

AGREEMENT
between
COUNTY OF CAROLINE, VIRGINIA
and
CHARTER COMMUNICATIONS, LLC.

THIS AGREEMENT (the “Agreement”) is made this ____ day of _____, 2004 (**the “Effective Date”**) by and between the **COUNTY OF CAROLINE, VIRGINIA, (the “County”)** and **CHARTER COMMUNICATIONS, LLC Ika CHARTER COMMUNICATIONS, (“Charter” or “the Grantee”)** (**together the “Parties”**).

WHEREAS, Charter has asked the County to renew Charter’s nonexclusive Franchise (**the “Prior Franchise”**) to own, construct, reconstruct, install, maintain, operate, dismantle, test, upgrade, repair, use, and remove a Cable System (as hereinafter defined) in the County; and

WHEREAS, the construction, installation, reconstruction, maintenance, operation, dismantling, testing, upgrade, repair, use, and removal of such a system involves the occupation of and placement of private commercial facilities along, under, over, above, through or across the Public Rights-of-Way or public land within the County; and

WHEREAS, the County has reviewed Charter’s performance under the Prior Franchise and the over-all quality of service during the term of the Prior Franchise, has identified the future cable-related needs and interests of the County and its citizens, has considered the financial, technical and legal qualifications of Charter, has determined whether Charter’s plans for constructing, operating and maintaining its Cable System are adequate, and has determined that the foregoing meet the requirements of 47 U.S.C. § 546; and

WHEREAS, the County has relied on Charter’s representations contained in this Franchise Agreement and has considered the information that Charter has presented to it; and

WHEREAS, based on Charter’s representations in this Franchise Agreement, the Board has determined that, subject to the terms and conditions set forth herein and the provisions of Chapter A130, Article 1, of the Code of Caroline County, known as the Caroline County Cable Television Ordinance (**the “Cable Ordinance” or the “Ordinance”**), the grant of a new nonexclusive Franchise to Charter, to supersede the Prior Franchise, is consistent with the public interest; and

WHEREAS, the County and Charter have reached agreement on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the foregoing recitals, which are a part of the agreement, the mutual benefits, promises, and undertakings of the parties to this agreement, the sufficiency of which are acknowledged by the parties, the parties hereby covenant and agree as follows.

1. DEFINITIONS.

When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words “shall” and “will” are mandatory, and “may” is permissive. Unless otherwise expressly stated, words not defined herein or in the Cable Ordinance shall be given the meaning set forth in Va. Code § 15.2-2108 or, if not in conflict, Title 47 of the United States Code, as amended, and if not defined therein, their common and ordinary meaning.

“Access Channel” means any Channel on the Cable System set aside under this Agreement for noncommercial educational or governmental use.

“Affiliate” means an entity that owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

“Basic Cable Service” means the initial service including, but not limited to, mandatory carriage signals and local access channels and such other service as the FCC may mandate and such additional signals, channels and services as the Grantee may elect to include. This shall not include optional Premium Service Tiers or pay-per-view or pay-per-channel services as herein defined, as long as they are sold separately from Basic Cable Service.

“Board” means the Board of Supervisors of the County of Caroline, Virginia.

“Cable Act” means the Cable Communications Policy Act of 1984, as amended.

“Cable Ordinance” means Chapter A130, Article 1, of the Code of Caroline County.

“Cable Service” means the one-way transmission to subscribers of (i) video programming or and (ii) other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

“Cable System” means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, except that such definition shall not include (i) a system that serves fewer than twenty Subscribers, (ii) a facility that serves only to

retransmit the television signals of one or more television broadcast stations, (iii) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way, (iv) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Communications Act of 1984, 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, (v) any facilities of any electric utility used solely for operating its electric systems, or (vi) any portion of a system that serves fewer than fifty Subscribers in any locality, where such portion is a part of a larger system franchised in an adjacent locality.

“Channel” means a portion of the electromagnetic frequency spectrum that is used in a Cable System and that is capable of delivering a video signal as that term is defined by the Federal Communications Commission, as of the Effective Date of this Agreement.

“Control,” as used in Section 3, of this Agreement, is not limited to majority stock ownership, but includes actual working control in whatever manner exercised as determined by the rules and policies of the FCC.

“County” means the County of Caroline, Virginia.

“Educational Access Channel or Educational Channel” means any Channel required by this Franchise Agreement to be provided by Grantee to the County for educational use.

“EG” means educational, and governmental.

“Fair Market Value” means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation and sale multiples prevailing in the industry at the time at which the new Grantee is required to purchase the current Grantee’s assets.

“Federal Communications Commission or FCC” means Federal Communications Commission, or successor governmental entity thereto.

“Franchise” means the franchise granted pursuant to this Agreement.

“Franchise Agreement or Agreement” means this contract and any amendments, exhibits or appendices hereto.

“Franchise Area” means that area of the County being served by the Grantee as of the termination of the Prior Franchise plus any additions or extensions made during the Term of this Franchise Agreement.

“Franchise Fee” This term shall have the meaning given to it in Section 7(a) herein.

“Governmental Access Channel or Governmental Channel” means any Channel required by this Franchise Agreement to be provided by Grantee to County and set aside by the Grantee for government use.

“Grantee” means Charter Cablevision of Virginia, Inc., a Virginia corporation, and its lawful and authorized successors, assigns, and transferees.

“Grantee’s Cable System” means the Cable System of the Grantee in the County, which shall be subject to either the Prior Franchise or the Franchise, as the context requires.

“Gross Revenues” means those revenues, including installation fees, subscriber fees and disconnect and reconnect fees, derived from the supplying of regular subscriber service. Gross Revenues shall include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenues (rate card less contra-revenues for agency fees) and home shopping revenues. “Gross Revenues” shall not include subscriber deposits, refunds and credits made to subscribers, uncollected bad debt, or any taxes imposed on the service furnished by Grantee herein which are imposed directly on the subscriber or user by the local or any governmental unit and collected by Grantee on behalf of that governmental unit; nor shall Gross Revenues include any money received by Charter by any channel provider as an incentive to carry a particular programming channel.

“Institutional Network or I-Net” means an institutional network constructed for the benefit of the County, as that term is used in 47 U.S.C. Sec. 531(f).

“Normal Operating Conditions” means those service conditions that are within the control of the Grantee. Those conditions that are not within the control of the Grantee include natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the Grantee include special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance and upgrade of the Cable System.

“Person” means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, joint stock company, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, governmental entity, or any other group or combination acting as a unit.

“Prior Franchise” means the cable television franchise accepted by Charter Cable, on or about _____

“Service Tier” means a category of Cable Service or other services provided by Grantee and for which a separate rate is made by Grantee.

“Subscriber” means any member of the general public who contracts with Grantee to receive or otherwise lawfully receives (except for resale) Grantee’s Basic Service and/or any one or more of such other Cable Services as may be provided on the HSN.

“System Upgrade” means a major improvement or enhancement in the technology or service capabilities made by the Grantee to Grantee’s Cable System, as more fully described in Section 5(c) herein.

“Transfer of the Franchise,” as used in Section 3 of this Agreement, means any transaction in which: (A) any ownership or other right, title, or interest of fifty percent (50%) or more in the Grantee, its Cable System, or any Person that is a Cable Operator of Grantee’s Cable System, is transferred, sold, assigned, directly or indirectly; to any entity that does not presently control the Grantee; or (B) there is any transfer of control of the Grantee or (C) the Grantee is transferred to another entity; or (D) any change or substitution occurs in the managing general partners of the Grantee, where applicable, but Transfer shall not include transactions in which (I) Grantee transfers in trust, by mortgage, hypothecation, or by assignment any rights, title, or interest of this Grantee in the Franchise or in the Cable System to secure indebtedness, or (II) the Grantee is reorganized within another corporation owned, owning, or commonly controlled by Charter Corporation, if such transaction does not materially affect the ultimate control of the Grantee or the sources and amount of funds available to the Grantee.

“User” means a person or organization using an EG Channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

“Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

2. GRANT OF AUTHORITY LIMITS AND RESERVATIONS

(a) Grant of Authority.

Subject to the terms and conditions of this Agreement and the Cable Ordinance, the County hereby grants the Grantee the right to own, install, construct, reconstruct, operate, maintain, dismantle, test, upgrade, repair, use and remove a Cable System along, under, over, above, through or across or in any manner connected with the Public Rights-of-Way or public land within the Franchise Area, for the sole purpose of providing Cable Service. This Franchise shall grant no authority for the Grantee to use the County’s Public Rights-of-Way or public land for any purposes other than the provision of Cable Service, except as hereinafter expressly provided.

The consideration provided by Grantee under this Agreement shall be the only consideration due or required from the Grantee to the County for the right to use and occupy the Public Rights-of-Way and public land. No reference herein to a Public Right-of-Way shall be deemed to be a representation or guarantee by the County that its interest or other right to control the use of such property is sufficient to permit the Grantee's use for specific purposes, and the Grantee shall be deemed to gain only those rights to use that are within the County's power to convey. No privilege or power of eminent domain is bestowed by this grant or by this Agreement. This Agreement does not confer any rights other than as expressly provided herein or as implied under federal, state or local law.

(b) Area Served.

(1) The Franchise is granted for the Franchise Area defined herein.

(2) The Grantee shall build Grantee's Cable System so that it is able to provide service to all Subscribers and potential Subscribers passed by the Grantee's Cable System as of the Effective Date of this Agreement and to other areas as provided in § A130-18 of the Cable Ordinance. Charter shall build its Cable System so that it can extend service to all residents geographically located within the Franchise Area, including residents located in areas which may be added to the County's jurisdiction as required by § A130-18 of the Cable Ordinance, in accordance with the provisions of this Agreement, unless this requirement is waived in writing by the County.

(c) Term

The Franchise and this Franchise Agreement shall extend for a term of fifteen years, commencing on the date accepted below by the Grantee, unless the Franchise is earlier revoked or its term shortened as provided herein or in the Cable Ordinance, or unless the Franchise is renewed or extended by mutual agreement.

(d) Competitive Equity.

The Grantee acknowledges and agrees that the Franchising Authority reserves the right to grant one or more additional franchises to provide Cable Service within the Franchise Area; provided, however, that no such franchise agreement shall contain terms or conditions more favorable or less burdensome to the competitive entity than the material terms and conditions herein, including, but not limited to: franchise fees; insurance; system build-out requirements; performance bonds or similar instruments; public, education and government access channels and support; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. If any such additional or competitive franchise is granted by the Franchising Authority which, in the reasonable opinion of the Grantee, contains more favorable or less burdensome terms or conditions than this Franchise Agreement, the Franchising Authority agrees that it shall amend this Franchise Agreement to include any more favorable or less burdensome terms or conditions.

(e) Franchise Agreement Subject to Other Laws.

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This Franchise Agreement is subject to and shall be governed by all applicable provisions of federal, state, and local law.

(f) Franchise Agreement Subject to Exercise of Police Powers.

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All rights and privileges granted herein are subject to the exercise of the police powers of the County and its rights under applicable laws and regulations to reasonably exercise its police powers to their full extent and to regulate the Grantee and the construction, operation and maintenance of the Grantee's Cable System, including, but not limited to, the right to adopt and enforce additional ordinances and regulations as the County shall find necessary in the exercise of its police powers, the right to adopt and enforce applicable zoning, building, permitting and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations containing Public Rights-of-Way, telecommunications, cable communications, utility and cable television consumer protection and service standards and rate regulation provisions.

(g) Material Alteration.

Notwithstanding the provisions of Section 2(i), if the Grantee's rights, benefits, obligations or duties specified in this Agreement are materially altered as the result of changes in County ordinances that are incorporated by reference or otherwise, then this Agreement shall be promptly amended so that the rights, benefits, obligations and duties of Grantee set forth in this Agreement as of the Effective Date are preserved or restored to the maximum extent possible, with such amendment to be effective as of the date of the material alteration. In the event that the parties are unable to agree upon an amendment, the scope of any amendment shall be determined by a court of competent jurisdiction.

(h) Approval and Effective Date.

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This Franchise Agreement shall become effective on _____ (the "Effective Date"), following its approval by the Board and its written acceptance by the Grantee, provided that if the Grantee fails to accept the Franchise within thirty (30) days after approval by the Board, whichever is later, the Franchise shall be deemed void.

(i) Effect of Acceptance.

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By accepting the Franchise and executing this Franchise Agreement, the Grantee: (1) accepts and agrees to comply with the Caroline County Code, including each provision of the Cable Ordinance and this Agreement, (2) acknowledges and accepts the County's legal right to grant the Franchise, to enter into this Franchise Agreement, and to enact and enforce ordinances and regulations related to the Franchise; (3) agrees

that the Franchise was granted pursuant to processes and procedures consistent with applicable law; (4) agrees that the County retains the absolute right to terminate this Agreement for any material violation by the Grantee of any substantive provision of Chapter A130 of the Code of the County of Caroline or any term or condition hereof, as provided by § A130-28 of the Cable Ordinance and Section 12 of this Agreement and (5) agrees that any costs to the Grantee associated with the provision of capital support for EG access pursuant to this Franchise Agreement do not constitute franchise fee payments within the meaning of 47 U.S.C. § 542, and fall within one or more of the exceptions to 47 U.S.C. § 542.

(j) Claims Related to Prior Franchises.

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(1) The Grantee shall remain liable for payments of all franchise fees owed to the County under the Prior Franchise, if any exist, that are accrued but unpaid prior to the Effective Date. The grant of the Franchise shall have no effect on the Grantee's duty under the Prior Franchise to indemnify or insure the County against acts and omissions occurring during the period that the Prior Franchise was in effect; to return any overcharges that are determined to be due to Subscribers for the period that the Prior Franchise was in effect; and to correct any construction violations for which (i) written notice identifying the nature and location of the violation with sufficient specificity to allow the Grantee to correct the violation has been given to Grantee prior to the Effective Date of this Agreement and (ii) the violation has not been cured by the Effective Date of this Agreement.

(2) Except as provided in paragraph (1), as of the Effective Date of this Franchise Agreement, the Prior Franchise is superseded and is of no further force and effect, and the County and the Grantee mutually release each other from any claims each had, has or may have against the other under the Prior Franchise.

(k) No Waiver.

(1) The failure of either party on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the Cable Ordinance or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the other party, nor to excuse the non-performing party from complying or performing, unless such right or such compliance or performance has been specifically waived in writing. Waiver of a breach of this Franchise Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision. Neither the granting of the Franchise, nor any provision herein, nor any action by the County hereunder shall constitute a waiver of or a bar to the exercise of any police right or power of the County, including without limitation, the right of eminent domain.

(2) Whenever this Agreement sets forth any time for any act to be performed by or on the behalf of Grantee, such time shall be deemed of the essence and the Grantee's failure to perform within the time allotted shall, in all cases, be sufficient

grounds for the County to invoke the remedies available under the terms and conditions of this Cable Ordinance and this Agreement.

(3) Nothing in this agreement shall be construed as a waiver of any right of the Grantee unless such waiver is expressly stated and defined herein.

(l) Limitation on Liability.

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In any court proceeding involving any claim against the County or other governmental entity, or any official, member, employee or agent of the County, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a Franchise, any relief, to the extent such relief is required by any other provision of federal, state, or local law, shall be limited to injunctive relief and declaratory relief.

(m) Amendment of Franchise Agreement.

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This Agreement may only be amended by mutual written consent of the County and the Grantee, including but not limited to such consent and/or court order pursuant to Section 2(g).

(n) Renewal.

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Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended.

(o) Transfer or Change of Control of Cable System or Franchise.

Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No change in control of the Grantee, defined as an acquisition of 50% or greater ownership interest in Grantee, shall take place without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed.

(p) Application.

(1) The Franchisee shall notify the County as soon as possible of any proposed Transfer.

(2) At least one hundred twenty (120) calendar days prior to the contemplated effective date of a Transfer, the Franchisee shall submit to the County a written application for approval of the Transfer. Such an application shall include details on the legal, financial, and technical qualifications of the proposed transferee.

(3) For the purposes of determining whether it shall consent to a Transfer, the County or its agents may inquire into the legal, technical and financial qualifications of the prospective transferee as the County may deem necessary to determine whether the Transfer is in the public interest and should be approved or denied. The Franchisee and any prospective transferees shall assist the County in any such inquiry.

(4) Within thirty (30) days of receiving a request for transfer, the County shall, in accordance with FCC rules and regulations, notify the Franchisee in writing of any additional information it requires to determine the legal, financial and technical qualifications of the transferee. If the County has not taken action on the Franchisee's request for transfer within one hundred twenty (120) days after receiving such request, consent to the transfer shall be deemed given unless the County and Franchisee otherwise agree to an extension of time.

(q) Determination by County.

In making a determination as to whether to grant, deny, or grant subject to conditions an application for a Transfer, the County may consider the legal, financial, and technical qualifications of the transferee to operate the System and whether the Transfer is in the public interest.

3. PROVISION OF CABLE SERVICE

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(a) Availability of Cable Service.

The Grantee shall make Cable Service available on the Cable System in accordance with the terms of this Franchise Agreement to all residences, businesses and other structures within the Franchise Area, including multiple dwelling unit buildings, whose owners or occupants request Cable Service, except for multiple dwelling unit buildings and other locations to which the Grantee cannot legally obtain access; provided, however, that Grantee may refuse to provide Cable Service (i) when it is unable pursuant to normal industry practice to obtain necessary programming, real property or other access rights, or (ii) when its prior service, payment, or theft of service history with a Person has been unfavorable, or (iii) pursuant to a written waiver by the Board or its designee.

(b) Line Extension Requirements.

(1) Service drops to residential Subscribers shall be governed by § A130-18 of the Cable Ordinance. The Grantee is authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least twenty five (25) households, which have agreed to pay for service for one (1) year and which are within one mile of its distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual

connection fees for all Subscribers, provided that such extension is technically feasible and will not adversely affect the operation, financial condition, or market development of the Cable System.

(2) No Subscriber shall be refused service arbitrarily. However, for special circumstances (such as a Subscriber's request to locate the cable drop underground, or the need for under-highway crossings, or the existence of more than one hundred and fifty (150) feet of distance from distribution cable to connection of service to Subscribers, or a density of less than twenty five (25) households per mile) Cable Service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements.

(3) For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which Cable Service may be extended, Grantee will contribute an amount equal to the construction and other costs per half mile, multiplied by a fraction whose numerator equals the actual number of potential subscribers desiring service per mile, and whose denominator equals twenty-five (25) Subscribers. Potential subscribers will bear the remainder of the construction and other costs on a pro rata basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance.

(4) Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied.

(c) Continuity of Service.

(1) It is the right of all Subscribers in the Franchise Area to receive all available Cable Services they request from the Grantee as long as their financial and other obligations to the Grantee are satisfied; provided, however, that Grantee may refuse to provide Cable Service when (i) it is unable pursuant to normal industry practice to obtain necessary programming, real property or access rights, (ii) when its prior service, payment, or theft of service history with a Person has been unfavorable, or (iii) pursuant to written waiver by the Board.

(2) The Grantee shall operate Grantee's Cable System pursuant to this Franchise without interruption, except as otherwise provided in this Franchise Agreement. Following the expiration or revocation of its Franchise, the Grantee shall, at the County's request, as trustee for its successor in interest, operate Grantee's Cable System for a temporary period (**the "Transition Period"**) as necessary to maintain

service to Subscribers, and shall cooperate with the County to assure an orderly transition from it to the County or another franchise holder.

(3) During the Transition Period, the Grantee shall not sell any of Grantee's Cable System assets, nor make any physical, material, administrative or operational change that would tend to degrade the quality of service to Subscribers, decrease Gross Revenues, or materially increase expenses without the express permission, in writing, of the County or its assigns.

(4) The County may seek legal and/or equitable relief to enforce the provisions of this Section.

(5) The Transition Period shall be no longer than the reasonable period required to arrange for an orderly transfer of cable service to the County or to another franchise holder, unless mutually agreed to by the Grantee and the County. During the Transition Period, the Grantee and the County will continue to be obligated to comply with the terms and conditions of this Agreement and applicable laws and regulations.

(6) For its management services during the Transition Period, the Grantee shall be entitled to receive as compensation the Net Income generated during the Transition Period.

(7) If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with the terms of this Agreement during any Transition Period, the County, at its option, may operate Grantee's Cable System, designate another entity to operate Grantee's Cable System temporarily until the Grantee restores service under conditions acceptable to the County or until the Franchise is revoked and a new grantee selected by the County is providing service, or obtain an injunction requiring the Grantee to continue operations.

(8) The County shall be entitled to injunctive relief under the preceding paragraph if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise Agreement or the Cable Ordinance for a portion of the Franchise affecting over ten percent of the County's subscribers for one week, unless the County authorizes a longer interruption of service or the failure is due to *force majeure* as characterized in Section 16 herein; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise Agreement and the Cable Ordinance for a portion of the Franchise Area affecting over ten percent of the County's residents.

(C)

4. CONSTRUCTION AND MAINTENANCE

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(a) Construction Schedule

(1) The Grantee shall construct and activate Grantee's Cable System in accordance with the requirements of the Cable Ordinance and the specifications contained in this Agreement.

(2) The Grantee agrees that it will make no charge or claim whatsoever to the County, for hindrance or delay of the work, from any cause during the progress of the same, but this limitation shall not prevent the Grantee from making a charge or claim asserting that the County has unreasonably withheld any permit required for the construction or activation of Grantee's Cable System.

(b) Construction Standards

(1) The construction, operation, maintenance, and repair of the System shall be in accordance in all material respects with all applicable sections of the Occupational Safety and Health Act of 1970, as amended; the National Electrical Safety Code and National Electric Code; Obstruction Marking and Lighting, AC 70/7460 i.e., Federal Aviation Administration; Construction, Marking and Lighting of Antenna Structures, Federal Communications Commission Rules Part 17; the Cable Ordinance; Applicant's Construction Procedures Manual; the Virginia Uniform Statewide Building Code; conditions embodied in Virginia Department of Transportation permits; and other generally applicable federal, state, or local laws and regulations, all as hereafter may be amended or adopted. In the event of a conflict among codes and standards, accepted cable industry practices shall control (except insofar as such practices, if followed, would result in a Cable System that could not meet express requirements of federal, state or local law, or in instances in which such practices are expressly preempted by other standards). Consistent with the foregoing, the Grantee will perform all work in an orderly and workmanlike manner throughout the Franchise term.

(2) In the event of any deregulation of technical or other standards for construction, installation, operation or maintenance of Grantee's Cable System, such standards or regulations shall be suspended. To the extent permitted by applicable law, the County reserves the right to adopt and impose such standards as it may deem necessary or appropriate, after notice to Grantee and opportunity for Grantee to participate.

(3) All wires, cable lines, and other transmission lines, equipment, and structures shall be installed and located consistent with cable industry practices, and where feasible without additional cost to Grantee, in such a manner as to cause minimum interference with the rights and convenience of property owners (including the County) and users of the Public Rights-of-Way and other public property. The County may from time to time issue reasonable rules and regulations, after notice to Grantee and

opportunity for Grantee to participate, concerning the construction, operation and repair of Grantee's Cable System as appropriate to ensure compliance with this Section.

(4) The Grantee shall update its existing NCTI Construction Procedures Manual and an Installation Procedures Manual, when applicable, addressing matters including but not limited to, changes in technology, construction and maintenance procedures, and acceptance practices. Upon request, the Grantee shall provide the County with copies of these manuals, and their procedures shall be consistent with the provisions of this Agreement.

(5) All installation of electronic equipment shall use durable components. Cables and wires shall be buried, lashed or housed in a reasonable period of time.

(6) Without limiting the foregoing, antennae and their supporting structures (towers) shall be designed in accordance with the Virginia Uniform Statewide Building Code as amended, and shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.

(7) Without limiting the foregoing, all of the Grantee's plant and equipment, including, but not limited to, the antennae site, headend and distribution system, towers, house connections, structures, poles, wires, cable, coaxial cable, fiber optic cable, fixtures, and apparatuses shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices, performed by experienced and properly trained maintenance and construction personnel.

(8) The Grantee shall maintain all wires, conduits, cables, and other real and personal property and facilities comprising Grantee's Cable System in good condition, order and repair. Consistent with subsection (1) above, all safety practices required by law shall be used during construction, maintenance, and repair of Grantee's Cable System. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents.

(c) Restoration of Public and Private Property.

(1) Except in emergency situations, neither the Grantee nor any other Person acting as agent for Grantee shall open or otherwise disturb or damage any street, sidewalk, driveway, Public Rights-of-Way or public land, public property or private property for any purpose whatsoever without obtaining required authorization to do so, and shall, at its own cost and expense, restore, repair and replace any property disturbed, damaged or in any way injured by or on account of its activities substantially to its condition immediately prior to the disturbance, damage or injury (including

appropriate landscape restoration); provided, however, that with respect to landscape restoration efforts, Grantee shall not be responsible for the maintenance and watering thereof, and Grantee shall not be required to resod lawns where reseeding would, within a reasonable period of time, restore the lawn substantially to its condition immediately prior to the disturbance. Grantee shall not be required to repave all or a substantial portion of a driveway if patching would be consistent with normal road repair requirements.

(2) Under Normal Operating Conditions, such repair or restoration shall be completed at the later of thirty (30) days from the date the damage is incurred or thirty (30) days from when the work causing such damage is completed. Any restoration of private property by Grantee shall be done in accordance with Grantee's contractual obligation to affected landowners. The Grantee shall guarantee such restoration (other than landscaping restoration) for at least one year against defective materials and workmanship.

(3) In the event of a failure by the Grantee to complete any work required for the protection or restoration of the Public Rights-of-Way, public land, or any other property as required by this subsection, within the time specified in this Franchise Agreement, the County, following adequate written notice and a reasonable opportunity to cure, may cause such work to be done, and the County shall submit an itemized list of such costs to Grantee as well as any materials reasonably requested by Grantee to verify such costs. Following the Grantee's receipt of such itemized list and supporting materials, the Grantee shall reimburse the County the cost thereof within thirty days, or the County may recover such costs through the performance bond provided by Grantee.

(4) The Grantee shall cooperate with all gas, electric, telephone, water, sewer and other utilities in the placement of facilities, equipment, or fixtures, to minimize the costs and disruption caused by any construction activities. Nothing expressed herein is intended to give rise to any third party rights between the Grantee and any utility company.

(d) The Grantee shall seek to shore up, sling, support, protect and make good, as directed, all water pipes, gas pipes, service pipes, sewers and sewer connections, conduits, ducts, manholes, drains, vaults, buildings, tracks or other structures, or sub-structures of public utility companies, and all service lines and structures, including sub-structures of private abutting owners, that are located within the lines of Grantee's Cable System construction that may be liable to disturbance or injury during the progress of the construction. All necessary supports and all labor and material necessary to reconnect and restore all such structures that become disturbed or damaged to substantially their original condition shall be provided by the Grantee at its own cost and expense.

(e) Removal and Relocation.

(1) Upon reasonable notice of any relocation project(s) that may require the Grantee to protect, support, temporarily disconnect, relocate, or remove any of

Grantee's property, then the County shall promptly notify the Grantee of the extent and likelihood of any such projects. Upon reasonable notice in accordance with the preceding sentence (except in the case of emergency repairs), the Grantee shall, by a time specified by the County, protect, support, temporarily disconnect, relocate, or remove any of its property when reasonably required by the County by reason of traffic conditions; public safety; Public Rights-of-Way or public land construction; Public Rights-of-Way or public land maintenance or repair (including resurfacing or widening); change of Public Rights-of-Way or public land grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility. Grantee shall be entitled to reimbursement of its costs and expenses.

(2) If the Grantee abandons any portion of Grantee's Cable System located in Public Rights-of-Way or on public land (i.e., permanently deactivates and leaves it in place), the County may require that such plant be removed at the Grantee's expense, at any time (i) if necessary, to make room for other facilities or (ii) if required by sound engineering practices, or (iii) to remove potential safety hazards. If Grantee requests to leave such an underground portion of Grantee's Cable System in place, the County shall grant such request upon a showing by the Grantee that its existing arrangements are safe and consistent with accepted underground utility practices as well as any other obligations it may have (such as pole attachment agreements).

(3) If any Person that is authorized to place facilities in the Public Rights-of-Way or on public land requests the Grantee to remove, relocate, protect, support, or temporarily disconnect its facilities to accommodate the construction, operation or repair of the facilities of such other Person at any time during the term of the Agreement, then the Grantee shall, upon request and reasonable notice from such party and consistent with applicable law, remove, relocate, protect, or alter the Grantee's Cable System, or any part thereof, and such Person shall reimburse the Grantee for the Grantee's costs and expenses; provided, however, that Grantee may require such payment in advance when its prior payment history with the requesting Person has been unfavorable.

(4) In the event of an emergency, or where the Grantee's Cable System creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, the Grantee shall remove or relocate any or all parts of Grantee's Cable System at the request of the County. If the Grantee fails to comply with the County's request, the County may remove or relocate any or all parts of the Grantee's Cable System upon reasonable notice to Grantee. If Grantee's compliance with the County's request pursuant to this subsection results in the breach of any of Grantee's obligations under this Agreement, and Grantee has so notified the County before complying with the County's request, Grantee shall not be liable for its failure to satisfy such obligations.

(5) The Grantee shall, on the request of any Person holding a valid building moving permit issued by the County, or on request of the County, temporarily

raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and the Grantee shall have the authority to require such payment in advance, except in the case where the requesting person is the County, in which case the Grantee will invoice the County, and the County will pay, following completion of work. The Grantee shall be given reasonable advance notice in writing to arrange for such temporary wire changes.

(f) Tree Trimming.

The Grantee shall have the authority to trim trees and shrubs located in the Rights of Ways, at its own expense, so as to prevent the branches of such trees or shrubs from coming in contact with the facilities, wires and cables of the Grantee.

(g) Permits and Obligations.

(1) The Grantee shall use, with the owner's permission, existing poles, conduits and other facilities whenever feasible and consistent with the design of Grantee's Cable System. The Grantee may not erect or emplace poles, conduits, or other facilities in Public Rights-of-Way or on public land without obtaining appropriate permits. Any permits from the County shall not be unreasonably withheld.

(2) No construction, upgrade, rebuild, reconstruction, maintenance, or relocation of Grantee's Cable System, or any part thereof, within any Public Rights-of-Way or public land shall be commenced unless permits have been obtained from proper officials, except that in case of emergency, the Grantee may carry out such work to the extent necessary pending the issuance of such permits, as long as the Grantee acts to secure such permits as soon as possible. The Grantee shall pay the County fees associated with such permits.

(3) Prior to commencing any work on public property which is expected to last more than six (6) hours, the Grantee shall provide the County with twenty-four (24) hours prior notice of such work, when possible. If twenty-four (24) hours prior notice cannot be furnished, the Grantee shall provide the County with the maximum amount of notice feasible under the circumstances. If prior notice cannot be provided before commencing such work in the Public Rights-of-Way or other public property, the Grantee shall notify the County as soon as possible thereafter. For purposes of this provision, notice shall where appropriate include the tax map location of the work proposed or performed, and the date such work will begin.

(h) Aerial and Underground Construction.

(1) Grantee's Cable System's cable and facilities may be constructed overhead where poles now exist and electric or telephone lines or both are now overhead, but where no overhead poles exist all cables and facilities, excluding passive or active electronics of Grantee's Cable System that may be housed in low-profile, above-ground pedestals, shall be constructed underground. Whenever and

wherever a property owner causes or requests electric lines and telephone lines to be moved from overhead to underground placement, all Grantee's Cable System cables shall likewise be moved underground and the cost of movement of its cable shall be paid for by the requesting party. Whenever and wherever the County causes or requests electric lines and telephone lines to be moved from overhead to underground placement, all Grantee's Cable System cables shall likewise be moved underground, and the County shall pay for the cost of movement of such cable. Except as federal law may otherwise require, in any area where the Grantee would be entitled to install a drop above-ground, the Grantee shall provide a homeowner with the option of having the drop installed underground, and may charge the homeowner the difference between the actual cost of the above-ground installation and the actual cost of the underground installation.

(2) The Grantee shall be a member of the regional notification center for subsurface installations, which shall field mark the locations of its underground facilities upon request.

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(3) Prior to erection or placement of any towers, poles, or conduits, the Grantee shall first submit to the County a description of Grantee's Cable System facilities proposed to be erected or installed indicating the proposed location of such facilities.

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(4) The County does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures.

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(i) Contractors and Subcontractors.

Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of Grantee's Cable System equipment must be properly licensed under the laws of the Commonwealth of Virginia and all local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as the Grantee would have if the work were performed by the Grantee. The Grantee shall seek to employ contractors, subcontractors and employees to perform work for it who are trained and experienced. The Grantee shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with the Franchise and applicable laws, regulations, policies and procedures.

(j) Notice.

Except for emergency maintenance or repairs, the Grantee shall provide reasonable notice to residents in any construction area prior to first entering onto their property to perform any work in conjunction with system construction or rebuild, and shall provide reasonable notice to affected residents in advance of any work which will involve excavation, or replacement of poles. The Grantee shall provide affected residents with a local name and phone number or a toll-free number they can call to discuss the Grantee's actions with a representative of the Grantee who is qualified to answer questions concerning proposed construction.

(k) System Tests and Inspections.

(1) The Grantee shall perform all tests necessary to demonstrate compliance with the requirements of the Franchise, and the technical standard of the FCC set forth in Part 76, Subpart K (Technical Standards) of the FCC's rules 47 C.F.R. § 76.601 et seq., including without limitation performance tests, technical standards, signal leakage performance criteria and cable television system monitoring. All tests shall be conducted in accordance with federal rules and any relevant edition of the National Cable Television Association's "Recommended Practices for Measurements on Cable Television Systems," or if no relevant edition exists, such other appropriate manual as the Grantee may propose and the County approve. In the event that the FCC's technical performance standards are repealed or are no longer applicable to the Grantee's Cable System, such standards shall remain in force and effect until the County Administrator or his designee and the Grantee agree to new standards.

(2) The Grantee shall conduct tests as follows:

(A) tests to assure the adequate performance on each newly constructed or rebuilt segment prior to Subscriber connection or activation, but not later than ninety (90) days after any newly constructed or substantially rebuilt segment is made available for service to Subscribers;

(B) proof of performance tests on the Grantee's Cable System at least once every six (6) months or as required by FCC rules, whichever is more often, except as federal law otherwise limits the Grantee's obligation; and

(C) special proof of performance tests of Grantee's Cable System or a segment thereof when Subscriber or User complaints indicate tests are warranted.

(3) The County may make independent performance tests of Grantee's Cable System, but shall not alter the operation of Grantee's Cable System without the Grantee's approval. The Grantee shall cooperate with the County in conducting such tests. Such independent tests shall be at the County's expense.

(4) Upon request, to the Grantee, the County shall have the right to witness and/or review all tests on newly constructed or rebuilt segments of Grantee's Cable System. The Grantee shall provide the County with at least two (2) business days' notice of, and opportunity to observe, any tests performed on Grantee's Cable System, except in emergency situations.

(5) Tests may be supervised by the Grantee's qualified personnel, who shall sign all records of tests provided to the County.

(6) The County may conduct inspections of construction areas and Subscriber installations, including but not limited to inspections to assess compliance

with the Grantee's construction and installation requirements. The County shall notify the Grantee of any violations found during the course of inspections, identifying the locations with particularity and stating the specific nature of the violation. The Grantee must bring violations as specified in the notice that are within Grantee's control into compliance as follows: (i) safety violations must be made safe within forty-eight (48) hours of receiving notice of the violation; (ii) Virginia Department of Transportation violations must be brought into compliance within five (5) days of receiving notice of the violation; and all other violations must be brought into compliance within thirty (30) days of receiving notice of the violation. After the specified time period, the Grantee must submit a report to the County describing the steps it has taken to bring itself into compliance. Inspection does not relieve the Grantee of its obligation to build in compliance with all provisions of the Franchise.

(7) A written report of test results of the tests required pursuant to Sections 5(k)(2)(A) and (C) shall be available at the Grantee office for inspection by the County within fourteen (14) days of each test. In addition, the Grantee shall retain written reports of the results of tests required pursuant to Section 5(k)(2)(B) and any other tests required by the FCC within four weeks of such tests. Grantee shall provide the County with copies of any such reports upon request by the County.

(8) If any test indicates that any part or component of Grantee's Cable System fails to meet applicable requirements, the Grantee, without requirement of additional notice or request from County, shall take corrective action, retest the locations, and record the action taken and results achieved in the logbook within fourteen (14) days.

(9) Successful completion of a test to assure successful performance for an upgraded portion of the System shall be required to constitute completion for such portion as part of the System Upgrade.

(l) Publicizing Proposed Construction Work.

The Grantee shall notify the general public prior to commencing any proposed construction that will significantly disturb or disrupt public property or Public Rights-of-Way or public land or have the potential to present a danger or affect the safety of the public generally. Where possible, the Grantee shall publicize proposed construction work at least one week prior to commencement of that work by notifying those residents and others in the immediate vicinity of where work is to be done and most likely to be affected by the work in at least one (1) of the following ways: by telephone, in person, by mail, by distribution of door hangers or flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice. Notice to affected Persons must include the name and local telephone number of a Grantee representative who is qualified to answer questions concerning proposed construction. In addition, before entering onto any Person's property for proposed construction work, the Grantee shall contact the property owner or (in the case of residential property) the resident at least two days in advance, when possible.

(m) System Maintenance.

The Grantee shall, when practicable, schedule and conduct maintenance on Grantee’s Cable System so that interruption of service is minimized and occurs during periods of minimum Subscriber use of Grantee’s Cable System. The Grantee shall provide reasonable prior notice to Subscribers and the County before interrupting service for planned maintenance or construction. Such notice shall be provided by methods reasonably calculated to give Subscribers actual notice of the planned interruption, and as provided by § A130-13G, of the Cable Ordinance.

5. SYSTEM FACILITIES, EQUIPMENT AND SERVICES

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(a) System Characteristics.

The Grantee’s Cable System generally shall have at least the following characteristics:

(1) modern design when built, utilizing an architecture that will permit additional improvements necessary for high quality and reliable service throughout the Franchise term;

(2) protection against outages due to power failures, so that back-up power is available at a minimum for at least 24 hours at each headend, four hours at each optical transmit node (“OTN”), and conforming to industry standards, but in no event rated for less than two hours, at each power supply site;

(3) facilities and equipment of good and durable quality, generally used in high-quality, reliable, systems of similar design;

(4) a system that conforms to or exceeds all applicable FCC technical performance standards, as amended from time to time, and any other technical performance standards lawfully established by the County, and that substantially conforms in all material respects to applicable sections of the standards and regulations set forth in Section 5(b)(1) to the extent such standards and regulations remain in effect and are consistent with accepted cable industry procedures for (i) technical standards applicable to Cable Systems or (ii) guidelines for physical plant construction and maintenance applicable to Cable Systems.

(5) facilities and equipment sufficient to cure violations of FCC technical standards and to ensure that Grantee’s Cable System remains in compliance with the standards specified in paragraph (4);

(6) such facilities and equipment as necessary to maintain, operate, and evaluate Grantee’s Cable System to comply with FCC technical standards, as such standards may be amended from time to time;

(7) all facilities and equipment designed to be capable of continuous twenty-four (24) hour daily operation in accordance with FCC standards except as caused by a force majeure condition;

(8) all facilities and equipment designed, built and operated in such a manner as to comply with all applicable FCC requirements regarding (i) consumer electronic equipment and (ii) interference with the reception of off-the-air signals by a subscriber;

(9) all facilities and equipment designed, built and operated in such a manner as to protect the safety of Grantee's Cable System workers and the public;

(10) sufficient trucks, tools, testing equipment, monitoring devices and other equipment and facilities and trained and skilled personnel required to enable the Grantee to substantially comply with applicable law, including applicable customer service requirements and including requirements for responding to system outages;

(11) all facilities and equipment required to properly test the system and conduct an ongoing and active program of preventive maintenance and quality control and to be able to quickly respond to customer complaints and resolve system problems;

(12) design capable of interconnecting with other broadband communications networks (including but not limited to wireless systems);

(13) antenna supporting structures (towers) designed in accordance with the Virginia Uniform Statewide Building Code, as amended, painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration, the Federal Communications Commission, and all other applicable codes and regulations;

(14) facilities and equipment at the headend allowing the Grantee to transmit or cablecast signals in substantially the form received, without substantial alteration or deterioration. For example, the headend should include equipment that will transmit color video signals received at the headend in color, stereo audio signals received at the headend in stereo, and a signal received with a secondary audio track with both audio tracks. Similarly, all closed-captioned programming retransmitted on the HSN shall include the closed-captioned signal in a manner that renders that signal available to Subscriber equipment used to decode the captioning;

(15) Grantee shall provide adequate security provisions in its Subscriber site equipment to permit parental control over the use of Grantee's Cable Service. Such a system will at a minimum offer as an option that a Person ordering programming must provide a personal identification number provided by the Grantee only to a Subscriber. Provided, however, that the Grantee shall bear no responsibility for

the exercise of parental controls and shall incur no liability for any Subscriber's or viewer's exercise or failure to exercise such controls.

(b) Current System.

The Grantee is authorized and required to operate Grantee's existing Cable System as set forth in Section 4(a) and (b) and to provide service meeting all applicable standards.

(c) System Upgrade.

(d) System Upgrade Schedule.

CHARTER STILL TO PROVIDE DETAILS OF SYSTEM UPGRADE

(e) Leased Access Channels.

The Grantee shall provide leased access channels as required by federal law.

(f) Interconnection.

(1) The Grantee shall design Grantee's Cable System so that it is capable of interconnecting with other cable systems or similar communications systems in the County at suitable locations as determined by the Grantee. Interconnection capabilities shall be provided for the exchange of all Access Channels designated and carried on the Cable System. Interconnection of systems may be made by direct cable connection, microwave link, satellite or other appropriate methods.

(2) At the request of the Board, the Grantee shall, to the extent permitted by applicable law and its contractual obligations to third parties, use every reasonable effort to negotiate an interconnection agreement with any other franchised Cable System in Caroline County for the Access Channels on the Cable System.

(3) Any County I-Net connections to other broadband networks will be the County's sole responsibility and done at the County's expense, but the Grantee will assist in any such effort as reasonably requested. The Grantee shall notify the County prior to any interconnection of Grantee's Cable System with other networks and shall allow Grantee an opportunity to submit a bid for any work necessary to provide such connections.

(4) The Grantee shall in good faith cooperate with the County in implementing interconnection of Access Channels with communications systems beyond the boundaries of the County at the County's sole expense. The County shall notify the Grantee of plans to make connections to any other networks and shall allow Grantee an opportunity to submit a bid for any work necessary to provide such connections.

(g) Emergency Alert System.

The Grantee shall install and thereafter maintain an Emergency Alert System (“EAS”) in compliance with all state and federal requirements and with any local emergency plan adopted by the County.

(h) Uses of System.

Grantee will notify the County of all active uses of the Grantee’s Cable System as promptly as possible after the institution of such uses.

(i) Home Wiring.

Grantee shall comply with all applicable FCC requirements, including any notice requirements, with respect to home wiring. Prior to a customer’s termination of Cable Service, the Grantee will not restrict the ability of a Subscriber to remove, replace, rearrange or maintain any cable wiring located within the interior space of the Subscriber’s dwelling unit, so long as such actions are consistent with FCC standards. The Grantee may require a reasonable indemnity and release of liability in favor of the Grantee from a Subscriber for wiring that is installed by such Subscriber.

(j) Mid-term Technical Review

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(1) The County may conduct a Mid-Term Technical Review of the Grantee’s Cable System once at any time, but not prior to the beginning of the tenth year of the Franchise. The Grantee shall fully cooperate and assist the County in conducting such review.

(2) Purpose: The Grantee and the County acknowledge that the technology of cable television systems is an evolving field. Therefore, in addition to the rights of the Grantee under Section 625 of the Cable Communications Policy Act of 1984, as amended (47 U.S.C. Sec. 545), the County may, within one hundred eighty (180) days from the commencement of the Mid-Term Technical Review, institute public proceedings upon not less than thirty (30) days written notice to the Grantee and the public, to review the state of technology in the cable television industry and the status of Grantee’s cable system in particular.

(3) To the extent that such proceedings disclose possible system improvements which appear to the County to be reasonable and appropriate for possible implementation, the Grantee shall, within ninety (90) days of a written request from the County to consider such system improvements, provide to the County an analysis of the estimated costs and potential benefits from the provision of such system improvements. If the County and Grantee determine that such improvements are economically and technically feasible, the Grantee and the County agree to enter into good faith discussions to determine how such improvements will be implemented. The County hereby acknowledges that an extension of the franchise may be required as a condition to

implementing any such improvements to the cable system in order to provide the Grantee with an ample opportunity to recoup its investment in such improvements.

(k) Periodic Progress Reporting.

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(1) Following the commencement of construction of the System or any similar major construction, once every three (3) months until the construction is completed, the Grantee shall, upon request, meet with the County and provide an update on the progress of the upgrade according to the Grantee's general plan, unless the County waives such meeting or written update. If the County submits a written request for a written report, Grantee shall provide a written report within a reasonable period of time of receiving such request.

(2) Public Notification. Prior to the beginning of any System construction, and periodically during each phase, the Grantee shall inform the public living in the affected area and its Subscribers of areas where construction crews will be working and any expected temporary interruptions to existing services which may occur.

(l) Equipment Compatibility.

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(1) The Grantee shall comply with all FCC regulations regarding scrambling or other encryption of signals, Subscriber premises equipment, equipment compatibility, and facilities and equipment that permit Subscribers to fully utilize the capabilities of consumer electronic equipment while receiving cable service. FCC regulations governing compatibility with consumer electronics equipment, as they may be amended from time to time, including but not limited to 47 C.F.R §§ 76.629 and 76.630, are incorporated herein by reference. The County shall have authority, consistent with applicable law, to adopt enforcement regulations to ensure that the Grantee complies with these FCC regulations.

(2) Upon request by a Subscriber or the County, the Grantee will provide accurate information regarding equipment compatibility and the availability of universal remote controls and other compatible equipment.

(3) As part of standard cable installation, without additional cost, the Grantee will install a new drop (or service line, running from the nearest existing distribution line located in the right of way) of 175 feet or less either aerial or underground or activate the existing drop/service line to the house. Grantee also will activate or connect one existing outlet, or if no outlet exists, install one outlet to a television. Grantee also will connect or set up the converter/digital box to the television, and give instruction on the operation of the converter or digital box.

(m) Types of Service.

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Any change in programs or services offered shall comply with all lawful conditions and procedures contained in this Agreement and in applicable law. The

Grantee shall provide thirty (30) days advance written notice to Subscribers and the County of any change in channel assignment or in the video programming service provided over any channel, unless this requirement is waived by the County or by operation of federal or state law, or due to events beyond the reasonable control of the Grantee.

(n) Offices.

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The Grantee shall maintain offices and/or retail sites at convenient locations within Caroline County or the cities and towns within Caroline County. These offices shall be open during normal business hours to allow subscribers to request service, pay bills, and conduct other business.

6. CHANNELS AND FACILITIES FOR EDUCATIONAL AND GOVERNMENTAL USE CHARTER IS STILL TO PROVIDE ALTERNATIVE PROPOSAL

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(a) Access Channels.

(1) Grantee will provide the County with up to two (2) EG channels, though Grantee reserves the right to utilize for its own purposes any portion of such channels not utilized for EG purposes. The EG channels will be provided upon request by the County.

(2) The Grantee shall make the EG channels available to all Subscribers residing within Caroline County in those areas where Grantee has authority to provide service.

(3) The Grantee shall have an obligation to provide playback, training, outreach, administrative support and production assistance to public access Users.

(4) If the County, in its sole discretion, finds unsatisfactory a contract for access services entered into pursuant to the preceding subsection (3), or the performance under such a contract, then the County may, in its sole discretion, undertake such management itself and the Grantee's obligations pursuant to Section 7(a)(3) may be entirely discharged.

(5) Each EG Channel shall be transmitted in standard 6 MHz, unscrambled NTSC format so that every Subscriber can receive and display the EG signals using the same converters and signal equipment that is used for other Basic Service Channels.

(6) If the Grantee makes changes to Grantee's Cable System that require improvements to access facilities and equipment, Grantee shall provide any necessary additional headend and distribution facilities or equipment within thirty (30)

days so that Access Channel facilities and equipment may be used as intended, including, among other things, so that live and taped programming can be cablecast efficiently to Subscribers.

(7) If any unused time (fallow time) exists on the access channels and Charter or any of its affiliates desires to distribute any service over such channels during such unused time, the Grantee shall so notify the County in writing. The Access Channels, or access channel time, shall be deemed unused only if the Access Channels or access channel time has not been used for the purposes described in this section during the thirty (30) day period immediately preceding the date of the notice described in the foregoing sentence. Charter's notice to the County shall describe Charter's or its affiliate's plans for use of the access channels. Charter or its affiliate may commence the distribution of the planned service over the access channels at the end of the thirtieth (30th) day after receipt of such notice, unless within such thirty (30) day period the County notifies the Grantee in writing that the County does not consent to the planned use of the access channels because such channels will be used for the purposes described in this Section. In the event that Charter or its affiliate is using the access channels or access channel time pursuant to this subsection, Charter or its affiliate shall relinquish such no earlier than sixty (60) days following the County's written request for same.

(b) Access Channel Assignment.

(1) Each EG Channel shall be delivered over the HSN with transmission quality the same as or better than the transmission quality of any other Channel on Basic Cable Service.

(2) The Grantee shall not arbitrarily or capriciously change Access Channel assignments, and the Grantee shall seek to minimize the number of such changes; provided, however, that the Grantee may change access channel assignments as it deems appropriate so long as (i) the Grantee gives the access channel programmer ninety (90) days notice of such change, and (ii) the Grantee provides reasonable advertising and promotional materials required to educate viewers of the reassignment.

(c) Capital Grant for Access Channel and I-Net Equipment and Facilities.

(1) The capital grant to the County specified in this subsection 7(c) (the "Access Channel and I-Net Capital Support Grant") shall be used by the County for Access Channel and I-Net capital costs, including, but not limited to: capital costs for equipment for filming, taping and broadcasting (live or tape delay), meetings or other public events; studio facilities; studio and portable production equipment; editing equipment and program playback equipment' I-Net equipment and dark fiber pursuant to this agreement.

(2) The Access Channel and I-Net Capital Grant Support Grant specified in this subsection 7(c) shall be payable as follows: one percent (1%) of Gross

Revenues, paid at the same time as the Franchise Fee beginning on the I-Net Commencement Date. In addition, Grantee shall pay an initial grant of [\$150,000.00 in Prince William] to the County within ninety (90) days of accepting this agreement.

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(3) This Franchise Agreement requires the Grantee to pay the County the Access Channel and I-Net Capital Support Grant in addition to the Franchise Fee. The Grantee may pass through these amounts to Subscribers to the extent permitted by FCC rules beginning on the I-Net Commencement Date.

Deleted: **Return Feed From Facilities [NEED TO REWORK].**
<#>The Grantee shall provide without charge transmission by means of dedicated, fully fiber optic links between facility and insertion point. ¶
<#>so that signals can be generated at these sites and routed onto an appropriate access channel. Such upstream transmission provided by the Grantee shall include all equipment necessary for amplification, optical conversion, receiving, transmitting, switching, and headend processing of upstream EG signals from the studio at each EG origination site, and all such equipment, including but not limited to the fiber electronics at the EG studio, shall be installed, repaired, and maintained in good working order by the Grantee on Grantee's side of the Demarcation Point, provided, however, that the Grantee shall not be responsible for the cost of repairing any damage caused by the operator of the EG studio or its agents or invitees, and that the Grantee's obligation with respect to such upstream transmission shall be dependent on the operator of the EG origination site's providing Grantee, without charge, with such space, electrical power supply, access, and other facilities and cooperation as shall be necessary to allow the Grantee to fulfill its duties under this Agreement with respect to such upstream transmission. The dedicated channels may be multiplexed into backbone fiber rings at the hub or node nearest to the origination site for return to the headend. The initial operation dates of the dedicated fiber optic links will be determined by Grantee based on where each site is located in Grantee's construction plan, but in any case shall be no later than the completion date stated in Section _____. ¶
<#>Grantee must provide equipment with baseband video and balanced stereo inputs at each EG origination studio and a means by which the channel manager at the EG origination studio may remotely route signals from that studio onto the correct EG Channels. ¶
The Grantee shall transmit the upstream feeds from the Demarcation Point to the headend in such a manner as to comply with FCC technical standards and with applicable EIA RS-250B performance standards for medium-haul video.

(d) Use of EG Channels, Facilities and Equipment.

(1) Educational Access Channel(s) shall be for the noncommercial use of the County. The County, or the entity that manage the Access Channel(s) may adopt reasonable rules and procedures for use of the Access Channel(s). The County shall resolve any disputes among EG users regarding allocation of EG Channels.

(2) Governmental Access Channel(s) shall be for the noncommercial use of the County. The County, or the entity that manage the Access Channel(s) may adopt reasonable rules and procedures for use of the Access Channel(s). The County shall resolve any disputes among EG users regarding allocation of EG Channels.

(3) Access Channel programming is the sole responsibility of the County, and Grantee shall not be responsible for any claims arising out of the use, or the denial of use of the Access Channels.

(4) The Grantee will provide headend and distribution facilities for downstream transmission of the Access Channels on the Cable System, at no charge to the County or other EG access programmers.

(5) The County or its licensees, assigns, or agents shall not transmit on educational or governmental access channels commercial programming or commercial advertisements to the extent that they would constitute competition with the Grantee for such commercial programming or commercial advertisements, subject to the following:

(A) For purposes of this subsection, "commercial programming or commercial advertisements" shall mean programming or advertisements for which the County receives payment from a third party (a party other than the County or the Grantee), but shall not include announcements indicating that programming is underwritten by a commercial entity, such as the underwriting announcements typically displayed by the Public Broadcasting System.

(B) For purposes of this subsection, "the County" shall be deemed to include the Caroline County Public Schools.

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(e) Cable Drops and Outlets for Government Facilities.

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(1) The Grantee will provide the following, at no charge, at each fire station, public school, police station, public library, and such buildings used for public purposes as may be designated by the County; provided, however, that if it is necessary to extend a Grantee's trunk or feeder lines more than two hundred feet solely to provide service to any such school or public building, the County shall have the option of paying the Grantee's direct costs for such extension in excess of two hundred feet itself, or of releasing the Grantee from or postponing the Grantee's obligation to provide service to such building.

(2) The Grantee shall provide Basic Service, and any equipment necessary to receive such service, free of charge to those facilities described herein.

(f) Editorial Control.

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Except as expressly permitted by federal law, the Grantee shall not exercise any editorial control over the content of programming on the Access Channels (except for such programming as the Grantee may cablecast on such Channels).

(g) Carriage of EG Programming.

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All EG programming shall be carried on Charter's Basic Service tier, except as otherwise agreed upon.

(h) I-NET.

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The parties acknowledge that at some time in the future, but still during the term of this Agreement, Charter's Franchise Service Area may include a number of public buildings that may be well served by I-NET capabilities negotiated by the parties. The parties agree that, at the County's request, the parties will negotiate in the future, in good faith, for the installation and provision of I-NET services linking public, educational and governmental facilities in Charter's service area. Any future agreement as to the provision of an I-NET shall be a modification to this Agreement as shall be subject to the terms of the Agreement related thereto.

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7. FRANCHISE FEE.

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(a) Payment to County.

Each year during the Franchise term, as compensation for use of Public Rights-of-Way and public land, the Grantee shall pay to the County, on a quarterly basis, a Franchise Fee of three percent (3%) of Gross Revenues. Such payments shall be made no later than thirty (45) days following the end of each quarter. This amount may be increased by the County up to 5% upon thirty day written notice to the Grantee.

(b) Supporting Information.

Each Franchise Fee payment shall be submitted with supporting detail and a statement certified by the Grantee's chief financial officer or an independent certified public accountant, reflecting the total amount of monthly Gross Revenues for the payment period. The County shall have the right to reasonably require further supporting information.

(c) Late Payments.

In the event any Franchise Fee payment due and owing is not made on or before the required date, the Grantee shall pay any applicable penalties and interest charges computed from such due date, as provided for in the Cable Ordinance.

(d) Audit.

(1) The County shall have the right to inspect books and records and to audit and recompute any amounts determined to be payable under this Agreement, whether the records are held by the Grantee, an Affiliate, or any other agent of Grantee.

(2) The Grantee shall be responsible for making available to the County all records necessary to confirm the accurate payment of Franchise fees, without regard to by whom they are held. Such records shall be made available pursuant to the requirements of Section 9. The Grantee shall maintain such records in accordance with its normal record retention policy, which the Grantee shall provide to the County upon execution of this Agreement and shall update whenever Grantee changes that policy over the course of the Franchise term.

(3) The County's audit expenses shall be borne by the County unless the audit discloses an underpayment of more than five percent (5%) of any quarterly payment, in which case the County's out-of-pocket costs of the audit shall be borne by the Grantee as a cost incidental to the enforcement of the Franchise. Any additional undisputed amounts due to the County as a result of the audit shall be paid within thirty days following written notice to the Grantee by the County of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional revenue to be paid to the County, interest will be due pursuant to Section 8(c).

(4) Such audit shall be conducted by an independent Certified Public Accountant of the Franchising Authority's own choosing. Access during such audit shall be limited to Grantee's books and records reasonably relevant to the verification of Gross Revenues and computation of the Franchise Fee. Any additional amount due the Franchising Authority as a result of the audit shall be paid within thirty (30) days following written notice to the Grantee by the Franchising Authority, which notice shall include a copy of the audit report. If the results of such an audit have become final under the provisions of this Franchise, there shall be an accord and satisfaction with

respect to any sums paid by Grantee arising with respect to the period subject to audit. Moreover, there shall be an accord and satisfaction with respect to any payment not subject to audit within thirty-six (36) months following the close of the fiscal year to which such payment relates, unless there is subsequent evidence that the Grantee had engaged in fraud or has improperly withheld relevant records which relate to such payments. The cost of such audit shall be borne by the Grantee, if it is properly determined that the Grantee's annual payment to the County for the preceding year is increased thereby by more than five (5) percent.

(5) For each and every fiscal quarter that the Grantee's Gross Revenue estimates fall twenty (20) percent or more below actual receipts, a penalty of fifteen (15) percent shall be imposed on the amount by which the actual revenue exceeded the estimate. The additional fees due and the penalty, if any, shall be paid upon the filing of the annual report.

(6) The County shall have three years from the time the Grantee delivers a Franchise Fee payment to question that payment, and if the County fails to question the payment within that time period, the County shall be barred from questioning it after that time period. If the County gives written notice to the Grantee within that three-year period, the three-year period shall be tolled for one year to allow the County to conduct an audit. Any legal action by either party relating to a Franchise Fee payment will toll the remaining term, if any, of the three-year time period and the one-year audit period with respect to that payment.

(e) No Limitation on Taxing Authority.

(1) Nothing in this Agreement shall be construed to limit any authority of the County to impose any tax, fee, or assessment of general applicability.

(2) The Franchise Fee payments required by this section shall be in addition to any and all taxes of a general nature or other fees or charges which the Grantee shall be required to pay to the County or to any state or federal agency or authority, as required herein or by law, all of which shall be separate and distinct obligations of the Grantee. The Grantee shall not have or make any claim for any deduction or other credit of all or any part of the amount of said Franchise Fee payments from or against any of said County taxes or other fees or charges which the Grantee is required to pay to the County, except as required by law or provided for in this Franchise Agreement. The Grantee shall not apply nor seek to apply all or any part of the amount of said Franchise Fee payments as a deduction or other credit from or against any of said County taxes or other fees or charges, each of which shall be deemed to be separate and distinct obligations of Grantee. Nor shall the Grantee apply or seek to apply all or any part of the amount of any of said taxes or other fees or charges as a deduction or other credit from or against any of its Franchise obligations, each of which shall be deemed to be separate and distinct obligations of the Grantee. Notwithstanding the above provisions of this paragraph, however, the Grantee shall have the right to a credit, in the amount of its Franchise Fee and Access Grants payments under this Agreement, against any general

utility tax on Cable Services that may be imposed by the County, to the extent such a tax is applicable to the Grantee or its subscribers. The Grantee may designate Franchise Fee(s) as a separate item in any bill to a Subscriber of the Grantee's Cable System, but shall not designate or characterize it as a tax.

(f) No Accord and Satisfaction.

The acceptance of any payment required hereunder by the County shall not be construed as an acknowledgment or an accord and satisfaction that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release or waiver of any claim which the County may have for additional sums due and payable. However, the County's acceptance of full payment of the amount determined to be due by the County through an audit shall be construed as an accord and satisfaction.

8. REPORTS AND RECORDS.

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(a) Books and Records.

(1) Subject to applicable law and upon reasonable notice, the County shall have the right to inspect and copy at any time during normal business hours at the Grantee's office, or at another mutually agreed location, all books and records, including all documents in whatever form maintained, including electronic media ("books and records") to the extent that such books and records relate to Grantee's Cable System or to Grantee's provision of Cable Service and are reasonably necessary to monitor or verify Grantee's compliance with the provisions of this Franchise Agreement. The County shall take reasonable steps to protect the proprietary and confidential nature of any such documents to the extent they are designated as such by Grantee. The County shall have the right to copy any such books and records, except to the extent that such books and records are proprietary and/or confidential pursuant to applicable law.

(2) Licensee shall keep complete and accurate books of account and records of its business and operations under and in connection with this Grantee Agreement. Such books and records shall include any records required to be kept in a public file by the Grantee pursuant to the rules and regulations of the FCC.

(3) The Grantee shall have the capability to provide financial information specific to the County to the extent such information may be reasonably necessary to the performance of any of the County's responsibilities under this Franchise Agreement. All such documents pertaining to financial matters that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of five (5) years.

(b) Annual Report.

Upon request by the County, no later than April 30th of each year during the term of this Agreement, Grantee shall submit a written report to the County, in a form reasonably satisfactory to the County, which shall include:

(1) A summary of complaints, identifying both the number and nature of the complaints received and an explanation of their dispositions, as such records are kept by Grantee. Where Grantee has identified recurrent Cable System problems, the nature of any such problems and the corrective measures taken or to be taken shall be identified;

(2) A copy of Grantee's rules, regulations and policies available to Subscribers of Grantee's Cable System, including but not limited to (A) all Subscriber rates, fees and charges; (B) copies of Grantee's form contract or form application for Cable Services; and (C) a detailed summary of Grantee's policies concerning (i) the processing of Subscriber complaints; (ii) delinquent Subscriber disconnect and reconnect procedures; and (iii) Subscriber privacy;

(3) An annual financial report for the previous calendar year, certified by an officer of the Grantee, including a statement showing Subscriber revenue by major revenue category and every material category of non-Subscriber revenue, taxes paid to the County, and its 10-K report;

(c) Quarterly Report.

Upon request by the County, no later than thirty days after the end of each calendar quarter during the term of this Agreement, Grantee shall submit a written report to the County, in a form reasonably satisfactory to the County, which shall include:

(1) A report showing the number of service calls received by type during that quarter, including any line extension requests received during that quarter, as such records are kept by Grantee;

(2) A report showing the number of outages for that quarter, and identifying separately each planned outage of one or more nodes for more than one hour at a time, the time it occurred, its duration, and the map area and, when available to Grantee, number of homes affected;

(3) A report showing Grantee's performance with respect to all applicable customer service standards in a format approved by the County. Grantee shall keep such records as are reasonably required to enable the County to determine whether Grantee is substantially complying with all such customer service standards, and shall maintain adequate procedures to demonstrate such substantial compliance; and

(4) A report showing the number of service extension requests made and those actually performed; and

(d) Contact Information

The Grantee shall provide the County Administrator with the name and phone number of those individuals whom the County Administrator may call to report problems with the Cable System.

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(e) Additional Information.

The County may, upon reasonable written notice, require such additional information with respect to the reports to be submitted pursuant to this Section as may be reasonably necessary for the performance of any County official's duties.

(f) Records Required.

(1) Grantee shall maintain, in accordance with its normal record retention policies, those records required to support the reports required by this Section, including but not limited to:

(A) Records of all complaints. The term "complaints" as used herein and throughout this Agreement refers to complaints recorded through Grantee's normal procedures about any aspect of Grantee's Cable System or the Grantee's operations, including, without limitation, complaints about employee courtesy. Complaints recorded may not be limited to complaints requiring an employee service call.

(B) A full and complete set of plans, records, and "as built" maps showing the location of all lines and other equipment of Grantee's Cable System installed or in use in the County, exclusive of Subscriber service drops.

(C) Records of outages, indicating date, duration, node, and the estimated number of homes affected, type of outage, and cause.

(D) Records of service calls for repair and maintenance indicating the date and time service was requested, the date and time service was scheduled (if it was scheduled), and the date and time service was provided.

(E) Records of installation/reconnection and requests for service extension, indicating date of request, and the date and time service was extended.

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(2) All information, books and records that must be compiled, produced and/or maintained under this Agreement shall be retained, in any reasonable form, in accordance with Grantee's normal record retention policies or as otherwise required by applicable law.

(g) Waiver of Reporting Requirements.

The Board or its designee may, at the sole discretion of the Board or the Board's designee, waive in writing the requirement of any particular report specified in this section.

9. INSURANCE, SURETY, AND INDEMNIFICATION.

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(a) Insurance Required.

(1) Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury, and property damage. Said insurance shall list the Franchising Authority as an additional named insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Grantee shall additionally maintain Automotive Liability Insurance in the amount of \$1,000,000. Grantee shall provide a current Certificate of Insurance to the Franchising Authority verifying coverage, listing the Franchising Authority as an additional insured and requiring thirty (30) days notice to the Franchising Authority of cancellation.

(2) Such commercial general liability insurance must include coverage for all of the following: comprehensive form, premises-operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury.

(3) The County may review these amounts and shall have the right to require reasonable adjustments to them consistent with the public interest.

(4) The Grantee shall be solely responsible for the payment of premiums due for each policy of insurance required pursuant to this Agreement and the Cable Ordinance.

(b) Endorsements.

All insurance policies and certificates maintained pursuant to this Agreement shall contain the following endorsement: it is hereby understood and agreed that this insurance coverage may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until at least thirty (30) days after receipt by the County Administrator, by registered mail, of a written notice of such intention to cancel or not to renew.

(c) Qualifications of Insurers.

All insurance policies shall be with insurers qualified to do business in the Commonwealth of Virginia, with an “A” or better rating of insurance by Best’s Key Rating Guide, Property/Casualty Edition.

(d) Policies Available for Review.

All insurance policies shall be available for review by the County, and the Grantee shall submit to the County certificates of insurance for each policy required herein.

(e) Additional Insureds; Prior Notice of Policy Modification.

All commercial general liability insurance policies shall name the County, its elected and appointed officials, officers, boards, commissions, commissioners, agents, and employees as additional insureds.

(f) Indemnification.

(1) The Grantee shall indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards, agents, representatives, and employees, from and against any liability for damages and for any liability, demands, actions, suits, causes of action, proceedings, losses, expenses, judgements, executions, or claims which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorney's fees and costs. The Franchising Authority shall give Grantee timely written notice of the making of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. In the event any such claim, action, suit or other proceeding arises, the Franchising Authority shall have the right to employ counsel of its choosing to represent and defend it and the cost thereof shall be paid by the Grantee. Grantee will not be required to indemnify the Franchising Authority for the negligent acts of the Franchising Authority or its officials, boards, commissions, agents or employees. Further, to the extent allowed by applicable law and without waiver of any applicable rights or defenses including but not limited to the defense of sovereign immunity, the Franchising Authority will be responsible for any acts by the Franchising Authority, including actions involving Franchising Authority’s use of the access channels or the emergency alert system.

(2) Specifically, the Grantee shall fully indemnify, defend, and hold harmless the County, and in its capacity as such, the elected and appointed officials, officers, agents, commissions, commissioners, boards and employees thereof, from and against any and all claims, suits, actions, liability, and judgments, whether for damages or otherwise, subject to 47 U.S.C. § 558, arising out of or alleged to arise out of the installation, construction, operation, or maintenance of Grantee’s Cable System, including but not limited to any claim against the Grantee for invasion of the right of

privacy, defamation of any Person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any Person, firm, or corporation. This indemnity does not apply to programming carried on any Channel set aside for EG use, or Channels leased pursuant to 47 U.S.C. § 532, or any content on the I-Net, or to operations of the EG Channels to the extent such operations are carried out by a person other than the Grantee or its agents.

(3) In the event that Grantee fails, after notice, to undertake the County's defense of any claims brought pursuant to subsections (1) and (2) above, Grantee's indemnification shall include, but is not limited to, the County's reasonable attorneys' fees incurred in defending against any such action, claim, suit, or proceeding, any interest charges arising from any action, claim, suit or proceeding arising under this Agreement or the Cable Ordinance, the County's out-of-pocket expenses, and the reasonable value of any services rendered by the County Attorney, or County staff or employees.

(g) No Limit of Liability.

Neither the provisions of this Section nor any damages recovered by the County shall be construed to limit the liability of the Grantee or its subcontractors for damages under the Franchise Agreement or the Cable Ordinance or to excuse the faithful performance of obligations required by this Franchise Agreement, except to the extent that any monetary damages suffered by the County have been satisfied by a financial recovery under this section or other provisions of this Franchise Agreement or the Cable Ordinance.

(h) County to Assume No Liability.

The County shall at no time be liable for any injury or damage occurring to any Person or property from any acts or omissions of Grantee in the construction, maintenance, use, operation or condition of Grantee's Cable System, to the extent that Grantee has responsibilities for such maintenance, use, operation or condition pursuant to this Agreement or applicable law. It is a condition of this Agreement that the County shall not and does not by reason of this Agreement assume any liability whatsoever of the Grantee for injury to Persons or damage to property.

10. PERFORMANCE GUARANTEES AND REMEDIES.

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(a) Performance Bond.

(1) Within sixty (60) days of the effective date of this Franchise, the Grantee will furnish a payment and performance bond ("the Bond") in an amount no less than \$40,000. The Bond shall be issued by a surety licensed to do business in the Commonwealth of Virginia with an "A" or better rating of insurance in Best's Key Rating Guide. The Bond shall provide that there shall be recoverable by the County from the principal and surety, any and all fines and penalties due to the County and any and all

damages, losses, costs, and expenses suffered or incurred by the County resulting from the failure of Grantee to faithfully comply with the material terms and condition of its Franchise, the Franchise Agreement, this ordinance and other applicable laws, to comply with all orders, permits and directives of any County agency or body having jurisdiction over a Grantee's acts or defaults and to pay fees due to the County, or to pay any claims, taxes or liens due to the County. Such losses, costs and expenses shall include, but not be limited to, reasonable attorneys' fees and other associated expenses.

(2) The County shall have the right, at any time that it reasonably deems itself insecure, to require that any bond be replaced by such other bond as the County may reasonably require, notwithstanding the fact that the County may have indicated its acceptance or approval of any bond(s) submitted with this Agreement.

(b) Rights Cumulative.

The rights reserved to the County in this Section are in addition to all other rights of the County, whether reserved herein or authorized by applicable law, and no action, proceeding or exercise of a right with respect to a performance bond shall affect any other right the County may have.

11. REMEDIES.

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In addition to any other remedies available at law or equity, the County may apply any one or a combination of the following remedies in the event the Grantee violates this Franchise Agreement, or applicable state or federal law:

- (a) Apply any remedy provided for in this Agreement.
- (b) Revoke the Franchise pursuant to the procedures specified in this Agreement.
- (c) Impose penalties available under applicable state and local laws of general applicability.
- (d) Seek legal or equitable relief from any court of competent jurisdiction.

12. REMOVAL and ABANDONMENT.

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If the County revokes the Franchise, or if for any other reason the Grantee abandons, terminates, or fails to operate or maintain service to its Subscribers, in addition to the rights set forth in Section 4(c)(7), the following procedures and rights are effective:

- (a) The County may require the Grantee to remove its facilities and equipment at the Grantee's expense and restore affected sites, or permit the Grantee to abandon such facilities in place. If the Grantee fails to do so within a reasonable period of time after the County orders it to do so, and such removal is necessary to make room for

other facilities or to remove potential safety hazards as required by sound engineering practices, then the County may have the removal done at the Grantee's expense.

(b) The County may require the former Grantee to continue operating the Cable System as specified in the Cable Ordinance.

(c) In the event of revocation, the County, by resolution, may acquire ownership of the Cable System at its then-fair market value. For purposes of such acquisition, "fair market value" shall be the price that a willing buyer would pay to a willing seller.

13. CUSTOMER SERVICE STANDARDS.

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(a) Grantee must satisfy those customer service practices set forth in the Cable Ordinance. Grantee shall satisfy any additional or more restrictive requirements established by, or permitted and implemented locally in accordance with, FCC regulations. Grantee shall maintain such equipment and keep such written records and documents as necessary to enable the County to determine whether the Grantee is in compliance with all standards required by these regulations.

(b) Upon receiving notice from a subscriber of a missed appointment, the Grantee shall offer, provide and fully describe to Subscribers who have experienced a missed appointment, where such missed appointment was not due to the fault of Subscriber, that the Subscriber may choose from the following options:

(1) If the appointment was for an Installation or Service call for which a fee was to be charged, the Installation or Service call will be performed free of charge;

(2) If the appointment was for an Installation or Service call which was to have been provided free of charge, the Subscriber shall receive compensation of at least twenty dollars (\$20.00);

14. CONDEMNATION.

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This Franchise Agreement shall not limit any authority of the County in accordance with state law to condemn, in whole or in part, the Franchise and/or any other property of the Grantee, provided that the Grantee shall receive whatever condemnation award the Grantee would normally be entitled to recover as a matter of state law. Partial condemnation of the Grantee's Franchise or property shall not terminate this Agreement except in accordance with the terms of this Agreement.

15. MISCELLANEOUS PROVISIONS.

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(a) **Binding Acceptance.**

This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

(b) Severability.

If any term, condition, or provision of this Agreement shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. If the terms of this Agreement are materially altered due to changes in governing law, then the parties shall negotiate in good faith to reconstitute this Agreement in a form that, to the maximum extent possible, is consistent with the original intent of Grantee and the County and preserves the benefits bargained for by each party.

(c) Preemption.

In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Agreement, then the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event that any provision of this Agreement is preempted or enforcement limited by any such provision of federal or state law, then the parties shall negotiate in good faith to reconstitute this Agreement in a form that, to the maximum extent possible, is consistent with the original intent of the Grantee and the County and preserves the benefits bargained for by each party. Finally, in the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the County.

(d) Equal Treatment.

The County shall comply with all state and federal laws regarding equal treatment of the Grantee and other entities.

(e) Compliance With Applicable Laws.

The Grantee shall, at all times during the term of this Franchise Agreement, including any extensions thereof, substantially comply with all applicable and material federal, state, and local laws and regulations.

(f) Force Majeure.

Notwithstanding any other provision of this Agreement, the Grantee shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due, directly or indirectly, to severe or unusual weather conditions, strike, labor disturbance, lockout, war or act of war (whether an

actual declaration of war is made or not), insurrection, riot, act of public enemy, action or inaction of any government instrumentality or public utility including condemnation, accidents for which Grantee is not primarily responsible, fire, flood or other act of God, sabotage or other events to the extent that such causes or other events are beyond the reasonable control of the Grantee. In the event that any such delay in performance or failure to perform affects only part of the Grantee's capacity to perform, the Grantee shall perform to the maximum extent it is able to perform and shall take all reasonable steps within its power to correct such cause(s) in as expeditious a manner as possible.

(g) Governing Law.

This Franchise Agreement shall be governed in all respects by the law of the Commonwealth of Virginia.

(h) Notices.

Any notices required shall be given in writing, and shall be deemed received five (5) days after mailing of the same in the U.S. mail with postage prepaid at the addresses set forth below or, if delivered by hand or overnight courier, upon receipt.

If to Charter, notice to:

and if to the County, to:

Percy Ashcraft, County Administrator
Caroline County
P. O. Box 447
Bowling Green, VA 22427

with copies to:

Benjamin W. Emerson, Esquire
County Attorney
801 East Main Street
P. O. Box 1998
Richmond, VA 23218-1998

or to such other addresses as may be requested by the parties in writing at least one (1) week prior to the date of such notice.

(i) Time of Essence.

In determining whether a party has substantially complied with this Franchise Agreement, the parties agree that time is of the essence.

(j) Captions and Headings.

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

(k) No Oral Modifications.

This Franchise Agreement shall not be changed, modified or amended, in whole or in part, unless an appropriate written instrument is executed by the County and the Grantee.

(l) Rights and Remedies.

The rights and remedies reserved to both parties herein are cumulative and shall be in addition to all other rights and remedies which either party may have with respect to the subject matter of this Agreement, whether reserved herein or authorized by applicable law.

(m) Obligations to Continue Throughout Term.

Unless specifically designated otherwise, all of the Grantee's obligations under this Agreement and the Franchise shall continue throughout the entire term of this Agreement or any extension hereof.

(n) Cooperation in Obtaining and Implementing Grants.

The Grantee and the County agree to cooperate fully with each other in applying for or implementing any federal or state grants or other funds to be applied to the Grantee's Cable System.

(o) Prohibition Against Discrimination.

The Grantee shall adhere to the Equal Employment Opportunity regulations of the FCC and to all federal, state and local laws, and executive orders pertaining to discrimination, equal employment opportunity and affirmative action that are applicable to the Grantee.

(p) Connections to the Cable System; Use of Antennas.

(1) To the extent consistent with federal law, Subscribers shall have the right to attach devices to the Grantee's Cable System to allow them to transmit signals or service to video cassette recorders, receivers and other terminal equipment, and to use their own remote control devices and converters, and other similar equipment, so long as such devices do not interfere with the operation of Grantee's Cable System, or the reception of any cable Subscriber, nor serve to circumvent the Grantee's security procedures, nor for any purpose to obtain services illegally. The Grantee shall provide information to consumers which will allow them to adjust such devices so that they may be used with the Grantee's Cable System.

(2) The Grantee shall not, as a condition of providing Cable Service, require a Subscriber to remove any existing antenna or disconnect an antenna, or prohibit or discourage a Subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes and technically able to shield Grantee's Cable System from any interference.

(q) Grantee Bears Its Own Costs.

Unless otherwise expressly provided in this Agreement, all acts that the Grantee is required to perform must be performed at the Grantee's own expense.

(r) County Bears Its Own Costs.

Unless otherwise expressly provided in this Agreement, all acts that the County is required to perform must be performed at the County's own expense.

(s) Rights of Third Parties.

Nothing herein shall be construed to give any Person other than the Grantee or the County a right to assert any claim or cause of action against the Grantee or the County, its employees, elected or appointed officials, officers, commissions, commissioners, boards or agents, except as to parties otherwise enumerated herein.

(t) Entire Agreement.

This Agreement embodies the entire understanding and agreement of the County and the Grantee with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the County and the Grantee with respect to the subject matter hereof, including, without limitation, any and all written or oral statement or representations by any official, employee, agent, attorney, consultant, or independent contractor of the County or the Grantee.

IN WITNESS WHEREOF, the parties have set their hands and seals on the date first above written.

**THE BOARD OF SUPERVISORS OF
CAROLINE COUNTY, VIRGINIA**

By: _____
Chairman, Board of Supervisors

By: _____
County Administrator

**GRANTEE: CHARTER
COMMUNICATIONS, LLC.**
a Virginia Corporation

By: _____
Title: _____

