of any pole, conduit, structure or other Facility within the Streets when in the opinion of the **INSERT**

JURISDICTION the public convenience requires such change, and the expense thereof shall be paid by the Grantee.

(B) The terms of Section 14.15(A) shall not exempt the Grantee from compliance with all Charters, resolutions and ordinance provisions relating to such excavations or construction or from any provision requiring payment of permit or license fees pertaining thereto.

14.16 Tree Trimming.

(A) Upon obtaining proper permits from **INSERT JURISDICTION**, Grantee may prune or cause to be pruned, using proper arboricultural practices in accordance with such permit, any tree or vegetation in or overhanging the Streets which interferes with Grantee's Cable System. Tree and vegetation pruning will only be done in accordance with **INSERT JURISDICTION**'s ordinances, rules and regulations and, if the tree or vegetation is located on private property, with the permission of the property owner.

(B) **INSERT JURISDICTION** may, at its own discretion, waive the notification and permit process in the case of single trees, if Grantee adequately demonstrates the ability to consistently apply proper arboricultural practices to the pruning of trees. Before any tree trimming permit may be issued, any contractor to be used by Grantee shall be subject to the approval of the **INSERT JURISDICTION**. The **INSERT JURISDICTION** shall have the discretion to cancel the permit if, at any time, the Grantee or its agents fails to use proper arboricultural practices.

Section 15. TRANSFER OF GRANTEE'S CABLE SYSTEM

15.1 Prior Consent of **INSERT JURISDICTION** for Transfers.

(A) Transfer Defined. For purposes of Section 17, "Transfer" shall mean any form of sale, conveyance, mortgage, assignment, merger, pledge, encumbrance, deed or grant, in whole or in part, and whether voluntary or involuntary.

(B) **INSERT JURISDICTION** Approval of Transfers.

(1) Neither this Franchise nor any Substantial Portion of the Cable System owned and operated by Grantee by authority of this Franchise shall be Transferred without the prior consent of the **INSERT JURISDICTION** as expressed by ordinance or resolution. The **INSERT JURISDICTION**'s granting of consent in one instance shall not render unnecessary any subsequent consent in any other instance. Within ten (10) days after execution and delivery of any instrument so consented to by **INSERT JURISDICTION**, Grantee shall file with the **INSERT JURISDICTION** an executed counterpart or certified copy thereof. For purposes of this Section, "Substantial Portion" means any Facilities the transfer of which would substantially affect Grantee's operations or which would substantially affect any of Grantee's obligations under this Franchise.

(2) In determining whether the **INSERT JURISDICTION** will consent to any Transfer, the **INSERT JURISDICTION** may inquire into the technical, legal, and financial qualifications of the prospective transferee, and may require that the prospective transferee respond timely in writing to the Jurisdictions' request for information. Such requests for information by the **INSERT JURISDICTION** may, without limitation, be addressed to the prospective transferee's ownership structure, experience, management qualifications, legal qualifications, character qualifications, financial capability and Cable System financing plan, financial pro formas, operating history, technical capabilities, and technical plans for the Cable System. Grantee shall assist the **INSERT JURISDICTION** in any such inquiry, including facilitating the prospective transferee's responses to the **INSERT JURISDICTION**' information requests.

(3) **INSERT JURISDICTION** may condition any Transfer upon such conditions as are considered appropriate. Such reasonable conditions may include, but are not limited to, a requirement that the prospective transferee reimburse the **INSERT JURISDICTION**' reasonable direct costs in processing the Transfer request, requiring that the transferee assume responsibility for any non-compliance by Grantee, and requiring that a guaranty be furnished by the proposed transferee's parent corporations. No Transfer for which **INSERT JURISDICTION**'s consent by ordinance or resolution is required may occur until the successor, assignee or lessee has complied

or agreed to comply with all of the requirements of this Franchise, including, but not limited to, providing certificates of insurance, unless the **INSERT JURISDICTION** waives such compliance by ordinance or resolution.

(4) Nothing contained in Section 15.1 shall be deemed to prohibit the mortgage, pledge or assignment of tangible assets of Grantee's Cable System, including but not limited to accounts receivable, inventory or monetary assets, for the purpose of financing the acquisition of equipment or for the acquisition, construction and operation of the Cable System of Grantee or any Affiliated Entity, without the **INSERT JURISDICTION**'s consent, but any such mortgage, pledge or assignment shall be subject to the **INSERT JURISDICTION**'s other rights contained in this Franchise. Grantee may also sell tangible assets of the Cable System in the ordinary conduct of its business without the consent of the **INSERT JURISDICTION**.

(C) **INSERT JURISDICTION** Approval of Leases. Grantee shall not lease or sublease this Franchise or any of the rights or privileges granted or authorized by this Franchise without the **INSERT JURISDICTION**'s consent as expressed by resolution or ordinance. However, Grantee may enter into leases or subleases not affecting the Franchise, or rights or privileges thereunder, in the ordinary conduct of its business, and may enter such leases or subleases with other **INSERT JURISDICTION**'s franchisees, without the **INSERT JURISDICTION**'s consent, so long as Grantee remains solely responsible for locating, servicing, repairing, relocating or removing its Cable System.

15.2 Change in Control.

(A) Grantee shall promptly notify the **INSERT JURISDICTION** of any proposed Transfer or acquisition by any other party resulting in a change of control of the Grantee or the Parent Corporations. Such change in control shall make this Franchise subject to revocation unless and until the **INSERT JURISDICTION** shall have consented thereto by ordinance or resolution.

(B) If required by federal law, **INSERT JURISDICTION** shall make a final decision upon a proposed change in control within one hundred and twenty (120) days of receiving a written request for approval of a change in control containing or accompanied by such information as is required by federal law and this Franchise. If **INSERT JURISDICTION** fails to render a final decision on the request within one hundred and twenty (120) days, then the proposed change shall be deemed to be consented to by the **INSERT JURISDICTION**. At any time during the one hundred and twenty (120) day period, the **INSERT JURISDICTION** may request in writing that the Grantee provide or cause to provide any information reasonably necessary to rendering a final decision on the request. The **INSERT JURISDICTION** and the Grantee may, at any time, agree to extend the one hundred and twenty (120) day period.

15.3 Bankruptcy or Dissolution. Grantee shall immediately report to the **INSERT JURISDICTION**, as soon as it becomes known, the initiation of bankruptcy proceedings, or corporate or partnership dissolution.

15.4 Consent. No consent by the **INSERT JURISDICTION**, which is required under this Section, shall be unreasonably denied or delayed.

Section 16. OTHER RIGHTS RESERVED TO THE **INSERT JURISDICTION**

16.1 Purchase of Grantee's Cable System after Forfeiture or Expiration.

(A) Subject to the provisions of federal law, if **INSERT JURISDICTION** has declared a forfeiture of this Franchise by resolution or ordinance, as provided in Section 21 or if the initial term of this Franchise has expired without the franchise being renewed or extended, and all applicable renewal procedures under federal law have been complied with, and if the **INSERT JURISDICTION** has so ordered by ordinance or resolution, the Grantee shall continue its operations for a period of two hundred and seventy (270) days after either the effective date of the ordinance or resolution or expiration of the initial term unless the ordinance or resolution in either case orders termination by the Grantee of its operations at an earlier time. During this period, the Grantee shall not Transfer any portion of its Cable System in the Streets to any other Person, including parts

of the Cable System rented, leased or leased-purchased from others by the Grantee, without the prior consent of the **INSERT JURISDICTION** expressed by ordinance or resolution .

(B) Within thirty (30) days of the effective date of the forfeiture ordinance or resolution or following the expiration of the term of this Franchise, if **INSERT JURISDICTION** has not otherwise renewed or extended the Franchise, and all renewal procedures under federal law have been complied with, the Grantee shall submit a report (hereafter referred to as the "System Report") to the **INSERT JURISDICTION** setting out Grantee's assessment of the Fair Value of Grantee's Cable System and the methodology, assumptions and limiting conditions underlying the Grantee's appraisal. In addition, Grantee shall provide such further relevant information regarding its technical and customer operations, contractual or other legal obligations, and financial history and current condition as the **INSERT JURISDICTION** may reasonably request.

(C) (1) At any time within sixty (60) days after receiving the System Report, the **INSERT JURISDICTION** may notify the Grantee that it desires to acquire by purchase all or a portion of Grantee's Cable System for its Fair Value. The notice shall be by passage of an ordinance or resolution stating the Jurisdiction's desire and shall state a date not less than one hundred and eighty (180) days from its date upon which the Grantee shall cease its operations and receive payment from the **INSERT JURISDICTION**.

(2) For purposes of Section 16, the valuation of Grantee's Cable System shall be determined by mutual agreement between the **INSERT JURISDICTION** and the Grantee. If the Jurisdiction and Grantee are unable to agree upon the Fair Value within one hundred and twenty (120) days after the Jurisdiction gives notice of intent to purchase under Section 16, then the **INSERT JURISDICTION** and Grantee may agree that such valuation be determined by arbitration, as provided for in Section 22.3.

(D) For purposes of Section 16, subject to applicable law, "Fair Value" shall mean:

(1) In the case of the expiration of the Franchise without renewal, the fair market value, determined on the basis of Grantee's Cable System, or the portion being acquired, as a going concern, but with no value allocated to the Franchise itself. This would be a value for which a willing buyer would purchase the Cable System as an ongoing business, recognizing that the existing Franchise has expired. The fair market value would be reduced by the amount of any lien, encumbrance, or other obligation of the Grantee which the **INSERT JURISDICTION** may assume.

(2) In the case of a forfeiture of the Franchise, the equitable price of Grantee's Cable System, or the portion being acquired, reduced by the amount of any liens, encumbrances or other obligations of the Grantee which **INSERT JURISDICTION** may assume, but shall not include any sum for the value of the unexpired portion of this Franchise. In determining the equitable price, matters such as the harm to the community resulting from the Grantee's violation of the Franchise may be considered.

(E) (1) In the event of **INSERT JURISDICTION**'s acquisition of all or portions of Grantee's Cable System, as provided in Section 16, Grantee and its Affiliated Entities shall use all best efforts to obtain consent to assignment, to the extent any existing and future rental, lease, and lease-purchase arrangements for Grantee's Cable System or any Facilities require any consent to assignment by third parties.

(2) In the event of **INSERT JURISDICTION**'s acquisition of all or portions of Grantee's Cable System, as provided in Section 16, Grantee or its Affiliated Entities shall not unreasonably withhold any consent to assignment of any rental, lease, and lease-purchase arrangements for Grantee's Cable System or any Facilities.

16.2 Changes in Law or Unenforceability of Franchise Provisions.

(A) The **INSERT JURISDICTION** and Grantee have entered into this Franchise under the federal and state laws in effect on the effective date of this Franchise. The **INSERT JURISDICTION** and the Grantee reserve the right to request modifications to this Franchise, under Section 16.2(B), to account for changes in the law during the term of this Franchise. The **INSERT JURISDICTION** and the Grantee also reserve the right to request modifications in this Franchise, under Section 16.2(B), if any provision of this Franchise becomes, or is declared, invalid or unenforceable.

(B) Upon written notice from either party, the **INSERT JURISDICTION** and the Grantee may voluntarily agree, under Section 16.2(A), to participate in a non-binding mediation proceeding under Section 22.2 to mediate, in good faith, modifications to the terms and conditions of this Franchise. The written request shall

specifically identify the particular reasons under Section 16.2(A) for the modification sought by the requesting party. In the mediation proceeding, the **INSERT JURISDICTION** and the Grantee shall attempt, in good faith, to agree to modifications to the Franchise so that the net rights and obligations of the **INSERT JURISDICTION** and the Grantee remain substantially the same after the modification, as they were prior to the events and circumstances leading to the mediation proceeding. If the **INSERT JURISDICTION** and Grantee are unable to successfully conclude the mediation within ninety (90) days from the date of the written notice requesting the mediation proceeding, the parties may agree to submit the matter to arbitration as set forth in Section 22.3.

16.3 Right of Intervention. The **INSERT JURISDICTION** shall have the right to intervene in any suit or proceeding to which the Grantee is a party, in the event the **INSERT JURISDICTION**'s rights under this Franchise may be affected thereby.

Section 17. **INSERT JURISDICTION** REGULATORY AUTHORITY

17.1 **INSERT JURISDICTION** Regulatory Rights.

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

(B) Grantee shall not be relieved of its obligations to comply, promptly and completely, with any provision of this Franchise by any failure of the **INSERT JURISDICTION** to promptly enforce compliance with this Franchise.

17.2 **INSERT JURISDICTION** Regulatory Actions. Grantee shall comply with any and all lawful actions of the **INSERT JURISDICTION** affecting Grantee's operations under this Franchise, including, without limitation, all applicable ordinances, orders, contracts, and regulatory actions taken pursuant thereto, in all respects and without exception, so long as such actions do not materially affect the rights of Grantee hereunder. In the event of any direct conflict between **INSERT JURISDICTION** orders and regulatory actions, and the terms of this Franchise, this Franchise shall prevail.

17.3 Regulation of Rates and Charges. All Grantee rates and charges related to or regarding Cable Services shall be subject to regulation by the **INSERT JURISDICTION** to the full extent authorized by a **INSERT JURISDICTION**'s Charter and by applicable federal, state and local laws and **INSERT JURISDICTION** ordinances and resolutions.

17.4 Rate Discrimination. All Grantee rates and charges shall be published and non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall establish similar rates and charges for all Subscribers receiving similar services, regardless of race, color, religion, age, sex, marital or economic status, national origin, sexual orientation, physical or mental disability, income of the residents, or geographic location within the Grantee's Franchise Area except as may result from Federal rate regulation. Nothing in Section 17.4 shall be construed to prohibit:

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

(B) Grantee from offering reasonable discounts to senior citizens or discounts to economically disadvantaged citizens; or

(C) Grantee establishing different and nondiscriminatory rates and charges and classes of services for commercial subscribers, as well as different, nondiscriminatory monthly rates for classes of commercial subscribers.

17.5 Filing of Rates and Charges.

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the **INSERT JURISDICTION** a complete schedule of applicable rates and charges for Cable Services provided under this Franchise, in a form satisfactory to the **INSERT JURISDICTION**. Nothing in this Section 17.5(A) shall be construed to require the Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns. As used in this Section, no rate or charge shall be considered temporary if Subscribers have the ability over a period greater than six consecutive months to purchase Cable Services at such rate or charge.

(B) Grantee shall maintain on file with the **INSERT JURISDICTION** a complete schedule setting forth the maximum rates and charges for any and all Leased Access Channels. The schedule shall be in a form satisfactory to the **INSERT JURISDICTION**.

17.6 Changes in Rates and Charges.

(A) Unless otherwise provided by law, Grantee shall provide written notice to the **INSERT JURISDICTION** and Subscribers at least thirty (30) days in advance of any increase in rates and charges. Notice to the Jurisdictions of proposed increases in rates and charges shall be filed in a form satisfactory to the Jurisdictions.

(B) Unless the **INSERT JURISDICTION** has lawfully required prior review of Grantee's rate increase in accordance with the requirements and conditions of applicable law, Grantee's rate increase shall become effective on the date identified in the form filed by the Grantee, provided that the effective date shall not be earlier than the 31st day after such filing.

17.7 Regulation of Equipment for Hearing Impaired. To the extent authorized by law, the **INSERT JURISDICTION** reserve the right to require and regulate the installation or rental of equipment which facilitates the reception of Basic Service Tier by hearing impaired individuals.

17.8 Downgrade and Disconnect Charges.

(A) Downgrade Charges.

(1) Unless otherwise provided by law, Grantee shall not impose any Downgrade Charges, except as otherwise provided herein. As used in this Section, "Downgrade Charge" means any charge, rate or financial liability imposed upon a Subscriber for implementing a request for a change or reduction of Cable Services to less expensive Cable Services or tiers.

(2) Unless otherwise provided by law, Grantee may impose Downgrade Charges only if:

(a) the Subscriber has been notified, at the time of initiating Cable Services, and periodically thereafter, of Grantee's Downgrade Charges;

(b) the Downgrade Charge does not exceed the Grantee's actual Incremental, direct costs of performing the downgrade; and (c) the downgrade is from a level of service which the Subscriber has not maintained continuously for six (6) months immediately preceding the date of the downgrade request.

(B) Disconnection Charges. Unless otherwise provided by law, Grantee shall not impose any charges for the disconnection of Cable Services, nor may the Grantee impose any rate, charge or other financial liability upon any Subscriber for Cable Services delivered after the date of a voluntary disconnection request.

Section 18. RECORDS AND REPORTS

18.1 Open Records. Grantee shall manage all of its operations in accordance with a policy of keeping its Records open and accessible to the **INSERT JURISDICTION**. The **INSERT JURISDICTION** shall have the right to inspect all Records of the Grantee and Affiliated Entities at any time during normal business hours and upon reasonable notice to determine compliance by Grantee with its obligations under this Franchise. Grantee shall not deny the **INSERT JURISDICTION** access to Grantee's Records on the basis that Grantee's Records are under the control of an Affiliated Entity or a third party, rather than the Grantee. In the case of Affiliated

Entities not under common control with Grantee, Grantee shall not be subject to the remedies set forth in Section 21.1(A) if such Affiliated Entity does not permit inspection of its Records, and Grantee has; (A) made available for inspection all of its Records relevant to the determination of compliance; and (B) exercised all reasonable efforts to persuade such Affiliated Entity to make such Records available for inspection.

18.2 Annual Reports. Grantee shall Annually present a written report to the **INSERT JURISDICTION** (the “Annual Report”) setting out such information as the Jurisdictions deem necessary to determine compliance by Grantee with its obligations under this Franchise. Grantee shall submit the Annual Report no later than May 1 of each Year, following the end of the Grantee's calendar fiscal year. Except as otherwise provided by the **INSERT JURISDICTION**, the Annual Report shall include, at a minimum, information as may be required concerning the Grantee's operations within the Franchise Area for the immediately previous Year in a form prescribed by the **INSERT JURISDICTION**.

INSERT APPLICANT REPORTING INFORMATION

18.3 General Reports. Grantee shall prepare and furnish to the **INSERT JURISDICTION**, at times and in the form prescribed by the **INSERT JURISDICTION**, such other reports with respect to its operation, affairs, transactions or property as the **INSERT JURISDICTION** may deem reasonably necessary or appropriate to the performance of the Jurisdictions' rights, functions or duties under this Franchise.

18.4 Format. The **INSERT JURISDICTION**, after consultation with Grantee, may specify the form and details of all Grantee's reports required under this Franchise.

18.5 Reports of Regulatory Violations. Grantee shall provide copies to the **INSERT JURISDICTION** of any communications to and from any regulatory agency having jurisdiction over Grantee pertaining to any alleged, apparent or acknowledged violation by Grantee of any applicable rule or law of the agency regarding the Grantee's provision of Cable Services under this Franchise.

18.6 Public Records.

(A) Grantee acknowledges that information submitted to the **INSERT JURISDICTION** is subject to the Oregon Public Records Law, and is open to public inspection. Grantee is responsible for becoming familiar with and understanding the provisions of the Oregon Public Records Law.

(B) Grantee may identify information, such as trade secrets, submitted to the **INSERT JURISDICTION** as confidential. Grantee shall prominently mark each page for which it claims confidentiality as “Confidential” prior to submitting such information to the **INSERT JURISDICTION**. The **INSERT JURISDICTION** shall treat any information so marked as confidential, until the **INSERT JURISDICTION** receive any request for disclosure of such information. Within five (5) working days of receiving any such request, the **INSERT JURISDICTION** shall provide the Grantee with written notice of the request, including a copy of the request. Grantee shall have five (5) working days within which to provide a written response to the **INSERT JURISDICTION**, before the **INSERT JURISDICTION** may disclose any of the requested confidential information. If the **INSERT JURISDICTION** determines that it will be necessary to reveal the information, the **INSERT JURISDICTION** shall promptly notify the Grantee, and do so at least five (5) working days prior to the information being released.

Section 19. EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION/MINORITY BUSINESS ENTERPRISES

19.1 Equal Employment Opportunity.

(A) Throughout the term of this Franchise, Grantee shall fully comply with the equal employment opportunity requirements of federal, state, and local law, and in particular, FCC rules and regulations relating thereto. Upon request by the **INSERT JURISDICTION** Grantee shall furnish the **INSERT JURISDICTION** a copy of the Grantee's Annual statistical report filed with the FCC, along with proof of Grantee's Annual certification of compliance. Grantee shall immediately notify the **INSERT JURISDICTION** in the event Grantee is at any time determined not to be in compliance with FCC rules or regulations.

(B) Throughout the term of this Franchise, the Grantee shall maintain a policy that all employment decisions, practices, and procedures are based on merit and ability without discrimination on the basis of an individual's race, color, religion, age, sex, national origin, sexual orientation or physical or mental disability. Grantee's policy shall apply to all employment actions including advertising, recruiting, hiring, promotion, transfer, remuneration, selection for training, company benefits, disciplinary action, lay-off, and termination.

19.2 Affirmative Action. Grantee shall carry out its equal employment opportunity policy by making a determined and good-faith effort at affirmative action to employ and advance in employment women, minorities, and the physically and mentally disabled.

19.3 Minority and Female Business Enterprises. Grantee shall make determined and good faith efforts to use minority and female business enterprises in its contracted expenditures, including, without limitation, contracts for the acquisition of goods, services, materials, supplies, and equipment used in the construction, maintenance, and operation of its Cable System.

Section 20. RIGHTS OF INDIVIDUALS

20.1 Discriminatory Practices. Grantee shall not deny Cable Service, or otherwise discriminate against Subscribers, Programmers or any other Persons on the basis of race, color, religion, age, sex, national origin, sexual orientation or physical or mental disability. Grantee shall comply at all times with all other applicable federal, state or local laws, rules and regulations relating to non-discrimination.

20.2 Unauthorized Monitoring or Cable Tapping.

(A) Neither the Grantee, nor any of its agents, employees, officials or permittees, or any other Person, agency or entity, shall Tap any cable, line, Signal input device or subscriber outlet or receiver for any purpose, except as provided herein, and as is necessary for billing purposes.

(B) Grantee may Tap a cable, line, Signal input device or Subscriber outlet or receiver to 1) determine the number of viewers watching a program where the identities of the viewers are not determined; 2) perform Cable System maintenance and verify technical performance; and 3) identify theft of services, without the Subscriber's written consent.

20.3 Privacy.

The **INSERT JURISDICTION** and Grantee shall maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any Subscriber, Programmer or any other Person resulting from any device or Signal associated with the Cable System. Grantee shall not use the two-way communications capability of the Cable System for unauthorized or illegal Subscriber surveillance of any kind.

20.4 Permission of Property Owner or Tenant. Grantee shall not install or attach any of its Facilities to any residence or other property without first securing the permission of the owner or tenant of any property involved, except where there is an existing utility easement reserved by plat or other conveyance or unless such installation or attachment is otherwise authorized by law. Nothing herein, however, shall excuse the Grantee from obtaining permission from anyone who has the right to approve or disapprove the attachment. If such permission or easement is later revoked, unless Grantee is otherwise entitled to maintain its Facilities, whether by the original or a subsequent owner or tenant, the Grantee, on the owner's request, shall promptly

remove any of its Facilities and promptly restore the property to its original condition. Grantee shall perform all such installations and removals in a workmanlike manner and shall be responsible for any damage to residences or other property caused by the installation or the removal.

20.5 Sale of Subscriber Lists and Personalized Data.

(A) Grantee shall not sell, or otherwise make available, lists of the names and addresses of its Subscribers, or any list which identifies the viewing habits by the name of any Subscriber, or any Personalized Data pertaining to a Subscriber's use of any of Grantee's Cable Services by the name of any Subscriber, without the written, expressed consent of the Subscriber to which the Personalized Data pertains, except as otherwise permitted by federal law. For purposes of Section 20.5, "Personalized Data" means the name and address or other information regarding an individual Subscriber, which is associated with or extracted from data obtained from the Subscriber's use of Grantee's Cable Services.

(B) Grantee shall be subject to the provisions of federal law regarding limitations on Grantee's collection and use of Personalized Data, and other issues involving the protection of Subscriber privacy.

Section 21. FRANCHISE VIOLATIONS AND REMEDIES, EXPIRATION AND RENEWAL

21.1 Remedies for Franchise Violations.

(A) Remedies. In addition to any rights set out elsewhere in this Franchise, or such other rights as it may possess, the **INSERT JURISDICTION** reserves the right at its discretion to apply any of the following remedies, alone or in combination, in the event Grantee violates any material provision of this Franchise. In determining which remedy or remedies are appropriate, the **INSERT JURISDICTION** shall consider the nature of the violation, the Persons burdened by the violation, the nature of the remedy required in order to prevent further violations, and any other matters the **INSERT JURISDICTION** deems appropriate.

(1) Impose reasonable penalties, up to one thousand dollars (\$1,000) per day, incident or other measure of violation;

(2) To the extent authorized by law, require Grantee to reduce its rates and charges by such amount or amounts as is reasonable in light of the violation;

(3) To the extent authorized by law, require Grantee to make payments or grant refunds to its Subscribers or Subscriber Classes in such amounts, and on such bases as are reasonable relative to damages sustained by Subscribers, for violations relating to Subscriber service. At Grantee's option, such payments or refunds may be made in the form of a credit against Subscriber service bills. For purposes of this Subsection, "Subscriber Class" means any group of actual or potential Subscribers identified by the Grantee on the basis of specified characteristics for the purpose of providing, marketing or establishing any combination or package of Cable Services, rates or charges, or for the purpose of providing or directing customer services or marketing in any form;

(4) To the extent authorized by law, require Grantee to correct or cure the violation prior to any rate increase becoming effective, or otherwise delay consideration of any rate request until the violation is corrected or cured;

(5) Reduce the duration of the term of this Franchise on such basis as is reasonable provided that in no event shall the amount of the term remaining after the reduction be less than three (3) years; or

(6) Revoke this Franchise.

(B) In determining which of the foregoing remedies is appropriate, and in the exercise of specific remedies, the **INSERT JURISDICTION** shall consider, among other things, (1) the nature and extent of the violation, (2) whether Grantee has had a history of similar violations, (3) the remedy that can be expected to deter such violations in the future, and (4) the damage suffered by the public and the cost of remedying the violation.

(C) **INSERT JURISDICTION** also has the right to shorten the term of this Franchise or revoke this Franchise upon the occurrence of any of the following acts or events:

- (1) Grantee is found by a court of competent jurisdiction to have practiced any fraud or deceit upon the **INSERT JURISDICTION**; or
- (2) Grantee becomes insolvent or is adjudged to be bankrupt, or otherwise initiates corporate or partnership dissolution; or
- (3) Grantee fails to obtain and maintain any permit required by any federal or state regulatory body in order to own and operate the Cable System.

(D) Receivership. In addition to its other rights and remedies as set forth in this Franchise, the **INSERT JURISDICTION** shall have the right to revoke this Franchise one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the Grantee's business, whether in receivership, reorganization, bankruptcy or other similar action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

- (1) Within one hundred and twenty (120) days after such appointment, the receiver or trustee shall have fully complied with all provisions of this Franchise and remedied any and all violations or defaults, as approved by the **INSERT JURISDICTION**; and
- (2) Within said one hundred and twenty (120) days, such receiver or trustee shall have executed an agreement with the **INSERT JURISDICTION**, duly approved by the **INSERT JURISDICTION** and the court having competent jurisdiction, in which such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

(E) In the event that the **INSERT JURISDICTION** make a preliminary determination that the Grantee has violated this Franchise, the **INSERT JURISDICTION** shall commence a contested case proceeding under the rules adopted by the **INSERT JURISDICTION**. The **INSERT JURISDICTION**'s final determination, following a contested case proceeding, may be appealed to **INSERT JURISDICTION**'s governing body. The **INSERT JURISDICTION**'s governing body shall consider the appeal based on the record established in the contested case proceeding, under rules established by the **INSERT JURISDICTION**.

21.2 Notice and Opportunity to Cure.

(A) The **INSERT JURISDICTION** shall give Grantee thirty (30) days prior written notice of its intent to exercise any of their rights under Section 21.1, identifying the reasons for such action.

(B) If Grantee removes or otherwise cures the asserted violation constituting the stated reason within the thirty (30) day notice period, or if cure is not reasonably possible within the thirty (30) day period and the Grantee initiates good faith efforts satisfactory to the **INSERT JURISDICTION** within the thirty (30) day period to cure the asserted violation constituting the stated reason and the efforts continue in good faith, the **INSERT JURISDICTION** shall not exercise its rights under Section 21.1.

(C) If Grantee fails to remove or otherwise cure the asserted violation constituting the stated reason within the thirty (30) day notice period, or if the Grantee does not undertake and continue efforts satisfactory to the **INSERT JURISDICTION** to remedy the stated reason, then the **INSERT JURISDICTION** may exercise any or all of the remedies available under Section 21.1 or such other rights as the **INSERT JURISDICTION** may possess.

21.3 Minor Variances. The **INSERT JURISDICTION** may, upon request of the Grantee or its own motion, permit the Grantee to vary its manner of performance under this Franchise so long as the variance does not result in a substantial change in the terms of this Franchise or a substantial reduction in the services to be provided.

21.4 Expiration.

(A) Upon the expiration of this Franchise, subject to any restrictions imposed by 47 U.S.C. § 546 (Section 626 of the Cable Communications Policy Act of 1984) and other applicable federal, state or local laws, **INSERT JURISDICTION** shall have the right, at its election, to:

- (1) Renew or extend Grantee's Franchise;

- (2) Invite additional proposals and award this Franchise to another Person;
- (3) Terminate the Franchise without further action;
- (4) Exercise its rights under Section 16; or
- (5) Take such further action as the Jurisdiction deems appropriate.

(B) Until such time as the **INSERT JURISDICTION** exercises its rights under Section 21.4, the Grantee's rights and responsibilities within the **INSERT JURISDICTION** shall be controlled by the terms of this Franchise.

21.5 Removal of Plant and Equipment. If **INSERT JURISDICTION** has by ordinance or resolution declared a forfeiture of this Franchise as provided in Section 21.1, or if this Franchise has expired without being renewed or extended, or in the event of the **INSERT JURISDICTION**'s purchase, lease-purchase, condemnation, acquisition, taking over or holding of plant and equipment, all of Grantee's rights under this Franchise shall immediately cease and be divested. Thereafter, except as provided in Section 21.5 and Section 16, or as otherwise provided by ordinance or resolution, the Grantee shall remove its Facilities from the Streets and restore the Streets to such condition as the **INSERT JURISDICTION** may require. In the event of a failure by the Grantee to properly perform such work, then the **INSERT JURISDICTION** may perform the work and collect the cost thereof from the Grantee. The cost thereof shall be a lien upon the system of the Grantee and a set-off against any sums owed Grantee by the **INSERT JURISDICTION**.

Section 22. MISCELLANEOUS PROVISIONS

22.1 Compliance with Laws.

(A) Grantee shall comply with all applicable federal and state laws.

(B) Nothing in this Franchise is intended to authorize the Grantee to engage in any activity constituting a violation of federal or state antitrust laws, including, but not limited to, the Sherman Act, the Clayton Act, the Robinson-Patman Act or any related amendments or regulatory provisions.

22.2 Mediation. The **INSERT JURISDICTION** and Grantee agree that should any dispute arise between the parties concerning any aspect of this Franchise which is not resolved by mutual agreement of the parties, and unless either party believes in good faith that injunctive relief is warranted, the dispute shall be submitted to mediated negotiation prior to any party commencing litigation. In such event, the **INSERT JURISDICTION** and Grantee agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties. In the absence of such mutual agreement, each party shall select a temporary mediator, and those mediators shall jointly select a permanent mediator. In the mediation proceeding, the **INSERT JURISDICTION** and the Grantee shall attempt, in good faith, to agree to modifications to the Franchise so that the net rights and obligations of the **INSERT JURISDICTION** and the Grantee remain substantially the same after the modification, as they were prior to the events and circumstances leading to the mediation proceeding. If the **INSERT JURISDICTION** and Grantee are unable to successfully conclude the mediation within forty-five (45) days from the date of the selection of the mediator, either party may terminate further mediation by sending written notice. After written notice has been received by the other party, either party may request arbitration, as set forth in Section 22.3, or may pursue whatever legal remedies exist. All costs associated with mediation shall be borne, equally and separately, by the parties.

22.3 Arbitration.

(A) Any dispute between the parties hereto, including but not limited to disputes or controversies arising from or related to interpretation of this Franchise, may be arbitrated provided that the parties consent in writing to the arbitration. Such arbitration will be final and binding, and the parties shall have no right to appeal from the arbitrator's decision.

(B) **INSERT JURISDICTION** may initiate arbitration by resolution, while Grantee may choose to initiate arbitration by sending written notice to the **INSERT JURISDICTION**.

(C) After arbitration has been initiated, the **INSERT JURISDICTION** and Grantee may agree that one arbitrator may conduct the arbitration. If the parties are unable to agree upon the identity of the arbitrator within twenty (20) days after the arbitration has been initiated, the arbitrator shall be selected by the presiding civil judge of the Multnomah County Circuit Court.

(D) If either the **INSERT JURISDICTION** or Grantee does not consent to having one arbitrator conduct the arbitration, the arbitration shall be conducted by three arbitrators, who shall be selected as follows:

(1) If the **INSERT JURISDICTION** initiates arbitration, the **INSERT JURISDICTION** shall select one arbitrator and Grantee by written notice shall select one arbitrator within fifteen (15) days after passage of the resolution. If Grantee initiates arbitration, it shall identify its selected arbitrator in its written notice, and the Jurisdiction shall select one arbitrator, within fifteen (15) days after receiving the notice.

(2) The two selected arbitrators shall select a third arbitrator within fifteen (15) days after the appointment of the second arbitrator. If the two (2) arbitrators are unable to agree upon a third arbitrator within the time limit, the third arbitrator shall be appointed by the presiding civil judge of the Multnomah County Circuit Court.

(E) After selection of the arbitrator(s), the arbitrator(s) shall take an oath to serve neutrally and impartially. The arbitrator(s) shall then schedule a date, time and place for the arbitration hearing. The hearing shall occur not less than one hundred and twenty (120) days after the appointment of the arbitrator (or the third arbitrator, if three (3) arbitrators are used), unless extended by mutual agreement of the **INSERT JURISDICTION** and Grantee. The arbitrator(s) shall make a written report to the **INSERT JURISDICTION** and Grantee on the final determination within sixty (60) days after completion of the hearing. If the arbitration is conducted by three (3) arbitrators, the determination of a majority of the arbitrators shall constitute a final, binding arbitration determination.

(F) The arbitrators shall have such powers as are set forth in ORS 36.335.

(G) The **INSERT JURISDICTION** and Grantee shall share equally the fees and costs of the arbitrator(s).

22.4 Continuity of Service. It shall be the right of all Subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to Upgrade, modify or sell its Cable System, the Grantee shall make a good faith effort to ensure that all Subscribers receive continuous, uninterrupted service regardless of the circumstances during the term of this Franchise. In the event of purchase, lease-purchase, condemnation, acquisition, taking over or holding of plant and equipment by the **INSERT JURISDICTION** under Section 16, including subsequent assignment, sale, lease or other transfer to any other Person, the Grantee shall operate the Cable System for such reasonable periods as are necessary to maintain continuity of Cable Service to all Subscribers.

22.5 Severability. If any Section, provision or clause of this Franchise is held by a court of competent jurisdiction to be invalid or unenforceable, or is preempted by federal or state laws or regulations, the remainder of this Franchise shall not be affected, except as is otherwise provided in Section 16.2.

22.6 No Recourse against **INSERT JURISDICTION**. To the extent provided by law, Grantee's recourse against the **INSERT JURISDICTION** or their officials, boards, agents or employees for any claim arising from any provision or requirement of this Franchise shall be limited to injunctive relief and declaratory relief.

22.7 Nonenforcement by the **INSERT JURISDICTION**. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure of the **INSERT JURISDICTION** to enforce prompt compliance, nor does the **INSERT JURISDICTION** waive or limit any of its rights under this Franchise by reason of such failure or neglect.

22.8 Action by Agencies or Courts. Grantee shall promptly notify the **INSERT JURISDICTION** in the event that any agency of the federal government or the State of Oregon or any court with competent jurisdiction requires the Grantee to act inconsistently with any provisions of this Franchise. Upon receipt of such notification, the **INSERT JURISDICTION** or the Grantee may determine if a material provision of this

Franchise has been affected. Upon such determination, the **INSERT JURISDICTION** or the Grantee may seek to modify or amend this Franchise, pursuant to Section 16.2, as may be necessary to carry out the parties' intentions and purposes under this Franchise.

22.9 Choice of Forum. Any litigation between the **INSERT JURISDICTION** and the Grantee arising under or regarding this Franchise shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

22.10 Notice. Any notice provided for under this Franchise shall be sufficient if in writing and: (1) delivered personally to the following addressee; (2) deposited in the United States Mail, postage prepaid, certified mail, return receipt requested; (3) sent by overnight or commercial courier (such as Federal Express); or, (4) sent by facsimile transmission addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the **INSERT JURISDICTION**:

Attn: Director
Mt. Hood Cable Regulatory Commission
1211 SW 5th Avenue, Room 1160
Portland, Oregon 97204
FAX No. (503) 823-5370

With a copy to: MHCRC Legal Counsel
c/o City Attorney's Office
Room 315, City Hall
1221 SW 4th Avenue
Portland, Oregon 97204
FAX No. (503) 823-3089

If to the Grantee:

INSERT APPLICANT INFORMATION

Any such notice, communication or delivery shall be deemed effective and delivered upon the earliest to occur of either actual delivery; three (3) business days after depositing in the United States mail as aforesaid; one (1) business day after shipment by commercial courier as aforesaid; or the same day as facsimile transmission (or the first business day thereafter if faxed on a Saturday, Sunday or legal holiday).

22.11 Reasonability of Actions. In any matter provided for in this Franchise involving discretionary acts by the **INSERT JURISDICTION**, including but not limited to the giving of consent, approval or instructions, the **INSERT JURISDICTION** shall act in a manner that is reasonable under the circumstances.

22.12 Force Majeure.

(A) For purposes of this Franchise, the term "Force Majeure" shall mean acts of God, landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, acts of terrorism or of the public enemy, partial or entire failure of utilities, strikes, explosions, lockouts or other industrial disturbances, insurrections, public riots or other similar events which are not reasonably within the control of the parties hereto.

(B) If the Grantee is wholly or partially unable to carry out its obligations under this Franchise as a

result of Force Majeure, the Grantee shall give the **INSERT JURISDICTION** prompt notice of such Force Majeure, describing the same in reasonable detail, and Grantee's obligations under this Franchise, other than for the payment of monies due, shall not be deemed in violation or default for the duration of the Force Majeure. Grantee agrees to use its best efforts to remedy as soon as possible, under the circumstances, Grantee's inability, by reason of Force Majeure, to carry out its responsibilities and duties under this Franchise.

22.13 Other Authority and Written Modification. Except as otherwise expressly provided in this Franchise, this Franchise contains the entire agreement between the **INSERT JURISDICTION** and the Grantee. All prior franchise agreements between the **INSERT JURISDICTION** and the Grantee shall be superseded. This Franchise may not be altered or modified orally but only by an instrument in writing executed by duly authorized representatives of the **INSERT JURISDICTION** and the Grantee. For the **INSERT JURISDICTION**, such authority may only be granted by ordinance or resolution enacted by the **INSERT JURISDICTION**.

Section 23. GUARANTY.

23.1 Executed Guaranty. On or before thirty (30) days after this Franchise becomes effective, the Guarantor shall file with the **INSERT JURISDICTION**'s Clerk or Recorder a written guaranty, duly executed by the Guarantor.

INSERT APPLICANT PROPOSAL REGARDING GUARANTY

23.2 Failure to File Guaranty. Any failure on the part of the Guarantor to file such written guaranty within such time shall be deemed an abandonment and rejection of the rights and privileges otherwise conferred upon the Grantee by this Franchise, and this ordinance shall thereupon be null and void.

Section 24. EXECUTION

24.1 Execution of Agreement. On or before thirty (30) days after this Franchise has been executed by the **INSERT JURISDICTION**, as authorized by the **INSERT JURISDICTION**'s governing body, Grantee shall file with the **INSERT JURISDICTION**'s Clerk or Recorder a fully executed original of this Franchise, as signed by a properly authorized officer of the Grantee.

24.2 Failure to File Executed Agreement. Any failure by the Grantee to comply with the requirements of Section 24.1 within the thirty (30) day period shall be deemed an abandonment and rejection of the rights and privileges conferred by this Franchise, and this Franchise shall thereupon be null and void without any further action by the **INSERT JURISDICTION**.

MHCRC STANDARD CABLE FRANCHISE, STANDARDIZED EXHIBITS

EXHIBIT A: Intergovernmental Agreement - Mt. Hood Cable Regulatory Commission
http://www.mhcr.org/docs/about_intergovernmental_agreement.pdf

EXHIBIT B: Signature Page or Execution/Acceptance Form, TBD