

Introduced: Mr. Roberts
First Reading: February 8, 1999
Passed: February 22, 1999
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ORDINANCE NUMBER 1175

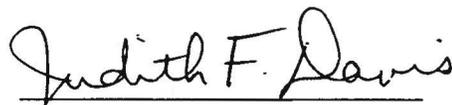
AN ORDINANCE GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO JONES COMMUNICATIONS OF MARYLAND, INC. ("FRANCHISEE"), TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM WITHIN THE CITY OF GREENBELT, MARYLAND; APPROVING A FRANCHISE AGREEMENT AND AUTHORIZING THE MAYOR TO SIGN THE FRANCHISE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, after negotiations, Franchisee and the City have agreed pursuant to applicable law, on the terms of a new franchise agreement; NOW THEREFORE

BE IT ORDAINED by the City Council of the City of Greenbelt, Maryland pursuant to Ordinance No. 1174 passed by the Council of the City on February 22, 1999, the attached Franchise Agreement between the City and Franchisee ("Franchise Agreement") is hereby authorized and approved, and the Mayor is hereby authorized and directed to execute all documents necessary to effectuate the Franchise Agreement.

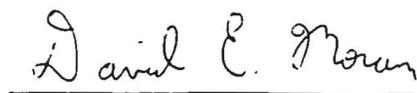
BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon its passage.

PASSED by the Council of the City of Greenbelt, Maryland at its regular meeting of February 22, 1999



Judith F. Davis, Mayor

ATTEST:



David E. Moran, City Clerk

CABLE FRANCHISE AGREEMENT
BETWEEN THE CITY OF GREENBELT, MARYLAND,
AND JONES COMMUNICATIONS OF MARYLAND, INC.

April 1, 1999

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**CABLE FRANCHISE AGREEMENT
CITY OF GREENBELT, MARYLAND**

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**CABLE TELEVISION FRANCHISE AGREEMENT
BETWEEN THE CITY OF GREENBELT, MARYLAND,
AND JONES COMMUNICATIONS OF MARYLAND, INC.**

THIS CABLE FRANCHISE AGREEMENT (the "Franchise Agreement") is entered into by and between the City of Greenbelt, Maryland ("City"), an incorporated municipality, and Jones Communications of Maryland, Inc., a Colorado corporation ("Franchisee").

WHEREAS, Franchisee has asked the City to renew Franchisee's nonexclusive franchise to construct, install, maintain and operate a cable communications system in the City; and

WHEREAS, the construction, installation, maintenance and operation of such a system involves the occupation of and placement of private commercial facilities in the Public Rights-of-Way within the City; and

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

WHEREAS, the City has relied on Franchisee's representations regarding its financial, technical and legal qualifications and its plans for constructing, operating, and maintaining its Cable System, and has considered the information that Franchisee has presented to it; and

WHEREAS, the City and Franchisee have reached agreement on the terms and conditions set forth herein;

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

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

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1. DEFINITIONS

Except as otherwise provided herein, the definitions and word usage set forth in the Cable Ordinance are incorporated herein and shall apply in this Agreement. In addition, the following definitions shall apply:

(a) *Access Channel:* Any Channel on the Cable System set aside under this Agreement for noncommercial public, educational or governmental use.

(b) *Affiliate:* Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Franchisee.

(c) *Basic Service:* Any service tier that includes the retransmission of local television broadcast signals.

(d) *Cable Ordinance:* Chapter 4 of the Greenbelt City Code, as it may be amended from time to time.

(e) *Cable Service:* (1) the one-way transmission to subscribers of video programming or other programming services; and (2) subscriber interaction, if any,

which is required for the selection or use of such video programming or other programming service.

(f) *City:* The City of Greenbelt, Maryland, and any agency, department, or agent thereof.

(g) *Franchise:* The franchise granted pursuant to this Agreement.

(h) *Franchise Agreement or Agreement:* This contract and any amendments, exhibits or appendices hereto.

(i) *Franchise Area:* The territorial confines of the City of Greenbelt, Maryland, and any areas annexed thereto during the term of the Franchise.

(j) *Franchisee:* Jones Communications of Maryland, Inc., a Colorado corporation, and its lawful and permitted successors, assigns, and transferees.

(k) *Gross Revenues:* Any and all cash, credits, property or other consideration of any kind or nature that constitute revenue in accordance with generally accepted accounting principles and that arise from or are attributable to, or in any way derived directly or indirectly by the Franchisee or its Affiliates, or by any other entity that is a cable operator of the Franchisee's System to provide Cable Services except as hereinafter specifically excluded.

Consistent with the foregoing, the following, without limitation, shall be included in Gross Revenues to the extent derived from the operation of the Franchisee's Cable System to provide Cable Services in the City: monthly fees collected from Subscribers for any basic, optional, premium, per-channel, per-program service, or cable programming service; installation, disconnection, reconnection, and change-in-service fees; fees, payments, or other consideration received from programmers for carriage of

programming on Franchisee's Cable System; revenues from rentals or sales of converters or other equipment; studio rental; fees from third party unaffiliated programmers for leased access programming; production equipment, rental fees and personnel fees; advertising revenues, net of normal agency commissions; revenues from the sale or carriage of other Cable Services; revenues from leased channel fees; late fees and administrative fees; fees, payments, or other consideration received from programmers for carriage of programming on the System; revenues from Internet access services; and revenues from home shopping and bank-at-home channels. Gross revenues shall not include any taxes on services furnished by a Franchisee which are imposed directly on any Subscriber or User by the City or another governmental unit and which are collected by the Franchisee on behalf of said governmental unit. A Franchise fee is not such a tax.

Gross Revenues shall not include (i) any consideration paid by the City to the Franchisee for the Institutional Network as set forth in Sections 6(h) or 6(i), or any expense reimbursement paid by the City or its agents, or by PEG users, to the Franchisee; (ii) any compensation awarded to Franchisee based on the City's condemnation of property of Franchisee; (iii) any uncollected receipts (*i.e.*, "bad debt"), provided, however, that all or any part of any such actual bad debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected. Any amounts includable as Gross Revenues that are received by an Affiliate or any other entity that is a cable operator of Franchisee's Cable System shall not be counted as Gross Revenues to the extent that such amounts are also received directly by the Franchisee, to ensure that no such revenue is counted twice.

To the extent that a wireline multichannel video competitor of the Franchisee in the City, including but not limited to a franchised cable operator or OVS operator, does not pay franchise fees on a category of revenue that would be included in the above definition, then the Franchisee shall not be required to pay franchise fees on that category of revenue.

(l) *I-Net System Upgrade*: A major improvement or enhancement in the Institutional Network, as more fully described in Section 6(h) herein.

(m) *Institutional Network or Network*: An institutional network for the benefit of the City, as that term is used in 47 U.S.C. § 531(f).

(n) *Mayor*: The Mayor of the City, or his designee(s).

(o) *Participating Communities*: Prince George's County, the Town of Berwyn Heights, the City of Bowie, the Town of Brentwood, the City of College Park, the Town of Colmar Manor, the Town of Cottage City, the City of District Heights, the Town of Edmonston, the town of Fairmount Heights, the City of Glenarden, the City of Greenbelt, the Town of Landover Hills, the City of Laurel, the City of Mt. Rainier, the City of New Carrollton, the Town of North Brentwood, and the Town of University Park.

(p) *PEG*: Public, educational, and governmental.

(q) *Plant Mile*: The length in miles of strand-bearing or underground cable as measured on the street or easement from pole to pole or pedestal to pedestal.

(r) *Prior Franchises*: The cable television franchise for the City held by the Franchisee prior to the Effective Date.

(s) *Public Benefit Corporation:* Any nonprofit, tax-exempt organization that has as its primary purpose the provision of services of education, health, civic, charitable, or similar nature on a City-wide basis.

(t) *System Upgrade:* A major improvement or enhancement in the technology or service capabilities made by the Franchisee to its Cable System, including the Institutional Network, as more fully described in Section 5(c) herein.

(u) *Transfer:* *Transfer* shall mean any transaction in which: (A) any ownership or other right, title, or interest of more than ten percent in a publicly traded corporation controlling the Franchisee, its Cable System, or any person that is a Cable Operator of the Cable System (or in the Franchisee itself, if it is a publicly traded corporation) is transferred, sold, assigned, leased, or sublet, directly or indirectly; or (B) any ownership or other right, title, or interest cognizable under FCC regulations of fifty percent or more in an entity other than a publicly traded corporation controlling the Franchisee, its Cable System, or any person that is a Cable Operator of the Cable System (or in the Franchisee itself, if it is a publicly traded corporation) is transferred, sold, assigned, leased, or sublet, directly or indirectly, to an entity that does not presently control such entity other than a publicly traded corporation; or (C) there is any transfer of control of a Franchisee; or (D) the Franchise is transferred to another entity; or (E) any change or substitution occurs in the managing general partners of a Franchisee, where applicable; or (F) a Franchisee, or its corporate parents at any level, enter into any transaction that materially increases the debt that is to be borne by the System directly or indirectly, in a manner that creates a risk of an adverse effect on system rates or services; but Transfer shall not include transactions in which the Franchisee is reorganized within

another corporation owned, owning, or commonly controlled with the Franchisee, if such transaction does not materially affect the ultimate control of the Franchisee or the sources and amounts of funds available to the Franchisee.

(2) "Control" for purposes of this definition means the legal or practical ability to exert actual working control over the affairs of the Franchisee, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lesser ownership interest, or in any other manner.

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 City hereby grants the Franchisee 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 within the Franchise Area, for the sole purpose of providing Cable Service. This Franchise shall grant no authority for the Franchisee to use the City's Public Rights-of-Way for any purposes other than the provision of Cable Service, except to the extent other services may be provided pursuant to Section 6 herein or as hereinafter expressly provided. The consideration provided by Franchisee under this Agreement shall be the only consideration due or required from the Franchisee to the City for the right to use and occupy the Public Rights-of-Way. No reference herein to a Public Right-of-Way shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit the Franchisee's use for specific purposes, and the Franchisee shall be deemed to gain only those rights to use that are within the City'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) *Claims Related to Prior Franchises; Review of Pending Transfer*

(1) The Franchisee shall make no claim on the \$500,000 fund (the "Compliance Fund") provided for in § 2.3 of the Transfer Agreement By and Among Maryland Cable Partners, L.P., Jones Communications of Maryland, Inc., and Prince George's County, Maryland, dated on or about January 31, 1997 ("1997 Transfer Agreement").

(2) Neither this Agreement, nor the renewal of Franchisee's franchise, shall operate to release the Franchisee or any of its predecessors in interest from any liability for any noncompliance prior to the Effective Date, nor waive any rights or claims of any party with respect to the Prior Franchises, including but not limited to those addressed in the 1997 Transfer Agreement and/or the *Prince George's County Communities Maryland Cable/Jones Intercable Noncompliance Issues* list previously provided to Jones (June 9, 1997).

(3) Notwithstanding the provisions of Section 2(b)(2), both the Franchisee and its predecessors in interest shall be released from liability for any noncompliance prior to the Effective Date, if within sixty days after the Effective Date the Franchisee pays, or causes to be paid, to the Participating Communities pro rata the total aggregate sum of two million dollars, including the \$500,000 of the Compliance Fund, to be used at each community's discretion. Such payment shall be in settlement of all noncompliance claims outstanding as of the Effective Date. Such payment shall be in

addition to any other amounts specified in this Agreement and shall not be considered a franchise fee. Such release shall not waive any rights of the City to require compliance with this Agreement and applicable law, or to enforce this Agreement and applicable law, with respect to periods on or after the Effective Date.

(4) The City will not use its review of the Jones-Comcast transfer transaction pending as of December 1, 1998, to attach any additional terms or conditions to the franchise terms and conditions negotiated by the parties, provided that Comcast agrees to comply with those terms and conditions. This Agreement does not contain any agreement among the parties as to the qualifications of Comcast, nor as to the validity or payment of any costs incurred by the County or Participating Municipalities in reviewing the Jones-Comcast transfer.

(c) *Area Served*

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

(2) Within the City's boundaries as they existed on the effective date of this Agreement, the Franchisee must extend its Cable System to provide service to any residence upon request, without charging more than the standard installation charges, unless the Franchisee demonstrates to the City's satisfaction that extraordinary circumstances justify a waiver of this requirement.

(3) For areas annexed after the effective date of its Franchise, the Franchisee shall comply with the line extension requirements set forth in the Ordinance.

(d) *Term:* The Franchise and this Franchise Agreement shall extend for a term of fifteen years, commencing on the date accepted below by the Franchisee, 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, including but not limited to an extension pursuant to Section 5(f) herein.

(e) *Grant Not Exclusive:* The Franchise and the right it grants to use and occupy the Public Rights-of-Way shall not be exclusive, and the City reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use itself, at any time during the term of this Franchise Agreement, with or without a franchise.

(f) *Effect of Competition*

(1) If the Franchisee requests, the City shall grant a decrease in Franchisee's Future Obligations under this Agreement to the level of the Future Obligations of a Video Competitor if, at the time of the request:

(A) The Franchisee's Comparable Obligations are 10% greater, or more, than the Support Obligations of the Video Competitor; and

(B) The Video Competitor serves residential subscribers totaling at least 10% or more of the number of residential subscribers then served by the Franchisee in that jurisdiction for at least six consecutive months.

(2) The Mayor ("CAO") of the City shall determine when the conditions of this subsection have been satisfied and shall determine by written order the change, if any, required in Franchisee's Future Obligations. Any such change shall be effective as of the date the request for change was made. If Franchisee believes the decision of the CAO does not comply with the terms of this subsection, Franchisee may request mediation by a third party mutually acceptable to the City and the Franchisee. If mediation is not successful within 90 days of the date of the initial decision by the CAO,

the Franchisee may pursue its other remedies at law, provided it has made, and continues to make, the payments required by the decision of the CAO throughout the pendency of any legal action, subject to refund back to the date the request for change was made.

(3) The CAO shall use the following methodology in determining whether a change in Comparable Obligations is required under Section 2(f)(1):

(A) Reduction in Comparable Obligations. The determination of a requested decrease in Franchisee's Comparable Obligations will compare only Future Obligations as measured from the date of the request.

(i) Where Future Obligations are based on flat, pre-determined monetary amounts, (whether or not such amounts may be recurring and/or inflation adjusted), such amounts shall be reduced to their Net Present Value as of the date of the request for a change. In-kind obligations shall be valued at the Actual Cost to the entity providing the in-kind obligation. These amounts shall be expressed as a percentage of Gross Revenues, based upon the quarterly Gross Revenues for the calendar quarter immediately preceding the reduction request.

(ii) Where Future Obligations are imposed based on a specified amount per subscriber, such per subscriber amount will be multiplied based on the number of subscribers which the entity serves as of the date of

the reduction request. This amount will then be expressed as a percentage of Gross Revenues, based upon the quarterly Gross Revenues for the calendar quarter immediately preceding the reduction request.

(iii) Where Future Obligations are imposed based on a specified percentage of Gross Revenues, this amount, for purposes of this calculation, will be based upon the quarterly Gross Revenues for the calendar quarter immediately preceding the reduction request.

(iv) If Future Obligations are imposed on any basis other than as set forth above, the CAO will use its best efforts to convert those obligations to a percentage of Gross Revenues based upon the quarterly Gross Revenues for the calendar quarter immediately preceding the reduction request, consistent with the principles set forth above.

(B) The total percentage of Gross Revenues as of the date of the reduction request will be the basis of comparing the respective obligations of the Franchisee and a Video Competitor to determine if an adjustment is warranted.

(4) At such time as the Video Competitor's market share falls below 5% of the residential subscribers served by Franchisee in that jurisdiction for at least six

consecutive months, and Franchisee has previously received a reduction in its Comparable Obligations under this Section 2(f), the Franchisee's remaining Future Obligations will return to the original requirements. If, following such a return to the Franchisee's original requirements, a Video Competitor later obtains a market share totaling 10% or more of the number of residential subscribers served by the Franchisee, the Franchisee may again request a reduction in the Future Obligations, as set forth above; provided, however, that the Franchisee shall not again request such a reduction within one year after returning to the Franchisee's original requirements. The Franchisee promises to meet the future Comparable Obligations, as amended, and to pass through to subscribers the full benefits of any reduced Comparable Obligations.

(5) If a multichannel video provider competing with the Franchisee in the City (i) is not under the control of the City, and (ii) is serving a substantial number of residential subscribers in that jurisdiction, and (iii) is causing the loss of financial viability of the Franchisee's system in the City, and if the Franchisee cannot remedy this loss of financial viability through its own business practices, then that jurisdiction will modify the Franchisee's Future Obligations to the extent reasonable to remedy the condition described herein.

(6) For purposes of this Section 2(f),

(A) "Comparable Obligations" means any obligations imposed by the City on the Franchisee for PEG payments, services, facilities or equipment, including any actual costs caused to the Franchisee for an institutional network (including the provision of cable modems and, if applicable, cable modem service pursuant to Section 6(h)).

(B) "Future Obligations" means either Support Obligations or Comparable Obligations that will occur within the remaining term of a franchise or other operating permission granted by the City. The term includes past and current expenditures that are both amortized and unrecovered under generally accepted accounting principles at the time of the Franchisee's request. The term does not include obligations past due.

(C) "Support Obligations" means

- (i) for a cable operator Video Competitor, any obligations imposed by the City for PEG payments, services, facilities or equipment, including any actual costs caused to the Video Competitor for an institutional network, within the City;
- (ii) for an OVS operator Video Competitor, any obligations imposed by the City for PEG payments, services, facilities or equipment, including any actual costs caused to the Video Competitor for an institutional network; and
- (iii) for any other entity providing Cable Service, any obligations imposed by the City for PEG payments, services, facilities or equipment, including any actual costs caused to the Video Competitor for an institutional network.

(D) "Video Competitor" means a Person who is providing Cable Service in the City pursuant to an agreement with the City, except that a Video Competitor shall not include a Person if the City would be prohibited from requiring PEG payments, services, facilities or equipment (including an institutional network) from that Person. A Video Competitor may not be an Affiliate of the Franchisee.

(g) *Franchise Agreement Subject to Other Laws:* This Franchise Agreement is subject to and shall be governed by all applicable provisions of federal, state, and local law.

(h) *Franchise Agreement Subject to Exercise of Police Powers:* All rights and privileges granted herein are subject to the police powers of the City and its rights under applicable laws and regulations to exercise its governmental powers to their full extent and to regulate the Franchisee and the construction, operation and maintenance of the Franchisee's Cable System, including, but not limited to, the right to adopt and enforce additional ordinances and regulations as the City 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 right-of-way, telecommunications, utility and cable television consumer protection and service standards and rate regulation provisions. Notwithstanding any other provision in this Agreement, if the Franchisee's rights, benefits, obligations or duties specified in this Agreement are materially altered as the result of changes in City ordinances that are incorporated by reference or otherwise, then this Agreement shall be promptly amended so that the rights, benefits, obligations and duties of Franchisee 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.

(i) *Approval and Effective Date:* This Franchise Agreement shall become effective on April 1, 1999 (the "Effective Date"), following its approval by the City Council and its acceptance by the Franchisee, provided, however, that if the Franchisee fails to accept the Franchise before April 30, 1999, or within thirty (30) days after approval by the Council, whichever is later, the Franchise shall be deemed void.

(j) *Effect of Acceptance:* By accepting the Franchise and executing this Franchise Agreement, the Franchisee:

(1) accepts and agrees to comply with each provision of the Cable Ordinance and this Agreement;

(2) acknowledges and accepts the City's legal right to grant the Franchise, to enter 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, and that it will not raise any claim to the contrary, or allege in any claim or proceeding by the Franchisee against the City that any provision, condition or term of the Cable Ordinance or this Agreement at the time of the acceptance of the Franchise was unreasonable or arbitrary, or that at the time of the acceptance of the Franchise any such provision, condition or term was void or that the City had no power or authority to make or enforce any such provision, condition or term;

(4) agrees that the City retains the absolute right to terminate this Agreement for any material violation by the Franchisee of any substantive provision of the Cable Ordinance or any term or condition hereof, which violation has not (i) been substantially corrected by Franchisee within sixty days of receiving written notice from the City of such violation, or (ii) in the case of a violation which reasonably requires more than sixty days to correct, Franchisee has undertaken substantive corrective action within sixty days of receiving written notice from the City of such violation and subsequently completes any necessary corrective action in a timely manner.

(5) agrees that it will not oppose intervention by the City in any proceeding affecting the Franchisee's Cable System; and

(6) agrees to reimburse the City for its reasonable renewal-related costs, as provided in the 1997 Transfer Agreement at § 4.2. The City shall provide the Franchisee with an accounting of these expenses, such as consultant fees, and shall supply the Franchisee with invoices for said expenses. Franchisee shall deliver payment to the City within thirty (30) days of receipt of said invoices. Such payments are in addition to the Franchise Fee. Failure to make timely payment of said expenses, except for any expenses that are the subject of legitimate dispute, shall constitute a material violation of this Agreement. The Franchisee shall have the right to inspect and copy records and the rights to audit and to recompute any amounts determined to be payable under this Section 2(j)(6). The City shall be responsible for providing to the Franchisee all records reasonably necessary to confirm an accurate payment under this Section.

(7) agrees that any costs to the Franchisee associated with the provision of support for PEG 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.

(k) *No Waiver*

(1) The failure of the City 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 City, nor to excuse the Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

(2) Waiver of a breach of this Agreement shall not be a waiver of any other breach, whether similar to or different from that waived. Neither the granting of the Franchise, nor any provision herein, nor any action by the City hereunder shall constitute a waiver of or a bar to the exercise of any governmental right or power of the City, including without limitation of the right of eminent domain.

(l) *Limitation on Liability:* In any court proceeding involving any claim against the City or other governmental entity, or any official, member, employee, or agent of the City, 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. The Franchisee shall not apply for any waivers, exceptions, or declaratory rulings from the FCC or any other federal or state regulatory agency affecting the System or the Franchise without written notice to the City

(m) *Incorporation by Reference:* The Cable Ordinance shall be incorporated in and made a part of this Agreement as if fully set forth herein.

(n) *Amendment of Franchise Agreement:* This Agreement may only be amended by mutual written consent of the City and the Franchisee. The City may liberally amend this Franchise Agreement upon the application of the Franchisee whenever necessary to enable the Franchisee to take advantage of developments in the field of telecommunications which, in the City's opinion, will afford the Franchisee an opportunity to serve its subscribers more efficiently, effectively and economically. Such amendments shall be subject to such conditions as the City determines are appropriate to protect the public interest.

3. TRANSFERS.

(a) *Application.*

(1) The Franchisee shall notify the City 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 City a written application for approval of the Transfer. Such an application shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee, and on the potential impact of the Transfer on Subscriber rates and service. At a minimum, the following information must be included in the application, unless these requirements are waived, reduced, or modified by the City pursuant to § 3(a)(3) herein:

(A) all information and forms required under federal law;

(B) a detailed statement of the corporate or other business entity organization of the proposed transferee, together with an explanation of how decisions regarding the System will be made if the proposed transaction is approved;

(C) any contracts, financing documents, or other documents that relate to the proposed transaction, and all documents, schedules, exhibits, or the like referred to therein.

(3) At the Franchisee's option, the Franchisee may notify the City of the proposed transaction in general terms at least one hundred fifty (150) days prior to the contemplated effective date of a Transfer, and request that the City waive some or all of the information requirements specified in Section 3(a)(2). To the extent consistent with applicable law, the City may waive in writing any such requirement that information be submitted as part of the initial application, without thereby waiving any rights the City may have to request such information after the initial application is filed.

(4) For the purposes of determining whether it shall consent to a Transfer, the City or its agents may inquire into all qualifications of the prospective transferee and such other matters as the City may deem necessary to determine whether the Transfer is in the public interest and should be approved, denied, or conditioned. The Franchisee and any prospective transferees shall assist the City in any such inquiry, and if they fail to provide such reasonable assistance, the request for Transfer may be denied.

(b) Determination by City

(1) In making a determination as to whether to grant, deny, or grant subject to conditions an application for a Transfer, the City may consider, without

limitation, the legal, financial, and technical qualifications of the transferee to operate the System; any potential impact of the Transfer on subscriber rates or services; and whether operation by the transferee or approval of the Transfer would adversely affect Subscribers, the City's interest under this Agreement, the Cable Ordinance, other applicable law, and is otherwise in the public interest.

(2) Any Transfer without the City's prior written approval shall be ineffective, and shall make this franchise subject to cancellation at the City's sole discretion, and to any other remedies available under this Agreement or other applicable law.

(3) The Franchisee shall be fully liable under this Franchise for any Transfer that is in violation of the terms of this Franchise and caused in whole or in part by any parents or affiliated entities, as if such Transfer had been caused by the Franchisee itself.

(c) Notification of Certain Transactions

(1) The Franchisee shall give the City reasonable advance notice of any change of ownership or other right, title, or interest of ten percent or more in an entity other than a publicly traded corporation controlling the Franchisee, its Cable System, or any person that is a Cable Operator of the Cable System (or in the Franchisee itself, if it is not a publicly traded corporation), directly or indirectly, to an entity that does not presently control such entity other than a publicly traded corporation. If the City does not have the right under this Agreement and applicable law to approve or deny a change of the type defined in the preceding sentence, the Franchisee shall warrant to the

City the legal, financial, and character qualifications of the entity acquiring such an interest.

(2) Franchisee will notify the City if at any time there is a mortgage or security interest granted on substantially all of the assets of Franchisee's Cable System, and will provide the City with copies of all loan documents with respect to such transaction as soon as such documents become publicly available and, if such documents do not become publicly available within ten business days after loan closing, will make such documents available for inspection within ten business days after loan closing.

4. CONSTRUCTION AND MAINTENANCE.

(a) Construction Schedule.

(1) The Franchisee shall construct and activate the Cable System in accordance with the requirements of the Cable Ordinance and the specifications contained in this Agreement. The Franchisee agrees that no litigation instituted by a third party shall suspend the Franchisee's obligation to construct and install the Cable System in accordance with the time schedule set forth in this Agreement in the absence of a court order suspending such obligation.

(2) The Franchisee agrees that it will make no charge or claim whatsoever to the City, for hindrance or delay of the work, from any cause during the progress of the same, but this limitation shall not prevent the Franchisee from making a charge or claim asserting that the City has unreasonably withheld any permit required for the construction or activation of Franchisee'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 Bellcore Blue Book Manual of Construction Procedures; the Cable Ordinance; Applicant's Construction Procedures Manual; and other 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 City may ensure that work continues to be performed in an orderly and workmanlike manner, reflecting any changes that may occur over the Franchise term.

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

minimum interference with the rights and convenience of property owners (including the City) and users of the Public Rights-of-Way and other public property. The City may from time to time issue reasonable rules and regulations, after notice to Franchisee and opportunity for Franchisee to participate, concerning the construction, operation and repair of Franchisee's Cable System as appropriate to ensure compliance with this Section.

(4) All installation of electronic equipment shall be of a permanent nature, using durable components.

(5) Without limiting the foregoing, antennae and their supporting structures (towers) shall be designed in accordance with the Uniform 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 federal, state or local laws, codes, and regulations, all as hereafter may be amended or adopted.

(6) Without limiting the foregoing, all of the Franchisee'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.

(7) The Franchisee shall maintain all wires, conduits, cables, and other real and personal property and facilities comprising Franchisee's Cable System in good

condition, order and repair. Consistent with subsection 4(b)(1) above, all safety practices required by law shall be used during construction, maintenance, and repair of Franchisee's Cable System. The Franchisee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents.

(8) In the event of a failure by the Franchisee to complete any work required for the protection or restoration of the Public Rights-of-Way, or any other work required by City law or ordinance, within the time specified by and to the reasonable satisfaction of the City, the City, following notice and an opportunity to cure, may cause such work to be done, and the City shall submit an itemized list of such costs to Franchisee as well as any materials reasonably requested by Franchisee to verify such costs. Following the Franchisee's receipt of such itemized list and supporting materials, the Franchisee shall reimburse the City the costs thereof within thirty days, or the City may recover such costs through the letter of credit provided by Franchisee.

(9) The Franchisee shall cooperate with all gas, electric, telephone, water, sewer, or other utilities in the placement of facilities, equipment, or fixtures, to minimize the costs and disruption caused by any construction activities.

(10) If the City becomes aware of any relocation projects that may require the Franchisee to protect, support, temporarily disconnect, relocate, or remove any of Franchisee's property, then the City shall promptly notify the Franchisee 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 Franchisee shall, by a time specified by the City, protect, support, temporarily disconnect, relocate, or remove

any of its property when reasonably required by the City 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. Franchisee shall be entitled to reimbursement of its costs and expenses.

(11) If the Franchisee abandons any portion of Franchisee's Cable System located in Public Rights-of-Way or on public land (i.e., permanently deactivates and leaves it in place), the City may require that such plant be removed at the Franchisee'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 Franchisee requests to leave such an underground portion of Franchisee's Cable System in place, the City shall grant such request upon a showing by the Franchisee 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).

(12) If any Person that is authorized to place facilities in the Public Rights-of-Way or on public land requests the Franchisee 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 Franchisee shall, upon request and reasonable notice from such party and consistent with applicable law, remove, relocate, protect, or alter the Franchisee's Cable System, or any part thereof, and such Person shall reimburse the Franchisee for the

Franchisee's costs and expenses; provided, however, that Franchisee may require such payment in advance when its prior payment history with the requesting Person has been unfavorable.

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

(14) Any and all Public Rights-of-Way, public property, or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, or construction of a System shall be repaired, replaced and restored, in a good workmanlike, timely manner, to substantially the same condition as immediately prior to the disturbance (including appropriate landscape restoration). Under Normal Operating Conditions, such repair, replacements and restoration shall be performed at a minimum in accordance with applicable law or any successor provision. All repairs, replacements and restoration shall be undertaken within no more than thirty (30) days after the damage is incurred, and shall be completed as soon as reasonably possible thereafter. The Franchisee shall guarantee and maintain such

repairs, replacements and restoration for at least one year against defective materials or workmanship. Any restoration of private property by Franchisee shall be done in accordance with Franchisee's contractual obligation to affected landowners.

(15) The Franchisee shall have the authority to trim trees in the Public Rights-of-Way 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 Franchisee.

(16) The Franchisee shall use, with the owner's permission, existing poles, conduits and other facilities whenever feasible and consistent with the design of Franchisee's Cable System. The Franchisee may not erect poles, conduits, or other facilities in Public Rights-of-Way without obtaining appropriate permits. Any permits from the City shall not be unreasonably withheld, and shall be at no charge to the Franchisee wherever I-Net facilities are included in the facilities for which a permit is obtained.

(17) No construction, upgrade, rebuild, reconstruction, maintenance, or relocation of Franchisee's Cable System, or any part thereof, within any Public Rights-of-Way shall be commenced unless permits have been obtained from proper officials, except that in case of emergency, the Franchisee may carry out such work to the extent necessary pending the issuance of such permits, as long as the Franchisee acts to secure such permits as soon as possible. The Franchisee shall not be required to obtain permits for routine maintenance or for installation of drops.

(18) Prior to commencing any (i) significant alteration of the cable plant, (ii) other work that would require a construction permit, (iii) any work on public property outside the Public Rights-of-Way, or (iv) any scheduled construction of cable

distribution plant, excluding routine maintenance and repair, that disturbs the Public Rights-of-Way, the Franchisee shall provide the City with 24 hours' prior notice of such work, when possible, so that the City may perform appropriate inspections to ascertain compliance with applicable construction codes and standards. If 24 hours' prior notice cannot be furnished, the Franchisee shall provide the City 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 Franchisee shall notify the City 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.

(19) System cables 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 system passive or active electronics that may be housed in low-profile, above-ground pedestals, shall be constructed underground. Whenever and wherever electric lines and telephone lines are moved from overhead to underground placement, all Cable System cables shall be similarly moved at no charge to the City. In those locations where System cables and facilities may be constructed overhead pursuant to this paragraph, the Franchisee may overlash cable to existing wires as long as such wiring is in compliance with applicable standards before such overlashing and remains in compliance afterward. The Franchisee shall comply with applicable federal, state, and local requirements regarding conduits and burial of plant. Notwithstanding the foregoing, all underground new or replacement wiring installed after the Effective Date on City public land not part of the Public Rights-

of-Way must be located in conduit composed of concrete or in PVC pipe or polyethylene pipe, or may be directly buried if enclosed in armored cable. New buried cable and facilities shall be capable of location using locating devices commonly available at the time of installation.

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

(21) Prior to erection of any towers, poles, or conduits or the construction, upgrade, or rebuild of a Cable System, the Franchisee shall first submit to the City for approval a concise description of the Cable System facilities proposed to be erected or installed, including engineering drawings, if required by the City, together with a map and plans indicating the proposed location of all such facilities. This requirement may be satisfied as part of the City's normal permitting process, where applicable. No such erection or construction shall be commenced by any Person until approval therefor has been received from the City.

(22) All maps required by the City shall be provided both in hardcopy and in a CAD (computer-aided design) or other electronic format approved by the City. The maps shall be developed on the basis of post-construction inspection by the Franchisee and construction personnel to assess compliance with System design.

(23) Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of System equipment must be properly licensed under laws of the State of Maryland and all applicable local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with

respect to its work as the Franchisee would have if the work were performed by the Franchisee. The Franchisee must ensure that contractors, subcontractors and all employees who will perform work for it are trained and experienced. The Franchisee shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with this Agreement and applicable law, shall be fully responsible for all acts or omissions of contractors or subcontractors, shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and shall implement a quality control program to ensure that the work is properly performed.

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

(25) Prior to the beginning of any construction under the Franchise, the Franchisee shall update its existing Construction Procedures Manual, addressing matters including but not limited to, changes in technology, construction and maintenance procedures, and acceptance practices. The Franchisee shall provide the City with a copy of this manual ninety (90) days before beginning construction, and its construction procedures shall be consistent with the provisions of this Agreement.

(26) The City may conduct inspections of construction areas and Subscriber installations, including but not limited to, inspections to assess the Franchisee's compliance with construction and installation requirements. Inspection does not relieve the Franchisee of its obligation to build in compliance with all provisions of this Agreement and applicable law.

(c) *System Tests and Inspections.*

(1) The Franchisee shall perform all tests necessary to demonstrate compliance with the requirements of the Franchise and the technical standards 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. In the event that the FCC's technical performance standards are repealed or are no longer applicable to the Franchisee's Cable System, such standards shall remain in force and effect until the Mayor or his designee and the Franchisee agree to new standards.

(2) The Franchisee shall conduct tests as follows:

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

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

(C) tests performed in accordance with Franchisee's plan to sweep and balance the distribution plant and existing I-Net;

(D) special proof of performance tests when Subscriber or User complaints indicate tests are warranted.

(3) The City may make independent performance tests of Franchisee's Cable System, but shall not alter the operation of Franchisee's Cable System without the

Franchisee's approval. The Franchisee shall cooperate with the City in conducting such tests. Such independent tests shall be at the City's expense.

(4) . The Franchisee and the City will jointly select locations at the extremities of system service area to install equipment to establish permanent test points. The test points shall be installed in locked enclosures so as to be accessible from ground level. The number of required test points shall be in accordance with federal law and with good engineering practice, as appropriate to ensure all Subscribers are receiving adequate service.

(5) Tests shall be supervised by the Franchisee's professional engineer, who shall sign all records of tests provided to the City.

(6) The Franchisee shall provide the City with at least two business days' notice of, and opportunity to observe, any tests performed on the System. The City may also conduct inspections of construction areas and subscriber installations, including but not limited to inspections to assess compliance with the Franchisee's construction and installation requirements. Inspection does not relieve the Franchisee of its obligation to build in compliance with all provisions of the Franchise. The City shall notify the Franchisee of any violations found during the course of inspections, identifying the locations with particularity and stating the specific nature of the violation. The Franchisee must bring violations as specified in the notice that are within Franchisee's control into compliance as follows: (i) safety violations must be made safe within forty-eight hours of receiving notice of the violation, unless such correction requires the cooperation of a third party, in which case the Franchisee shall cure such violation as soon as possible; (ii) all other violations must be brought into compliance within thirty

days of receiving notice of the violation. After the specified time period, the Franchisee must submit a report to the City describing the steps it has taken to bring itself into compliance. Inspection does not relieve the Franchisee of its obligation to build in compliance with all provisions of the Franchise.

(7) A written report of test results shall be filed with the City within seven (7) days of each test. In addition, the Franchisee shall retain written reports of the results of any tests required by the FCC, and such reports shall be submitted to the City when filed with the FCC.

(8) If any test indicates that any part or component of the System fails to meet applicable requirements, the Franchisee, without requirement of additional notice or request from City, shall take corrective action, retest the locations and advise the City of the action taken and results achieved.

(d) *Publicizing Proposed Construction Work.* The Franchisee 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 have the potential to present a danger or affect the safety of the public generally. Where possible, the Franchisee 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 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 Franchisee representative who is qualified to answer questions concerning

proposed construction. In addition, before entering onto any Person's property for proposed construction work in connection with the rebuild for the System Upgrade of Franchisee's Cable System, the Franchisee shall contact the property owner or (in the case of residential property) the resident at least two days in advance, when possible.

(e) *System Maintenance*

(1) The Franchisee shall, when practicable, schedule and conduct maintenance on Franchisee's Cable System so that interruption of service is minimized and occurs during periods of minimum Subscriber use of Franchisee's Cable System. The Franchisee shall provide reasonable prior notice to Subscribers and the City before interrupting service for planned maintenance or construction, except where such interruption is expected to be one hour or less in duration. Such notice shall be provided by methods reasonably calculated to give Subscribers actual notice of the planned interruption.

(2) Maintenance Practices Subject to Regulation. Maintenance of the System shall be performed in accordance with the technical performance and operating standards established by FCC rules and regulations.

5. SYSTEM FACILITIES, EQUIPMENT AND SERVICES.

(a) *System Requirements.* The Franchisee's Cable System generally shall meet or exceed the following requirements:

(1) Compliance With FCC Rules. The System shall conform to or exceed all applicable FCC technical performance standards, as amended from time to time, and any other technical performance standards lawfully established by the City, and shall substantially conform in all material respects to applicable sections of the following

standards and regulations 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.

(2) The System shall have personnel, facilities and equipment sufficient to cure violations of FCC technical standards and to ensure that Franchisee's Cable System remains in compliance with the standards specified in Section 5(a)(1).

(3) The System shall have such facilities and equipment as necessary to maintain, operate, and evaluate Franchisee's Cable System to comply with FCC technical standards, as such standards may be amended from time to time.

(4) Continuous 24-Hour Operation. The System shall be designed to be capable of continuous twenty-four-hour daily operation in accordance with FCC standards except as caused by a *force majeure* condition.

(5) No Interference. The System shall be 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.

(6) No Deterioration to Access Signals. The System shall be so constructed and operated that each PEG Channel shall be delivered over the System with transmission quality the same as or better than the transmission quality of any other Channel on Basic Cable Service.

(7) Industry-accepted Equipment. The System shall use equipment generally used in high-quality, reliable, modern systems of similar design. Facilities and equipment shall be used at the headend to allow the Franchisee to transmit or cablecast

signals in substantially the form received, without substantial alteration or deterioration. For example, the System shall include components so that a signal received at the headend in color may be received by a Subscriber in color, a stereo signal in stereo.

(8) Program Security. The System shall include equipment so that any pay-per-view programming can only be activated by the positive action of a subscriber using, for example, a private identification number or other individual selection procedure.

(9) Handicapped Service. The Franchisee shall comply with all requirements of applicable law, including but not limited to the Americans with Disabilities Act. Franchisee shall comply with FCC rules on transmission of closed captioning for the hearing-impaired. For hearing-impaired Subscribers, the Franchisee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, the Franchisee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.

(10) The System's facilities and equipment shall be designed, built and operated in such a manner as to protect the safety of Franchisee's Cable System workers and the public;

(11) The System shall have sufficient trucks, tools, testing equipment, monitoring devices and other equipment and facilities and trained and skilled personnel required to enable the Franchisee to substantially comply with applicable law, including

applicable customer service requirements and including requirements for responding to system outages;

(b) Current System

(1) The Franchisee is authorized and required to operate its existing System, and to provide service substantially equivalent to its existing service, within the City as of the Effective Date of this Agreement, until such time as the System is upgraded, as provided herein.

(2) The Franchisee shall implement a preventive maintenance plan to sweep and balance the entire distribution system and existing I-Net. As picture quality problems unrelated to frequency response are discovered as the distribution system and existing I-Net are swept and balanced, that portion of plant will be inspected and any plant-related problems causing poor pictures will be corrected to preclude recurrence of the problem. The Franchisee shall carry out this task pursuant to a reasonable implementation plan to be established, after discussion with the Franchisee, by the City. Such implementation plan shall be enforceable as part of this Agreement by the City (i) through liquidated damages for the Franchisee's failure to comply with the plan equivalent to those set herein for failure to restore damaged property, except that the cure period shall be only ten days, or (ii) through any other available legal or equitable remedy.

(3) The Franchisee shall comply with the procedures attached as Appendix 1, regarding immediate response to areas experiencing high service calls, as monitored on a weekly basis, and to I-Net service calls. This response will be in addition to the preventive maintenance plan specified in Section 5(b)(2), and will continue until

Franchisee's total monthly service calls requiring a truck roll have been reduced to two percent of the total subscriber base of the System for three successive months. As long as these procedures are in effect, the Franchisee shall provide the City with reports on its progress, delivered on or before the tenth of each month. Such reports shall detail the number of service calls received during the preceding month by geographic locations as specified in Appendix 1; the specific steps taken in each such geographic location to resolve such service calls; and a brief explanation of why the indicated response was appropriate. Failure of the Franchisee to take appropriate steps in a given geographic location shall be subject to liquidated damages equivalent to those set herein for failure to restore damaged property, except that the cure period shall be only ten days, and to any other available legal or equitable remedy.

(c) *System Upgrade.* The Franchisee shall complete a System Upgrade providing at least the following capabilities.

(1) The System shall have a minimum activated bandwidth of 400 MHz per cable (if dual cable), or 750 MHz (if single cable) and 108 analog Channels throughout the System. Franchisee is not required to program all 108 Channels.

(2) All new electronics the Franchisee installs, except for nodes, will be rated for at least 750 MHz on at least one cable. Franchisee will build all nodes to be rated for at least 860 MHz. All new passives Franchisee installs will be rated for at least 1 GHz. For any newly built plant, or replacement of a cable run where amplifiers would be replaced in any case, Franchisee will install all equipment and space amplifiers so as to permit running at least one cable at 750 MHz, as long as this is technically feasible.

(3) The bandwidth specifications in Sections 5(c)(1) and 5(c)(2) refer to the engineering bandwidth of the system and do not limit what sorts of signals (e.g., analog or digital) the Franchisee carries on any part of that bandwidth, nor do they require that the Franchisee program all the activated channels.

(4) The System shall utilize a fiber-optic wire trunk and distribution design ("fiber-to-the-neighborhood"). Node size shall average 1,750 homes per node, with actual node sizes ranging from 1,250 to 2,250 homes per node. The System shall be designed and constructed to enable later segmentation to fewer homes per node as demand warrants, based on the operating standard defined in Section 5(c)(11), pursuant to the Franchisee's detailed description showing how such further segmentation can be rapidly implemented, with minimal further disruption of the rights-of-way, attached hereto as Appendix 2.

(5) Hubs and nodes should be placed so as to facilitate the tailoring of services to Subscribers within each separately franchised area served by the System. In particular, it must remain possible for each such separate franchising authority to direct its own governmental access programming to all residents of that community.

(6) The distribution plant shall have no more than six active components in cascade, except for the particular geographic areas specified in Appendix 3.

(7) Each fiber optic node shall be located and designed to allow adequate space for several fiber receivers and transmitters, standby power, and signal processing and switching.

(11) The Franchisee shall activate upstream spectrum for cable modem service on at least one cable to provide a minimum transfer rate of 128 Kbps per cable modem at least 85% of the time within any one half-hour of operation. The Franchisee shall allow the communities to monitor and verify this transfer rate.

(12) As part of the System, the Franchisee shall offer every Subscriber, at the same price for a given type of equipment and regardless of the level of service taken, the opportunity to lease equipment that utilize wireless remote controls, and that allow Subscribers to view a program on one channel while taping a program on another channel.

(13) The entire system shall be technically capable of transmitting NTSC analog, compressed digital, and HDTV transmissions. The Franchisee shall comply with all FCC regulations regarding carriage of HDTV.

(14) The Franchisee shall design the system so that channel capacity may be readily expanded to up to at least 450 channels through digital video compression or similar appropriate technology without compromising signal or service quality or requiring significant alterations, upgrading or reconstruction.

(15) The Franchisee shall make cable modem Internet access available to all subscribers within two years after renewal. Both upstream and downstream Internet access will be provided over the cable system (not via telephone lines) as the rebuild is completed.

(d) System Upgrade Schedule

(1) The Franchisee shall begin construction of the System Upgrade specified in Section 5(c) within twelve months after the Effective Date. Forty percent of

the System Upgrade shall be completed within twenty-four months of the Effective Date. The System Upgrade shall be completed within three years after the Effective Date, in order to minimize disruption of the Public Rights-of-Way.

(2) The Franchisee's construction plan shall insure that the System Upgrade is extended to service areas without regard to income level.

(e) *System Design Review Process.* At least ninety days prior to the date construction of any upgrade of a segment of Franchisee's Cable System is scheduled to commence, the Franchisee shall submit to the City a system design and construction plan for that segment, which shall be subject to change and include at least the following elements:

- (1) Design type, trunk and feeder design, and number and location of hubs, nodes, and amplifiers;
- (2) Distribution system equipment to be used;
- (3) Locations and design types for standby power.

The System design will be shown on construction scale maps. To the extent that the Franchisee revises its plan prior to construction, the Franchisee shall submit a revised plan. The City may review the plan and, within forty-five days of the date the plan is made available for City review, submit comments to the Franchisee. The Franchisee's submission of such plans and maps shall not operate to waive any rights of the Franchisee, and neither the City's receipt of such plans and maps and comments thereon, nor any comments it provides to the Franchisee, shall operate to waive any rights of the City.

(f) *Mid-term Technical Review*

(1) In addition to any periodic performance evaluations conducted pursuant to Section 5(t) herein, the City may also conduct a Mid-Term Technical Review of the Franchisee's Cable System once at any time, but not prior to the beginning of the eighth year of the Franchise. The Franchisee shall fully cooperate and assist the City in conducting such review.

(2) Purpose: The purpose of the Mid-Term Technical Review shall be to evaluate the technical performance and capabilities of the Franchisee's System, including the Institutional Network, to determine whether to require a System Upgrade to conform with technical improvements then commonly in use in the industry and available on systems in communities similar to the City. Subject to the provisions of this Section 5(f), the City may amend this Franchise Agreement to require the Franchisee to upgrade its System to incorporate technical improvements (the "Upgrade Option").

(3) The City's Initial Review: To determine whether to invoke the Upgrade Option, the City shall first commence a review of the Cable System. Such review shall be conducted to enable the City to determine the following: (i) whether the Cable System should be upgraded or rebuilt; (ii) whether the Cable System's technical standards should be revised or improved; (iii) whether additional channels, equipment, facilities or support are required for public, educational and governmental use of the Cable System; and (iv) in general, whether any other changes in Franchise requirements should be made. Each determination under this paragraph shall be based upon the reasonable cable-related needs and interests of the community, considering the costs to the Franchisee of meeting those needs and interests during the remaining term of the Franchise.

(4) Franchisee's Report: To assist in the City's initial review, the Franchisee shall, at the City's request, promptly submit a report to the City describing advances in cable technology nationwide, the potential benefits and disadvantages of those advances for consumers, and any plans or timetables the Franchisee may have for instituting such changes in technology.

(5) Public Hearings: If, after conducting its initial review, the City determines that a System Upgrade may be warranted, it shall hold a public hearing to enable the general public and the Franchisee to comment and to present additional information.

(6) Upgrade Order: Following such hearings, the City shall determine whether the exercise of the Upgrade Option is warranted, based upon the reasonable cable-related needs and interests of the community, considering the costs to the Franchisee of meeting those needs and interests. The City shall issue a written order ("Upgrade Order") stating whether an upgrade is required, describing any upgrade to be implemented, and setting forth the basis for its decision. If an upgrade is required, the City shall set forth any relevant conditions.

(7) Franchisee's Response. Within sixty (60) days after the City issues the Upgrade Order, the Franchisee shall notify the City in writing whether it will comply with the Order and, if not, whether the Franchisee will appeal the Order or reduce the Franchise term, as specified in Section 5(f)(9) herein. If the Franchisee does not so notify the City within sixty (60) days, the Franchisee will be deemed to have agreed to comply with the Upgrade Order.

(8) Amendment of the Franchise Agreement. If the Franchisee agrees to comply with the Upgrade Order, the parties shall amend this Franchise Agreement accordingly.

(9) Rejection of the Upgrade Option. If, however, the Franchisee is unwilling to comply with the Upgrade Order, the Franchisee shall, as its sole remedy, notify the City in writing, pursuant to Section 626 of the Cable Act, that it wishes to commence proceedings to renew the Franchise. If, at the time of such notice, more than three (3) years remain in the term of the Franchise, such notice shall be deemed, by mutual agreement, to shorten the term of the Franchise and this Agreement so that the Franchise and this Agreement shall terminate thirty-one (31) months from the date of the notice.

(g) Periodic Progress Reporting

(1) Following the commencement of construction of the System or any similar major construction, every three (3) months until the construction is completed, the Franchisee shall meet with the City and provide a written update on the progress of the upgrade according to the Franchisee's general plan, unless the City waives such meeting or written update.

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

(3) Delays in System Construction. The Franchisee shall not be excused from the timely performance of its obligation to begin and complete any System construction within the times specified herein, except for the following occurrences:

(A) Any “*force majeure*” situation, as described in Section 9(d) herein;

(B) Unreasonable failure or delay by the City to issue any permits or permission upon a timely request submitted by the Franchisee or its contractor representative and tender of any required permit fee;

(C) Delays beyond the control of the Franchisee that the Franchisee could not reasonably have anticipated regarding the availability, shipment and arrival of necessary equipment, cables, electronics or hardware, protracted underground excavation, easement availability, changes in contractors or contractor personnel, or any other valid factor agreed to by the City as fully explained and reasonably justified in writing to the City or its designee.

(4) Consequences of Delays. Absent a showing of excusable delay pursuant to subsection 5(g)(3) above, should the Franchisee be unable to demonstrate the commencement or timely completion of the System by the times specified herein, or be unable to reasonably justify any delays, then the Franchisee shall be in violation of a material provision of this Franchise Agreement and the City may, in its sole discretion, either grant the Franchisee an extension of time to complete such construction or implement any enforcement measures specified in this Agreement or the Cable Ordinance, including but not limited to revocation of the franchise.

(h) *Technical Standards:* The Cable System shall meet or exceed the technical standards set forth in 47 C.F.R. § 76.601 and any other applicable technical standards, including any such standards as hereafter may be adopted by the City subject to applicable federal law.

(i) *Equipment Compatibility*

(1) The Franchisee 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 City shall have authority, consistent with applicable law, to adopt enforcement regulations to ensure that the Franchisee complies with these FCC regulations.

(2) Upon request by a Subscriber or the City, the Franchisee will provide accurate information regarding equipment compatibility and the availability of universal remote controls and other compatible equipment (a list of which, specifying brands and models, shall be provided to any Subscriber upon request).

(3) As part of normal installations, without additional cost, the Franchisee will include full connection of all consumer equipment in use at the time of the installation, including connections permitting multiple signal reception (*e.g.*, allowing two different Channels to be received, consistent with FCC regulations, so as to display picture-in-picture or allow a Subscriber to view one Channel while recording another).

The Franchisee shall make such connections after installation upon a subscriber's request, at a price consistent with any applicable law.

(4) The Franchisee will schedule reasonable time periods for each geographical area within the City during which the Franchisee will be available in that area to make full connection to the System, as described in Section 5(i)(3), of all consumer equipment then in use. The Franchisee shall provide Subscribers in each such area with reasonable advance notice so that such Subscribers have the opportunity to arrange with the Franchisee to have such connection done during that area's time period. The Franchisee's charge for such connections for existing Subscribers shall be no greater than the amount allowed by FCC rate regulations, taking into account the economies achieved by carrying out this program neighborhood by neighborhood. The Franchisee shall schedule such a period for every geographical area within the City within four years after the Effective Date.

(j) *Types of Service:* Should the Franchisee desire to change the selection of programs or services offered on any of its tiers, it shall maintain the mix, quality and level of services provided over the System. Any change in programs or services offered shall comply with all lawful conditions and procedures contained in this Agreement and in applicable law. The Franchisee shall provide thirty (30) days' advance written notice to Subscribers and the City of any change in channel assignment or in the video programming service provided over any channel, unless this requirement is waived by the City or by operation of federal or state law, or due to events beyond the reasonable control of the Franchisee.

(k) *Offices:* The Franchisee shall maintain offices at convenient locations within Prince George's County, including at least the following:

- (1) an office in the City of Bowie;
- (2) an office in the City of Laurel;
- (3) offices in at least two other locations within the County.

These offices shall be open during normal business hours to allow subscribers to request service, pay bills, and conduct other business.

(l) *Leased Access Channels:* The Franchisee shall provide leased access channels as required by federal law.

(m) *Interconnection*

(1) The Franchisee shall design its System so that it may be interconnected with other cable systems or similar communications systems in the area or within Prince George's County at suitable locations as determined by the Franchisee. Interconnection capabilities shall be provided for the exchange of all PEG signals designated in Section 6 herein 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 City, the Franchisee 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 Prince George's County for the PEG channels on the System.

(3) Any City I-Net connections to other broadband networks will be the City's sole responsibility and done at the City's expense, but the Franchisee will assist in any such effort as reasonably requested.

(4) The Franchisee shall notify the City prior to any interconnection of Franchisee's Cable System with other broadband communications networks.

(5) The Franchisee shall in good faith cooperate with the City in implementing interconnection of PEG Cable Service with communications systems beyond the boundaries of the City.

(n) *Customer Service Monitoring:* The Franchisee shall keep such records as are required to enable the City to determine whether the Franchisee is complying with all telephone answering standards required by applicable customer service regulations, as amended from time to time.

(o) *Emergency Alert System.*

(1) The Franchisee shall install and thereafter maintain for use by the City an Emergency Alert System ("EAS").

(2) This EAS shall at all times be operated in compliance with FCC requirements. Subject to the foregoing, the EAS shall be remotely activated by telephone and shall allow a representative of the City to override the audio and video on all channels on the Franchisee's System that may lawfully be overridden, without the assistance of the Franchisee, for emergency broadcasts in the event of a civil emergency or for reasonable tests.

(3) The City will provide reasonable notice to the Franchisee prior to any test use of the EAS. The Franchisee shall cooperate with the City in any such test.

(p) *Home Wiring.* Franchisee 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 Franchisee 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 Franchisee may require a reasonable indemnity and release of liability in favor of the Franchisee from a Subscriber for wiring that is installed by such Subscriber.

(q) *Uses of System.* Franchisee will notify the City of all active uses of the Franchisee's Cable System as promptly as possible after the institution of such uses.

(r) *Senior Citizen Discount:* The Franchisee shall offer eligible senior citizen customers a discount on the rate for Cable Service of no less than ~~two~~^{five} dollars per month. Senior citizen customers shall be eligible for this discount if they are aged sixty-five (65) or over and are head of a household.

(s) *Periodic Performance Evaluation:* The City may schedule review sessions to evaluate the performance of the Franchisee, or to discuss the integration of future technologies, other plans or operations of the Franchisee or any aspect of the Franchisee's Cable System, pursuant to the Cable Ordinance. The Franchisee shall cooperate with the City in any such evaluation.

6. CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND GOVERNMENTAL USE

(a) *Access Channels.*

(1) The Franchisee shall make available to all Subscribers on the System at least eleven (11) video Channels for noncommercial public, educational and governmental use. Programming for eight (8) of these channels shall be determined by

Prince George's County; programming for the remaining channels shall be determined by the municipality served, or, for unincorporated areas of the County, by the County.

(2) All PEG programming shall be carried on the Franchisee's basic service tier.

(3) Except as provided in Section 6(a)(11), each PEG Channel shall be transmitted on the System in standard 6 MHz, unscrambled NTSC format so that every Subscriber can receive and display the PEG signals using the same converters and signal equipment that is used for other Basic Service Channels.

(4) If the Franchisee makes changes to Franchisee's Cable System that require improvements to access facilities and equipment, Franchisee shall provide any necessary additional headend and distribution facilities or equipment within thirty days so that PEG facilities and equipment may be used as intended with respect to the up to eleven PEG channels specified in Section 6(a)(1), including, among other things, so that live and taped programming can be cablecast efficiently to Subscribers.

(5) If the City requires another cable operator in the City to carry fewer PEG channels than as specified in subsection 6(a)(1), the Franchisee shall be required to carry the same number of PEG channels as such other cable operator rather than the number specified in subsection 6(a)(1).

(6) The Franchisee shall not arbitrarily or capriciously change access channel assignments, and the Franchisee shall seek to minimize the number of such changes; provided, however, that the Franchisee may change access channel assignments as it deems appropriate so long as (i) the Franchisee gives the access channel programmer ninety days' notice of such change, and (ii) the Franchisee provides, free of charge,

public announcements of such changes that shall include (A) to the extent Franchisee has advertising availability, advertising such PEG channel changes on advertising inserts on local channels carrying non-satellite programming for up to two minutes per day in prime time on such local channels for the thirty days prior to such change, and (B) providing prominent notice of such changes in at least two issues of Franchisee's monthly cable guide (for as long as Franchisee maintains a monthly cable guide) prior to such change.

(7) Public Access Channel(s) shall be for the display of noncommercial public, educational and governmental programming produced or sponsored locally by residents, organizations and institutions within the City, as well as any residents, organizations and institutions in surrounding municipalities within Prince George's County (including incorporated municipalities). The production and scheduling of such programming shall be on a first-come-first-served basis, according to reasonable rules governing the use of studio facilities and the public access channel(s) by the entities managing such facilities and channel(s), and according to the provisions herein.

(8) Educational Access Channel(s) shall be for the noncommercial use of the educational community of the Participating Communities. The City may adopt reasonable rules regarding the use of such Channel(s).

(9) Governmental Access Channel(s) shall be for the noncommercial use of the City and/or the Participating Communities. The City or its designee may adopt reasonable rules regarding the use of such Channel(s).

(10) Any rules of the Franchisee relating to public and educational access programs shall be kept on file with the City, and shall be available for public inspection at any time during Normal Business Hours at the office the Franchisee

maintains for the ordinary collection of Subscriber charges, resolution of Subscriber complaints, and other business, or at any accessible place in the Franchise Area.

(11) . If capacity dedicated for PEG use pursuant to Section 6(a) of this Agreement is subdivided or compressed resulting in multiple transmission paths, the Franchisee may retain for its own use 50% of the additional capacity.. For purposes of this subsection, the capacity dedicated to a PEG channel prior to such subdivision or compression refers to a 6 MHz channel.

(b) Capital Grant for Access Equipment and Facilities.

(1) The capital grant to the City specified in this subsection 6(a)(11) (the "Capital Equipment Support Grant") shall be used by the City exclusively for PEG capital costs, including, but not limited to, capital costs for 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 Capital Equipment Support Grant specified in this subsection 6(a)(11) shall be payable as follows: three percent (3%) of Gross Revenues, paid at the same time as the Franchise Fee.

(3) If requested by the City, the Franchisee shall enter into a support agreement with a nonprofit, third-party access management entity specified by the City to provide payments of up to one percent of Gross Revenues to such access management entity. Such payments, if required, shall be subtracted from the amount otherwise payable to the City by the Franchisee in accordance with Section 6(b)(2). If, however, it should be held in any competent forum that such payments to the third-party access manager must be considered a franchise fee or otherwise offset against the five percent

federal limit on franchise fees, then such support agreement shall be null and void, and the one percent amount specified in this paragraph shall instead be paid to the City as part of a three percent capital equipment grant pursuant to Section 6(b)(2).

(4) This Franchise Agreement requires the Franchisee to pay the City the three percent Capital Equipment Support Grant in addition to the five percent Franchise fee. The Franchisee may pass through these amounts to Subscribers to the extent permitted by FCC rules.

(c) *Existing Access Equipment*

: The Franchisee shall convey the access equipment at the existing access studios in College Park and Bowie to a nonprofit access entity or entities designated by the Participating Communities. After that conveyance, the Franchisee shall have no further responsibility to maintain such studios (except to the extent that the Participating Communities may use all or part of the capital grants provided by the Franchisee under Section 6(a)(11) to support such studios). To allow the Participating Communities time to prepare for this transition, the Franchisee will continue to maintain and operate existing facilities and equipment at such studios, in the same manner as provided as of December 1, 1998, until the Participating Communities request the Franchisee to turn over the studio operations, provided that the Franchisee shall not be required to continue to maintain and operate the studios under those terms after March 31, 1999. The Participating Communities can require the Franchisee to maintain and operate the studios for up to 21 months after March 31, 1999, but during that subsequent period the Franchisee shall be paid its direct costs for maintaining and operating the studios.

(d) *Return Feed From Facilities*

(1) The Franchisee shall provide dedicated, bidirectional fiber optic links between the headend and up to a aggregate total of twenty-four access production facilities designated by the Participating Communities.

(2) These links shall be completed: (i) for sites where existing fiber passes within one mile of the site, within six (6) months of the Effective Date; (ii) for other sites, at the time that subscriber network or I-Net fiber is constructed within one mile of the site, or, at the latest, at the time the I-Net is completed pursuant to Section 6(h)(2)(M).

(3) At the access origination site, these fibers shall be terminated and labeled using industry standard connectors at a demarcation point to be agreed upon by the Franchisee and the City up to twelve inches inside the building wall and consistent with Franchisee's direction of approach to the building, consistent with the FCC's rules as of the Effective Date or as later amended (the "Demarcation Point"). Any fiber starting at the Demarcation Point and extending outward from the building shall be deemed to be on the Franchisee's side of the Demarcation Point, and any fiber starting at the Demarcation Point and extending inward toward the building shall be deemed to be on the City's side of the Demarcation Point. On the City's side of the Demarcation Point, the Franchisee shall provide a coil of fiber-optic cable of a length reasonably requested by the City to permit the City or the facility owner to bring the connection to the equipment closet in accordance with normal industry practice

(4) If the City chooses to activate an upstream link, the City shall be responsible for providing the equipment at the origination site necessary to activate and use the link.

(5) The Franchisee shall continue to provide upstream carriage to the headend from existing access origination sites as such carriage was provided as of December 1, 1998, unless and until such a fiber link is completed and the City has elected to activate it at such existing access origination site, .

(6) The Franchisee shall place the PEG access signals on their designated Channels at the headend.

(e) *Editorial Control:* Except as expressly permitted by federal law, the Franchisee shall not exercise any editorial control over the content of programming on the designated Public Access Channel or Channels (except for such programming as the Franchisee may produce and cablecast on such Channels).

(f) *Indemnification By PEG Access Programming Producers and Users:* All local producers and users of any of the PEG access facilities or channels shall agree in writing to hold harmless the Franchisee, the City, and any responsible educational institution, from any and all liability or other injury (including the reasonable cost of defending claims or litigation) arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations or other requirements of local, state or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the Franchisee, City, or responsible educational institution; and for any other injury or damage in law or equity, which claims result from the use of a PEG access facility or channel.

(g) *Cable Service to Certain Facilities*

(1) Upon the request of the City, the Franchisee shall without charge, except as otherwise provided in this paragraph, install one activated connection to each fire station, public school and other public educational facility, police station, public library, public access facility, and City department and agency (including connections for multiple sites belonging to a given agency) within the Franchise Area, as shall be designated by the City from time to time. The Franchisee shall continue to provide such activated connections without charge to all such locations to which such connections were provided as of December 1, 1998, and to the Spring Hill Lake location. For other such locations, the Franchisee may charge its actual cost for any part of a drop that extends more than 175 feet from the distribution plant. The Franchisee shall provide Basic Service, and any equipment necessary to receive such service, free of charge to those facilities specified in subsection 6(g)(1) herein.

(h) Institutional Network

(1) **Definitions.** For purposes of this Section 6(h):

(A) For purposes of Sections 6(h) and 6(i), "Actual Cost" shall include all reasonable direct costs reasonably allocable to a task, but no indirect costs.

(B) "Dark Fiber" means fiber optic strands that are capable of carrying voice, video, and data transmissions but that have not yet been activated.

(C) "Institutional Network" or "I-Net" means a network of Dark Fibers related to and, to the extent deemed feasible by the Franchisee, jointly constructed with the System Upgrade of Franchisee's Cable System; such network is to be designed and constructed by the Franchisee and is not generally available to

Subscribers of the Franchisee's Cable System. As used in this Section, the term "I-Net" shall not include any electronics or other equipment needed to activate Dark Fibers.

(D) "Work" means whatever is required of the Franchisee to perform and complete its duties under this Section. The term does not refer to activities of the Franchisee required to perform and complete its duties under other Sections of this Franchise Agreement, including but not limited to construction of subscriber network facilities.

(2) **Fiber Construction**

(A) The Franchisee will construct the I-Net to be paid for by the Participating Communities, linking public, educational and governmental facilities in Prince George's County, in accordance with the conditions set forth in this Franchise Agreement.

(B) The I-Net shall be a bidirectional, fully fiber-optic network designed and constructed with single-mode fiber, in a design so that each of the designated service locations can originate and receive fully interactive video, data and voice signals.

(C) The Franchisee shall install the I-Net to the 174 sites designated in Appendix 5.

(D) The Franchisee shall collocate I-Net fiber with subscriber network fiber whenever reasonably feasible based on cable industry practices. The I-Net fibers shall be separate from any fibers utilized for the subscriber network, and the City shall have only such property rights in the I-Net fibers as are set forth in Section 6(h)(7).

(E) At the Headend, I-Net fibers shall be terminated and labeled using industry standard connectors in an area within the Headend facility (the "Headend I-Net Service Area"). The Headend I-Net Service Area shall have sufficient rack space for the City's use in a secure building, sufficient heating and air conditioning. 48 V DC and 120 V AC power shall be available for the Headend I-Net Service Area, including backup power as specified for the System at this site in the Franchise Agreement.

(F) At each Franchisee Hub Site serving the City, I-Net fibers shall be terminated and labeled using industry standard connectors in an area within the Hub Site (a "Hub Site I-Net Service Area"). The Hub Site I-Net Service Area at each Hub Site shall have sufficient rack space for the City's use in a secure building, sufficient heating and air conditioning. 48 V DC and 120 V AC power shall be available, including backup power as specified for the System at each such site in the Franchise Agreement.

(G) The Franchisee shall have personnel available to provide City personnel with immediate access to the Headend and Hub Site I-Net Service Areas from 8 a.m. to 7 p.m. each day, and at all other times shall have personnel available by pager to provide City personnel with access within twenty minutes of a call.

(H) If the Franchisee and the City conclude that sites other than the Headend and Hub I-Net Service Areas would be preferable for termination of I-Net fibers, they may establish such sites by mutual agreement.

(I) The Headend I-Net Service Area and the Hub Site I-Net Service Areas shall be shared by the Participating Communities, if so authorized by these municipalities to which the Franchisee has provided an I-Net. The Franchisee shall make

all reasonable efforts to configure the assigned space so that all equipment required by the collocated parties can readily be accommodated. The City shall identify its power and HVAC requirements for the Headend and Hub Site Service Areas, and the Franchisee shall cooperate with the City in satisfying such requirements.

(J) At least one set of at least six dark single-mode fibers each will be built to each I-Net site designated in Appendix 5. At each I-Net site, fibers shall be terminated using industry standard connectors at a demarcation point to be agreed upon by the Franchisee and the City up to twelve inches inside the building wall and consistent with Franchisee's direction of approach to the building, consistent with the FCC's rules as of the Effective Date or as later amended (the "Demarcation Point"). Any I-Net fiber starting at the Demarcation Point and extending outward from the building shall be deemed to be on the Franchisee's side of the Demarcation Point, and any I-Net fiber starting at the Demarcation Point and extending inward toward the building shall be deemed to be on the City's side of the Demarcation Point. On the City's side of the Demarcation Point, the Franchisee shall provide a coil of fiber-optic cable of a length reasonably requested by the City to permit the City or the facility owner to bring the connection to the equipment closet in accordance with normal industry practice.

(K) The fiber-optic plant shall be installed to industry standards. The maximum fiber attenuation shall be 0.7 dB/km. at 1310 nm, plus a maximum of 0.2 dB loss for each splice. The average loss shall not exceed 0.3 dB per connector. The maximum allowed loss shall be 0.75 dB per connector. The Franchisee shall provide documentation of acceptance testing.

(L) Aerial cable for the I-net may be installed free-standing or overlashed to existing strand. Where required by utility code for road and rail crossings, new underground fiber optic cable shall be buried in conduit composed of concrete or in PVC pipe or polyethylene pipe, or may be directly buried if enclosed in armored cable. Elsewhere, either conduit or armored cable shall be used, at the Franchisee's option.

(M) The Franchisee shall begin construction of the I-Net by the fourth quarter of 1999. Twenty-five percent of the I-Net shall be completed by two years after the Effective Date, and sixty percent shall be completed by three years after the Effective Date. The I-Net shall be completed within three years after the effective date of this Agreement, but the Franchisee may extend this deadline without penalty for an additional six months if it notifies the Participating Communities of its need for such an extension at least 30 days before the expiration of the original three-year period.

(3) Coordination of Design and Construction of I-Net

(A) The Franchisee shall coordinate its design and construction planning with the City so that, in addition to the notice provided to the City pursuant to the system design submission process in this Agreement, the City shall have as much notice as reasonably possible so that it can plan for activation and use of the I-Net as the Franchisee builds out the I-Net fiber.

(B) If the Franchisee extends fiber beyond the scope of its original design for its System Upgrade, it shall provide reasonable notice to the City so that the City and the Franchisee may, if they choose, enter into an agreement for design and construction of new I-Net sites to be served by such extended fiber routings and thus reduce the cost of design and construction.

(4) **Acceptance.** Within twelve months after the Effective Date of the Franchise Agreement, the Franchisee shall provide the City with an I-Net design plan, including but not limited to maps and specifications for the proposed I-Net. Construction standards shall be as specified in Section 4(b) of this Agreement. Within six months after the effective date of this Agreement, the Franchisee and the City shall, subject to the City's approval, develop test procedures and standards for acceptance providing, at a minimum, that for each segment the Franchisee shall conduct tests at the end of the fiber coil; the City's engineers may observe such tests and inspect the installation; the Franchisee shall submit the test results to the City; the City may re-test the segment if it is not satisfied with the results of the Franchisee's tests; and if the City does not object to the performance of a segment within thirty days from the date the Franchisee submits its test results to the City, the City shall be deemed to have accepted that segment.

(5) **Warranty.** The Dark Fiber installed by the Franchisee pursuant to this Section shall be warranted against defects in materials and workmanship for 12 months after acceptance. Franchisee's warranty excludes any remedy for change or defect caused by abuse, modifications not executed by Franchisee, improper maintenance not performed by Franchisee, improper operation, or normal wear and tear under normal usage. This warranty is in addition to, and does not relieve the Franchisee from, its maintenance responsibilities pursuant to Section 6(h)(8).

(6) **Payment**

(A) The Institutional Fiber Network will be valued at \$4.9 million for all the Participating Communities in the aggregate ("Aggregate Cost"). The amount to be paid by the City shall be its pro rata share of the Aggregate Cost, based on

the number of subscribers in each of the Participating Communities as of January 1, 1999.

(B) The capital cost of the Institutional Fiber Network will be credited in equal increments against the Capital Equipment Support Grants over the first five years after the Effective Date, and the Franchisee may offset that cost against its Capital Equipment Support Grant payments according to those credits.

(C) The Franchisee shall reasonably cooperate with the City in taking the steps necessary so that the I-Net is, to the maximum extent consistent with applicable law, eligible for funding pursuant to the universal service provisions of the Telecommunications Act of 1996, 47 U.S.C. § 254, and the implementing regulations of the Federal Communications Commission, 47 C.F.R. Part 54, provided, however, that neither party shall be required to take any such steps that would adversely affect its rights under this Section 6(h), materially alter the cost or time for performance under this Section, or prevent it from obtaining the benefits of this Section.

(7) **Ownership.** In consideration for the reimbursement from the Participating Communities specified in this Agreement, the Participating Communities shall own the indefeasible right to use fiber optic plant dedicated to the I-Net and any extensions or replacements thereof installed by the Franchisee, subject only to such mechanic's or other liens as Franchisee may have pursuant to state law (the "Indefeasible Rights of Use"). The Participating Communities' Indefeasible Rights of Use shall be perpetual and shall survive any termination of this Agreement.

(8) **Maintenance.** Franchisee shall maintain, repair and, as necessary, replace I-Net plant on the Franchisee's side of the Demarcation Point in accordance with the following procedures and conditions:

(A) *Preventive and Routine Maintenance.* Where I-Net and subscriber network fiber optic sheaths or coaxial cable are bundled together, Franchisee shall perform routine and preventive maintenance on I-Net plant in the same time and in the same fashion as routine and preventive maintenance are performed for the subscriber network, without charge to the City. In the course of performing routine and preventive maintenance, Franchisee shall use its best efforts to identify potential trouble conditions warranting repair or replacement of I-Net plant not bundled together with subscriber network plant. Franchisee shall as promptly as practicable report potential trouble conditions to the City, but Franchisee shall not replace or repair I-Net plant for which the City is responsible for the cost of maintenance having only potential problems unless and until it has received a notice to proceed from the City.

(B) *Service Outages; Outage Categories.* For purposes of this Section 6(h), the term "Service Outage" shall mean any condition or damage affecting the I-Net plant that precludes or substantially impairs the transmission of information on the I-Net or a portion thereof. Response and restoration times are determined by the category of service outage as follows:

- (i) **Critical Outage:** Loss of the backbone ring fiber link, or the loss of service to one of the circuits feeding a critical facility, such as the County Government Center, the County Emergency

Operations Center, or the Prince George's County Public Schools computer center. Approximately twenty to twenty-five such critical circuits will be designated by the Participating Communities by written notice to the Franchisee not later than sixty days after the Effective Date of the Franchise Agreement, and any subsequent change in such critical circuits shall be provided by the Participating Communities to the Franchisee in writing.

- (ii) Major Outage: Total loss of service to an I-Net Site other than one listed as critical pursuant to Section 6(h)(8)(B)(i).
- (iii) Minor Outage: Loss of service on a single fiber to any I-Net Site.
- (iv) Service Interruption: Reduction in signal throughput to the point where the signal on a circuit falls below acceptable standards.

Notwithstanding the foregoing classifications, the City may, in its discretion, reclassify any specific service outage affecting I-Net plant upon notice to Franchisee, and such reclassification shall govern response and restoration times.

(C) *Response to Outages and Interruptions.* The response time (the point at which the Franchisee is engaged in restoration of service) for all Service

Outages, whether reported to Franchisee by the City or independently identified by Franchisee, shall be as specified in Section 6(h)(8)(F). Upon identification of a Service Outage, Franchisee shall, within such response time, have qualified personnel on site to investigate the outage, assess the cause and commence necessary repairs. To the extent that necessary repairs resulting in restoration of connectivity on the I-Net can be immediately accomplished, Franchisee shall effect such repairs in connection with its investigation of the cause of the Service Outage. To the extent that repairs cannot be immediately effected, Franchisee shall, within the response time, inform the City of the apparent cause of the Service Outage, the anticipated time for restoration of connectivity and, in cases where the City bears the cost of maintenance, the estimated cost of restoration connectivity.

(D) Restoration of Service.

- (i) Franchisee shall, to the maximum extent practicable, effect restoration of connectivity of any category of service alarm involving I-Net plant that is bundled together with subscriber network plant at the same time as restoration of co-located subscriber network plant.
- (ii) Franchisee shall effect restoration of connectivity of I-Net plant that is not bundled together with subscriber network plant as promptly as practicable within the estimated restoration times reported to the City pursuant to Section 6(h)(8)(F) and shall use

its best efforts to effect such restoration within the service objectives set forth in Section 6(h)(8)(F); provided, however, that in the case of any Service Outage affecting I-Net plant that is not bundled together with subscriber network plant, the City may, pursuant to a work order issued to the Franchisee ("Work Order"), require Franchisee to engage the services of one or more subcontractors to effect such restoration.

- (iii) In the case of a Service Outage involving more than one category of Service Outage or multiple service outages involving more than one category of Service Outage, Franchisee shall restore connectivity in the order specified in Section 6(h)(8)(B), or such other order of priority as the City reasonably requires. In all cases involving Service Outages resulting from I-Net plant that is bundled together with subscriber network plant, Franchisee shall give priority to restoration of the I-Net plant.

(E) *Cost of Maintenance.* Where I-Net and subscriber network plant are bundled together, the Franchisee shall provide maintenance without any charge to the City. Where such plants are not bundled together, the City shall bear the Actual

Cost of maintenance related to such I-Net plant. The Franchisee shall submit monthly statements to the City for any such Actual Cost of maintenance related to such I-Net plant, and the City shall pay these statements within sixty days from the date the City receives them, subject to the City's reasonable audit rights. The City shall pay interest at prime plus three percent for any late payments under this Section 6(h)(8)(E).

(F) *Response and Restoration Times.* The standards for response and restoration of service as specified in Sections 6(h)(8)(C) and 6(h)(8)(D) are:

- (i) **Critical Outage:** Response within two hours, minimum temporary repair (fully operational connectivity, end to end) completed within four hours, permanent repair (conforming to all applicable standards as provided herein) within twenty-four hours.
- (ii) **Major Outage:** Response within two hours during normal business hours, four hours otherwise; temporary repair completed within six hours, permanent repair within two business days.
- (iii) **Minor Outage:** Response within two hours during normal business hours, four hours otherwise; permanent repair within three business days.
- (iv) **Service Interruption:** Response within two hours during normal business hours, eight hours

otherwise; permanent repair within five business days.

Where, for reasons beyond the Franchisee's control, restoration of service cannot be completed in the above time periods even with the exercise of all due diligence, the Franchisee shall complete the restoration of service in the shortest time possible.

(G) Where the City is obliged under subsection 6(h)(8)(E) to reimburse the Franchisee for maintenance costs, the Franchisee shall immediately proceed to effect repair or restoration pursuant to subsections 6(h)(8)(D) and 6(h)(8)(F), but in addition Franchisee shall, as promptly as practicable, notify the Mayor or his designee of the expected duration of any outage and the estimated costs of repair.

(H) For purposes of this Section 6(h), the term "Maintenance" shall mean any action required to restore physical fiber optic connectivity on the Franchisee's side of the Demarcation Point to the performance standards specified in Section 6(h)(2).

(I) If any fiber optic cable in which the City has an Indefeasible Right of Use should be cut or damaged, and the responsible party is identified, then the City shall support Franchisee's claims for damages against the responsible party.

(J) Notwithstanding the foregoing provisions, all I-Net wiring on the City's side of the Demarcation Point and all I-Net Headend electronics, Hub Site electronics, and I-Net Site electronics, and I-Net wiring inside building Demarcation Points are the sole responsibility and property of the City. All costs associated with locating or repairing any failure which is reported to the Franchisee but which

subsequently is determined to have occurred on the City's side of the Demarcation Point shall be paid for by the City, except to the extent that the Franchisee's negligence or willful action may adversely affect such equipment or facilities.

(9) Use

(A) Parties authorized to use the I-Net ("Authorized Users") shall include, to the extent approved by the Participating Communities:

- (i) the Participating Communities and the Prince George's County Public Schools and their agencies and subdivisions; and
- (ii) all political subdivisions of the State located within the external boundaries of the City, and their agencies and subdivisions.

(B) The City shall not use, or permit any third party to use, the I-Net for resale or for the transmission of third party traffic.

(C) For purposes of this subsection 6(h)(9), "third party traffic" shall mean communications not involving at least one Authorized User.

(D) The Franchisee shall have no control, responsibility or liability for the signals distributed over the fiber optic components of the I-Net by the City or other Authorized Users or for their benefit.

(10) Subcontractors

(A) A subcontractor is an entity which has a direct contract with the Franchisee to perform a portion of the Work.

(B) The Franchisee shall not enter into a subcontract with a proposed subcontractor with reference to whom the City has made timely and reasonable objection. The Franchisee shall not be required to subcontract with any party to whom the Franchisee has objection.

(C) All subcontracts shall afford the Franchisee rights against the subcontractor which correspond to those rights afforded to the City against the Franchisee herein.

(11) **Other Provisions**

(A) If the Franchisee performs any of the Work knowing it involves a recognized and material error, inconsistency or omission in this Section without notice to and approval of the City, the Franchisee shall bear the cost of correction. If the City permits the Franchisee to perform any of the Work knowing it involves a recognized and material error, inconsistency or omission in this Section without notice to and approval of the Franchisee, the City shall bear the cost of correction. The Franchisee's provision of its plans to the City shall not be construed to render the City responsible for Franchisee's planning or execution of the Work or for detecting any errors, inconsistencies, or omissions therein, except to the extent specifically set forth herein.

(B) The Franchisee shall obey and pay for all permits, fees and licenses necessary and ordinary for all actions required under this Franchise Agreement, except that the Franchisee shall not pay for permits required by the City wherever I-Net facilities are included in the facilities for which a permit is obtained. The Franchisee

shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

(C) The Franchisee shall supervise and direct the Work, using the Franchisee's skill and attention in accordance with accepted construction industry practices. The Franchisee shall be solely responsible for and have control over design and construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Section, unless this Section provides for other specific instructions concerning these matters.

(D) The Franchisee shall keep the work areas related to the Work reasonably clean of debris generated by the Franchisee during performance of the Work. Upon final completion of Work, the Franchisee shall clean its work areas and remove all waste generated by the Franchisee therefrom.

(E) The City shall have access to the Work at all times from commencement of the Work through its completion pursuant to applicable law. The Franchisee shall take all reasonable steps to provide access when requested, provided, however, that such access shall not unreasonably impede efforts of the Franchisee, its subcontractors or others engaged in the Work.

(F) The indemnification, insurance, and other right-of-way management provisions of this Agreement shall apply to the Work under this Section.

(12) The Franchisee shall continue to maintain and operate all existing Institutional Network facilities in the City as they exist as of the Effective Date of this Agreement, pursuant to the terms of its prior franchises, until the City switches all its

current institutional network operations to the I-Net pursuant to the I-Net Construction Agreement.

(13) . A committee to be jointly established by the Participating Communities (“Community Coordinating Committee”) is hereby designated as the City’s agent for purposes of managing and paying for construction of the I-Net System Upgrade. The Community Coordinating Committee may instruct the Franchisee to pay two percent of its Gross Revenues, out of the three percent specified in section 6(b)(2), directly to the Community Coordinating Committee, and any credits by the Franchisee offset as specified in the I-Net Construction Agreement shall be offset against that amount. This payment arrangement is for administrative purposes only and shall not affect any of the competition or pass-through provisions of this Agreement.

(i) *Cable Modem Network*

(A) At the communities’ request, the Franchisee will provide up to 200 cable modems that are equivalent to those that the Franchisee deploys commercially in the market and are capable of supporting the Participating Communities’ intended uses as described in this Agreement to sites designated by the Participating Communities for use by the elementary schools, fire stations, and other designated low-bandwidth locations, at a price not to exceed \$500 per modem to be offset against the Franchisee’s capital grants. The Franchisee will install such modems, including the inside wiring necessary to connect the modems to the cable drop, and maintain the connection to the headend as a turnkey system, without further charge. The modems will be placed within a reasonable distance of the point where the Franchisee’s cable drop enters the building.

(B) The Franchisee will install any necessary equipment at the headend to ensure that these cable modems can be used to connect seamlessly to the Institutional Fiber Network and send and receive information securely with any other location (including this cable modem network) as part of the I-Net. The Franchisee may offset against its capital grants the Actual Cost of such headend or system equipment, up to a maximum of \$500,000.

(C) The Franchisee will ensure that at least 2 Mbps of upstream capacity is available at all times for use by this cable modem network in the aggregate and at any single position on the network.

(D) To provide the necessary two-way service to this cable modem network, the Participating Communities will have three options: (a) the Participating Communities may arrange for their own network management, software, Internet gateway, and other services and facilities necessary to provide service over the cable modem network, without contracting with @Work, in which case the Franchisee will be credited \$1.4 million for use of the subscriber network bandwidth by the cable modems, to be credited against Franchisee's grants specified in Section 6(a)(11) over five years; or (b) the Participating Communities may contract with @Work for a mutually agreed-upon price to provide such network management, software, Internet gateway, and other services and facilities, in which case the Franchisee will not receive the \$1.4 million credit specified in (a); or (c) the Participating Communities may choose not to implement the cable modem network, in which case the Franchisee will not receive the \$1.4 million credit specified in (a). The Participating Communities must exercise this option within three years of the effective date of the franchise by informing the Franchisee in writing.

The Franchisee will have six months after this notice, or until the end of the time period for I-Net fiber construction specified in Section 6(h)(2)(M), whichever is later, to install the modems and other equipment and, if applicable, to provide the service.

(E) The offsets by the Franchisee described in this Section 6(i) will begin when the communities make the choice described in Section 6(i)(D). Such offsets for the cable modems and system equipment, and for subscriber network bandwidth use as specified in Section 6(i)(D), if applicable, will be spread in equal quarterly increments over five years starting on that date.

(j) *Costs and Payments Not Franchise Fees:* The parties agree that any costs to the Franchisee associated with the provision of support for PEG access pursuant to this Agreement, and any payments made to the City pursuant to Sections 5 and 6 of this Agreement, do not constitute and are not part of a Franchise fee, and fall within one or more of the exceptions to 47 U.S.C. § 542.

7. FRANCHISE FEE.

(a) *Payment to City.* Each year during the Franchise term, as compensation for use of Public Rights-of-Way, the Franchisee shall pay to the City, on a quarterly basis, a Franchise Fee of five percent (5%) of Gross Revenues. Such payments shall be made no later than thirty (30) days following the end of each of the Franchisee's fiscal quarters.

(b) *Supporting Information.* Each Franchise fee payment shall be submitted with supporting detail and a statement certified by an independent certified public accountant, reflecting the total amount of monthly Gross Revenues for the payment period and a breakdown by major revenue categories (such as basic service, cable programming

service, premium service, etc.). The City shall have the right to require further supporting information.

(c) *No Limitation on Taxing Authority:*

(1) Nothing in this Agreement shall be construed to limit any authority of the City 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 Franchisee shall be required to pay to the City 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 Franchisee. The Franchisee 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 City taxes or other fees or charges which the Franchisee is required to pay to the City, except as required by law or expressly provided in this Agreement. The Franchisee 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 City taxes or other fees or charges, each of which shall be deemed to be separate and distinct obligations of Franchisee. Nor shall the Franchisee 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 fee obligations, each of which shall be deemed to be separate and distinct obligations of the Franchisee. The Franchisee may designate a Franchise Fee as a separate item in any bill to a Subscriber of the Franchisee's Cable System, but shall not designate or characterize it as a tax.

8. PERFORMANCE GUARANTEES AND REMEDIES.

(a) Letter of Credit

(1) In lieu of a performance bond, the Franchisee shall file and maintain with the City an irrevocable letter of credit from a financial institution licensed to do business in Maryland in the amount of \$ 16,000 to ensure the Franchisee's faithful performance of its obligations. The form and content of the letter of credit shall be approved by the City.

(2) The Franchisee and its surety shall be jointly and severally liable under the terms of the letter of credit.

(3) There shall be recoverable by the City from the letter of credit any and all fines and penalties due to the City and any and all damages, losses, costs, and expenses suffered or incurred by the City resulting from the failure of the Franchisee to faithfully comply with the material provisions of this Agreement, the Cable Ordinance, and other applicable law; comply with all orders, permits and directives of any City agency or body having jurisdiction over its acts or defaults; pay fees due to the City; or pay any claims or liens due the City. Such losses, costs and expenses shall include but not be limited to reasonable attorney's fees and other associated expenses.

(4) The letter of credit shall provide for thirty (30) days' prior written notice to the City of any intention on the part of the Franchisee to cancel, fail to renew, or otherwise materially alter its terms.

(5) The letter of credit shall be released only upon expiration of the Franchise or upon the replacement of the letter of credit within the time specified herein.

(b) Rights Cumulative. The rights reserved to the City herein are in addition to all other rights of the City, whether reserved herein or authorized by applicable law, and no

action, proceeding, or exercise of a right with respect to the letter of credit required by this Agreement will affect any other right the City may have. Neither the filing of a letter of credit with the City, nor the receipt of any damages recovered by the City thereunder, shall be construed to excuse faithful performance by the Franchisee or limit the liability of the Franchisee under the terms of its Franchise for damages, either to the full amount of the letter of credit or otherwise.

(c) *Letter of Credit Procedures.* The following procedures shall apply to drawing on the letter of credit:

(1) If the Franchisee fails to make timely payment to the City of any amount due under this Agreement or applicable law, or fails to compensate the City within fourteen (14) days of written notification that such compensation is due, for any damages, costs, or expenses the City suffers or incurs by reason of any act or omission of the Franchisee in connection with this Agreement or its enforcement, or fails, after fourteen (14) days' written notice, to comply with any provision of this Agreement or the Cable Ordinance that the City determines can be remedied by an expenditure against the letter of credit, the City may withdraw the amount thereof, with interest and any penalties, from the letter of credit, after providing the Franchisee with ten (10) days' advance written notice; provided, however, that if the Franchisee files a legal action disputing the City's claim, the ten-business-day notice period shall be tolled as to that claim until the claim is resolved by order of the trial court.

(2) Within three (3) days of a withdrawal from the letter of credit, the City shall mail, by certified mail, return receipt requested, written notification of the amount, date, and purpose of such withdrawal to the Franchisee.

(3) If at the time of a withdrawal from the letter of credit by the City, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the Franchisee to the City until it is paid.

(4) No later than thirty (30) days after mailing of notification to the Franchisee by certified mail, return receipt requested, of a withdrawal under the letter of credit, the Franchisee shall restore the letter of credit to the total amount specified herein.

(5) Upon termination of the Franchise under conditions other than those stipulating forfeiture of the letter of credit, the balance then remaining in the letter of credit shall be returned to the Franchisee within ninety (90) days of such termination, provided that there is then no outstanding default on the part of the Franchisee.

(d) *Failure Constitutes Material Violation.* Failure to maintain or restore the letter of credit shall constitute a material violation of this Agreement.

(e) *Reduction of Letter of Credit.* The City may approve a reduction in the amount of the letter of credit upon written application by the Franchisee, which approval shall not be unreasonably withheld. The amount of the letter of credit may be reduced to \$ 10,000 when the System Upgrade has been extended to more than fifty percent of the occupied dwelling units within the area where service is available on the Effective Date of this Agreement, as certified by the Franchisee to the City, and may be further reduced to the sum of \$ 10,000 when the System Upgrade has been extended to more than ninety percent of the occupied dwelling units within that area, as certified by the Franchisee to the City. Reductions granted or denied upon application by the

Franchisee shall be without prejudice to the Franchisee's subsequent applications or to the City's right to require the full letter of credit at any time thereafter.

(f) *Remedies.* In addition to any other remedies available at law or equity, the City may apply any one or a combination of the following remedies in the event the Franchisee violates the Cable Ordinance, this Franchise Agreement, or applicable state or federal law:

(1) Apply any remedy provided for in this Agreement.

(2) Revoke the Franchise or shorten the term pursuant to the procedures specified in this Agreement.

(3) Impose penalties available under the Cable Ordinance or other applicable state and local laws for violation of City ordinances.

(4) In addition to or instead of any other remedy, seek legal or equitable relief from any court of competent jurisdiction.

(g) *Liquidated Damages:* Because the Franchisee's failure to comply with provisions of the Franchise and this Franchise Agreement will result in injury to the City, and because it will be difficult to estimate the extent of such injury, the City and the Franchisee agree to the following liquidated damages to be effective during the term of the Franchise for the following violations of the Franchise and of this Agreement, which represent both parties' best estimate of the damages resulting from the specified violation. Such damages shall not be a substitute for actual performance by the Franchisee of a financial payment, but shall be in addition to any such actual performance. The Mayor, or designee, shall have the authority to waive or reduce the liquidated damage amounts herein for good cause. Cure periods listed below shall begin to run at the time the

Franchisee is notified in writing of a violation by the City, unless otherwise specified below.

(1) For failure to submit any required plans indicating expected dates of installation of various parts of the System: \$400/day for each violation for each day the violation continues;

(2) For failure to substantially complete the System Upgrade in accordance with this Agreement: \$1,000/day for each violation for each day the violation continues after a thirty-day cure period, if the Franchisee has not undertaken substantial corrective action to cure the violation within that thirty-day period;

(3) For a Transfer without approval: \$2,000/day for each violation for each day the violation continues;

(4) For failure to comply with requirements for public, educational and governmental use of the System: \$1,000/day for each violation for each day the violation continues after a fourteen-day cure period, if the Franchisee has not undertaken substantial corrective action to cure the violation within that fourteen-day period;

(5) For failure to supply information, reports, or filings lawfully required under the Franchise Agreement or applicable law or by the City: \$500/day for each violation for each day the violation continues after a thirty-day cure period, which shall begin to run on the due date of any regularly scheduled report and on the date of a deadline reasonably set by the City for any report or information request not regularly scheduled, unless the Franchisee shows that it was not in fact aware of the requirement in question, in which case the thirty-day cure period shall begin to run upon written notice of such requirement by the City to the Franchisee;

(6) For violation of customer service standards: \$200 per violation;

(7) For failure to pay Franchise fees or liquidated damages: \$100 per day, in addition to any monetary payment due under this Agreement or the Cable Ordinance, for each violation for each day the violation continues after a seven-day cure period, if the Franchisee has failed to make payment within that seven-day period, provided that these liquidated damages shall be in addition to any late fees that may apply;

(8) For failure to file, obtain or maintain any required letter of credit in a timely fashion: \$200 per day;

(9) For failure to restore damaged property: \$200 per day, in addition to the cost of the restoration as required elsewhere herein or in a Franchise Agreement, for each day the violation continues after a thirty-day cure period, if the Franchisee has not undertaken substantial corrective action to cure the violation within that thirty-day period;

(10) For violation of technical standards established by the FCC: \$100 per day for each day the violation continues after a thirty-day cure period after the City gives the Franchisee notice of such violation.

(h) Shortening, Revocation, or Termination of Franchise.

(1) Upon completion of the term of the Franchise granted under this Agreement, if a new, extended, or renewed Franchise is not granted to the Franchisee by the City, the Franchisee's right to occupy the Public Rights-of-Way shall terminate, subject to applicable federal law.

(2) The City shall have the right to revoke the Franchise, or to shorten the term of the Franchise to a term not less than thirty-six (36) months from the date Franchisee receives written notice from the City of the City's decision to act pursuant to Section 8(h)(3) herein concerning the City's shortening action, for the Franchisee's material violation of this Agreement.

(3) To invoke the provisions of this Section, the City shall give the Franchisee written notice of the default in its performance. If within sixty (60) calendar days following such written notice from the City to the Franchisee, or such other period as the Franchise Agreement shall require or the Franchisee and the City shall agree, the Franchisee has not taken corrective action to the satisfaction of the City, the City may give written notice to the Franchisee of its intent to revoke or shorten the Franchise, stating its reasons; provided that no opportunity to cure shall be provided where the Franchisee is shown to have defrauded or attempted to defraud the City or its Subscribers in connection with this Agreement or Cable Service in any way that has a material adverse effect on Franchisee's provision of Cable Services pursuant to this Agreement.

(4) Prior to shortening the term of or revoking the Franchise, the City shall hold a public hearing, on thirty (30) calendar days' notice, at which time the Franchisee and the public shall be given an opportunity to be heard. Following the public hearing, the City may determine whether to revoke or shorten the term of the Franchise based on the information presented at the hearing, and other information of record, or, where applicable, grant additional time to the Franchisee to effect any cure. If the City determines to shorten the Franchise term or revoke the Franchise, it shall issue a written

decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to the Franchisee.

(5) If the City revokes the Franchise, or if for any other reason the Franchisee abandons, terminates, or fails to operate or maintain service to its Subscribers, the following procedures and rights are effective:

(A) The City may require the former Franchisee to remove its facilities and equipment at the former Franchisee's expense and restore affected sites as required in the Cable Ordinance or this Agreement, or permit the former Franchisee to abandon such facilities in place. If the former Franchisee fails to do so within a reasonable period of time after the City 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 City may have the removal done at the former Franchisee's and/or surety's expense.

(B) The City may require the former Franchisee to continue operating the Cable System as specified in the Cable Ordinance.

(C) In the event of revocation, the City, 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.

(i) *Guarantee of Performance:* The Franchisee shall provide, and maintain in force throughout the Franchise term, a performance guarantee substantially in the form of Appendix 6.

9. MISCELLANEOUS PROVISIONS

(a) *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 Franchisee and the City and preserves the benefits bargained for by each party.

(b) *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, subject to the City's right under subsection 9(a), the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

(c) *Compliance With Federal and State Laws:* The Franchisee shall, at all times during the term of this Franchise Agreement, including any extensions thereof, substantially comply with all applicable federal, state, and local laws and regulations.

(d) *Force Majeure:* Notwithstanding any other provision of this Agreement, the Franchisee 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 Franchisee 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 Franchisee. In the event that any such delay in performance or failure to perform affects only part of the Franchisee's capacity to perform, the Franchisee 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.

(e) *Governing Law:* This Franchise Agreement shall be governed in all respects by the law of the State of Maryland.

(f) *Notices:* Unless otherwise provided by applicable law or this Agreement, all notices or other written communications required to be given to the City or the Franchisee under any provision of this Agreement or the Cable Ordinance shall be deemed served when regularly mailed, postage prepaid or delivered by hand in writing, to the addressees below. Each party may change its designee by providing written notice to the other party, but each party may only designate one entity to receive notice.

(1) Notices to the Franchisee shall be mailed to:

Jones Communications, Inc.
9697 E. Mineral Avenue
P.O. Box 3309
Englewood, Colorado 80155-3309

and

Jones Communications of
Maryland, Inc.
9315 Largo Drive West
Landover, Maryland 20785
Attn: General Manager

(2) Notices to the City shall be mailed to:

Office of the City Manager
City of Greenbelt

25 Crescent Road
Greenbelt, Maryland 20770

(3) The Franchisee shall at all times keep the City advised as to which individual(s) are authorized to act on behalf of the Franchisee and whose acts will be considered to bind the Franchisee.

(g) *Time of Essence; Maintenance of Records of Essence:* In determining whether a party has substantially complied with this Franchise Agreement, the parties agree that time is of the essence.

(h) *Captions and References:*

(1) The captions and headings of sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

(2) When any provision of the Cable Ordinance is expressly mentioned herein, such reference shall not be construed to limit the applicability of any other provision of the Cable Ordinance or City law that may also govern the particular matter in question.

(i) *Police Powers of the City:* Notwithstanding any other provision in this Agreement, nothing in this Agreement shall preclude the City from exercising its police powers to enact, amend or supplement any law or regulation governing cable communications within the City.

(j) *Franchisee Bears Its Own Costs:* Unless otherwise expressly provided in this Agreement, all acts that the Franchisee is required to perform must be performed at the Franchisee's own expense.

(k) *City Bears Its Own Costs:* Unless otherwise expressly provided in this Agreement, all acts that the City is required to perform must be performed at the City's own expense.

(l) *Entire Agreement.* This Agreement embodies the entire understanding and agreement of the City and the Franchisee with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the City and the Franchisee 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 City or the Franchisee.

AGREED TO THIS 1st DAY OF April, 1991.

City of Greenbelt, Maryland

By: Judith F. Davis
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM: _____

City Attorney

**JONES COMMUNICATIONS OF
MARYLAND, INC.,**
a Colorado corporation

By: 
[title] Ruth E. Warren
Group Vice President/Operations

APPENDIX 1: RAPID RESPONSE PLAN

The Franchisee will institute a weekly reporting system that will allow the Franchisee to break down all System service problems by geographic location. A geographic area will be the smaller of (i) a community or (ii) a preexisting management area for which data is maintained, such as the areas specified in CableData (there are approximately 50 CableData management areas in the System). A maintenance supervisor will then review the reports to identify any regionalized or local service problems. The maintenance supervisor will then dispatch technical crews to the area or areas and proactively address any System deficiencies, including the need to sweep and balance portions of the System. The Franchisee will dedicate at least two line technicians for this project. The Franchisee shall have sufficient personnel on staff to the extent that it is necessary to deploy a greater level of support.

APPENDIX 2: NODE SEGMENTATION PLAN

The Franchisee shall design a node migration plan that will allow the Franchisee to rapidly implement further segmentation of the Cable System from an average of 1,750 homes per node to a 500-homes-per-node System architecture with minimal further disruption of the Public Rights-of-Way. The 500 homes per node architecture shall be implemented as service demands warrant.

The migration plan shall define service areas based upon a 500 homes per node architecture. Once the 500-home service areas as defined, the Franchisee will back into a 1,750-homes-per-node average design. At the time that the Franchisee installs fiber for node reduction to an average of 1,750 homes per node, the Franchisee will install additional fiber in a splice enclosure to allow for further segmentation to a 500 homes per node architecture. This fiber will be left dark and will be extended from that point to the 500-home node when demand warrants. Typical fiber extensions to get to the 500-home nodes will be roughly one mile.

The migration plan shall be completed by the end of the second quarter of 1999. Formal design and implementation will follow.

The Franchisee shall have completed 40% of the plant node reduction by the end of the fourth quarter of 2000. Node reduction for the remainder of the plant shall be completed by the end of the fourth quarter of 2001.

APPENDIX 3: NODES EXCEEDING SPECIFIED SIZES

None in the City.

APPENDIX 4: REPOWERING SCHEDULE

The Cable System has 804 power supplies that are currently active.

By the end of the second quarter of 1999, the Franchisee shall have replaced 275 of the 804 power supplies. This upgrade shall have the added benefit of reducing the load on the existing power supplies by having two units at each location, one of the A side and one for the B side. This reduction in load also prevents unnecessary outages by giving the plant the "headroom" to absorb power fluctuations.

By the end of the fourth quarter of 1999, the Franchisee shall replace and upgrade 302 additional power supplies throughout the entire franchise area. This project is designed to improve the supplies that are currently in the field and provide better stand-by operation for the older units. A second goal of this project is to eliminate any unnecessary power supplies that are in the plant. With the reduction in load gained by the end of the year 1999, the Franchisee anticipates that it can remove 10-20% of the supplies that have not been upgraded. The remaining supplies that require upgrading shall be completed no later than April 1, 2000, pursuant to the Franchise Agreement.

APPENDIX 5: I-NET SITE LIST

Prince George's County Site List
Basis for CTC Model

Educational Network
High Schools - (see attached)
Middle Schools - (see attached)
Administrative Facilities - (see attached)
RICA Center - 9400 Surratts Rd, Cheltenham
Universities and Colleges - (see attached)
Jones Headends (2)
<i>Elementary Schools to be served over cable modems on two-way active subscriber network*</i>
County Network
County Communications Facility - 7911 Anchor St., Landover
Fire Department Services Building - 6820 Webster St., Landover Hills
Police Special Operations Facility - 6700 Riverdale Rd., Riverdale
Jefferson Avenue Warehouse - 760 Jefferson Ave., Landover
Police District Stations - (see attached)
Police Training Facility - 13401 Dille Dr., Upper Marlboro
Fire/EMS Training Facility - 9190 Commo Rd., Cheltenham
County Health Dept. Offices - (see attached)
County Fleet Maintenance Facility - 8019 Central Ave., Capitol Heights
Marburger Public Works Building - 8400 D'Arcy Rd., Forrestville
County Landfill Facility - 3500 Brown Station Rd.
Future Mass Transit Facility - (Forrestville)
Department of Corrections - 13400 Dille Dr., Upper Marlboro
Largo Campus - (see attached)**
Upper Marlboro Campus - (see attached)**
County Libraries - (see attached)
DPWT - approximately 13 traffic monitoring sites to be determined
Vehicle Audit Lot - 4920 Ritchie Marlboro Road, Upper Marlboro
Animal Control Facility - 8311 D'Arcy Road, Forrestville
Hyattsville Campus - (see attached)**
Lottsford Business Center - 9475 Lottsford Road, Landover
Hyattsville District Court - 4990 Rhode Island Avenue, Hyattsville
M-NCPPC - 14422-14428 Lakeside and 14430-14436 Old Mill Road, Upper Marlboro
Municipal Sites- (see attached)

**Elementary schools, fire stations, and other low-bandwidth sites are proposed to be served over cable modems on two-way active subscriber network. Approximately 200 cable modems will be required.*

***There are campus locations with internal fiber connection in place, therefore, only one campus location connection is requested.*

This list is the basis assumed for the CTC model. A minimum of 180 sites should be requested to accommodate these above sites and any emerging needs of users determined prior to final site selection.

Universities and Colleges

University of Maryland University College (UMUC)

Main Campus

University Blvd @ Adelphi Rd.

College Park

UMUC - off campus site

Andrews Air Force Base

Education Center, Bldg 1413

Camp Springs

University of Maryland, College Park (UMCP)

Tawes Fine Arts Building

Campus Dr. & Knox Rd.

College Park

Prince George's Community College (PGCC)

301 Largo Rd.

Largo

PGCC - off campus site

National Guard Armory

8601 Odell Rd.

Laurel

Bowie State University

14000 Jericho Park Rd.

Bowie

Bowie State University - off campus Site

Glendale Christian Life Center

7800 Central Ave.

Landover

Police Department

Police District Stations

District II
601 SW Crain Hwy
Upper Marlboro

District III
7600 Barlowe Rd.
Palmer Park

District IV
7500 Livingston Rd.
Oxon Hill

District V
6707 Groveton Dr.
Clinton

District VI
4321 Sellman Rd.
Beltsville

County Health Department Offices

Northern Regional Office
3003 Hospital Dr.
Cheverly

Central Regional Office
5408 Silver Hill Rd.
Forrestville

Southern Regional Office
9314 Piscataway Rd.
Clinton

Belcrest Health Center
6505 Belcrest Rd.
Hyattsville

Public School Administrative Facilities

**Board Of Education
Sasscer Admin. Bldg
14201 School Ln.
Upper Marlboro**

**Belair Staff Development Ctr
3021 Belair Dr.
Bowie**

**Bladensburg Instructional Svc. Ctr.
5150 Annapolis Rd.
Bladensburg**

**Facilities Administration Bldg.
13300 Old Marlboro Pike
Upper Marlboro**

**Instructional Support & Supply Ctr.
9201 East Hampton Dr.
Capitol Heights**

**Oxon Hill Staff Development Ctr.
7711 Livingston Rd.
Oxon Hill**

**Bonnie Johns Media Ctr.
8437 Landover Rd.
Landover**

Largo Campus (primary I-Net connection underlined)

Largo Government Center

Inglewood Center III

Tech Center III

Tech Center IV

RMS Building

Mental Health Department Administration Building

Hyattsville Campus (primary I-Net connection underlined)

Hyattsville Judicial Center

County Services Building

Upper Marlboro Campus (primary I-Net connection underlined)

County Administration Building

Duvall Building

OMES Building

Old Courthouse

New Courthouse



HIGH SCHOOLS

Blodensburg (D-4)(C-Blodensburg)
5610 Tilden Road
Blodensburg, MD 20710

PHONE _____ 301-985-1470
FAX _____ 301-985-1479
HOURS _____ 7:55-2:35

Mr. Thomas Keeley, Principal/CEA
Mr. John Erdri, Dean of Students

Bowie (D-5)(C-Bowie)
15200 Annapolis Road
Bowie, MD 20715

PHONE _____ 301-805-2600
FAX _____ 301-805-2619
HOURS _____ 7:50-2:30

Mrs. Patricia Brooks, Principal/CEA
Mr. Larry Martin, Dean of Students
Mr. Michael Williams, Wg. Coordinator 301-805-2614

Central (D-6)(C-Central)
200 Cabin Branch Road
Capital Heights, MD 20743

PHONE _____ 301-499-7080
FAX _____ 301-499-7087
HOURS _____ 8:00-2:40

Mr. Carrington Smith, Principal (Acting)
Ms. Ross Pelzer-Brown, Dean of Students
Ms. Joan Brown, CEA

Crossland (D-8)(C-Crossland)
6901 Temple Hills Road
Temple Hills, MD 20748

PHONE _____ 301-449-4800
FAX _____ 301-449-4801
HOURS _____ 7:55-2:35

Mrs. Evelyn Chisholm, Principal/CEA
Ms. Peggy Nicholson, Dean of Students

DuVal (D-2)(C-DuVal)
9880 Good Luck Road
Lanham, MD 20706

PHONE _____ 301-918-8600
FAX _____ 301-918-8606
HOURS _____ 8:30-3:10

Mr. Robert Beery, Principal
Charles Ross, Dean of Students
Mrs. Winnie Woolley, CEA

Eleanor Roosevelt (D-3)(C-Eleanor Roosevelt)
7601 Hanover Parkway
Greenbelt, MD 20770

PHONE _____ 301-513-5400
FAX _____ 301-513-5047
HOURS _____ 9:30-4:10

Dr. Gerald Boerman, Principal/CEA
Mr. James Ruddy, Dean of Students

Fairmont Heights (D-4)(C-Fairmont Heights)
1401 Nye Street
Capital Heights, MD 20743

PHONE _____ 301-925-1360
FAX _____ 301-925-1371
HOURS _____ 8:30-3:10

Dr. Carolyn Blue, Principal/CEA
Mr. Eric Lyles, Dean of Students

Forestville (D-7)(C-Forestville)
7001 Beltz Drive
Forestville, MD 20747

PHONE _____ 301-817-0400
FAX _____ 301-817-0416
HOURS _____ 9:00-3:40

Mr. Edward Newsome, Jr., Principal/CEA
Ms. Janice Briscoe, Dean of Schools

Frederick Douglass (D-9)(C-Frederick Douglass)
8000 Croom Road
Upper Marlboro, MD 20772

PHONE _____ 301-952-2400
FAX _____ 301-627-3377
HOURS _____ 7:55-2:35

Ms. Susan E. DePietchett, Principal/CEA
Ms. Mary Bailey, Dean of Students

Friendly (D-9)(C-Friendly)
10000 Allentown Road
Fort Washington, MD 20744

PHONE _____ 301-449-4900
FAX _____ 301-449-4911
HOURS _____ 7:55-2:35

Mr. John Brooks, Principal
Ms. Wanda Grant, Dean of Students
Ms. Beatrice Langley, CEA

Gwynn Park (D-9)(C-Gwynn Park)
13800 Brandywine Road
Brandywine, MD 20613

PHONE _____ 301-372-0140
FAX _____ 301-372-0149
HOURS _____ 8:00-2:40

Dr. Eleanor White, Principal/CEA
Ms. Mary Cunningham, Dean of Students

High Point (D-1)(C-High Point)
3601 Powder Mill Road
Beltsville, MD 20705

PHONE _____ 301-572-6493
FAX _____ 301-572-6496
HOURS _____ 7:55-2:35

Mrs. Ethel Engrum, Principal/CEA
Mr. John Payne, Dean of Students

Large (D-6)(C-Large)
505 Large Road

Upper Marlboro, MD 20772

PHONE _____ 301-808-8880
FAX _____ 301-808-4066
HOURS _____ 9:00-3:40

Mr. Gordon L. Sampson, Principal/CEA
Mr. Donald Herring, Dean of Students

Laurel (D-1)(C-Laurel)
8000 Cherry Lane
Laurel, MD 20707

PHONE _____ 301-497-2050
FAX _____ 301-497-2066
HOURS _____ 8:00-2:40

Ms. Janis Mills, Principal/CEA
Ms. Suzanne Muzzy, Dean of Students

Northwestern (D-3)(C-Northwestern)
7000 Adelphi Road
Hyattsville, MD 20782

PHONE _____ 301-985-1820
FAX _____ 301-985-1833
HOURS _____ 8:55-3:35

Mr. Kevin Maxwell, Principal/CEA
Mr. William Ricker, Dean of Students

Oxon Hill (D-8)(C-Oxon Hill)
6701 Layan Drive
Oxon Hill, MD 20745

PHONE _____ 301-749-4300
FAX _____ 301-749-4320
HOURS _____ 9:30-4:10

Dr. David Stefa, Principal/CEA
Mr. Ronald Curtis, Dean of Students

Parlades (D-4)(C-Parlades)
6001 Good Luck Road
Riverdale, MD 20737

PHONE _____ 301-513-5700
FAX _____ 301-513-5209
HOURS _____ 8:00-2:40

Dr. William LeFevre, Principal/CEA
Ms. Joyce Biska, Dean of Students

Potomac (D-8)(C-Potomac)
5211 Baydell Avenue
Oxon Hill, MD 20745

PHONE _____ 301-702-3900
FAX _____ 301-702-3886
HOURS _____ 7:50-2:30

Mr. C. Anthony Thompson, Principal/CEA
Dr. Thomas Gilligan, Dean of Students

Suitland (D-7)(C-Suitland)
5200 Silver Hill Road
District Heights, MD 20747

PHONE _____ 301-817-0500
FAX _____ 301-817-0515
HOURS _____ 8:00-2:40

Ms. Gwendolyn Allen, Principal
Ms. Linda Thomas, Dean of Students
Ms. Joyce Dandridge, CEA

Serrastaville (D-7)(C-Serrastaville)
6181 Garden Drive
Clason, MD 20725

PHONE _____ 301-599-2453
FAX _____ 301-599-2476
HOURS _____ 8:00-2:40

Mr. Francis Collins, Principal/CEA
Mr. Gary McCortie, Dean of Students

 VOCATIONAL

Croom Vocational
(D-7)(C-Frederick Douglass)
15100 Mt. Calvert Road
Upper Marlboro, MD 20772

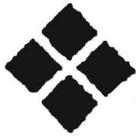
PHONE _____ 301-952-7750
FAX _____ 301-952-7758
HOURS _____ 8:00-2:40

Mr. Ruben Buggs, Principal
Ms. Susan DePaschett, CEA

Tall Oaks Vocational
(D-5)(C-Largo)
2112 Church Road
Bowie, MD 20716

PHONE _____ 301-390-0230
FAX _____ 301-390-0228
HOURS _____ 9:30-4:10

Mr. Russell Eschbacher, Principal
Mr. Gordon Sampson, CEA



MIDDLE SCHOOLS

Andrew Jackson (D-7)(C-Forestville)
 3500 Regency Parkway
 Forestville, MD 20747
 PHONE _____ 301-817-0310
 FAX _____ 301-817-0339
 HOURS _____ 8:30-3:10
 Ms. Deborah Williams, Principal

Benjamin Stoddart (D-8)(C-Potomac)
 2501 Olson Street
 Temple Hills, MD 20748
 PHONE _____ 301-702-7500
 FAX _____ 301-702-7515
 HOURS _____ 8:30-3:10
 Ms. Sylvester Conyers, Principal (Acting)

Benjamin Tasker (D-5)(C-Bowie)
 4901 Collington Road
 Bowie, MD 20715
 PHONE _____ 301-805-2660
 FAX _____ 301-805-2663
 HOURS _____ 9:00-3:40
 Ms. John Loyd, Principal

Buck Lodge (D-1)(C-High Point)
 2611 Buck Lodge
 Adelphi, MD 20783
 PHONE _____ 301-431-6190
 FAX _____ 301-445-8404
 HOURS _____ 8:30-3:10
 Dr. Constance Glibb, Principal (Acting)
 Ms. Ernesta Bera, Wing Coordinator _____ 301-81-6283

Charles Carroll (D-4)(C-Forkdale)
 6130 Lamont Drive
 New Carrollton, MD 20784
 PHONE _____ 301-918-8640
 FAX _____ 301-918-8646
 HOURS _____ 9:00-3:40
 Valerie, Principal
 Mr. McKinley Hayes, Vice Principal

Drew-Freeman (D-7)(C-Suidland)
 2600 Brooks Drive
 Suidland, MD 20746
 PHONE _____ 301-817-0900
 FAX _____ 301-817-0915
 HOURS _____ 8:30-3:10
 Mr. Charles Ross, Principal (Acting)

Dwight D. Eisenhower (D-1)(C-Laurel)
 13725 Briarwood Drive
 Laurel, MD 20708
 PHONE _____ 301-497-3620
 FAX _____ 301-497-3637
 HOURS _____ 9:00-3:40
 Mr. William Ryan, Principal

Eugene Burroughs (D-9)(C-Gwynn Park)
 14400 Berry Road
 Accokeek, MD 20607
 PHONE _____ 301-203-3200
 FAX _____ 301-203-3207
 HOURS _____ 9:15-3:55
 Dr. Bruce Katz, Principal

G. Gardner Shugart (D-8)(C-Potomac)
 2000 Calloway Street
 Temple Hills, MD 20748
 PHONE _____ 301-702-3950
 FAX _____ 301-702-3957
 HOURS _____ 9:05-3:45
 Dr. Robert Weidner, Principal

Greenbelt (D-2)(C-Eleanor Roosevelt)
 8950 Edmonston Road
 Greenbelt, MD 20770
 PHONE _____ 301-513-5040
 FAX _____ 301-513-5097
 HOURS _____ 9:05-3:45
 Dr. Richmond Myrick, Principal
 Ms. Mary Russo, Wing Coordinator _____ 301-513-5060

Gwynn Park (D-9)(C-Gwynn Park)
 8000 Dyson Road
 Brandywine, MD 20613
 PHONE _____ 301-372-0120
 FAX _____ 301-372-0119
 HOURS _____ 7:55-2:35
 Ms. Debra Mahone, Principal

Hyattsville (D-2)(C-Northwestern)
 6001 42nd Avenue
 Hyattsville, MD 20781
 PHONE _____ 301-985-1760
 FAX _____ 301-985-1762
 HOURS _____ 8:00-2:40
 Mr. Clarence McDonald, Principal

James Madison (D-9)(C-Fredrick Douglass)
 7300 Woodyard Road
 Upper Marlboro, MD 20772
 PHONE _____ 301-599-2422
 FAX _____ 301-599-2562
 HOURS _____ 9:00-3:40
 Mr. Paul Lewis, Principal

Kanmoor (D-6)(C-Fairmont Heights)
 2500 Kanmoor Drive
 Landover, MD 20785
 PHONE _____ 301-925-2300
 FAX _____ 301-925-2317
 HOURS _____ 9:30-4:10
 Ms. Elizabeth Gresham, Principal

Kecobering (D-6)(C-Largo)
 65 Harrington Drive
 Upper Marlboro, MD 20772
 PHONE _____ 301-808-4060
 FAX _____ 301-808-6920
 HOURS _____ 8:00-2:40
 Dr. Marian White-Hood, Principal
 Ms. Cota Ogden, Wing Coordinator _____ 301-808-4076

Lord Baltimore (D-9)(C-Friendly)
 8700 Allentown Road
 Fort Washington, MD 20744
 PHONE _____ 301-449-4940
 FAX _____ 301-449-4948
 HOURS _____ 9:00-3:40
 Ms. Rose Miller, Principal

Martin Luther King, Jr. (D-1)(C-Laurel)
 4545 Ammendale Road
 Beltsville, MD 20705
 PHONE _____ 301-572-0650
 FAX _____ 301-572-0668
 HOURS _____ 9:00-3:40
 Mrs. Betta L. Lewis, Principal

Nicholas Orem (D-2)(C-Northwestern)
 6100 Editors Park Drive
 Hyattsville, MD 20782
 PHONE _____ 301-853-0840
 FAX _____ 301-853-0839
 HOURS _____ 9:20-4:00
 Ms. Sirlie Evans, Principal

Oxon Hill (D-8)(C-Oxon Hill)
 9570 Fort Foster Road
 Fort Washington, MD 20744
 PHONE _____ 301-749-4270
 FAX _____ 301-749-4286
 HOURS _____ 9:00-3:40
 Ms. Madne Bana, Principal
 Ms. Kathleen Holley, Wing Coordinator _____ 301-749-4270

Robert Goddard (D-2)(C-Durles)
 9850 Good Luck Road
 Seabrook, MD 20706
 PHONE _____ 301-918-8660
 FAX _____ 301-918-8783
 HOURS _____ 9:00-3:40
 Dr. Sheila Gray, Principal

Stephen Decatur (D-9)(C-Surreysville)
 8200 Pinewood Drive
 Clinton, MD 20735
 PHONE _____ 301-449-4950
 FAX _____ 301-449-2105
 HOURS _____ 9:10-3:50
 Mrs. Barbara J. Harmon, Principal
 Ms. Aida Turkin, Wing Coordinator _____ 301-449-4751

Thomas G. Pullen (D-6)(C-Centers)
 700 Brightness Road
 Landover, MD 20786
 PHONE _____ 301-808-8160
 FAX _____ 301-808-8164
 HOURS _____ 9:00-3:40
 Ms. Kady Kurtz, Principal

Thomas Johnson (D-5)(C-Doris)
 5401 Barker Place
 Lasham, MD 20706
 PHONE _____ 301-918-8680
 FAX _____ 301-918-8688
 HOURS _____ 9:00-3:40
 Ms. Melvin Johnson, Principal
 Mr. Charley McHenry, Wg. Coordinator _____ 301-918-8096

Thurgood Marshall (D-8)(C-Crossland)
 4909 Brinkley Road
 Temple Hills, MD 20748
 PHONE _____ 301-702-7540
 FAX _____ 301-702-7555
 HOURS _____ 9:00-3:40
 Dr. Barbara Aswad, Principal

Walker Hill (D-4)(C-Centre)
 800 Karen Boulevard
 Capitol Heights, MD 20743
 PHONE _____ 301-808-4055
 FAX _____ 301-808-4039
 HOURS _____ 9:30-4:10
 Ms. Joan Brown, Principal/CEA

William Wirt (D-2)(C-Bloomsburg)
 62nd Place & Tuckerman Street
 Riverdale, MD 20782
 PHONE _____ 301-985-1720
 FAX _____ 301-985-1440
 HOURS _____ 9:00-3:40
 Ms. Helen King, Principal (Acting)

PRINCE GEORGE'S COUNTY MEMORIAL LIBRARY SYSTEM

Beltsville Branch
4319 Sellman Road
Beltsville, MD 20705
Phone: 301-937-0294

Bladensburg Branch
4820 Annapolis Road
Bladensburg, MD 20710
Phone: 301-927-4916

Bowie Branch
1010 Northeast Crain Highway
Bowie, MD 20716
Phone: 301-218-5143

Fairmount Heights Branch
5904 Kolb Street
Fairmount Heights, MD 20743
Phone: 301-925-9700

Glenarden Branch
8724 Glenarden Parkway
Glenarden, MD 20706
Phone: 301-772-3477

Greenbelt Branch
11 Crescent Road
Greenbelt, MD 20770
Phone: 301-343-5800

Hillcrest Heights Branch
2398 Iverson Street
Temple Hills, MD 20748
Phone: 301-630-4900

Hyattsville Branch
6530 Adelphi Road
Hyattsville, MD 20782
Phone: 301-779-9330

Largo-Kettaring Branch
9601 Capital Lane
Largo, MD 20774
Phone: 301-335-4044

Laurel Branch
507 7th Street
Laurel, MD 20707
Phone: 301-776-6790

New Carrollton Branch
7414 Riverdale Road
New Carrollton, MD 20784
Phone: 301-459-6900

12. Oxon Hill Branch
8200 Oxon Hill Road
Oxon Hill, MD 20745
Phone: 301-839-2400

13. Spauldings Branch
5811 Old Silver Hill Road
District Heights, MD 20747
Phone: 301-568-9533

14. Surratt-Clinton Branch
9400 Piscataway Road
Clinton, MD 20735
Phone: 301-868-9200

15. Upper Marlboro Branch
14730 Main Street
Upper Marlboro, MD 20772
Phone: 301-627-9330

Municipal I-Net Sites

Berwyn Heights (3)
 Town Office
 Public Works
 Senior Center

3700 Berwyn Rd.
 8418 Ballew Ave.
 8603-57th Ave.

Glenarden (2)
 City Hall
 Library

8600 Glenarden Fkwy.
 7931 Piedmont Ave.

City of Bowie (17)
 City Hall
 Belair Mansion
 Belair Stables
 Park Annex Off
 Allen Pond
 Resthouse for Artists
 Tulip Grove House
 Bowie Playhouse
 Hammel House
 Water Plant
 Public Works, Wastewater
 & Recycling
 Water Tower
 Bowie Amphitheater
 Blacksox Park
 Bowie Comm. Ctr.

2614 Kenhill Dr
 12207 Tulip Grove Dr.
 2835 Belair Dr.
 3106 Mitchellville Rd.
 3310 Mitchellville Rd.
 1130 Northview Dr.
 12209 Tulip Grove Dr.
 6314 Crain Hwy
 2608 Mitchellville Rd.
 2912 Bradford Ln
 16350 Annapolis Rd.
 3107 Belair Dr.
 Northview dr.
 2200 Mitchellville Rd.
 Stonybrook Dr. & Rt 450
 13022 Eighth St.
 1717 Pittsfield Ln.

City of Greenbelt (8)
 City Office
 Youth Center
 Aquatic/Fitness Ctr.
 Community Ctr.
 Police Station
 Public Works
 Springhill Lake Rec Ctr.
 Museum

25 Crescent Rd.
 99 Centerway
 101 Centerway
 15 Crescent Rd.
 330 Crescent Rd.
 555 Crescent Rd.
 6101 Cherrywood Ln.
 10B Crescent Rd.

Landover Hills (1)
 Town Hall

6904 Taylor St.

City of Laurel (4)
 Municipal Center
 Community Center
 Hickman Bldg/Police
 Public Works

8103 Sandy Spring Rd.
 7901 Cypress St.
 150 Municipal Square
 305-307 First St.

College Park (6)
 Municipal Center
 Public Services
 Public Works
 Youth & Family Svcs
 Housing Authority
 Senior Program

4300 Knox Rd.
 4601-A Calvert Rd.
 9217-51st Ave.
 4912 Nantuxet Rd.
 9014 Rhode Island Ave.
 6711 Berwyn House Rd.

Mount Rainier (3)
 City Hall
 Municipal Garage
 Mt. Rainier Rec. Center

One Municipal Pl.
 3723 Wells Ave.
 31st Pl. & Arundel Rd.

New Carrollton (2)
 Municipal Center
 Public Works

6016 Princess Garden Fkwy.
 6318 Westbrook Dr.

Cottage City (1)
 Town Hall

3820-40th Ave.

University Park (1)
 Town Hall

6724 Baltimore Ave.

District Heights (1)
 Municipal Bldg

2000 Marbury Dr.

The following locations require cable modem connections:

Edmonston (3)
 Town Hall
 Camera
 Camera

5005-52nd Ave.
 Kenilworth Ave.
 Buchanan & 51st Ave.

Brentwood Town Hall
 North Brentwood Town Hall

4300-39th Pl.
 4907 Church St.

The following locations require upstream wide links:

Fairmont Heights (1)
 Town Hall

6100 Jost St.

University Park Elem.
 Colmar Manor Town Hall
 North Brentwood Town Hall

Underwood St/ Chapel Rd.
 3701 Lawrence St.
 4907 Church St.

APPENDIX 6: GUARANTEE OF PERFORMANCE

WHEREAS, the City of Greenbelt, Maryland ("City"), granted a franchise ("Franchise") to Jones Communications of Maryland, Inc. ("Franchisee"), to erect, construct, operate, and maintain a Cable System in the City ("System") pursuant to A Cable Franchise Agreement Between the City of Greenbelt, Maryland, And Jones Communications Of Maryland, Inc., and the Greenbelt City Code, as amended (collectively, the "Franchise Documents"); and

WHEREAS, Jones Intercable, Inc. ("Guarantor"), is the parent of the Franchisee and will have a substantial interest in the Franchise, in the conduct of the Franchisee, and in the Franchise Documents, which are incorporated herein by this reference;

NOW, THEREFORE, the Guarantor hereby unconditionally guarantees the due and punctual performance of any and all obligations of the Franchisee required by the Franchise Documents. This Guarantee, unless terminated, substituted or canceled as hereinafter provided, shall remain in full force and effect for the term of the Franchise, as it may be renewed or extended and as provided by the Franchise Documents; *provided, however,* that upon the City's prior written approval of a substitute guarantor, which approval shall not be unreasonably withheld, this Guarantee may be terminated, substituted or canceled upon written notice from the Guarantor to the City and the Franchisee. Any such substitution of the Guarantor will be implemented in a manner that ensures that the substitute guarantee is in place and effective prior to or

contemporaneously with the termination, substitution or cancellation of this Guarantee so that there is no breach in coverage.

Any such notice to be given hereunder shall be addressed to ① _____ with a copy to the Franchisee. Such termination shall not affect liability incurred or accrued under this Guarantee prior to the effective date of such termination or cancellation.

Ruth E. Warren

By: _____

Name: Ruth E. Warren

Title: Group Vice President/Operations

① Jones Communications of Maryland, Inc.
9697 East Mineral Avenue
Englewood, Colorado 80112
Attn: Legal Department
and

Jones Communications of Maryland, Inc.
9315 Largo Drive West
Landover, Maryland 20785
Attn: General Manager