

CABLE TELEVISION FRANCHISE ORDINANCE

FOR

CITY OF GULF SHORES, ALABAMA

AND

MEDIACOM SOUTHEAST LLC

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ORDINANCE NO. 2156

AN ORDINANCE OF THE CITY OF GULF SHORES ALABAMA GRANTING A FRANCHISE TO MEDIACOM SOUTHEAST LLC, A LIMITED LIABILITY COMPANY DULY ORGANIZED AND VALIDLY EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF GULF SHORES, ALABAMA SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN;

The City Council of the City of Gulf Shores, Alabama ordains:

STATEMENT OF INTENT AND PURPOSE

City intends, by the adoption of this Franchise, to bring about the continued operation and further development of a Cable System. Such development can contribute significantly to the communication needs and desires of the residents and citizens of City and the public generally. Further, City may achieve better utilization and improvement of public services and enhanced economic development with the development and operation of a Cable System.

Adoption of this Franchise is, in the judgment of the City Council, in the best interests of City and its residents.

FINDINGS

In the review of the request for renewal by Grantee and negotiations related thereto, the City Council makes the following findings:

1. Grantee's technical ability, financial condition, legal qualifications, and character were considered;
2. Grantee's plans for constructing and operating the Cable System were considered and found adequate and feasible;
3. The Franchise granted to Grantee by City complies with the existing applicable state statutes, federal laws, and regulations; and
4. The Franchise granted to Grantee is nonexclusive.

SECTION 1. SHORT TITLE AND DEFINITIONS

1. Short Title. This Franchise Ordinance shall be known and cited as the Cable Television Franchise Ordinance.
2. Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number, and words in the plural number include the singular number. The word "shall" is always mandatory and not

merely directory. The word “may” is directory and discretionary and not mandatory. Words not defined shall be given their common and ordinary meaning.

- a. “Applicable Laws” means any law, statute, charter, Ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary or permanent), judgment, decree or other order issued, executed, entered or deemed applicable by any governmental authority.
- b. “Basic Cable Service” means any Service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall be the definition set forth in 47 U.S.C. § 543(b) (7).
- c. “Cable Act” shall mean the Cable Communications Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- d. “Cable Service” or “Service” means (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service. Cable Service as defined herein shall be the definition set forth in 47 U.S.C. § 522(6).
- e. “Cable System” or “System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:
 - i. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 - ii. a facility that serves Subscribers without using any public Right-of-Way;
 - iii. a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
 - iv. an open video system that complies with 47 U.S.C. § 573; or
 - v. any facilities of any electric utility used solely for operating its electric utility systems.
 - vi. Cable System as defined herein shall be the definition set forth in 47 U.S.C. § 522(7).

- f. “Channel” or “Cable Channel” means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel as defined by the FCC. Cable Channel as defined herein shall be the definition set forth in 47 U.S.C. § 522(4).
- g. “City” means City of Gulf Shores , a political subdivision of the State of Alabama, acting by and through the City Council, or its lawfully appointed designee.
- h. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest distribution point of the System.
- i. “FCC” means the Federal Communications Council and any legally appointed, designated or elected agent or successor.
- j. “Franchise” or “Cable Franchise” means this franchise Ordinance and the regulatory and contractual relationship established hereby.
- k. “Franchise Fee” includes any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Grantee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Grantee for public, educational, or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code. Franchise Fee defined herein shall be the definition set forth in 47 U.S.C. § 542(g).
- l. “Grantee” is Mediacom Southeast, LLC., its lawful successors, transferees or assignees.
- m. “Gross Revenue” means any and all revenue derived by Grantee from the operation of its Cable System to provide Cable Service within the City including, but not limited to, 1) all Cable Service fees, 2) Franchise Fees, 3) late fees and, 4) Installation and reconnection fees, 5) upgrade and downgrade fees, 6) local, state and national advertising revenue, 7) home shopping Councils, 8) equipment rental fees, and 9) written or electronic Channel guide revenue. The term “Gross Revenue” shall not include launch fees, bad debts or any taxes or fees on Services furnished by Grantee imposed upon Subscribers by any municipality, state or other governmental unit, credits, refunds and any amounts collected from Subscribers for deposits. City and Grantee acknowledge and agree that Grantee will maintain its books and records in accordance with generally accepted accounting principles (GAAP).

- n. “Installation” means any connection of the System from distribution cable to the point of connection including Standard Installations and custom Installations with the Subscriber Converter or other terminal equipment.
- o. “Normal Business Hours” means those hours during which most similar businesses in the City are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or some weekend hours. Normal Business Hours as defined herein shall be the definition set forth in 47 C.F.R. § 76.309.
- p. “Normal Operating Conditions” means those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. Normal Operating Conditions as defined herein shall be the definition set forth in 47 C.F.R. § 76.309.
- q. “Other Programming Service” means information that a cable operator makes available to all Subscribers generally. Other Programming Services as defined herein shall be the definition set forth in 47 U.S.C. § 522 (14).
- r. “Person” is any person, firm, partnership, association, corporation, company, limited liability entity or other legal entity.
- s. “Right-of-Way” or “Rights-of-Way” means the area on, below, or above any real property in the City in which the City has an interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, utility easements or any other place, area, or real property owned by or under the control of the City which are dedicated for compatible use.
- t. “Right-of-Way Ordinance” means any Ordinance or other applicable code requirements regarding regulation, management and use of Rights-of-Way in the City, including permitting requirements.
- u. “Service Area” or “Franchise Area” means the entire geographic area within the unincorporated areas of the City as it is now constituted or may in the future be constituted.
- v. “Service Interruption” means the loss of picture or sound on one (1) or more Cable Channels. Service Interruption as defined herein shall be the definition set forth in 47 C.F.R. § 76.309.
- w. “Standard Installation” means any residential Installation which can be completed using an aerial Drop of one hundred twenty-five (125) feet or less.

- x. “Subscriber” means any Person who receives broadcast programming distributed by a Cable System and does not further distribute it. Subscriber as defined herein shall be the definition set forth in 47 C.F.R. § 76.5(ee).
- y. “Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station. Video Programming as defined herein shall be the definition set forth in 47 U.S.C. § 522(20).

SECTION 2.

GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.
2. Grant of Nonexclusive Authority.
 - a. The Grantee shall have the right and privilege, subject to the permitting and other lawful requirements of City to operate, construct, erect, and maintain, in, upon, along, across, above, over and under the Rights-of-Way in City a Cable System. The System constructed and maintained by Grantee, or its agents shall not interfere with other uses of the Rights-of-Way. Grantee shall make use of existing poles and other above and below ground facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - b. Notwithstanding the above grant to use Rights-of-Way, no Right-of-Way shall be used by Grantee if City determines that such use is inconsistent with the terms, conditions, or provisions by which such Right-of-Way was created or dedicated, or with the present use of the Right-of-Way.
 - c. This Franchise shall be nonexclusive, and City reserves the right to grant use of said Rights-of-Way to any Person at any time during the period of this Franchise for the provision of Cable Service.
3. Lease or Assignment Prohibited. No Person may lease Grantee’s System for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid franchise or other lawful authorization from the City containing substantially similar burdens and obligations to this Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 9.4 of this Franchise. This provision shall not prevent Grantee from complying with any commercial leased access requirements or any other provisions of Applicable Law.
4. Franchise Term. This Franchise shall be in effect for a period of ten (10) years from the Effective Date, unless sooner extended, renewed, revoked, or terminated as herein provided.

5. Previous Franchises. Upon acceptance by Grantee as required by Section 13.2 herein, this Franchise shall supersede and replace any previous Ordinance or other authorization granting a franchise to Grantee.
6. Compliance with Applicable Laws, and Ordinances.
- a. The terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of the System in the City. However, Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of the police power, of the City. This Franchise may also be modified or amended with the mutual written consent of the City and Grantee as provided in Section 12.3 herein.
 - b. Grantee shall at all times be subject to and comply with all Applicable Laws with respect to this Franchise.
 - c. Grantee shall comply with the terms of any City Ordinance or regulation of general applicability which addresses usage of the Rights-of-Way within the City, provided that it does not discriminate between different users of the Rights-of-Way.
 - d. In the event of any conflict between this Franchise and any City Ordinance or regulation which addresses usage of the Rights-of-Way, the terms of this Franchise shall govern, provided however Grantee shall at all times comply with City Ordinances of general applicability promulgated by the City in accordance with its police powers.
7. Rules of Grantee. Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligations under this Franchise and to assure uninterrupted Service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with applicable laws.
8. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City Administrator
 City of Gulf Shores
 1905 W 1st Street
 Gulf Shores, Alabama 36547

If to Grantee: Mediacom, Southeast LLC
 Government Relations
 1613 Nantahala Beach Road
 Gulf Breeze, Florida 32563

With a CC:
Mediacom Southeast LLC
Attn: Legal Department
One Mediacom Way
Mediacom Park, New York 10918

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

SECTION 3. CONSTRUCTION STANDARDS

1. Registration, Permits, Construction Codes, and Cooperation.

- a. Grantee shall comply with the construction requirements of local, state and federal laws.
- b. Grantee agrees to obtain a permit as required by City prior to removing, abandoning, relocating, or reconstructing, if necessary, any portion of its facilities. Notwithstanding the foregoing, City understands and acknowledges there may be instances when Grantee is required to make significant repairs that are of an emergency nature. Permits for emergency work, if necessary, shall be applied for as soon as possible, but in no event later than (5) business days after the emergency work has commenced.
- c. The fees paid to obtain permits are separate, and in addition to, any other fees included in the Franchise.
- d. City may issue reasonable policy guidelines to all grantees to establish procedures for determining how to control issuance of construction permits to multiple users of the same Rights-of-Way. Grantee shall cooperate with City in establishing such policy and comply with the procedures established by the City Engineer or his or her designee to coordinate the issuance of multiple construction permits.
- e. Upon reasonable prior written notice, Grantee shall use reasonable efforts to meet with developers and be present at pre-construction meetings to ensure that Cable System facilities are installed in new developments within City in a timely manner, with such obligation being subject to all other requirements or limitations in this Agreement.

2. Use of existing poles or conduits.

- a. Grantee shall use its best efforts to utilize existing poles, conduits and other facilities belonging to either Grantee or other utility providers whenever commercially reasonable and shall not construct or install any new, different, or additional poles, conduits or other facilities on public property without the written approval of City. No location or any pole or wire-holding structure of Grantee shall be a vested interest, and such poles or structures shall be removed or

modified by Grantee at its own expense whenever City determines that such a move is a public necessity.

- b. The facilities of Grantee shall be installed underground in those areas of City where other public or private utilities are underground at the time of construction by Grantee. In areas where the facilities of other public or private utilities are installed aerially at the time of System construction, Grantee may be permitted to install its facilities aerially; however, at such time as the existing aerial facilities of all other public or private utilities are placed underground, Grantee shall likewise place its facilities underground at its sole cost.

3. Minimum Interference.

- a. Grantee shall use its best efforts to give reasonable prior notice to any adjacent private property owners who will be negatively affected or impacted by Grantee's significant construction work in the Rights-of-Way.
- b. All transmission and distribution structures, lines and equipment erected by Grantee shall be located so as to cause minimum interference with the unencumbered use of Rights-of-Way and other public places and minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Rights-of-Way and public places.

4. Disturbance or damage. Any and all Rights-of-Way, or public or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, expansion, extension or reconstruction of the System shall be promptly, and in no event later than thirty days following the disturbance or damage, fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work. If Grantee fails to promptly perform the restoration required herein, after written request of City and reasonable opportunity to satisfy that request, City shall have the right to put the Rights-of-Way back into condition as good as that prevailing prior to Grantee's work. In the event City determines that Grantee is responsible for such disturbance or damage, Grantee shall be obligated to fully reimburse City for such reasonable cost of restoration within thirty (30) days after its receipt of City's invoice.

5. Temporary Relocation.

- a. At any time during the Term of the Franchise, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate or remove any of its property when, in the opinion of City, (i) the same is required by reason of traffic conditions, public safety, Rights-of-Way vacation, freeway or Rights-of-Way construction, alteration to or establishment of any Rights-of-Way or any facility within the Rights-of-Way, sidewalk, or other public place, including but not limited to, installation of sewers, drains, waterlines, power lines, traffic signal lines or transportation facilities; or (ii) a City project or activity makes disconnection, removal, or relocation necessary or less expensive for City. If the City requests the relocation, removal, or reinstallation of any of Grantee's facilities in any of the Rights-of-Way for the sole purpose of installing or providing its own cable television or telecommunications services or those of a second cable television or telecommunications service provider in competition

with Grantee, then such cost shall not be borne by Grantee but by the City or requesting entity.

- b. Grantee shall, on prior written request of any Person holding a permit to move a building, temporarily raise or lower its wires to permit the movement of such buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and Grantee shall have the authority to require such payment in advance. Grantee shall be given not less than five (5) days advance notice to arrange such temporary wire alterations and thirty (30) days to complete the raising or lowering of such lines.
6. Emergency. Whenever, in case of fire or other emergency, it becomes necessary in the judgment of the City Administrator, Public Works Director, Sheriff, fire chief, or their delegates, to remove or damage any of Grantee's facilities, no charge shall be made by Grantee against City for restoration, repair, or damages.
7. Tree Trimming. Grantee shall have the authority to trim trees on public Rights-of-Way at its own expense as may be necessary to protect its wires and facilities. Trimming of trees on private property shall require consent of the property owner. Any trimming of trees by the Grantee in the Rights-of-Way and public ways shall be subject to such regulation or supervision as the City Engineer or other authorized official may establish to protect the public health, safety, and convenience.
8. Protection of facilities. Nothing contained in this section shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid damaging Grantee's facilities while performing any work connected with grading, regrading or changing the line of any Rights-of-Way or public place or the construction or reconstruction of any sewer or water system.
9. Installation records. Grantee shall keep accurate Installation records of the location of all facilities in the Rights-of-Way and public ways and furnish strand maps to City upon prior written request. Grantee shall cooperate with City to furnish such information in an electronic mapping format, if possible compatible with the then-current City electronic mapping format. Upon completion of new or relocation construction of underground facilities in the Rights-of-Way and public ways, Grantee shall provide City with Installation records in an electronic format compatible with Esri Shapefile or AutoCad.
10. Locating facilities.
 - a. If, during the design process for public improvements, City discovers a potential conflict with proposed construction, Grantee shall either: (a) locate and, if necessary, expose its facilities in conflict or (b) use a location service to locate or expose its facilities. Grantee is obligated to furnish the location information in a timely manner, but in no case longer than thirty (30) days.
 - b. City reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, regrade, widen, realign, or maintain any Rights-of-Way and public ways, aerial, surface, or subsurface improvement, including but not limited to water mains, traffic control conduits, cable and

devices, sanitary or storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the Rights-of-Way of the City.

11. City's rights. Nothing in this Franchise shall be construed to prevent City from constructing, maintaining, repairing, or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
12. Facilities in conflict. If, during the course of a project, City determines Grantee's facilities are in conflict, the following shall apply:
 - a. Prior to City Notice to Proceed to Contractor: Grantee shall, within a reasonable time, but in no event exceeding three (3) months, remove or relocate the conflicting facility. This time period shall begin running upon receipt by Grantee of written notice from City. However, if both City and Grantee agree, the time frame may be extended based on the requirements of the project.
 - b. Subsequent to City Notice to Proceed to Contractor: City and Grantee will immediately begin the coordination necessary to remove or relocate the facility. Removal or relocation is to begin no later than seventy-two (72) hours, unless a different time is specified by the City Engineer, after written notification from City of the conflict.
13. Relocation delays. Subject to Grantee's compliance with 3.12 above, if Grantee's relocation effort so delays construction of a public project causing City to be liable for delay damages or incur increased project costs, Grantee shall reimburse City for those damages attributable to the delay created by Grantee. In the event Grantee should dispute the dollar amount of damages attributable to Grantee, the matter shall be referred to the City Engineer for a decision.
14. Interference with City Facilities. The Installation, use and maintenance of the Grantee's facilities within the Rights-of-Way and public ways authorized herein shall be in such a manner as not to interfere with City's placement, construction, use and maintenance of its Rights-of-Way and public ways, Rights-of-Way lighting, water pipes, drains, sewers, traffic signal systems or other City systems that have been, or may be, installed, maintained, used or authorized by City.
15. Interference with Utility Facilities. Grantee agrees not to install, maintain, or use any of its facilities in such a manner as to damage or interfere with any existing facilities of another utility located within the Rights-of-Way and public ways of City and agrees to relocate its facilities, if necessary, to accommodate another facility relocation. Nothing in this section is meant to limit any rights Grantee may have under Applicable Laws to be compensated for the cost of relocating its facilities from the utility that is requesting the relocation.
16. Collocation. To maximize public and employee safety, to minimize visual clutter of aerial plant, and to minimize the amount of trenching and excavation in and along City

Rights-of-Way and sidewalks for underground plant, Grantee shall make every commercially reasonable effort to co-locate compatible facilities within the Rights-of-Way subject to the engineering requirements of the owners of utility poles and other facilities.

17. Safety Requirements.

- a. Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injuries.
- b. Grantee shall install and maintain its System and other equipment in accordance with City's codes and the requirements of the National Electric Safety Code and all other applicable FCC, state, and local regulations, and in such manner that they will not interfere with City communications technology related to health, safety and welfare of the residents.
- c. Cable System structures, and lines, equipment, and connections in, over, under and upon the Rights-of-Way of City, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the health, safety or property of City or any Person.
- d. If the City is notified of non-compliance, Grantee shall immediately, as emergency, correct the deficiency.

**SECTION 4.
DESIGN PROVISIONS**

1. System Upgrade/Construction: Minimum Channel Capacity.

- a. Grantee shall at a minimum operate for the Term of this Franchise a System capable providing a minimum of One Hundred Ten (110) video Channels or its equivalent in a combination of analog and digital Video Programming Services on the Cable System.
- b. Programming decisions remain the discretion of Grantee in accordance with federal law, provided that Grantee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

2. System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the

public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

3. Interruption of Service. Grantee shall endeavor to interrupt Service only for good cause and for the shortest time possible. If Service is interrupted for a total period of more than twenty-four (24) continuous hours in any thirty (30) day period, Subscribers shall, upon request, be credited pro rata for such interruption.
4. Emergency Alert Capability. In addition, Grantee shall at all times comply with the Emergency Alert System standards pursuant to Title 47, Section 11, Subparts A-E of the Code of Federal Regulations, as may be amended or modified from time to time.
5. Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76, Subpart K of the Code of Federal Regulations, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference.
6. FCC Reports. Any reports filed by Grantee with the FCC shall upon written request, be filed with City or its designee within Thirty (30) days of the date when report is filed with the FCC.
7. Service Area. The Grantee shall continue to provide Cable Service to all residences within the Service Area where Grantee currently provides Cable Service. Grantee shall have the right, but not the obligation, to extend the Cable System into any other portion of the Service Area, including annexed areas. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided.

SECTION 5. SERVICE PROVISIONS

1. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications and all payment and policy obligations are met. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.
2. Sales Procedures. At the time of installation, Grantee shall inform the non-Subscriber of all levels of Service available, including the lowest priced and free Service tiers. Grantee shall have the right to market door-to-door during reasonable hours consistent with local Ordinances and regulation.
3. Consumer Protection and Service Standards. The Grantee shall comply with all applicable federal regulations relating to customer service obligations, including any amendments to 47 C.F.R. § 76.309 during the term of this Franchise, which for the parties' convenience are set forth below as they exist on the Effective Date.
 - a. Cable System office hours and telephone availability:

- i. Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.
 1. Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.
 2. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.
- ii. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.
- iii. Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless a historical record of complaints indicates a clear failure to comply.
- iv. Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.
- v. Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.
- b. Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis.
 - i. Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty-five (125) feet from the connection point of the existing distribution system.
 - ii. Excluding conditions beyond the control of Grantee, Grantee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem.
 - iii. The "appointment window" alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours.

(Grantee may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)

- iv. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - v. If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
- c. Communications between Grantee and Subscribers.
- i. Notifications to Subscribers:
 - 1. Grantee will provide written information on each of the following areas at the time of Installation of Service, at least annually to all Subscribers, and at any time upon request:
 - a. Products and Services offered;
 - b. Prices and options for programming Services and conditions of subscription to programming and other Services;
 - c. Installation and Service maintenance policies;
 - d. Instructions on how to use the Cable Service;
 - e. Channel positions of programming carried on the System; and
 - f. Billing and complaint procedures, including the address and telephone number of the nearest customer service center.
 - 2. Subscribers will be notified of any changes in rates, programming Services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by Section 76.1602.
 - 3. In addition to the requirement of subparagraph (2) of this section regarding advance notification to Subscribers of any changes in rates, programming services or Channel positions, Grantee shall give thirty (30) days written notice to both Subscribers and the City before implementing any rate or Service change. Such notice

shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of Channels). When the change involves the deletion of Channels, each Channel deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the Grantee need only identify for Subscribers, the television signal location and not whether that signal may be multiplexed during certain day parts.

4. To the extent Grantee is required to provide notice of Service and rate changes to Subscribers, the Grantee may provide such notice using any reasonable written means at its sole discretion.
5. Notwithstanding any other provision of this section, Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal agency, state, or the City on the transaction between the Grantee and the Subscriber.

ii. Billing:

1. Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
2. In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within thirty (30) days.

iii. Refunds: Refund checks will be issued promptly, but no later than either:

1. The Subscriber's next billing cycle following Ordinance of the request or thirty (30) days, whichever is earlier, or
2. The return of the equipment supplied by Grantee if Service is terminated.

iv. Credits: Credits for Service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

Upon 30 days written request, Grantee shall provide City with a quarterly compliance report which report shall, at a minimum, describe in detail Grantee's compliance with each and every term and provision of this section. Grantee shall comply with the cable industry's on-time guaranty as endorsed by the National Cable Television Association. This on-time guaranty generally provides that if Installation is not commenced within the "appointment window" specified by the operator, Installation shall be free for the

Subscriber. Moreover, Grantee shall provide Subscribers with a Twenty and No/100 Dollars (\$20.00) credit for any missed service appointments.

4. Refund Policy.

- a. If a Grantee's Cable Service is interrupted due to a System outage for twenty-four (24) or more consecutive hours, Subscribers, upon request, shall be credited pro rata for such interruption. Credits must be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted. For this purpose, every month will be assumed to have thirty (30) days
- b. In the event a Subscriber establishes or terminates Service and receives less than one (1) full month of Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than thirty (30) days from the date of return of the equipment supplied by the Grantee if Cable Service is terminated.

5. Late Fees. Fees for the late payment of bills shall be assessed in accordance with applicable law.

**SECTION 6.
ACCESS CHANNEL (S) PROVISIONS**

1. Grantee Support for PEG Access Channel. Grantee shall provide within ninety (90) days of the Franchise Authority's request one (1) PEG channel for non-commercial, non-revenue generating public, educational and governmental (PEG) programming as designated in the City's sole discretion.

Operation of the PEG access channel, shall be the responsibility the City, and Grantee's obligation is the transmission of such channel. The City will be responsible to ensure that all transmissions, retransmissions, content, or programming that may be requested to be transmitted over a channel or facility by Grantee in the future, are provided or submitted to Grantee, at the Grantee's designated connection point, in a manner or form that is capable of being accepted and transmitted by Grantee, without requirement for additional alteration or change in the format or content by Grantee, over the network of Grantee, and which is compatible with the technology or protocol utilized by Grantee to deliver its Cable Service. Grantee is responsible for providing the connectivity to each PEG access Channel distribution point up to the first one thousand (1,000) feet.

Channel Position. At any time during the term of this Agreement and at the Grantee's sole option and discretion, the Grantee may (i) change the transmission technology by which PEG access programming is delivered to Subscribers, provided, however, that the quality of PEG access programming transmitted over the Cable System to Subscribers is of a quality comparable to that which was delivered to the Grantee by the PEG programmer, or (ii) relocate any PEG programming to a Channel position on its lowest digital tier service delivered to all of the Grantee's Subscribers. The Grantee shall notify the City at least thirty (30) days in advance of such changes.

It shall be the sole responsibility of the City to obtain, provide, and maintain any equipment necessary to produce and cablecast PEG programming over the Cable System. The Grantee, shall not be responsible for obtaining, providing, or maintaining such equipment.

The Grantee does not relinquish its ownership of its ultimate right of control over a Channel position by designating it for PEG access use. A PEG access user, whether such user is an individual, educational, or governmental user, acquires no property or other interest in the Channel position by virtue of the use of a Channel position so designated.

SECTION 7. OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The City Administrator or other lawful designee of the City shall administer and represent the City's interest under this Franchise; provided, however, that the City Council shall retain the sole authority to take enforcement action pursuant to this Franchise.
2. Franchise Fee.
 - a. During the term of the Franchise, Grantee shall pay to City a Franchise Fee in an amount equal to five percent (5%) of its annual Gross Revenues or such other amount allowable by federal law. Any change in the franchise fee assessed shall be considered an amendment of the Franchise.
 - b. Any payments due under this provision shall be made on a quarterly basis. The payment shall be made within forty-five (45) days of the end of each of Grantee's fiscal quarters together with a report showing the basis for the computation in form and substance substantially the same as Exhibit B attached hereto. In the event that a Franchise Fee payment or other sum due is not received by the City on or before the date due, or is underpaid, Grantee shall pay in addition to the payment, or sum due, interest from the due date at the state legal interest rate of 8 % annually (Alabama Code § 8.8.1).
 - c. All amounts paid shall be subject to audit and re-computation by City and acceptance of any payment shall not be construed, as an accord that the amount paid is in fact the correct amount. If any audit reveals an error by Grantee of seven percent (7%) or more during any audit period, Grantee shall be responsible for City's reasonable out of pocket costs associated with the audit.
3. Not Franchise Fees.
 - a. Grantee acknowledges and agrees that the Franchise Fees payable by Grantee to City pursuant to this section shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources or other activities to be provided or performed by Grantee pursuant to this Franchise and that the Franchise Fees provided for in this section of this Franchise shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes of general applicability and other fees and charges which Grantee shall be required to pay to

City and/or to any other governmental authority, all of which shall be separate and distinct obligations of Grantee.

- b. Grantee shall not apply or seek to apply or make any claim that all or any part of the Franchise Fees or other payments or contributions to be made by Grantee to City pursuant to this Franchise shall be deducted from or credited or offset against any taxes, fees or assessments or general applicability levied or imposed by City or any other governmental authority, including any such tax, fee or assessment imposed on both utilities and cable operators or their services.
 - c. Grantee shall not apply or seek to apply all or any part of any taxes, fees or assessments or general applicability levied or imposed by the City or any other governmental authority (including any such tax, fee or assessment imposed on both utilities and cable operators or their services) as a deduction or other credit from or against any of the Franchise Fees or other payments or contributions to be paid or made pursuant by Grantee to City to this Franchise which shall be deemed to be separate and distinct obligations of Grantee.
4. Access to Records. The City shall have the right to inspect, upon reasonable notice and during Normal Business Hours, or require Grantee to provide within a reasonable time copies of any records maintained by Grantee which relate to System operations including specifically Grantee's accounting and financial records. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than required by applicable state statute of limitations, as may be amended from time to time, except for service complaints which shall be kept for one (1) year. The City acknowledges that some of the records which may be provided by Grantee may be classified as confidential and therefore may subject Grantee to competitive disadvantage if made public. The City shall therefore maintain the confidentiality of any and all records provided to it by Grantee which are not required to be made public pursuant to Applicable Laws. Grantee shall produce such books and records for the City's inspection at any mutually agreed upon location within the City.

SECTION 8.

GENERAL FINANCIAL AND INSURANCE PROVISIONS

1. Liability Insurance.
- a. Upon the effective date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise public liability insurance with a company licensed to do business in the state of Alabama with a rating by A.M. Best & Co. of not less than "B plus" listing the City as additional insured that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include but shall not be limited to; protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee's vehicles, products and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than Two Million and

No/100 Dollars (\$2,000,000.00). The following endorsements shall be attached to the liability policy:

- i. The policy shall provide coverage on an “occurrence” basis.
 - ii. The policy shall cover personal injury as well as bodily injury.
 - iii. The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier’s standard endorsement as to bodily injuries, personal injuries and property damage.
 - iv. Broad form property damage liability shall be afforded.
 - v. City shall be named as an additional insured on the policy.
 - vi. An endorsement shall be provided which states that the coverage is primary insurance and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.
 - vii. Standard form of cross-liability shall be afforded.
 - viii. An endorsement stating that the policy shall not be canceled without thirty (30) days’ notice of such cancellation given to City.
- b. Grantee shall submit upon request to City certificate of insurance signed by the insurance agent and companies named, as well as all properly executed endorsements.

2. Indemnification

- a. Grantee shall indemnify, defend and hold City, its officers, boards, Councils, agents and employees (collectively the “Indemnified Parties”) harmless from and against any and all lawsuits, claims, causes or action, actions, liabilities, demands, damages, judgments, settlements, disability, losses, expenses (including attorney’s fees and disbursements of counsel) and costs of any nature that any of the Indemnified Parties may at any time suffer, sustain or incur arising out of, based upon or in any way connected with the Grantee’s operations, the exercise of the Franchise, the breach of Grantee of its obligations under this Franchise and/or the activities of Grantee, its subcontractor, employees and agents hereunder. Grantee shall not be required to provide indemnification to City for programming cablecast over the public, educational and governmental access Channels administered by City.
- b. The indemnification obligations of Grantee set forth in this Franchise not limited in any way by the amount or type of damages or compensation payable by or for Grantee under Workers’ Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Franchise, or the terms, applicability or limitations of any insurance held by Grantee.
- c. City does not, and shall not, waive any rights against Grantee which it may have by reason of the indemnification provided for in this Franchise, because of the

acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this Franchise.

- d. The indemnification of City by Grantee provided for in this Franchise shall apply to all damages and claims for damages of any kind suffered by reason of any of the Grantee's operations referred to in this Franchise, regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- e. Grantee shall not be required to indemnify City for negligence or misconduct on the part of City or its officials, boards, Councils, agents, or employees. City shall hold Grantee harmless, subject to the limitations in state statutes for any damage resulting from the negligence or misconduct of the City or its officials, boards, Councils, agents, or employees in utilizing any access Channels, equipment, or facilities and for any such negligence or misconduct by City in connection with work performed by City and permitted by this Agreement, on or adjacent to the Cable System.

3. Grantee's Insurance.

Grantee shall not commence any Cable System reconstruction work or permit any subcontractor to commence work until all insurance required under this Franchise has been obtained. Said insurance shall be maintained in full force and effect until the expiration of this Franchise.

- a. In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:
 - i. Promptly notify Grantee in writing within ten (10) business days of any claim or legal proceeding which gives rise to such right;
 - ii. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other Ordinance or disposition of any claim or proceeding; and
 - iii. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or Ordinance or other disposition of such claim or proceeding subject to paragraph 2 above.

4. Performance Security.

To assure compliance with the terms of this Agreement, including but not limited to the payment of all money owed the City, Grantee shall place with the City a performance security in the amount of \$50,000, which shall be in the form of a letter of credit, cash surety bond, or other instrument acceptable to the City's Counsel, expressly guaranteeing full and complete compliance. Such security, if used by the City, shall be replenished by Grantee within fifteen (15) days and shall remain in full force and effect throughout the

term of this Agreement, including any extensions thereto, unless otherwise reduced or eliminated by the City in writing.

SECTION 9.

SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

1. City's Right to Revoke.

In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to commence proceedings to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if it is determined by the City that after notice and an opportunity to cure as reordered herein;

- i. Grantee has repeatedly and substantially violated material provisions(s) of this Franchise and has not put forth a reasonable proposal to cure such violations; or
- ii. Grantee has intentionally and materially evaded any of the provisions of the Franchise; or
- iii. Grantee has practiced a material fraud or a material deceit upon the City.

2. Procedures for Revocation.

- a. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee thirty (30) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. In the notice required therein, the City shall provide Grantee with the basis of the revocation.
- b. Should the City determine to proceed with a revocation proceeding, Grantee shall be provided the right to a public hearing affording due process before the City Council prior to the effective date of revocation. The due process to be afforded Grantee shall include the Grantee's right to present any written or verbal testimony or other relevant evidence to the City Council for consideration. Such information presented by Grantee shall be considered part of the record of the proceeding. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- c. Only after the public hearing and upon written notice of the determination by the City to revoke the Franchise may Grantee appeal said decision with an appropriate state or federal court or agency. Nothing in this Franchise, including the enforcement provisions set forth in this Section 9, shall prevent Grantee from filing at any time a legal action in any permissible court or tribunal seeking a declaration or enforcement of Grantee's rights or obligations under the Franchise.
- d. During the appeal period or pendency of any legal action, the Franchise shall remain in full force and effect unless the term thereof sooner expires and Grantee is not pursuing renewal under Applicable Law or unless continuation of the

Franchise would endanger the health, safety and welfare of any Person or the public.

3. Removal After Abandonment, Termination or Forfeiture. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within the City.
4. Franchise Transfer. The Franchise granted hereunder shall not be assigned, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the City shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the City has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the City shall be deemed given.

SECTION 10. PROTECTION OF INDIVIDUAL RIGHTS

1. Discriminatory Practices Prohibited. Grantee shall not deny Service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of economic status, race, color, religion, national origin, sex, age, or disability. Grantee shall always comply with all other applicable federal, state, and City laws, relating to nondiscrimination. It shall be the right of all Persons to continuously receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied.
2. Subscriber Privacy. Grantee shall at all times comply with all applicable provisions of 47 U.S.C. 551 governing subscriber privacy. City reserves any and all rights it may have now or in the future to enforce compliance with all applicable state and federal laws and regulations governing subscriber privacy.

SECTION 11. UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

1. Unauthorized Connections or Modifications Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any unauthorized connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System or receive Services of the System without Grantee's authorization.
2. Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, or corporation to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.

3. Penalty. Any firm Person, group, company, or corporation found guilty of violating this section may be prosecuted and fined according to applicable law.

SECTION 12. MISCELLANEOUS PROVISIONS

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with Section 626 of the Cable Act.
2. Work Performed by Others. All applicable obligations of this Franchise shall apply to any contractor or others performing any work or services pursuant to the provisions of this Franchise. Grantee shall provide notice to City of the name(s) and address(es) of any entity, other than Grantee, which performs substantial services pursuant to this Franchise.
3. Amendment of Franchise Ordinance. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state, or local laws.
4. Compliance with Federal, State and Local Laws.
 - a. If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation.
 - b. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable in whole or in part, by any court, agency, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other provisions shall continue in full force and effect. In the event such law, rule or regulation is subsequently repealed, rescinded, amended, or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.
5. Nonenforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of City to enforce prompt compliance. City may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.
6. Rights Cumulative. The rights and remedies reserved to the City and Grantee by this Franchise are cumulative and shall be in addition to and not in derogation of any other

legal or equitable rights or remedies which the City and Grantee may have with respect to the subject matter of this Franchise, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

7. Force Majeure. Neither party shall be in default under this Agreement if any failure or delay in performance is caused by acts of God; fire; flood; earthquake; lightning; unusually severe weather; material or facility shortages or unavailability not resulting from such party's failure to timely place orders therefore; war or civil disorder; or any other cause beyond the reasonable control of either party hereto. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. Notification shall be given by the excused party to the other party, of the cause and of the estimated duration, when possible.

SECTION 13.

PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

1. Publication, Effective Date. This Franchise shall be published in accordance with applicable local and state law. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 13.2.
2. Acceptance.
 - a. Grantee shall accept this Franchise within thirty (30) days of its enactment by the City Council unless the time for acceptance is extended by City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes; provided, however, this Franchise shall not be effective until all City Ordinance adoption procedures are complied with, and all applicable timelines have run for the adoption of a City Ordinance. In the event acceptance does not take place or should all Ordinance adoption procedures and timelines not be completed, this Franchise and any and all rights granted hereunder to Grantee shall be null and void.
 - b. Grantee shall accept this Franchise in the following manner:
 - i. This Franchise will be properly executed and acknowledged by Grantee and delivered to City.
 - ii. With its acceptance, Grantee shall also deliver a check in the amount of Three Thousand Dollars (\$3,000.00) made payable to the City of Gulf Shores, Alabama as an acceptance fee and insurance certificates as required herein, that have not previously been delivered. The acceptance fee shall serve to recover attorney's fees and consulting expenses incurred by the City in granting this Franchise.

Passed and adopted by the City Council this_____ day of _____, 2025.

ATTEST: CITY OF GULF SHORES

By:_____By: Robert Craft_____

Its: City Clerk Its: Mayor

ACCEPTED: This Franchise is accepted, and we agree to be bound by its terms and conditions.

Date:_____2025 By:_____

Its:_____

SWORN TO BEFORE ME this
_____ Day of _____, 2025.

NOTARY PUBLIC

EXHIBIT A
FRANCHISE FEE PAYMENT WORKSHEET

REVENUE SOURCE	NUMBER OF SUBSCRIBERS	GROSS REVENUE	5% FRANCHISE FEE	YTD
Basic Service				
Expanded Basic				
Premium - HBO				
Premium - Showtime				
Premium - TMC				
Premium - Disney				
Premium - Encore				
Pay-Per-Channel				
Pay-Per-View				
Installation				
Guides				
Shopping Channels				
Advertising Sales				
Equipment Rental				
Administrative Fees				
Other Income				
Other				
TOTAL				