

**APPENDIX A**

**CONSUMER PROTECTION STANDARDS**

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**Section 1**  
**SOLICITATION OF SUBSCRIPTIONS**

1.1 Uniforms/Identification Cards/Name Badges. Each employee of the Franchisee who routinely comes into contact with members of the public at their places of residence must wear a picture identification card clearly indicating his or her employment with the Franchisee. The photograph on the identification card shall prominently show the employee's name and/or identification number. Such employee shall prominently display such identification card and shall show it to all such members of the public. Each employee of any contractor or subcontractor of the Franchisee who routinely comes into contact with members of the public at their places of residence must wear a picture identification card clearly indicating his or her name, the name of such contractor or subcontractor and the name of the Franchisee. The parties acknowledge that each Franchisee employee who routinely comes into contact with members of the public at their places of residence shall wear a uniform provided by the Franchisee, in addition to the foregoing requirements with respect to identification cards, except to the extent such requirement is affected by or subject to any contractual agreement(s) between the Franchisee and any Person other than the City.

1.2 Subscription Information.

1.2.1 At the time of installation to the Subscriber who is receiving the installation, and at least once a year to all Subscribers, with a copy to DoITT, the Franchisee shall provide the following subscription information in a clear, complete and comprehensible form:

(i) a description of the Cable Services provided by the Franchisee, accompanied by a listing of the charges for each such Service, either alone or in combination;

(ii) a listing of all rates, terms and conditions for each Cable Service or tier of Cable Service, both alone and in combination, and all other charges, such as for installation, for application of Cable Service to additional television sets, for deposits on equipment, for stolen or lost converters and other equipment, for returned checks and for relocating cable outlets;

(iii) a general explanation of other devices which may be used in conjunction with the System, such as devices provided as contemplated in 47 C.F.R. § 76.1621, remote control devices, and parental control devices (to the extent technology enabling parental control capability is not already incorporated in other devices) and a listing of the Franchisee's charges for connecting such devices to the System;

(iv) a description of the Franchisee's billing and collection procedures (including payment requirements to avoid disconnection of service), the use of payment coupons, the amount of any applicable late fees, and a description of the option of paying in person, consistent with these consumer protection standards;

(v) the procedure for the resolution of billing disputes;

(vi) a description of the Franchisee's policies concerning credits for service interruptions and outages, consistent with these consumer protection standards;

(vii) an explanation of the procedures and charges, if any, for upgrading, downgrading or disconnecting Services, consistent with these consumer protection standards;

(viii) the required time periods for installation requests, consistent with these consumer protection standards; and

(ix) a statement that all Franchisee employees, contractors, or subcontractors who routinely come into contact with members of the public at their places of residence shall wear a uniform and Franchisee identification card, to the extent required by Section 1.1, which they shall prominently display and show to all such members of the public.

1.2.2 Within fifteen (15) days of a written request by the Commissioner to the Franchisee, the Franchisee shall provide the Commissioner with a written description of Franchisee's procedures for accommodating non-English speaking Subscribers ("Franchisee's Non-English Procedures").

1.2.3 The Franchisee shall deliver three (3) copies of all such subscription information to the Commissioner within three (3) days after distributing it to the first Subscriber or potential Subscriber. The Franchisee agrees that the City assumes no liability for the subscription information by virtue of its review of such information.

1.3 Right of Rescission. Anyone who requests the installation of Cable Service from the Franchisee shall have the right to rescind such request at any time prior to the point in time at which physical installation upon the premises begins. Anyone who requests a particular Service from the Franchisee shall have the same right of rescission, except that such right shall expire once the requested Service is actually received by such Person.

## **Section 2** **INSTALLATION**

### 2.1 Information Provided to Subscribers.

2.1.1 At the time of installation, the Franchisee shall provide each Subscriber with certain literature. Such literature, which need not be bound together, shall constitute the "Welcome Kit." The Welcome Kit shall provide the following information, materially accurate as of the first day of the previous month, in a clear, complete and comprehensible form:

(i) the location, hours of operation and telephone number(s) for each of the Franchisee's existing Service Centers and a telephone number for information as to where each Payment Center is located;

(ii) the toll-free telephone number for the Franchisee's customer service telephone system, including any cable information service line established by the Franchisee (which is described further in this Appendix A), accompanied by a brief description of the services and information that may be obtained by dialing each number;

(iii) a general description of how equipment, including, but not limited to, devices provided as contemplated in 47 C.F.R. § 76.1621, wireless remote control devices, parental control devices (to the extent technology enabling parental control capability is not already incorporated in other devices), is obtained and used in conjunction with the System, and the terms for rental and loaner equipment, including deposit requirements, if any, and procedures for return of equipment and the Subscriber's liability for lost, stolen or damaged equipment;

(iv) the policies governing Service Interruptions, Significant Service Interruptions, Outages, and Significant Outages as defined in Section 6.2.1 of this Appendix A and repair service;

(v) the policies and procedures for obtaining credits consistent with Section 10 of this Appendix A and the return of any deposits;

(vi) the complaint resolution process, including notice that anyone who is dissatisfied with the way in which the Franchisee has handled a complaint has the right to speak to a Franchisee supervisor or to contact the NY PSC and the City at the addresses and telephone numbers listed in the Welcome Kit, and any such changes shall be communicated to Subscribers via the Franchisee's semi-annual notice to Subscribers (which address and telephone number of the City may be changed by the Commissioner, in a notice to be provided to the Franchisee, from time to time);

(vii) the procedures by which the Subscriber will be notified of any rate increases, any change in programming Services (as defined in Section 8.1.1 of this Appendix A), any change in the price or conditions for the rental of equipment, any change in the location or hours of the Service Centers, any change in billing practices, practices regarding Service interruption, or any significant change in the policies or information set forth in the Welcome Kit;

(viii) the requirements concerning Subscriber privacy which are set forth in the Cable Act or any rules or regulations established by the City pursuant to Section 16.3 of this Agreement;

(ix) if provided to the Franchisee by the City in a format reasonably acceptable to the Franchisee: (A) a listing of the currently available Public and Governmental/Educational Access Channels, (B) a description of the purposes and uses of such Channels, and (C) general information regarding how a Person can utilize or obtain further information regarding such Channels; Franchisee shall also make the foregoing information available on its website, subject to Franchisee's technical

capability to do so, including, but not limited to, limitations with respect to character capacity;

- (x) the rules governing the termination of Cable Service;
- (xi) the steps for resubscribing to Cable Service after an involuntary termination.

With respect to the provision of the Welcome Kit to new Subscribers, the Franchisee shall also provide any information to such Subscribers that is required by applicable law but is not listed above.

2.1.2 The Franchisee shall train and make available customer service representatives to aid by telephone visually impaired consumers who cannot read the Welcome Kit. The Franchisee shall also make available by telephone bilingual customer service representatives to communicate with non-English speaking consumers regarding the information contained in the Welcome Kit.

2.1.3 The Franchisee shall distribute the then current version of the Welcome Kit to all new Subscribers at the time of installation, and to any other person on request. Any Person who makes such a request in person to a customer service representative or salesperson of the Franchisee must be supplied with a copy of the Welcome Kit immediately. The Franchisee must mail, by first class, the Welcome Kit to any Person who requests one by telephone within ten (10) business days of such request.

2.1.4 The Franchisee shall provide each customer service representative and each salesperson of the Franchisee with copies of the most current Welcome Kit and shall advise them of the requirements of this Section 2.1 of this Appendix A.

2.1.5 The Franchisee shall submit the Welcome Kit, as well as any subsequent updates of it, to the Commissioner within three (3) days after distributing it to the first Subscriber or potential Subscriber and from time to time thereafter upon the Commissioner's request.

2.2 Channel Line-Up. The Franchisee must either (i) provide Subscribers with a Channel Line-up card for all Cable Services which shall be updated on an annual basis thereafter; or (ii) provide Subscribers with dial location information electronically on screens that can be controlled by the consumer, provided, however, that the Franchisee shall automatically provide such a card (and annual updates thereof) to all Subscribers who cannot access such information electronically, and shall further provide such a card to any Subscriber upon request.

### 2.3 Procedure for Installation

2.3.1 Once a request for Cable Service is received, the Franchisee shall offer "appointment window" time blocks of not more than four (4) hours on weekdays, for the selection of the Subscriber or potential Subscriber, during which the Franchisee's work crew shall arrive to perform the installation of the necessary equipment to receive

Cable Service (on Saturdays the Franchisee may in its discretion offer “appointment windows,” but shall, in any event, comply with the full 8:00 a.m. to 5:00 p.m. working period described in Section 2.3.2 below). The Franchisee shall use reasonable efforts to complete the installation during that appointment.

2.3.2 The Franchisee shall provide installation services including initial installation, continuously at least during the periods of 8:00 a.m. to 5:00 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on Saturdays and, for connection of additional outlets and upgrading of Cable Service for which all work can be performed indoors, continuously during the periods of 8:00 a.m. to 5:00 p.m. As required by Section 5.4 of the body of this Agreement, the Franchisee shall provide installation throughout its Franchise Area on a nondiscriminatory basis.

2.3.3 Consistent with the terms of Article 5 of the Franchise, unless a later date is requested by a potential Subscriber, the Franchisee shall complete installation of Cable Service for any new Subscriber and any upgrade or downgrade for any existing Subscriber within seven (7) business days after any such request is received, provided that if weekend installation is requested, installation shall be completed by no later than the fourth (4<sup>th</sup>) Saturday following the date the request is received. Notwithstanding the foregoing, such time period shall not apply to any building not currently wired for Cable Service as to which the Franchisee is, upon a showing to and with the approval of the Commissioner, in compliance with its obligations regarding access to such building pursuant to Article 5 of the body of this Agreement, or except as provided in Section 18.5 of the body of this Agreement.

2.3.4 The Franchisee shall comply with the procedures set forth in Section 11.3 of this Appendix A regarding contact with Subscribers to perform any visit to a Subscriber’s premises to perform its obligations under this Section 2.3.

## 2.4 Nature of the Request for Installation

2.4.1 The Franchisee shall not discriminate among Subscribers or potential Subscribers because someone living in the same household is already or was a Subscriber, unless the Franchisee can demonstrate, to the Commissioner’s satisfaction, that: (i) the Franchisee has a reasonable basis for believing that a Person(s) living in the household is (are) attempting to deceive the Franchisee or (ii) such Person(s) has (have) failed to respond to a reasonable request from the Franchisee for information which would enable the Franchisee to determine whether such Person(s) is (are) entitled to receive Cable Service.

## 2.5 Records of Requests for Cable Service

2.5.1 The Franchisee shall keep records capable of showing all requests for Cable Service, which shall contain, with respect to each request for Cable Service, the name and address of the Person requesting Cable Service, the date on which Cable Service was requested, the date and appointment period on which Cable Service was scheduled to be provided and the date and appointment period on which Cable Service

was actually provided. In the event that the Franchisee is unable to provide Cable Service, the Franchisee shall keep records showing in reasonable detail the number of attempts the Franchisee has made to provide such Cable Service and the reason the Franchisee was unable to provide Cable Service. These records shall be assembled continuously.

2.5.2 Any information in the records required by Section 2.5.1 may be destroyed six (6) years after such information was collected, unless the Commissioner and the Comptroller authorize the Franchisee, in writing, to destroy any information required by Section 2.5.1 prior to the expiration of such six (6) year period. However, the Commissioner may require the Franchisee to retain such information for a longer period of time or may require that the information be turned over to the Commissioner in lieu of its destruction in accordance with Section 11.1 of the body of this Agreement.

2.5.3 A report summarizing the information contained in the records required by Section 2.5.1 regarding all requests for Cable Service for the preceding quarter shall be submitted in written or electronic form to the Commissioner by the forty-fifth (45th) day following the end of each calendar quarter, containing the following information

- (i) the number of requests for Standard Installations;
- (ii) the number of Standard Installations made;
- (iii) the number of Standard Installation and service appointments made;
- (iv) the number of Standard Installation and service appointments met; and
- (v) the number of Standard Installations and service appointments rescheduled by the Franchisee.

To the extent permitted by state and federal privacy laws, upon request of the Commissioner, the Franchisee shall cooperate in good faith with the Commissioner to verify and supplement the information contained in the report required by the preceding sentence and the Franchisee's compliance with its obligations under Section 2.5.1; provided, however, that nothing herein shall be construed to require the Franchisee to disclose any records or information, the disclosure of which would be inconsistent with Franchisee's obligations pursuant to applicable state or federal privacy laws, including, but not limited to, any records or information collected and retained by the Franchisee pursuant to Section 2.5.1 hereof. The Commissioner may waive the submission of such records as the Commissioner deems appropriate.

2.5.4 Franchisee's reporting requirements pursuant to Section 2.5.3 hereof shall not commence until the third (3<sup>rd</sup>) calendar quarter following the Effective Date of this Agreement. Notwithstanding the foregoing, with respect to reports in connection with Franchisee's obligation under Section 2.3.3 hereof regarding Saturday installation requests, Franchisee's reporting obligations shall commence on the date which is one (1) year from the Effective Date of this Agreement.

**Section 3**  
**SERVICE CENTERS**

3.1 Service Centers

3.1.1 Subject to the requirements of Subsection 3.1.1.1 hereof, the Franchisee shall initially establish and maintain one (1) Service Center in each of the five (5) Boroughs of the Franchise Area. The Franchisee shall notify Subscribers and the Commissioner of the opening, and thereafter any change in the location, of these Service Centers.

3.1.1.1 With respect to each Borough in the Franchise Area, Franchisee's obligation to establish and maintain each Service Center pursuant to Section 3.1.1 hereof shall not commence until ninety (90) days from the date on which Franchisee determines that Franchisee has achieved a Subscriber base of ten thousand (10,000) Subscribers in the applicable Borough.

3.1.1.2 Within ninety (90) days from the date on which Franchisee achieves an aggregate Subscriber base of sixty thousand (60,000) Subscribers in any Borough, Franchisee shall establish and maintain one (1) additional Service Center in each such Borough; provided however, that nothing herein shall be construed to require Franchisee to establish and maintain more than a total of two (2) Service Centers in any Borough. All such Service Centers will be conveniently located near mass transit.

3.1.2 Except on the legal holidays recognized by the City of New York, a list of which shall be supplied to the Franchisee upon request to the Commissioner, these Service Centers shall be open continuously for at least nine (9) hours on weekdays and for at least five (5) hours on Saturdays, subject to Franchisee's contractual agreements with Persons other than the City. The Franchisee shall staff each Service Center so it is capable of providing on Saturday the same level of service it provides during any weekday, such that waiting time for any service on Saturday is not significantly different than during any weekday.

3.1.3 The Service Centers shall be designed so as to provide access in accordance with applicable law.

3.1.4 The Franchisee shall maintain on file at each Service Center, or on its website for public inspection current copies of its billing practices and payment requirements and general informational materials (including monthly bill stuffers) and shall keep such records at its central office for a period of two (2) years, to be mailed or otherwise delivered to a specified Service Center within a reasonable time upon the City's or a Subscriber's request. The foregoing records shall be maintained independent of, and in addition to, Franchisee's public inspection file maintained pursuant to 47 C.F.R. § 76.1700.

3.2 Training of Employees

3.2.1 Franchisee employees who regularly come in contact with the public shall be trained to perform efficiently the various tasks, including responding to consumer inquiries and complaints, necessary to provide consumer services in a responsible and courteous manner.

3.2.2 All Franchisee employees shall identify themselves by name or preassigned identification number when answering Franchisee telephone lines routinely used by members of the public. The Franchisee shall maintain a system to enable the Franchisee to identify the particular employee who answered any telephone call in such manner.

3.2.3 Franchisee employees shall refer any Person who is dissatisfied with the resolution or handling of any complaint concerning the Franchisee to a supervisor. Franchisee supervisors shall be available to speak to such Persons. If, due to unforeseen circumstances, a supervisor is temporarily unavailable to speak with such a Person, then that Person will be contacted by a supervisor as soon as practicable. If the Subscriber is not contacted by the supervisor or otherwise requests such information, a nonsupervisory employee shall inform the Subscriber of the foregoing information.

3.2.4 The Franchisee shall ensure that some employees at its office speak any language used by a substantial percentage of the Franchisee's Subscribers with whom they come into contact in the course of their employment.

3.2.5 To the extent the Franchisee uses contractors or subcontractors who regularly come into contact with the public on the Franchisee's behalf, the Franchisee shall ensure that such contractors or subcontractors receive the training and follow the procedures outlined in Sections 3.2.1-3.2.4 above.

### 3.3 Telephone Lines

3.3.1 The Franchisee shall have local telephone or toll-free lines for receiving requests for repair or installation services, for reporting service interruptions and for responding to billing questions. The lines shall be answered twenty-four (24) hours per day, seven (7) days per week by Franchisee employees with respect to service problems (such as for the reporting of interruptions or outages in service and the scheduling of service repairs) and, at a minimum, during normal business hours with respect to installation-related and billing-related matters and questions; but in no event shall such lines be operated for fewer hours than required, or less comprehensively than required, by applicable federal or state requirements. In the event a Franchisee employee receives, but is unable to respond to, a Subscriber call after normal business hours regarding any of the issues described in this Section 3.3.1, such Franchisee employee shall create a notation on Subscriber's record (to enable informed employee response upon business hours follow-up), including any appropriate Subscriber information, consistent with Franchisee's practices and procedures. For purposes of this Section 3.3.1, normal business hours shall have the meaning set forth in 47 C.F.R. § 76.309 and 16 NYCRR § 890.

3.4 Standard of Service for the Telephone System

3.4.1 The Franchisee shall maintain a telephone system throughout the term of this Agreement which shall be capable, at a minimum, of meeting each of the following standards:

(i) each telephone call shall be answered within at least thirty (30) seconds;

(ii) callers shall receive a busy signal not more than three percent (3%) of the time in any one (1) month period;

(iii) callers shall not be kept on hold for longer than thirty (30) seconds;

(iv) no more than ten percent (10%) of all calls (measured on a quarterly basis) shall be kept on hold for thirty (30) seconds;

(v) any automated menu system shall provide, within ninety (90) seconds (or one hundred twenty (120) seconds during peak periods), an opportunity, which may include pressing "0" or remaining on the line without entering a menu option, for the caller to connect to a customer service representative; and

(vi) all menus and subsidiary menus shall provide an opportunity to connect to a customer service representative.

3.4.2 Reasonable variations in these performance standards shall be permitted during abnormal operating conditions, including, by way of illustrative example, during trunk line failures.

3.4.3 The Franchisee shall provide quarterly reports to the Commissioner containing information relevant to the question of whether its telephone system continues to conform to Section 3.4.1 of this Appendix A. Franchisee's quarterly reports provided pursuant to this subsection 3.4.3 shall be measured for purposes of compliance with the requirements hereof solely on a quarterly basis, but shall reflect, for informational purposes, Franchisee's metrics on a month-by-month basis. If the Commissioner determines, based on complaints or any other evidence, that the Franchisee's telephone service does not meet the standards set forth in this Section 3.4, or any variations in those standards previously agreed to by the Commissioner, then the Commissioner has the authority to order the Franchisee to take appropriate action to meet such standards. Failure of the Commissioner to issue such order, however, shall not constitute a waiver of the City's rights with respect to any failure by the Franchisee to comply with its obligations pursuant to this Appendix A or this Agreement.

**Section 4**  
**BILLING**

4.1 The Format of a Subscriber's Bill

4.1.1 The bill shall be designed in such a way as to present the information contained therein clearly, comprehensibly and accurately to Subscribers.

4.1.2 The bill shall contain itemized charges for each category of Cable Service and piece of equipment for which a charge is imposed (including late charges, if any), an explicit due date, the name and address of the Franchisee and telephone number for the Franchisee's office responsible for inquiries, billing, the NY PSC's toll-free Subscriber Assistance telephone number and the telephone number specified by the Commissioner for the resolution of billing disputes. The bill shall state the billing period, amount of current billing and appropriate credits or past due balances, if any. Unless prohibited by law, the Franchisee may accurately designate that portion of a Subscriber's bill attributable to the amount of any compensation payment to be made by the Franchisee or any other Person to the City pursuant to this Agreement.

#### 4.2 Billing Procedures

4.2.1 All bills shall be rendered monthly, unless otherwise authorized by the Subscriber, or unless service was provided for less than one (1) month (because, for example, the Subscriber received service, from activation to cancellation, for less than one month.)

4.2.2 The Franchisee shall use reasonable efforts to cooperate with any regulated and accredited banking or financial institution that provides Subscribers with an optional payment mechanism whereby they can directly pay any bills electronically from their residence or business, when such mechanism is economically and technically feasible and viable, and provided that the Commissioner may reduce or relieve the Franchisee of such obligations where such relief is appropriate in light of the circumstances, including the nature of the institution and the burden to the Franchisee. To the extent permitted by applicable law, the Franchisee may "pass through" to the Subscriber any charges imposed on the Franchisee in connection with such bill payment by any such institution, so long as the Franchisee provides prior notice of such charge to the Subscriber.

4.2.3 The Franchisee shall credit any Subscriber who has voluntarily interrupted Cable Service, pursuant to the requirements established by the Franchisee, with a rebate on his or her monthly bill for the period(s) during which service was voluntarily interrupted, provided that the Franchisee may charge any such Subscriber a reconnection charge.

4.2.4 Any returned check charge imposed by the Franchisee shall be consistent with the requirements of N.Y. General Obligations Law, Ch. 24-A § 5-328 or any successor provision thereto.

#### 4.3 Procedures for Collecting Late Bills

4.3.1 No bill shall be due less than fifteen (15) days from the date of the mailing of the bill by the Franchisee to the Subscriber.

4.3.2 A bill shall not be considered delinquent until at least forty-five (45) days have elapsed from the mailing of the bill to the Subscriber and payment has not been received by the Franchisee, provided that no bill shall be mailed more than fifteen (15) days prior to the date Cable Services covered by such bill commence, except in cases where a Subscriber requests advance billing. Late fees not to exceed the maximum percent allowed by law may be applied to a delinquent bill, so long as the billing dispute resolution procedures set forth in Section 4.4 of this Appendix A have not been initiated.

4.3.3 The Franchisee shall not physically or electronically discontinue Cable Service for nonpayment of bills rendered for Cable Service until: (i) the Subscriber is delinquent in payment for Cable Service; and (ii) at least five (5) days have elapsed after a separate written notice of impending discontinuance has been served personally upon a Subscriber; or (iii) at least eight (8) days have elapsed after mailing to the Subscriber a separate written notice of impending discontinuance (for which postage is paid by the Franchisee), addressed to such Person at the premises where the Subscriber requests billing; or (iv) at least five (5) days have elapsed after a Subscriber has either signed for or refused a certified letter (postage to be paid by the Franchisee) containing a separate written notice of impending discontinuance addressed to such Person at the premises where the Subscriber requests billing. Notice of impending Cable Service discontinuance must clearly state the amount in arrears, the total amount required to be paid to avoid discontinuance of Cable Service, collection fees, if any, reconnection charges if applicable, and the date by which such payment must be made, the location of Service Centers where such payment may be made, or how the Subscriber can get information (e.g., via the Franchisee's website and/or by calling a toll-free number) about the location of each Payment Center where such payment may be made. Receipt of a subsequently dishonored negotiable instrument in response to a notice of discontinuance shall not constitute payment, and the Franchisee shall not be required to issue an additional notice prior to discontinuance.

4.3.4 As described in Section 4.5 of this Appendix A, the Franchisee may under certain circumstances refer a delinquent account to a private collection agency. The Franchisee agrees that it will not, and will instruct all collection agencies collecting delinquent accounts on behalf of the Franchisee not to, refer any delinquent account to a credit agency except if the Subscriber has closed an account with an outstanding balance of more than fifty dollars (\$50) and that balance has been pending for more than ninety (90) days. If, however, the Subscriber subsequently pays the outstanding balance, the Franchisee shall notify any credit agencies that were previously informed of the outstanding balance.

#### 4.4 Procedure for the Resolution of Billing Disputes

4.4.1 The billing dispute resolution procedure shall be initiated once a Subscriber contacts the Franchisee's department which handles billing questions or the Commissioner, in writing, so long as such contact occurs within thirty (30) days from the date of receipt of the bill by the Subscriber. If the Subscriber contacts the Commissioner, the Commissioner shall notify the Franchisee, by mail, by telephone or by electronic

means, that the dispute resolution procedure has been initiated and the Franchisee shall then contact the Subscriber to discuss the dispute.

4.4.2 The Subscriber shall not be required to pay the disputed portion of the bill until the dispute is resolved. The Franchisee shall not apply finance charges, issue delinquency or termination notices, or initiate collection procedures for the disputed portion of the bill pending resolution of the dispute.

4.4.3 The Franchisee shall promptly undertake whatever review is necessary to resolve the dispute, and shall notify the Subscriber of the results of the review as soon as it is completed, but in no case later than twenty (20) business days after receipt from the Subscriber of the billing dispute, problem or complaint notification.

4.4.4 The Franchisee shall, upon the Subscriber's or the City's written request, notify the Subscriber in writing of its proposed resolution of the billing dispute, shall provide the address and telephone number to be provided from time to time by the Commissioner and by which a Subscriber may notify the City of a billing dispute, problem or complaint, and shall inform the Subscriber that unless an appeal is taken to the Commissioner within ten (10) business days after the date of postmark on the notification letter, the Franchisee's resolution of the dispute shall be considered final. If, in response to a Subscriber's written request, the Franchisee resolves the dispute over the phone or in person, then no written response need be provided to the Subscriber. Where no appeal is taken, the amount the Franchisee claims is due must be paid within twenty (20) days after the date of postmark on the notification letter.

4.4.5 If the Subscriber appeals the Company's resolution within the aforementioned period, the amount under dispute by the Subscriber will not be due until at least one (1) week after the dispute has been resolved by Franchisee.

4.4.6 The procedures set forth in Sections 7.3.1 - 7.3.5 of this Appendix A shall apply to billing disputes appealed to the Commissioner.

#### 4.5 Referral of Delinquent Accounts to a Collection Agency

4.5.1 If the billing dispute resolution procedures have not been initiated, the delinquent account may be referred to a private collection agency for appropriate action no sooner than ten (10) business days after it becomes delinquent or, where a Subscriber voluntarily terminates any Cable Service and the amount due is delinquent but not in dispute, no sooner than ten (10) business days after the final bill is mailed to the Subscriber.

4.5.2 If the billing dispute resolution procedures have been initiated, the delinquent account shall not be referred to a collection agency prior to the conclusion of those procedures, including any appeal to the Commissioner.

4.5.3 The Franchisee agrees that a referral to a private collection agency in violation of Sections 4.3.4, 4.5.1, or 4.5.2 of this Appendix A shall result in injury to the Subscriber which will be difficult to ascertain and to prove. The Franchisee therefore

agrees that, it will send to the affected Subscriber a letter of apology and notify, in writing, the collection agency, copies of which such letter and notice shall be sent to the Commissioner. Further, if any credit agency is contacted by the Franchisee or any collection agency collecting delinquent accounts on behalf of the Franchisee in violation of Section 4.3.4 of this Appendix A, the Franchisee shall, in addition to taking the foregoing actions, (i) notify the credit agency contacted as a result of such referral that the referral was wrongly made and should not adversely affect the Subscriber's credit standing, a copy of which notice(s) shall be sent to the affected Subscriber and the Commissioner.

## **Section 5** **EQUIPMENT PROVIDED BY THE FRANCHISEE**

### **5.1 Types of Equipment To Be Provided**

5.1.1 The Franchisee shall comply with 47 C.F.R. § 76.1621 or any successor provision thereto.

5.1.2 The Franchisee shall supply a closed caption decoder to any hearing impaired Subscriber who requests one at a charge not to exceed the Franchisee's cost, unless the technology for such decoding is already incorporated in other equipment being provided to the subscriber.

### **5.2 Terms for Rental and Loaner Equipment**

5.2.1 As provided in this Appendix A, the Franchisee may require deposits on certain equipment it provides to Subscribers, provided that the Franchisee shall return to Subscribers their deposits together with a reasonable amount of interest, and provided further that there shall be no discrimination among or between Subscribers in either the requirement for or the amount of any deposit. The Franchisee shall permit the return of such equipment to any Service Center. When equipment is returned, the Franchisee shall either promptly test it to ensure that it is not damaged or waive any damage claims, and shall give the Subscriber a receipt showing, in addition to the date and time of the return and the Subscriber name, the model and serial number of the returned equipment. The Franchisee shall return to the Subscriber his or her deposit, plus interest minus any reasonable amount, if any, deducted for damage to the equipment or the amount of any outstanding balance owed to the Franchisee within the next applicable billing cycle.

5.2.2 If such equipment is lost, damaged or stolen by reason of an intentional, wrongful act by, or the gross negligence of, the Subscriber, or if the Subscriber gives the equipment to a third party to return to the Franchisee and the third party does not do so, then the Subscriber shall be liable for the value of the equipment as determined by the Franchisee and consistent with Franchisee's annually published rates. If such equipment is lost, damaged or stolen through the wrongful act of a third party, or any other event outside the Subscriber's control (such as a burglary or a fire in the Subscriber's building), then the Subscriber shall have no liability for the equipment,

provided that the Subscriber files with the Franchisee a police report on the cause of any such loss, theft or damage to any equipment. The Franchisee shall keep records showing the resolution of Subscriber claims regarding lost, stolen or damaged equipment, which records shall be submitted in written or computer disk form to the Commissioner as the Commissioner may reasonably request from time to time, within fifteen (15) days of such request.

5.2.3 For billing purposes, the return of rental equipment shall be deemed to have taken place on the day such equipment is returned.

5.3 Notice That Equipment Is Available. The Franchisee shall provide in the Welcome Kit information about the availability and function of the equipment described in this Section 5 of this Appendix A, as well as where such equipment may be obtained.

5.4 Demonstration of Equipment. The Franchisee shall provide free demonstration of such equipment at the Service Centers.

## **Section 6**

### **SERVICE OUTAGES AND SERVICE INTERRUPTIONS**

6.1 The Franchisee shall exercise its best efforts to limit any scheduled Outage (as hereinafter defined) of any Cable Service for any purpose to periods of minimum use. Except in emergencies or incidents requiring immediate action, the Franchisee shall provide the Commissioner and all affected Subscribers with prior notice of scheduled Outage, if such scheduled Outages will last longer than four (4) hours.

6.2 Time Periods by Which Outages and Service Interruptions Must Be Corrected and Repairs Made.

6.2.1 The Franchisee shall maintain sufficient repair and maintenance crews so as to be able to correct Outages, Significant Outages, Service Interruptions, Significant Service Interruptions, and other problems requiring repair, within the following time periods:

(i) In the event of an “Outage,” which is defined for purposes of this Appendix A as loss of picture or sound on all basic channels or on all channels provided on any other service tier or on one or more premium channels occurring during normal operating conditions that is not caused by the Subscriber’s television receiver or the Subscriber and that affects fewer than one hundred (100) Subscribers served from the same VSO, such Outage shall be repaired within forty-eight (48) hours after the Franchisee receives a request for repair service, unless the request is made after 4:00 p.m. on a Friday, in which event the repair shall be made no later than the next business day. For purposes of this Section 6, “loss of picture or sound” shall mean the absence of picture or sound quality that conforms to the requirements of Section 6.2 of the Franchise.

(ii) In the event of a “Significant Outage,” which is defined for purposes of this Appendix A as loss of picture or sound on all basic channels or on all

channels provided on any other service tier or on one or more premium channels occurring during normal operating conditions, which is not caused by the Subscriber's television receiver or the Subscriber, and that affects one hundred (100) or more Subscribers served from the same VSO, such Significant Outage shall be corrected within eighteen (18) hours after the Franchisee learns of it.

(iii) In the event of a "Service Interruption," which is defined for purposes of this Appendix A as the loss of picture or sound on one or more cable channels affecting fewer than one hundred (100) Subscribers served from the same VSO, excluding conditions beyond the control of the Franchisee, the Franchisee shall begin working on the problem promptly and in no event later than twenty-four (24) hours after the Service Interruption becomes known.

(iv) In the event of a "Significant Service Interruption," which is defined for purposes of this Appendix A as the loss of picture or sound of one or more cable channels that affects one hundred (100) or more Subscribers served from the same VSO, Franchisee shall repair the problem within forty-eight (48) hours after the Franchisee receives a request for repair service, unless the request is made after 4:00 p.m. on a Friday, in which event the repair shall be made no later than the next business day.

6.2.2 The Franchisee shall maintain, at all times, an adequate repair and service force in order to satisfy its obligations pursuant to the foregoing Section 6.2.1. In order to satisfy its obligations pursuant to Section 6.2.1, in cases where it is necessary to enter upon a Subscriber's premises to correct any reception problem or other service problem, the Franchisee shall make available service calls continuously during the period of 7:30 a.m. to 7:00 p.m. May 1 through October 30 and 7:30 a.m. to 6:00 pm November 1 through April 30 on weekdays and continuously for at least eight (8) hours on each Saturday. During weekday periods, a Subscriber may request any four (4) hour period for the Franchisee to correct any such problem, provided that the Franchisee's customer service representatives shall at all times endeavor to be aware of service or other problems in adjacent areas which may obviate the need to enter a Subscriber's premises. The Franchisee shall provide on Saturday the same level of service it provides during any weekday, such that repair services provided on Saturday are not significantly different than during any weekday (other than a weekday evening).

6.2.3 The Franchisee shall comply with the procedures set forth in Section 11.3 of this Appendix A regarding contact with Subscribers in connection with any visit to a Subscriber's premises in connection with its obligations under this Section 6.2. In no event shall the Franchisee cancel any necessary scheduled service call later than 5:00 pm on the preceding business day, except in circumstances beyond the Franchisee's control.

6.3 Failure To Meet Time Periods May Be Excused. The Franchisee's failure to correct Outages, Significant Outages, Service Interruptions, or Significant Service Interruptions, or to make repairs within the stated time periods shall be excused if the Franchisee could not obtain access to a Subscriber's premises.

6.4 Repair Service and Disconnection Charges. In the event that the Cable Act is amended, or following a final order or determination by a court or regulatory agency having competent jurisdiction, following the exhaustion of all appeals thereto, such that the requirements of this section are not prohibited under applicable law and equivalent obligations are imposed upon all cable operators in the Franchise Area, then the following provisions shall be applicable:

(a) the Franchisee shall not impose any fee or charge any Subscriber for any service call to his or her premises to perform any repair or maintenance work, unless such work was necessitated by an intentional act or negligence of such Subscriber.

(b) The Franchisee shall not charge any fee for disconnection when a Subscriber returns the Company's equipment to a Service Center or via the self-addressed envelope provided by the Company. A fee may, however, be charged if the Franchisee has to collect the equipment from the Subscriber's premises and the Subscriber has been informed in advance of such charge and the alternative methods of returning the Franchisee's equipment. If the Subscriber pays the amount in arrears to the Franchisee when the Franchisee is on the Subscriber's premises to disconnect Service, then the Franchisee may charge the Subscriber a reasonable collection fee, provided that such Subscriber is notified of such collection fee in the notice required by Section 4.3.3.

#### 6.5 Records of Repair Service Requests

6.5.1 Franchisee shall keep records showing in both individual and summary form all requests for repair service received from Subscribers, which shall show, at a minimum, the name and address of the affected Subscriber, the date and the approximate time of request, the date and approximate time the Franchisee responds, the date and approximate time Cable Service is restored, the type and the probable cause of the problem.

6.5.2 Any information in the records required by Section 6.5.1 of this Appendix A may be destroyed six (6) years after such information was collected, unless the Commissioner authorizes the Franchisee, in writing, to destroy any information required by Section 6.5.1 prior to the expiration of such six (6) year period. However, the Commissioner may require the Franchisee to retain such information for a longer period of time, if relevant to an active audit or dispute, or may require that the information be turned over to the Commissioner in lieu of its destruction.

6.5.3 The Franchisee shall submit to the Commissioner a report in such form and containing such information as the Commissioner may reasonably request, not including specific Subscriber names or addresses, summarizing the information contained in the records required by Section 6.5.1 of this Appendix A in written or computer disk form on a quarterly basis, such report to be submitted by the forty-fifth (45th) day following the end of each calendar quarter. Upon request of the Commissioner, the Franchisee shall cooperate in good faith with the Commission to verify and supplement the information contained in the report required by the preceding sentence and the

Franchisee's compliance with its obligations under Section 6.5.1 of this Appendix A; provided, however, that nothing herein shall be construed to require the Franchisee to disclose any records or information, the disclosure of which would be inconsistent with Franchisee's obligations pursuant to applicable state or federal privacy laws, including, but not limited to, any records or information collected and retained by the Franchisee pursuant to Section 6.5.1 hereof. The Commissioner may waive the submission of such reports as the Commissioner deems appropriate.

6.5.4 In addition to providing the foregoing records, commencing six (6) months from the Effective Date hereof and subject to the confidentiality provisions of Section 11.1 of the Franchise, Franchisee shall submit to the Commissioner, within forty-five (45) days of the end of each calendar quarter during the Term hereof, a report setting forth the number of Significant Outages which occurred during the preceding calendar quarter, summarized by both Borough and VSO.

6.6 Plan for Correction. In the event the Commissioner notifies the Franchisee in writing that DoITT has determined that there has been an excessive number identified a routine pattern of Significant Outages in any Borough or community served by a particular VSO, Franchisee shall submit to the Commissioner, on a quarterly basis within forty-five (45) days of the end of each applicable calendar quarter during the Term hereof and subject to the confidentiality provisions of Section 11.1, a "Plan for Correction" outlining Franchisee's plan for minimizing the occurrence of such Significant Outages in the applicable Borough or community. Franchisee's obligation to submit such quarterly Plan for Correction pursuant to this Section 6.6 shall cease upon Franchisee's demonstration, to the reasonable satisfaction of the Commissioner, that Franchisee has minimized the occurrence of Significant Outages in the applicable Borough or community for two (2) consecutive calendar quarters.

## **Section 7**

### **SUBSCRIBER COMPLAINTS**

7.1 Operation of the Service Centers and Payment Centers. As set forth in Section 3 of this Appendix A, the Franchisee shall operate its Service Centers, train its employees and maintain its telephone lines so that Subscribers' complaints are resolved quickly, professionally and politely. The Franchisee agrees to use reasonable efforts to monitor Franchisee's Payment Centers to ensure that such Payment Centers are operating in a manner consistent with the terms of this Appendix A, to the extent applicable; provided, however, that nothing herein shall be construed to limit any rights Franchisee may have or liabilities Franchisee may incur pursuant to applicable law or the terms of this Appendix A. For purposes of this Appendix A, "Payment Center" shall be defined as "a facility operated by a third party where Subscribers may make payments."

7.2 Time Period for the Resolution of Complaints. Except where another time period is required by any other provision of this Appendix A or this Agreement, the Franchisee shall make its best efforts to resolve all complaints received by the Franchisee

within ten (10) business days, or earlier to the extent practicable. Within two (2) business days of receiving a written complaint or a complaint forwarded to the Franchisee by the Commissioner, the Franchisee shall notify the Person who made the complaint, either by telephone or in writing, that the complaint has been received and that the Franchisee will make its best efforts to resolve such complaint within ten (10) business days of receipt of such complaint by the Franchisee. Complaints which constitute billing disputes shall be subject to the procedures set forth in Section 4.4 of this Appendix A in lieu of the requirements of this Section 7.2.

### 7.3 Appeal of a Resolution to the Commissioner

7.3.1 As provided in Section 2.1.1 (vi) of this Appendix A, a Subscriber may notify the Commissioner about a complaint that is not resolved to the Subscriber's satisfaction. As set forth in Section 2.1.1(vi) of this Appendix A, the Franchisee shall also provide notice in the Welcome Kit of the right described in the preceding sentence.

7.3.2 The Commissioner shall notify the Franchisee by mail, telephone, or electronic means, of any such appeal within one (1) week after it is received by the Commissioner.

7.3.3 If the Franchisee's stated resolution of the complaint is appealed to the Commissioner, then the Franchisee shall assist the Commissioner in the investigation thereof by the Commissioner, by providing or making available whatever documents, materials or other types of information are reasonably requested by the Commissioner.

7.3.4 The Commissioner shall have thirty (30) days in which to complete the investigation and to notify the Franchisee of the manner in which the Commissioner believes the dispute should be resolved. Before completing the investigation, the Commissioner shall consult both with the Person who registered the complaint and with the Franchisee; provided, however, that final resolution of any dispute shall be in Franchisee's sole discretion, to the extent such resolution is not inconsistent with this Agreement, applicable federal, state, or local laws.

7.3.5 Complaints may be referred to the Commissioner before the Franchisee has issued a resolution, if the Franchisee has exceeded the time allowed for resolving complaints under Section 7.4 of this Appendix A.

### 7.4 Referral of Complaints from the Commissioner to the Franchisee

7.4.1 If the Commissioner is contacted directly about a complaint concerning the Franchisee, the Commissioner shall notify the Franchisee.

7.4.2 Within ten (10) business days after being notified about the complaint, the Franchisee shall issue to the Commissioner a report detailing the investigation thoroughly, describing the findings, explaining any corrective steps which are being taken and indicating that the Person who registered the complaint has been notified of the resolution.

## 7.5 Complaint Records

7.5.1 The Franchisee shall maintain complaint records, which shall record the date a complaint is received, the name and address of the affected Subscriber, a description of the complaint (which may be located in the “comments” section of the Franchisee’s records), the date of resolution, a description of the resolution and an indication of whether the resolution was appealed to the Commissioner.

7.5.2 Any information in the records required by Section 7.5.1 may be destroyed six (6) years after such information was collected, unless the Commissioner and the Comptroller authorize the Franchisee, in writing, to destroy any information required by Section 7.5.1 prior to the expiration of such six (6) year period. However, the Commissioner may require the Franchisee to retain such information for a longer period of time, if relevant to an active audit or dispute, or may require that the information be turned over to the Commissioner in lieu of its destruction.

7.5.3 The Franchisee shall submit to the Commissioner the records required by Section 7.5.1 of this Appendix A, in summary form only, in written or electronic form on a quarterly basis; provided, however, that nothing herein shall be construed to require the Franchisee to disclose any records or information, the disclosure of which would be inconsistent with Franchisee’s obligations pursuant to applicable state or federal privacy laws, including, but not limited to, any records or information collected and retained by the Franchisee pursuant to Section 7.5.1 hereof.

7.5.4 In addition to providing the foregoing records, commencing six (6) months from the Effective Date hereof and subject to the confidentiality provisions of Section 11.1 of the Franchise, Franchisee shall submit to the Commissioner, within forty-five (45) days of the end of each calendar quarter during the Term hereof, a report setting forth the following information with respect to Subscriber complaints:

- (i) the total number of complaints received by Franchisee in each Borough;
- (ii) the nature and current status of all complaints received by Franchisee in each Borough, described in appropriate sub-categories, including, but not limited to, billing, equipment related issues, installation related issues, credit adjustments, missed appointments and service calls, and such other complaint categories as may be tracked in Verizon’s internal customer service system; and
- (iii) the percentage of complaints resolved and percentage of complaints outstanding in each Borough.

## **Section 8** **NOTICE**

### 8.1 Notice Required

8.1.1 The Franchisee shall provide notice to the Commissioner and all Subscribers of any of the following changes, which notice shall be provided no later than thirty (30) days prior to the effective date of any such change (provided, however, all such notices shall be provided in a manner consistent with NY PSC rules), unless the Franchisee does not know of such change at that time, in which case the Franchisee must provide such notice: (a) within five (5) business days of the date upon which the Franchisee first knows of such change, in writing to the Commissioner and electronically on the Channel on which available Cable Services are listed or any other Channel as may be designated by the Franchisee, at least ten (10) times a day during the two (2) week period immediately following such fifth business day, and (b) to all affected Subscribers in the earliest practicable monthly bill sent to Subscribers or a separate mailing made within the same period following such change:

(i) any change in the rates or charges or significant terms or conditions for the receipt of any Cable Service (provided that any such notification may be provided solely via email or via U.S. mail); or

(ii) any significant change in billing practices (provided that any such notification may be provided solely via email or via U.S. mail)

(iii) any notices with respect to programming or network changes as required under NYCLS Pub. Ser. §224-a.

The foregoing notice requirements are in addition to the notice requirements contained elsewhere in this Appendix A, including those regarding the termination of Cable Service and Outages and Service Interruptions.

8.1.2 The Franchisee shall post on the earliest practicable date at any affected Service Centers any anticipated change in the location or significant changes in the hours of operation of such Service Centers.

8.1.3 The Company shall, as part of any annual updates to its Subscriber Handbook, list any significant change of any of the policies or other information set forth in the Subscriber Handbook. On its website the Company shall make available the most current version of its Subscriber Handbook.

8.1.4 Unless otherwise explicitly provided, all notices required by Section 8.1.1 shall be in writing no later than the periods specified in Section 8.1.1, except that any notice in connection with a change in Channel Position or an increase or decrease in the number of hours a Cable Service is carried over the System may be provided electronically on the System, so long as such electronic notice is made at least ten (10) times a day during the two (2) week period prior to the effective date of such change. All notices required by Section 8.1.1 of this Appendix A shall specify, as applicable, the Cable Service or Cable Services affected, the new rate, charge, term or condition, the effect of the change, and the effective date of the change.

8.1.5 The Franchisee shall comply with any and all applicable state and local law notice requirements including, but not limited to, those required by

Section 224-a of the New York Public Service Law and Section 890 of the NY PSC regulations.

**Section 9**  
**TERMINATION OF SERVICE AND DISCONNECTION**

9.1 Notice of Termination of Service. As described in Section 4.3.3 of this Appendix A, the Franchisee may terminate Cable Service to any Subscriber whose bill has not been paid after it becomes delinquent, so long as the Franchisee gives proper notice to the Subscriber as provided in Section 4.3.3 of this Appendix A and the billing dispute resolution procedures have not been initiated.

9.2 Termination on Sundays, Holidays or Evenings. The Franchisee shall not terminate Cable Service to Subscribers at any time when the Service Centers are closed.

9.3 Resubscription to Cable Service. The Franchisee shall not refuse to serve a former Subscriber whose Cable Service was terminated by the Franchisee, so long as all past bills and late charges have been paid in full, and subject to verification that any such Subscriber has a credit rating acceptable to Franchisee.

9.4 Length of Time to Disconnection. If disconnection occurs at the Subscriber's written or oral request, then, for billing purposes, it shall be deemed to have occurred three (3) days after the Franchisee receives the request for disconnection unless (i) it in fact occurs earlier or (ii) the Subscriber requests a longer period.

9.5 Scheduling Appointments. The Franchisee shall provide Subscribers with "appointment window" time blocks of no more than four (4) hours on weekdays running continuously from 7:30 a.m. to 9:00 p.m. for selection of Subscribers, during which its work crew shall visit the Subscriber's premises to disconnect service and to remove any Franchisee equipment. On Saturdays, the Franchisee shall also provide such service disconnection and equipment removal at any time between 9:00 a.m. to 5:00 p.m., but may, in its sole discretion, choose not provide "appointment window" time blocks. Further, the Franchisee shall comply with the procedures set forth in Section 11.3 of this Appendix A regarding contact with Subscribers in connection with any visit to a Subscriber's premises in connection with its obligations under this Section 9.5.

**Section 10**  
**CREDITS**

10.1 Grounds. As a result of the Franchisee's failure to comply with these consumer protection standards, the Franchisee shall provide to each affected Subscriber or potential Subscriber, as applicable, the following credits:

(i) for any Significant Service Interruption as defined in Section 6.2 which lasts more than four (4) continuous hours in any twenty-four (24) hour period (provided that, to the extent access to the Subscriber's premises is required to effect such repair, the Subscriber has granted the Franchisee such access), a minimum credit in an amount equal to one-thirtieth (1/30) times the recurring charges for Cable

Services (i.e. all charges for Cable Service minus non-recurring charges, such as installation and pay-per-view charges) to be charged to the affected Subscriber for the then current monthly billing period for the Cable Service(s) as to which the Significant Service Interruption occurred for each twenty-four (24) hour period during which a Significant Service Interruption continues for at least four (4) continuous hours, provided that: (i) the affected Subscriber has reported the Significant Service Interruption to the Franchisee and (ii) the Franchisee has verified that the reported Significant Service Interruption has occurred consistent with the Subscriber's claim;

(ii) for any Outage as defined in Section 6.2 which lasts more than four (4) continuous hours in any twenty-four (24) hour period (provided that, to the extent access to the Subscriber's premises is required to effect such repair, the Subscriber has granted the Franchisee such access), a minimum credit in an amount equal to one-thirtieth (1/30) times the recurring charges for Cable Services (i.e. all charges for Cable Service minus non-recurring charges, such as installation and pay-per-view charges) to be charged to the affected Subscriber for the then current monthly billing period for the Cable Service(s) as to which the Outage occurred for each twenty-four (24) hour period during which a Service Outage continues for at least four (4) continuous hours, provided that (i) the affected Subscriber has reported the Outage to the Franchisee and (ii) the Franchisee has verified that the reported Outage has occurred consistent with the Subscriber's claim;

(iii) for any Significant Outage, as defined in Section 6.2, which lasts more than four (4) continuous hours in any twenty-four (24) hour period (provided that, to the extent access to the Subscriber's premises is required to effect such repair, the Subscriber has granted the Franchisee such access) a minimum credit in an amount equal to one-thirtieth (1/30) times the average bill for recurring charges for Cable Services (i.e., all charges for Cable Service minus nonrecurring charges, such as installation and pay-per-view charges) to be charged to the affected Subscribers in the affected area for the then current monthly billing period for the Cable Service(s) as to which the Significant Outage occurred for each twenty-four (24) hour period during which the Significant Outage persists for at least four (4) hours, provided that: (i) the affected Subscriber has reported the Significant Outage to the Franchisee and (ii) the Franchisee has verified that the reported Significant Outage has occurred consistent with the Subscriber's claim;

(iv) for a failure of a Verizon representative to arrive at the Subscriber's premises within the appointment window period for repair service calls, a credit of \$25 will be applied to the customer's bill in the next available billing period. However, to the extent the Subscriber is not available when the crew arrives or if the crew does not have appropriate access to the Subscriber premises in order to address the service issue, this credit will not apply.

10.2 Application of Credits. With respect to any credit described in Section 10.1(i)-(iii), the Company shall, upon request of or notice from a Subscriber, provide a credit on such Subscriber's bill for Subscribers affected by a Significant Service Interruption, Outage or Significant Outage. With respect to any credit described in Section 10.1(iii), the Company shall automatically (without requiring a request from

each Subscriber) provide a credit on each Subscriber's bill for Subscribers affected by a Significant Outage that occurs, at least in part, between 6:00 p.m. and 12:00 a.m. In the event the Franchisee cannot determine all Subscribers affected by a Significant Outage in excess of four (4) continuous hours or no part of such Significant Outage occurs between the hours of 6:00 p.m. and 12:00 a.m. then Franchisee shall provide a credit to any eligible Subscriber who makes application therefor by either written or oral notice within ninety (90) days of such Significant Outage.

## **Section 11** **MISCELLANEOUS REQUIREMENTS**

11.1 Charge for Downgrades. The Franchisee may impose a charge upon a Subscriber for any downgrading of a Subscriber's Cable Service in accordance with Section 890.63 of the PSC regulations.

11.2 Overpayment Credits. If, at any time, the Franchisee becomes aware or if it is determined that a Subscriber is entitled to credit(s) otherwise than as a result of the operation of Section 10 of this Appendix A, the Franchisee shall (i) promptly credit such Subscriber's account, or (ii) in the event the Subscriber has terminated service, promptly issue a check.

11.3 Procedures for Contacting Subscribers. Following the scheduling of an appointment with any Subscriber within the time periods specified elsewhere in this Appendix A (the "appointment period"), the Franchisee shall:

(i) make a reasonable effort, within a reasonable time prior to the appointment period, to telephone the Subscriber or potential Subscriber to confirm the appointment, provided, however, that the obligation to make such telephone call shall not apply where the appointment is scheduled to occur: (i) within forty-eight (48) hours of the initial scheduling of the appointment or (ii) before or during the next business day if the request is made after 4:00 p.m. on a Friday. If such telephone call is not answered, in person or by an answering machine, the Franchisee shall use best efforts to make a second call to such Subscriber or potential Subscriber within a reasonable time thereafter to confirm the appointment; and

(ii) during the appointment period, either: (a) arrive at the Subscriber's or potential Subscriber's premises, as promised, or (b) prior to such arrival, telephone the Subscriber's or potential Subscriber's premises to determine whether the Subscriber is present during such appointment period. If, upon arrival at the Subscriber's or potential Subscriber's premises, the Franchisee is not able to secure access to the premises, the Franchisee's employee or representative shall make a reasonable effort to arrange for the premises to be telephoned immediately to determine whether the Subscriber or potential Subscriber is present. If such telephone call is not answered in person, the Franchisee shall, if possible, leave a notice under the door of the premises advising that the Franchisee did arrive at the premises during the appointment period, and the completion of such tasks shall be deemed an appropriate cancellation by the Franchisee of the scheduled appointment. In the event that, prior to arrival at the

Subscriber's or potential Subscriber's premises, the Franchisee telephones the Subscriber to determine whether the Subscriber is present at the premises and such call is not answered in person or by a device which states that the Subscriber is, in fact, present and awaiting the Franchisee's arrival, then the Subscriber shall be deemed to have cancelled the scheduled appointment.

(iii) From time to time, the Franchisee may use contractors or subcontractors to perform work at a Subscriber's premises. If the City receives a significant number of complaints from Subscribers regarding confusion in identifying such contractors or subcontractors performing work at Subscribers' premises, the City and Franchisee shall discuss and mutually agree upon a practice to address such issue.

11.4 Receipts. In connection with any transaction between the Franchisee and a Subscriber which involves a visit to a Subscriber's premises or place of business, the Franchisee will, in each such case when requested by the Subscriber, provide such Subscriber a written receipt briefly describing such transaction and the date and time thereof. The Franchisee shall reasonably seek to inform each such Subscriber in writing of the availability of such a receipt.

11.5 Governing Federal and State Law. In the event that any of the provisions of this Appendix A of this Agreement are preempted by and unenforceable under any rules or regulations promulgated by the NY PSC, adopted by the New York State legislature, the FCC or the United States Congress, the rules or regulations adopted by the applicable governing body or regulatory agency shall govern and the Franchisee's compliance with such rules or regulations shall be deemed satisfactory performance.

## **Section 12**

### **FAILURE TO COMPLY WITH THESE REQUIREMENTS**

12.1 Material Requirements. Any breach, default, failure or other noncompliance by the Franchisee in the performance of any obligation of the Franchisee under this Appendix A shall constitute a Default as defined in Section 15.1 of the body of this Agreement. Any such Default that constitutes substantial and material Default shall fall within the scope of Section 15.6.11 of the body of this Agreement and any persistent or repeated pattern of such Defaults shall fall within the scope of Section 15.6.11 of the body of this Agreement, provided that no substantial and material Default nor any persistent or repeated pattern of action or inaction in connection with this Appendix A shall be deemed to fall within the scope of Section 15.6.11 of the body of this Agreement by reason of actions or inactions which are taken in the good faith belief that such do not constitute a Default, during pendency of a good faith dispute as to whether such actions or inactions at issue constitute a Default.

12.2 Reporting. The Franchisee shall provide reports documenting its compliance with the requirements of this Appendix A and other customer service matters as set forth in Exhibit 2 attached hereto and made a part hereof.

**Section 13**  
**ANNUAL CABLE CONSUMER REPORT CARD**

13.1 Annual Cable Consumer Report Card Requirements. The Franchisee shall provide an Annual Cable Consumer Report Card setting forth the information described in Exhibit 3 attached hereto and made a part hereof; provided, however, that Franchisee's obligation to provide such Annual Cable Consumer Report Card shall not commence until forty-five (45) days from the end of the first full calendar year in which each cable operator in the Franchise Area, or portion thereof, is subject to a substantially equivalent obligation as contemplated under this Section 13.1 pursuant to the terms of a valid and effective cable franchise agreement by and between each such respective cable operator and the City.

Exhibit 1 to Appendix A

DESIGNATION AND LOCATION OF SERVICE CENTERS

**SERVICE CENTER**

**[To be filled in by Verizon]**

## CONSUMER PROTECTION REPORTING REQUIREMENTS

### **SERVICE REPORTS**

#### **Significant Outage Report (Quarterly)**

The Franchisee shall provide reports of Significant Outages, Significant Outage Reports, containing the date, time, location, number of homes affected, cause and duration of each outage, and such other information as the Commissioner shall reasonably require. Franchisee shall also include information related to automatic credits provided to Subscribers in relation to Significant Outages reported.

#### **Interconnection Report (Upon Request)**

Upon request of the Commissioner, the Franchisee shall submit to the Commissioner a report detailing its compliance with the requirements set forth in Section 8.1.6 of the Agreement.

### **TELEPHONE REPORT**

A report containing the information detailing compliance with the standards required in Section 3.4.1 of Appendix A of the Agreement shall be submitted to the Commissioner in the form contained in the attached exhibit and according to the definitions set forth herein. Such report shall be submitted on a quarterly basis, except that a report regarding Supervisor Callback Within Four Hours shall be supplied upon request. If due to technological, service or other changes the Franchisee believes changes in the form of this report is appropriate, the Franchisee may petition the Commissioner for a change in form, which the Commissioner may grant if in his or her discretion such a change is in the interest of subscribers. To the extent there are references below to voicemail systems or other call response methods that the Company does not utilize, those sections shall not apply.

#### **A. Telephone Reporting Definitions**

##### **1. Calls Offered.**

All “calls” other than those which receive busy signals, made to the Franchisee’s sales, service, pay-per-view (other than pay-per-view automatic ordering), billing and any other lines for subscribers or potential subscribers (in short, all lines other than the Franchisee’s business office lines and its automated pay-per-view ordering lines), twenty-four (24) hours a day. All calls described in this report may be initiated by a voice response unit rather than a live representative.

##### **2. Calls Handled.**

All Calls Offered to the VRU which are not Lost Calls (see below).

3. Lost Calls.

a. Number: All Calls Offered which request, or hold for, a live customer service representative (“CSR”) (i.e., calls which neither request an automated response nor leave a taped message, or request an automated response then continue to hold for a CSR) but hang up before a live CSR comes to the phone.

b. Percent: Percentage of Calls Offered which are Lost Calls.

4. Average Wait Time.

“Wait Time” is defined as the number of seconds a caller waits, after the conclusion of recorded or automated phone system instructions and routing, before the earliest of the following occurs: a live CSR comes to the phone, or the caller leaves a recorded message, or the caller hangs up. Average Wait Time is the total Wait Time of all Calls Offered, which remain on the line after the commencement of Wait Time until they receive service from a live CSR, leave a recorded message, or hang up, divided by the number of such calls. Calls Offered which hang up prior to the commencement of Wait Time will not be counted in either the numerator or denominator of this calculated average, nor will any After Hours calls.

5. All Trunks Busy.

The Total amount of time in the reporting period during which the level of use of the Franchisee’s phone lines was such that a caller attempting to call any one of the phone lines included in Calls Offered would have received a busy signal (a period is considered within All Trunks Busy if, for example, all “service” lines are busy, even if “billing” lines are available, unless the Franchisee’s system automatically rolls calls from occupied lines into available lines).

6. Overflow Device. (During Normal Hours).

a. Total Calls Seeking CSR:

All Calls Offered during Normal Hours which remain on the line at the conclusion of any recorded or automated phone system instructions and routing. This should be the same number as the denominator in the calculation of Average Wait Time.

b. Calls Receiving CSR Within Thirty (30) Seconds:

The number of Total Calls Seeking CSR which were picked up by a live CSR within 30 seconds of the commencement of Wait Time. This number shall not include any calls picked up by a CSR after thirty (30) seconds of Wait Time has run, or any calls which leave a message, or any Lost Calls.

c. Total Messages Left:

The number of Total Calls Seeking CSR which leave messages. The number in this category when added to the number in the Calls Receiving CSR Within Thirty (30) Seconds category will add up to less than Total Calls Seeking CSR, because the following types of Total Calls Seeking CSR will not be included in either category: calls which are lost because the caller hangs up after thirty (30) seconds without leaving a message and callers who receive help from a CSR after waiting more than thirty (30) seconds.

d. Messages Requiring Callbacks:

The number of Total Calls Seeking CSR which leave messages which require callbacks. The difference between this category and Total Messages Left will be callers who leave messages which do not require further contact (because, for example, the caller's message reports an outage or other problem which was resolved shortly after the call, or the message simply reports an opinion on programming content) or are unreturnable (because, for example, the caller left no phone number or identification).

e. Messages Returned Within One (1) Business Day:

This is the number of Messages Requiring Callbacks which were returned within one (1) business day (including both calls which are successfully completed and calls in which the customer does not answer the phone).

f. Automated Calls Within Thirty (30) Seconds:

The number of Calls Offered which are handled by automated interaction between the customer and the telephone and/or billing system. This number shall not include any calls which roll over to the overflow device or during which for any other reason the automated response to the caller does not commence within thirty (30) seconds of the conclusion of initial recorded or automated phone service instructions and routing.

7. After Normal Hours.

a. Calls Offered After Hours:

All Calls Offered which come in After Hours. (These calls are separate from the Overflow Device category because all After Hours callers who remain on the line after recorded and automated information has been offered are immediately rolled into the message recording system, with no regular CSR availability).

b. After Hours Messages Returned Within One (1) Business Day:

Defined in the same manner as Messages Returned Within One (1) Business Day, except this category covers the messages received After Hours.

8. Supervisor Callback Requests:

All Calls Offered, requesting contact with a supervisor, including both requests made to live CSRs as well as requests left on recorded messages.

9. Supervisor Callback Within Four Hours:

All supervisor Callback requests which are returned by a supervisor within four (4) “calling hours.” “Calling hours” are defined as 9 a.m. to 10 p.m. on weekdays, 10 a.m. to 10 p.m. on weekends. (It is recognized that some late evening callers requesting a supervisor may request that a callback be made later than the early morning hours of the following day. While such callbacks should not be included in Supervisor Callback Within Four Hours, it is understood that callbacks that take longer than four hours at the request of the caller are acceptable exceptions to the four hour requirement, provided the Company keeps records of such requests and makes them available to the Commissioner at the Commissioner’s request.)

ANNUAL CABLE CONSUMER REPORT CARD

Subject to the terms of Section 13.1 hereof, within forty-five (45) days from the end of each calendar year, Franchisee shall post on its website, and provide to the leasing or sales office of each MDU with which Franchisee has executed a marketing agreement for Cable Service, an Annual Cable Consumer Report Card setting forth the following information on a City-wide basis:

(1) Customer service performance information, including:

- (a) Percentage of calls answered by voice response units (“VRU”);
- (b) Percentage of calls abandoned by VRU; and
- (c) Percentage of busy calls by VRU.

(2) Subscriber rights and remedies, including but not limited to contact information related to Subscriber complaints and customer service within Verizon, as well as contact information for DoITT for Subscriber issues, Subscriber credit policy, privacy notice, and billing (including a statement that Subscribers may, upon request, receive a written description of any resolution of a billing dispute) and payment information.

(3) Price of services information.

(4) Content/channel changes and improvement information.

(5) Significant Outage information, including:

- (a) Summary of categories of Significant Outages that occurred by VSO, in the Franchise Area during the preceding calendar year;
- (b) Percentage of each category of Significant Outage that occurred by VSO in the Franchise Area during the preceding calendar year; and
- (c) Remedies performed Franchisee for each category of Significant Outage during the preceding calendar year.

**APPENDIX B**

**PEG CHANNELS**

PEG CHANNELS		
Date	Number of Channels	
Within 180 Days of the Effective Date	4 P each Borough, 5 City-wide E/G	25 channels
January 1, 2009	Additional 2 P each Borough, Additional 1 City-wide E/G	11 channels
January 1, 2012	Additional 1 P each Borough, Additional 2 City-wide E/G	7 channels
6 years after Effective Date	Additional 2 P each Borough	10 channels
		53 channels total

**APPENDIX C**

**FORM OF COMMUNITY ACCESS ORGANIZATION (“CAO”)**

**GRANT AND USE AGREEMENT**

**BY AND BETWEEN**

**VERIZON NEW YORK INC.**

**AND**

**[CAO]**

THIS AGREEMENT (the “Agreement”) made on this [ ] day of [ ], 2008, is entered into by and between Verizon New York Inc., a corporation duly organized under the applicable laws of the State of New York (“Verizon”), with a place of business at 140 West Street, New York, New York 10007 and [CAO], a New York not-for-profit corporation (the “CAO”) designated by the Borough President of [borough name] (the “Borough President”), with a place of business at [address].

WHEREAS, the City of New York (the “City”), pursuant to Section 363(a) of the City Charter and Resolution No. 538 of the City Council, is entering into a Franchise Agreement granting Verizon a nonexclusive franchise (“Franchise Agreement”) to operate a Cable System (the “System”) throughout the entire territorial boundaries of the City (“Service Area”), which among other boroughs includes the Borough of [borough name] (as hereinafter defined); and

WHEREAS, Verizon has negotiated with the CAO and has agreed to provide the CAO with the grants and services pursuant to the terms hereof for the benefit of the Residents of the Borough of [borough name]; and

WHEREAS, the Franchise Agreement requires Verizon to place under the jurisdiction of the CAO Access Channels on the System, to be known as public access channels (“Public Access Channels”), and to provide to the CAO such grants as have been independently agreed upon as a result of direct negotiations between the CAO and Verizon and as described herein; and

WHEREAS, the CAO is a not-for-profit corporation organized pursuant to New York State law and has been designated by the Borough President as the CAO to receive such grants as shall be made available by Verizon pursuant to this Agreement; and

WHEREAS, the CAO has been organized to operate for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (the “Code”), including, among other purposes, the administration and management of Public Access Channels in the Borough, and such

other purposes which shall qualify the CAO as exempt under Section 501(c)(3) of the Code; and

WHEREAS, the CAO desires to obtain the funds necessary to carry out its purposes and objectives from the grants provided for herein and from any other lawful sources; and

WHEREAS, Verizon desires to support the purposes and objectives of the CAO in the CAO's objectives of the development and production of public services and programming to be distributed on the Public Access Channels and to be made available to all cable television subscribers in [borough name]; and

WHEREAS, the CAO will engage in activities and will develop programming to be distributed on the Public Access Channels for the benefit of Subscribers, to the System, thereby increasing the public service potential of cable television in the City;

NOW THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, and the mutual agreements herein contained, the parties agree as follows:

### **SECTION I -DEFINITIONS**

1.1 Borough: The entire existing territorial boundaries of the Borough of [borough name], and such additional areas as may be annexed or acquired.

1.2 All other capitalized terms used herein, but not otherwise defined, shall have the meanings ascribed to such terms in the Franchise Agreement.

### **SECTION II -GRANT OF SUPPORT TO THE CAO**

#### **2.1 Public Access Channel Grant**

2.1.01 Verizon shall make a Public Access Channel grant to the CAO to be used in support of the production of local public access programming ("Public Access Channel Grant").

2.1.02 The Public Access Channel Grant provided by Verizon hereunder shall be in the form of a per month, per Subscriber grant for the Term of the Franchise Agreement in accordance with the following schedule:

Year 0 - Year 1: The Public Access Channel Grant shall be in the amount of DOLLAR (\$\_\_\_\_\_) per month, per Subscriber until the first anniversary of the Effective Date;

Year 1 – Year 2: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_\_) per month, per Subscriber until the second anniversary of the Effective Date;

Year 2 – Year 3: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the third anniversary of the Effective Date;

Year 3 – Year 4: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the fourth anniversary of the Effective Date;

Year 4 – Year 5: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the fifth anniversary of the Effective Date;

Year 5 – Year 6: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the sixth anniversary of the Effective Date;

Year 6 – Year 8: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the eighth anniversary of the Effective Date;

Year 9 – Year 10: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the tenth anniversary of the Effective Date; and

Year 11 – Year 12: The Public Access Channel Grant shall increase to and remain at DOLLAR (\$\_\_\_\_) per month, per Subscriber until the expiration date of the Agreement.

Calculation of the Public Access Channel Grant will commence with the first calendar month during which Verizon obtains its first Subscriber in the Borough. The per month, per Subscriber payments detailed herein will be calculated based on the number of Subscribers to Verizon's Basic Service tier in the Borough. The Public Access Channel Grant payment, along with a brief summary of the Subscriber information upon which it is based certified by a financial representative of Verizon, shall be delivered to the CAO within forty-five (45) days after the end of each calendar quarter. Verizon shall file a copy of said statement with DoITT.

2.1.03 Subject to Section 2.5, each Public Access Channel Grant payment shall be non-refundable.

2.1.04 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.1 shall not affect Verizon's payment obligations under this Section 2.1.

## 2.2 Cash Grant

Verizon shall make cash grants to the CAO (each, a “Cash Grant”) payable as follows:

DOLLARS (\$\_\_\_\_\_) shall be due and payable within ninety (90) days of the Effective Date;

DOLLARS (\$\_\_\_\_\_) shall be due and payable on the first anniversary of the first payment pursuant to this Section 2.2;

DOLLARS (\$\_\_\_\_\_) shall be due and payable on the second anniversary of the first payment pursuant to this Section 2.2; and

DOLLARS (\$\_\_\_\_\_) shall be due and payable on the third anniversary of the first payment pursuant to this Section 2.2.

Each Cash Grant shall be non-refundable.

## 2.3 Use of Funds

Such Public Access Channel Grant and Cash Grant shall be used by the CAO in its discretion for public access costs, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, cameras, office equipment, renovation or construction of Public Access Channel facilities, and other public access costs as may be ascertained by the CAO.

## 2.4 Recovery of Costs

2.4.01 To the extent permitted by federal law, Verizon shall be allowed to recover the costs of any Public Access Channel Grant and Cash Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber’s bill. Without limiting the foregoing, if allowed under state and federal laws, Verizon may also externalize, line-item, or otherwise pass-through interconnection costs to Subscribers.

2.4.02 The CAO shall negotiate and seek to impose equivalent obligations to the obligations contained in Section 2.1 of this Agreement on all providers of Cable Service or cable service (as such term may be defined by other providers) in the Borough pursuant to any new agreement or the renewal of any existing agreement between the CAO and any cable provider. In the event that any new agreement or any renewal agreement between the CAO and any provider of Cable Service or cable service (as such term may be defined by other providers) in the Borough contains obligations, taken as a whole, that are lesser in amount or aggregate value than the obligations imposed in Section 2.1, Verizon’s obligations under Section 2.1 shall be reduced to an equivalent amount.

2.4.03 The CAO shall negotiate and seek to require of any provider of Cable Service or cable service (as such term may be defined by other providers) in the Borough a substantially equivalent economic burden to that imposed on Verizon in Section 2.2 of this Agreement.

## 2.5 Delivery of Payments; Interest

All payments by Verizon to the CAO pursuant to this Agreement shall be made payable to the CAO and shall be delivered to the address designated in writing therefor by the Executive Director or Chief Financial Officer of the CAO. In the event that a Public Access Channel Grant or Cash Grant payment is not received by the CAO by the respective due date set forth herein, following at least thirty (30) days written notice from the CAO that such payment has not been received, Verizon shall pay interest on such overdue Public Access Channel Grant or Cash Grant at the then-current interest rate set forth in Section 5004 of the New York Civil Practice Law and Rules (which as of the date of execution of this Agreement is nine percent (9%) per annum) to the CAO retroactive to the first day that such Public Access Channel Grant or Cash Grant payment was originally due. Verizon shall be allowed to submit or correct any payments that were incorrectly omitted, and may offset against future payments any payments that were incorrectly submitted, within ninety (90) days after the close of the calendar year for which such payments were applicable.

## 2.6 Publicity for Access Services

At the time of installation, Verizon shall provide each Subscriber with certain literature. Such literature, which need not be bound together, shall constitute the "Welcome Kit." If provided to Verizon by the CAO in a format mutually agreeable to both Verizon and the CAO, Verizon shall reproduce and include in the Welcome Kit the following information, materially accurate as of the first day of the previous month, in a clear, complete and comprehensible form: (A) a listing of the currently available Public Access Channels; (B) a description of the purposes and uses of such Public Access Channels; and (C) general information regarding how a Person can utilize or obtain further information regarding such Public Access Channels. The cost of reproducing and distributing any materials provided to Verizon by the CAO pursuant to this Section shall be borne solely by Verizon, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Verizon shall also make the foregoing information available on its website, subject to Verizon's technical capability to do so, including, but not limited to, limitations with respect to character capacity.

## 2.7 Mailing to Subscribers

On an annual basis, if requested by the CAO, Verizon shall reproduce and mail, consistent with the privacy protection policies of Verizon, in Verizon's annual notification to Subscribers, such materials provided by the CAO in a format mutually agreeable to both Verizon and the CAO with respect to programming on the Public

Access Channels and the activities of the CAO, as may be reasonably specified by the CAO. The cost of reproducing and distributing any materials provided to Verizon by the CAO pursuant to this Section shall be borne solely by Verizon, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Subject to the CAO providing the above-referenced materials in a format mutually agreeable to both Verizon and the CAO in a sufficient period of time, but no less than eighty (80) days prior to such mailing, Verizon shall also include these materials in its Welcome Kit to Subscribers in the Borough. Verizon shall also make the foregoing information available on its website, subject to Verizon's technical capability to do so, including, but not limited to, limitations with respect to character capacity. Verizon shall provide the CAO with at least thirty (30) days notice of the date by which such materials referenced in this Section 2.7 will be required.

## 2.8 Additional Obligations of Verizon

2.8.01 Each Public Access Channel shall be delivered with transmission quality at least the same as the transmission quality of any other channel on Verizon's lowest tier of service, provided, however, that Verizon shall have no responsibility to improve upon or modify the quality of any Public Access Channel's content provided to Verizon by the CAO.

2.8.02 Subject to the service availability requirements set forth in the Franchise Agreement, Verizon shall provide to the CAO, without charge, one service outlet activated for Basic Service at the location of the CAO's master control with an address of [\_\_\_\_\_]. Notwithstanding the foregoing, however, Verizon will not provide such complimentary drop unless and until Verizon's Cable Service is available to be offered at such location. Cable Service may not be resold or otherwise used in contravention of Verizon's rights with third parties respecting programming. Equipment provided by Verizon, if any, shall be replaced at retail rates if lost, stolen or damaged.

2.8.03 Verizon does not currently collect ratings information specific to viewership of Public Access Channels. In the event that Verizon does collect for itself such specific standalone public access viewer information, Verizon may make such specific information available to the CAO at the CAO's cost and expense subject to any limitation of 47 U.S.C. §551.

2.8.04 To the extent technically feasible and commercially reasonable, Verizon shall display Public Access Channel program content titles in electronic on-screen channel listings in the same manner as it designates all other programming on the System; provided, however, that Verizon shall not be responsible for any inaccuracies in such information.

## **SECTION III -OBLIGATIONS OF THE CAO**

### 3.1 Consideration for Cash Grant and Public Access Channel Grant; Use for Educational or Charitable Purposes

As consideration for the Cash Grant and Public Access Channel Grant by Verizon to the CAO, the CAO shall: (i) administer and manage the Public Access Channels provided for its use by Verizon and the use of the CAO's facilities, equipment, and supplies, in a fair and reasonable manner; and (ii) develop and support programming to be cablecast on the Public Access Channels, which is responsive to the needs and interests of the Residents of the Borough. The CAO shall use the Public Access Channels and the Cash Grant and Public Access Channel Grant provided by Verizon to the CAO primarily for educational or charitable purposes within the meaning of Section 501(c)(3) of the Code.

### 3.2 Maintenance of Tax-Exempt Status

The CAO shall conduct its activities so as to maintain its tax exempt status under Section 501(c)(3) of the Code or other applicable laws.

### 3.3 Public Access Channel Rules and Regulations

3.3.01 The CAO shall maintain reasonable rules and regulations to provide for open access to Public Access Channel time, facilities, equipment, supplies, and training on a non-discriminatory basis and to the extent required by applicable law. Said rules and regulations providing for open access may dedicate segments of Public Access Channel time and/or specific channels to particular or related subject matters or uses.

3.3.02 If the CAO provides programming grants, it shall establish reasonable rules and regulations governing the procedure for applying to the CAO for programming grants and the selection of grant recipients by the CAO.

3.3.03 The CAO shall make all rules and regulations publicly available.

### 3.4 Compliance with Privacy Law

The CAO shall comply with the requirements of applicable law regarding privacy protection.

### 3.5 Annual Report

The CAO shall prepare and mail to Verizon each year an annual income and expenditure report for the preceding year.

## **SECTION IV -PUBLIC ACCESS CHANNEL SERVICES**

### 4.1 Compliance with Federal, State and Local Law

Verizon and the CAO shall comply with all applicable local, state, and federal laws with respect to program content on the Public Access Channels.

### 4.2 Public Access Channel Set Aside

4.2.01 In order to ensure universal availability of public access programming, Verizon shall initially provide on the Basic Service Tier use of four (4) Public Access Channels to the CAO during the Term of the Franchise Agreement, subject to increase as provided in the Franchise Agreement. Verizon shall carry the programming on each of the respective Public Access Channels as indicated in Appendix B to the Franchise Agreement. In the future, Verizon shall assign the Public Access Channels on its channel line up as configured elsewhere within the City to the extent such channel assignments do not interfere with any other channels or fall outside the range of Verizon's respective channel lineup. Verizon shall not arbitrarily or capriciously change such channel assignments, and Verizon shall minimize the number of such changes; provided, however, that Verizon may change such channel assignments as it deems appropriate so long as (i) Verizon gives the CAO ninety (90) days notice of such change (if commercially practicable) but in no event less than forty-five (45) days, and (ii) Verizon provides, free of charge, public announcements of such changes that shall include (a) to the extent Verizon has advertising availability, advertising such Public Access Channel changes on advertising inserts on local channels carrying non-satellite programming in prime time at least thirty (30) seconds per day for the time period of thirty (30) to fifteen (15) days prior to such change and two (2) minutes per day for the fourteen (14) days prior to such change (provided, however, that if Verizon does not have advertising availability at the commencement of the thirty (30) to fifteen (15) day period, as soon as advertising space becomes available, Verizon shall then provide the advertising contemplated under this Section 4.2.01), and (b) providing notice of such changes in at least two (2) monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one (1) monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event Verizon provides the requisite notice of such changes to all Subscribers in a letter separate from their bill.

4.2.02 The provisions of 16 NYCRR §895.4 (c)(12) shall apply to this Agreement.

#### 4.3 Indemnity for Public Access Channels

In accordance with 47 U.S.C. §558, Verizon shall not incur any liability arising from or in connection with any program carried on the Public Access Channels.

#### 4.4 Rights to Public Channel Programming

Verizon shall have no rights to programming carried on the Public Access Channels by virtue of cablecasting or distributing such programming over its System, except for Verizon's right to transmit such programming to its Subscribers. All rights to the programming content are intellectual property of the owner, regardless of the individual or entity requesting transmission. Verizon shall have no editorial control over programming on the Public Access Channels.

#### 4.5 Public Access Channel Interconnection

4.5.01 Verizon, at its expense, shall interconnect its Cable System to the CAO's studio at (\_\_\_\_\_) ("Public Access Channel Interconnection Site"). Verizon shall take reasonable steps to accomplish such interconnection within one hundred eighty days (180) of the Effective Date.

4.5.02 Verizon shall construct the auxiliary connections designated by the CAO on Exhibit 1 hereto between the content originating locations (each, a "Public Access Channel Origination Site") and the Public Access Channel Interconnection Site to enable additional programming to be inserted at the Public Access Channel Interconnection Site. In the event the CAO desires to substitute a location currently designated on Exhibit 1 with an alternate location, Verizon agrees to commence good faith discussions with the CAO regarding the substitution of such Public Access Channel Origination Site within thirty (30) days of Verizon's receipt of written notice from the CAO of the CAO's desire to commence such discussions. The cost related to any substitution of a Public Access Channel Origination Site shall not exceed the cost to Verizon for constructing the auxiliary connection for the original Public Access Channel Origination Site, as designated on Exhibit 1. Upon one hundred eighty days (180) days written notice from the CAO to Verizon that a Public Access Channel Origination Site is fully functional for its intended purpose, an auxiliary connection shall be made operable by Verizon. The CAO is obligated to furnish, install and maintain the equipment necessary to perform any switching or aggregation functions at the affected Public Access Channel Interconnection Site.

4.5.03 Subject to the successful completion of all required site preparation work by the CAO and provision of access to Verizon for equipment installation and provisioning, Verizon shall, without charge to the CAO, provide links between Verizon's video channel aggregation site and the Public Access Channel Interconnection Site in order to permit the signals to be correctly routed from the Public Access Channel Interconnection Site to the appropriate Public Access Channel for distribution to Subscribers, provided, however, that neither Verizon nor the required site work shall unreasonably or materially interfere with the CAO's operations or otherwise impose additional material burdens on the CAO.

4.5.04 The CAO shall provide to Verizon at the Public Access Channel Interconnection Site a suitable video and audio signal(s) for each Public Access Channel. Verizon, upon receipt of the suitable video signal(s), shall provide, install and maintain in good working order the equipment necessary for transmitting the Public Access Channel signals from the Public Access Channel Interconnection Site to Verizon's video channel aggregation site for further processing for distribution to Subscribers. Verizon's obligations with respect to such upstream transmission equipment and facilities shall be subject to the availability, without charge to Verizon, of suitable required space, environmental conditions, electrical power supply, access, pathway, and other facilities and such cooperation of the CAO as is reasonably necessary for Verizon to fulfill such obligations, provided, however, that Verizon shall not unreasonably or materially interfere with the CAO's operations or otherwise impose additional material burdens on the CAO.

4.5.05 The CAO hereby authorizes Verizon to transmit all Public Access Channel programming within the Borough's jurisdictional boundaries and without the Borough's jurisdictional boundaries to the extent such programming is transmitted to the adjacent borough or the immediately adjacent local franchising authorities in the adjacent county and to the extent those areas are served by a VSO also serving the Borough.

## **SECTION V -MISCELLANEOUS PROVISIONS**

### 5.1 Effective Date and Term

5.1.01 This Agreement shall take effect on the date that the NY PSC issues a certificate of confirmation for the Franchise Agreement (the "Effective Date"). Notwithstanding the foregoing, Verizon will not be required to fulfill any obligations under Sections 2.1 (Public Access Channel Grant), 2.6 (Publicity for Access Services), 2.7 (Mailing to Subscribers), 4.2 (Public Access Channel Set Aside), and 4.5 (Public Access Channel Interconnection) until one or more VSOs are Open for Sales in the Borough.

5.1.02 This Agreement shall remain in effect throughout the Term of the Franchise Agreement, as provided in the Franchise Agreement, provided that the designation of the CAO by the Borough President remains in effect. The period of time during which this Agreement is in effect shall be "the term of this Agreement." In the event that the Franchise Agreement is terminated for any lawful reason prior to the scheduled expiration of the Term, then the term of this Agreement shall expire and all rights and obligations of the CAO and Verizon under this Agreement shall cease. Notwithstanding the foregoing, in the event Verizon continues to provide Cable Service in the Service Area after the termination or expiration of the Term of the Franchise Agreement, then Verizon shall be bound by all of the obligations under this Agreement for the period of such continuing provision of Cable Service in the Service Area.

### 5.2 Application to Successors

This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof.

### 5.3 Confidential Information

Except as may be required by applicable law, the CAO shall treat any information disclosed by Verizon (and so designated by Verizon) as confidential and proprietary, and shall only disclose it to employees, directors, the Borough President, DoITT, the Comptroller, representatives, and agents thereof who have a need to know, or in order to enforce the provisions hereof. Notwithstanding anything to the contrary set forth herein, Verizon shall not be required to publicly disclose or allow the CAO to copy information that it reasonably deems to be proprietary or confidential in nature in connection with Verizon's disclosure of information pursuant to this Agreement. For purposes of this Agreement, "proprietary or confidential" information shall be defined as any information

that is reasonably determined by Verizon to be competitively sensitive. If the CAO receives a request for the disclosure of information that Verizon has designated as confidential, trade secret or proprietary, the CAO shall notify Verizon of such request. If the CAO determines in good faith that public disclosure of the requested information is required, the CAO shall so notify Verizon, and before making disclosure shall give Verizon a reasonable period of time to seek to obtain judicial redress to preclude public disclosure. Verizon shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. §551.

#### 5.4 Separability

If any section, subsection, sub-subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by a final order of any court of competent jurisdiction or by a final order of any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Agreement.

#### 5.5 Entire Agreement

This Agreement constitutes the entire agreement between Verizon and the CAO and it supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof. Any local laws or parts of local laws that materially conflict with the provisions of this Agreement are superseded by this Agreement.

#### 5.6 Amendments and Modifications

Amendments and/or modifications to this Agreement shall not be effective unless mutually agreed to in writing by the parties.

#### 5.7 Captions and Headings

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.

#### 5.8 Recitals

The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

#### 5.9 Construction of Agreement

The provisions of this Agreement shall be liberally construed to effectuate their objectives.

5.10 Governing Law

This Agreement shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Verizon, and shall be governed by and construed in accordance with federal law and the laws of the State of New York.

5.11 No Third Party Beneficiaries

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement. Nothing in this Agreement shall be interpreted to provide that Verizon and the CAO are partners, joint venturers, agents or assignees of the other.

5.12 Force Majeure

Subject to the procedures set forth in the last sentence of this Section 5.12, Verizon shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by a Force Majeure; provided, however, that in the event that any delay in performance resulting from such a Force Majeure affects only part of Verizon's capability to perform, Verizon shall perform to the extent it is able to do so and shall take all steps, reasonably within its ability, to minimize the length and effect of such Force Majeure delay. Verizon shall notify the CAO in writing of the occurrence of an event of Force Majeure, or a series of related events constituting an event of Force Majeure, which resulted in or is resulting in a delay in performance, such notice to be provided within twenty (20) business days of the event or series of events, or if notification within such period is not practicable under the circumstances, as soon as practicable.

5.13 Enforceability

Each party represents and warrants to the other that this Agreement (i) has been duly executed and delivered by such party and (ii) constitutes the valid and legally binding obligation of such party, enforceable in accordance with its terms.

*[balance of page intentionally left blank]*

5.14 No Right of Set Off

Except as otherwise set forth herein, including but not limited to Section 2.5, all Public Access Channel Grant and Cash Grant payments shall be made without set-off.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first above written.

[CAO NAME]

ATTEST:

BY: \_\_\_\_\_  
[Signatory]

VERIZON NEW YORK, INC.

ATTEST:

BY: \_\_\_\_\_  
[Signatory]

## APPENDIX D

### FRANCHISE FIBER RIGHT OF USE

Pursuant to the terms of Article 9 of the Franchise, and in consideration for the rights and benefits provided to the Franchisee under the Franchise, the Franchisee shall provide to the City the exclusive right to use of certain fiber optic strands as more fully described in **Exhibit 1** to this **Appendix D**. For purposes of this **Appendix D**, capitalized terms used herein but not otherwise defined below shall have the meanings ascribed to such terms in the Franchise.

#### Section 1 DEFINITIONS

1.1 “Connection Points” shall mean the locations at which the City Equipment may be connected to the Franchise Fibers as described on **Exhibit 1** to this **Appendix D**.

1.2 “Franchise Fibers” are identified in **Exhibit 1** to this **Appendix D** as the span locations of the fiber optic strands to be granted to the City hereunder.

1.3 The “City Equipment” shall mean any optronic, electronic, optical, or power equipment, and any other facilities, material or equipment owned, possessed or utilized by the City in connection with the use of the Franchise Fibers, including all innerducts (and other conduit tubing) and fiber optic cable in any telecommunications network owned by the City and connecting to any of the Franchise Fibers.

1.4 “Governmental Authority” shall mean any federal, state, regional, county, city, municipal, local, territorial, or tribal government, whether foreign or domestic, or any department, agency, bureau or other administrative or regulatory body obtaining authority from any of the foregoing, including without limitation, courts, public utilities and other authorities.

1.5 “Underlying Rights” shall mean all deeds, leases, easements, rights-of-way agreements, licenses, franchises, permits, grants and other rights, titles and interests that are necessary for the construction, installation, maintenance, operation, use or repair of the Franchise Fibers and Verizon’s supporting facilities, as applicable.

1.6 “Underlying Rights Requirements” shall mean the requirements, terms, conditions, obligations, liabilities, restrictions, and/or limitations on the City’s right to use and operate the Franchise Fibers and to access, install, repair, maintain and replace the City Equipment as set forth in the Right of Use granted by Article 9 of the Franchise and this **Appendix D**, in the Underlying Rights, in all applicable government codes, ordinances, laws, rules, permits, approvals and regulations, and all safety, operational and other rules and regulations imposed in connection with any of the foregoing or otherwise.

1.7 “Verizon Network” shall mean all of the physical facilities constructed, maintained and/or operated by the Franchisee or its Affiliates in the City which are utilized by Franchisee or its Affiliates for the provision of services, including, without limitation, Telecommunications Services, Information Services, or Cable Services.

## **Section 2 GRANT OF RIGHTS**

2.1 *Right of Use of Franchise Fibers:* On the terms and subject to the conditions set forth herein, and consistent with the priority list set forth in **Exhibit 1** to this **Appendix D**, Franchisee grants to the City during the Term of the Franchise an exclusive right of use of the Franchise Fibers (the “Right of Use”) solely for the City’s noncommercial use.

2.2 *Franchisee’s Title:* Franchisee shall retain undivided, absolute legal title and ownership in the Franchise Fibers and the City’s rights pursuant to this **Appendix D** and Article 9 of the Franchise shall be limited solely to the Right of Use described herein during the Term of the Franchise.

2.3 *Limitation on City’s Rights:* Nothing herein shall be construed to confer upon the City any right to maintain, modify or alter the Franchise Fibers or Verizon’s supporting facilities, or the right of physical access to the Franchise Fibers or Verizon’s supporting facilities, or the right to encumber or use Verizon’s supporting facilities or any part thereof.

## **Section 3 TERM**

3.1 *Term:* Subject to the terms of the Franchise, Section 3.2 hereof, and the priority list set forth on **Exhibit 1** to this **Appendix D**, the City’s Right of Use shall commence on the Effective Date of the Franchise and shall terminate in accordance with Section 3.2 of this **Appendix D**.

3.2 *Termination:* Upon the earlier of: (i) the expiration of the Term of the Franchise in accordance with Section 3.2 of the Franchise or (ii) the earlier termination of the Franchise pursuant to the terms of the Franchise, the City’s Right of Use shall immediately terminate, and all rights of the City to use the Franchise Fibers, or any parts thereof, shall cease upon written notice to the City from the Franchisee of such termination (the “Termination Notice”). Upon receipt by the City of the Termination Notice, the City shall immediately cease all use of the Franchise Fibers and at the City’s sole cost and expense remove any and all City Equipment connected with the Franchise Fibers or the Verizon’s supporting facilities.

## **Section 4 USE OF THE FRANCHISE FIBERS**

4.1 *Compliance with Underlying Rights:* The City represents, covenants and warrants that it will use the Franchise Fibers granted hereunder in compliance with and subject to the Underlying Rights Requirements and all other applicable codes, ordinances, laws, rules and regulations of any Governmental Authority having jurisdiction over such Franchise Fibers.

4.2 *Permitted Use:* Subject to the provisions of the Right of Use granted by Article 9 of the Franchise and this **Appendix D**, the City may use the Franchise Fibers for the noncommercial purposes of the City and for no other purpose. The City acknowledges and agrees nothing herein shall be construed to confer upon the City any rights to use any fibers or other equipment or facilities, other than the Franchise Fibers, included or incorporated in the Verizon's supporting facilities or any portion of the Verizon Network except as expressly set forth in the Franchise.

## **Section 5 UNDERLYING RIGHTS**

5.1 *Franchisee Underlying Rights:* Subject to the terms and provisions of this **Appendix D**, Franchisee agrees to obtain and maintain during the Term all Underlying Rights necessary for its construction, installation, maintenance and repair of the Franchise Fibers. The Right of Use granted hereunder is subject to the terms of the Underlying Rights, and is subject to the terms under which the Underlying Rights are owned or held by the grantor or grantors of the Underlying Rights, including covenants, conditions, restrictions, easements, reversionary and other interests, bonds, mortgages and indentures, and other matters, whether or not of record, and to the rights of tenants and licensees in possession. The Right of Use granted hereunder is further subject and subordinate to the prior right of the grantor or grantors of the Underlying Rights to use the right of way for other activities, including railroad operations, telecommunications uses, pipeline operations or any other purposes, and to the prior right of Franchisee to use its rights granted under the Underlying Rights. The rights granted to the City herein, if any, are made expressly subject to each and every limitation, restriction, condition or reservation in or affecting the Underlying Rights. Nothing herein shall be construed to be a representation, warranty or covenant of Franchisee's right, title or interest with respect to any of the Underlying Rights or with respect to the City's right to benefit from any of the Underlying Rights.

## **Section 6 ACCESS TO CONNECTION POINTS**

6.1 *Connection:* The Franchisee shall provide the City with access to the Franchise Fibers at the Connection Points designated in **Exhibit 1** to this **Appendix D**. All terminations at Connection Points will be performed by the Franchisee in accordance with Franchisee's applicable specifications and operating procedures. The cost of such terminations at all Connection Points shall be the sole responsibility of the Franchisee.

6.2 *Access to Connection Points:* The City shall provide the Franchisee with all necessary legal, technical and physical access to all Connection Points as necessary to effectuate the objectives and obligations of this **Appendix D**.

6.3 *No Access by the City:* The City will not be entitled to any physical access to the Franchise Fibers or Verizon's supporting facilities.

6.4 *Franchisee Control:* Franchisee shall control all activities concerning access to the Verizon Network, including the Franchise Fibers and Verizon's supporting facilities.

6.5 *No Maintenance or Repair by the City:* Any maintenance or repair work required respecting the Franchise Fibers required by the City for any reason, including, without limitation, splicing of the Franchise Fibers or the installation of handholes or other physical access points shall be undertaken only by Franchisee at the City's request. All such work shall be performed for such charges and on such terms and conditions as are agreed to by the Parties in writing.

6.6 *Remediation/Removal of Hazardous Materials:* To the extent the installation of any Franchise Fibers at any Connection Points requires the removal or remediation of hazardous materials, such removal or remediation shall be the sole responsibility of the City and the Franchisee shall have no obligation to perform such installation until all appropriate removal and remediation of hazardous materials has been completed by the City to the reasonable satisfaction of the Franchisee.

## **Section 7 OPERATIONS**

7.1 *No Interference by the City:* The City shall not interfere with, or adversely affect the use by any other Person of the Verizon Network and/or any electronic or optronic equipment used by such Person in connection therewith.

7.2 *No Interference by Franchisee:* Franchisee shall not interfere with, or materially or adversely affect (or permit another Person under the direct control of Franchisee to materially interfere with, or materially or adversely affect) the City's use of the Franchise Fibers and/or the City Equipment. Franchisee further agrees that it shall use best efforts to avoid interfering with, or materially or adversely affecting, any fiber facilities, directly connected to points of entry to City buildings, owned or operated by any other entity providing similar fiber facilities to the City as Franchisee has agreed to provide pursuant to this Appendix D (the "Third Party Facilities"); provided however, that the parties hereto agree that Franchisee shall rely solely on information provided by the City and thus presumed accurate regarding the location and nature of any such Third Party Facilities and that the Franchisee shall not incur any liability pursuant to this Section 7.2 which arises due to the City's failure to provide Franchisee with accurate information with respect to the location or nature of such Third Party Facilities.

7.3 *No Obligation to Supply Electronics:* The City acknowledges and agrees that Franchisee is not supplying, nor is Franchisee obligated to supply to the City, any of the City Equipment, optronics or electronics or optical or electrical equipment, electrical power, any related facilities, or any space for the placement thereof (except as expressly agreed by the Parties pursuant to another agreement or agreements executed by the Parties), all of which are the sole responsibility of the City.

7.4 *Compliance with Applicable Authority:* The City represents, warrants and covenants that it will use and operate the Franchise Fibers and use, operate, maintain, repair and replace the City Equipment consistent with and subject to the terms of the Franchise, the Underlying Rights Requirements and all applicable codes, ordinances, laws, rules and regulations.

7.5 *Process for Response to Complaints:* Franchisee shall respond to City complaints and/or requests in accordance with the practices described on Exhibit 2 hereto.

## **Section 8**

### **RELOCATION, REPLACEMENT AND CONDEMNATION OF CUSTOMER FIBERS**

8.1 *Relocation Request:* If Franchisee receives notice of any request, intent or plan by any third Person (“Relocation Request”), including, but not limited to, any Governmental Authority, to relocate or require the relocation of any segment of Verizon’s supporting facilities affecting the Franchise Fibers, Franchisee shall notify the City of such Relocation Request and shall keep the City advised of the status of any such proceedings and negotiations related thereto. If relocation is required as a result of any such Relocation Request, Franchisee shall, to the extent possible, give the City at least sixty (60) days’ prior written notice of any such required relocation (“Relocation Notice”) including an estimate of the cost of such relocation. Franchisee shall have the right to relocate the Franchise Fibers and to the extent Franchisee is not reimbursed for the costs of such relocation by a third party or Governmental Authority, the City shall pay any costs associated with the relocation of the Franchise Fibers.

8.2 *Replacement:* In the event all or any part of the Franchise Fibers shall require replacement during the Term, such replacement shall be made as soon as reasonably practicable at Franchisee’s sole cost and expense; provided, however, that if the replacement of the Franchise Fibers is required as a result of the negligence or willful misconduct of the City, then Franchisee shall replace the Franchise Fibers and the City shall pay all costs associated therewith.

8.3 *Condemnation:* In the event any portion of Verizon’s supporting facilities affecting the Franchise Fibers, and/or the Underlying Rights, become the subject of a condemnation proceeding which is not dismissed within one hundred eighty (180) days of the date of filing of such proceeding and which could reasonably be expected to result in a taking by any Governmental Authority or other party cloaked with the power of

eminent domain for public purpose or use, both Parties shall be entitled, to the extent permitted under applicable law, to participate in any condemnation proceedings to seek to obtain compensation by separate awards for the economic value of their respective interests in the portion of Verizon's supporting facilities and/or the Franchise Fibers subject to such condemnation. Franchisee shall notify the City as soon as practicable of receipt of any notice of any condemnation proceeding filed against Verizon's supporting facilities, the Franchise Fibers or the Underlying Rights.

## **Section 9 CONFIDENTIALITY**

9.1 *Proprietary and Confidential Information:* The City agrees that it shall treat any information provided to the City by Verizon pursuant this Appendix D as "proprietary and confidential" in accordance with the provisions of Section 11.1 of the Franchise.

## **Section 10 INDEMNIFICATION**

10.1 *Indemnification:* Franchisee hereby agrees to indemnify, defend, protect and hold harmless the City, and its employees, officers, directors and agents (the "the City Indemnified Persons"), from and against, and assumes liability for all suits, actions, damages, claims, losses, fines, judgments, costs and expenses (including reasonable attorneys', accountants' and experts' fees and disbursements) of any character ("Claims"): (a) suffered or incurred by the City Indemnified Persons or any of them because of the death of any Person, or any injuries or damage received or sustained by any Persons or property which in whole or in part arise on account of the negligent acts or omissions, of Franchisee in the construction of the Franchise Fibers and/or in the performance or non-performance of its repair and maintenance obligations or exercise of its rights under this Right of Use, including any material violation by Franchisee of any Governmental Authority; or (b) under the workers compensation laws asserted by any employee of Franchisee or its agents, contractors, customers or any other Person providing goods or services for or on behalf of any of the foregoing in connection with this Right of Use suffered or incurred by the City Indemnified Persons or any of them. Franchisee's indemnification obligations hereunder shall not be applicable to any Claims to the extent caused by, arising out of or in connection with the negligence, intentional acts or omissions or misconduct of the City Indemnified Persons or any of them.

10.2 The City hereby agrees to indemnify, defend, protect and hold harmless Franchisee and its Affiliates, and their employees, officers, directors and agents (the "Franchisee Indemnified Persons"), from and against, and assumes liability for all Claims (as defined in Section 10.1, above): (a) suffered or incurred by the Franchisee Indemnified Persons or any of them because of the death of any Person, or any injuries or damage received or sustained by any Persons or property (including, without limitation, the Verizon Network) which in whole or in part arise as a result of the negligent acts or omissions, of the City in the performance or non-performance of its obligations or

exercise of its rights under this Right of Use, including any violation by the City of any Underlying Right Requirements or any Governmental Authority; (b) under the workers compensation laws asserted by any employee of the City, or its agents, contractors, customers or any other Person providing goods or services to any of the foregoing in connection with this Right of Use, and suffered or incurred by the Franchisee Indemnified Persons or any of them; (c) suffered or incurred by the Franchisee Indemnified Persons or any of them and arising out of or resulting from the City's: (i) use or operation of the Franchise Fibers, or the ownership, use, operation, installation, repair, maintenance or replacement of the City Equipment (if any); (ii) the conduct of the City's business, including, without limitation, the provision of any services or the content of any video, voice or data carried through the Franchise Fibers; or (iii) the violation of any Underlying Rights Requirements applicable to the City; or (d) suffered or incurred by Franchisee Indemnified Persons or any of them and arising out of, caused by, related to or based upon a contractual or other relationship between such claiming Party and the City as it relates to the Franchise Fibers, the City Equipment, the Underlying Rights Requirements or this Right of Use, including any claim for interruption of service or in respect of service quality. The City's indemnification obligations hereunder shall not be applicable to any claims to the extent caused by the negligence, intentional acts or omissions or misconduct of Franchisee Indemnified Persons or any of them.

10.3 Either Party seeking indemnification hereunder ("Indemnitee") shall promptly notify the City or Franchisee, as appropriate, of the nature and amount of such claim and the method and means proposed by the Indemnitee for defending or satisfying such claim. The Parties shall consult and cooperate with each other respecting the defense and satisfaction of such claim, including the selection of and direction to legal counsel. Neither Party shall pay or settle any such claim without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

10.4 Subject to Section 10.5, below, nothing contained herein shall operate as a limitation on the right of either Party to bring an action for damages against any third Person, including indirect, special or consequential damages, based on any acts or omissions of such third Person as such acts or omissions may affect the construction, operation or use of the Franchise Fibers or the Verizon Network, except as may be limited by Underlying Rights Requirements; provided, however, that each Party hereto shall assign such rights or claims, execute such documents and do whatever else may be reasonably necessary to enable the other Party to pursue any such action against such third Person.

10.5 Notwithstanding the foregoing provisions of this Section 10, to the extent Franchisee is required under the terms and provisions of any Underlying Rights to indemnify the grantor or provider thereof from and against any and all claims, demands, suits, judgments, liabilities, losses or expenses arising out of or related to such Underlying Rights, regardless of the cause and regardless of whether such claims, demands, suits, judgments, liabilities, losses or expenses arise from the sole or partial negligence, actions or inaction of such grantor or provider and its employees, servants,

agents, contractors, subcontractors or other Persons using the property covered by such Underlying Right, the City hereby releases such grantor or provider from the same, regardless of whether such claims, suits, judgments, liabilities, losses or expenses arise from the sole or partial negligence, willful misconduct or other action or inaction, of such grantor or provider or its employees, servants, agents, contractors, subcontractors or other Persons using the property covered by such Underlying Right.

## **Section 11 ASSIGNMENT**

11.1 *Assignment:* The City shall not have the right to assign any rights to use of the Franchise Fibers without the written consent of Franchisee, which consent may be withheld in its absolute discretion.

11.2 *Binding On Permitted Assigns:* Subject to the provisions of this Section, this Right of Use and each of the Parties' respective rights and obligations hereunder, shall be binding upon and shall inure to the benefit of the Parties hereto and each of their respective permitted successors and assigns.

**EXHIBIT 1 TO APPENDIX D**  
**FRANCHISE FIBER ROUTES AND SPANS**

This Exhibit is filed under separate cover as it contains information that is proprietary and confidential and is exempt from disclosure pursuant to New York Public Officer's Law 87(2)(c),(d), (f) & (i).

**EXHIBIT 2 TO APPENDIX D**

**A. Lines and Circuit Trouble/Outages:**

1. For any line or circuit trouble/outage, DoITT may call in a trouble ticket to Verizon Business services at the following number: 1-800 444-1111.
2. Lines and circuits shall be identified pursuant to the designations set forth in Exhibit 1

**B. Ticket Escalation**

1. Trouble tickets initiated pursuant to Section A.1. above which require escalation or unique review by Franchisee, shall be addressed by the Verizon Business Service Management Team, which will make all the necessary calls and keep the customer updated as to the status of such trouble ticket in accordance with the following management review order:

1st level – Service Manager

2nd level – Manager, Service Management

3rd level – Director, Customer Service, NorthEast

2. Verizon Business is also the interface for DoITT on issues which require internal intervention with other departments (i.e. billing, provisioning, construction, engineering, maintenance, etc.).

**APPENDIX E**  
**FORM OF SECURITY**

SAMPLE

**EXHIBIT E-1**

**FORM OF PERFORMANCE BOND**

**Franchise Bond**

Bond No. \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:** That (name & address) (hereinafter called the “Principal”), and (name and address) (hereinafter called the “Surety”), a corporation duly organized under the laws of the State of (state), are held and firmly bound unto (name & address) (hereinafter called the “Obligee”), in the full and just sum of Fifty Million Dollars (\$50,000,000), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

**WHEREAS,** the Principal and Obligee have entered into a Franchise Agreement dated \_\_\_\_\_ which is hereby referred to and made a part hereof.

**WHEREAS,** said Principal is required to perform certain obligations under said Agreement.

**WHEREAS,** the Obligee has agreed to accept this bond as security against default by Principal of performance of its obligations under said Agreement during the time period this bond is in effect.

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH** that if the Principal shall perform its obligations under said Agreement, then this obligation shall be void, otherwise to remain in full force and effect, unless otherwise terminated, cancelled or expired as hereinafter provided.

**PROVIDED HOWEVER,** that this bond is executed subject to the following express provisions and conditions:

1. In the event of a potential default by the Principal, Obligee shall deliver to Surety a written statement of the details of such default within 30 days after the Obligee

shall learn of the same, such notice to be delivered by certified mail to address of said Surety as stated herein; provided, however, that to the extent the Obligee provides the Principal with any written notice of such potential default prior to such 30-day period, the Obligee shall provide the Surety with a copy of such written notice simultaneous with transmission of same to the Principal.

2. In the event of default by the Principal, Obligee shall deliver to Surety a valid court order demonstrating a final judgment not subject to appeal or further judicial relief, together with a written statement of the details of the default resulting in such judgment within thirty (30) days after the entry of such judgment, such notice to be delivered by certified mail to address of said Surety as stated herein.

3. This Bond shall be effective \_\_\_\_\_, 20\_\_\_\_, and shall remain in full force and effect thereafter for a period of one year and will automatically extend for additional one year periods from the expiry date hereof, or any future expiration date, unless the Surety provides to the Obligee not less than sixty (60) days advance written notice of its intent not to renew this Bond or unless the Bond is earlier canceled pursuant to the following. This Bond may be canceled at any time upon sixty (60) days advance written notice from the Surety to the Obligee. Such termination or cancellation shall not affect any liability incurred or accrued under this bond prior to the effective date of such cancellation.

4. Neither cancellation, termination nor refusal by Surety to extend this bond, nor inability of Principal to file a replacement bond or replacement security for its

obligations under said Agreement, shall constitute a loss to the Obligee recoverable under this bond.

5. No claim, action, suit or proceeding shall be instituted against this bond unless same be brought or instituted and process served within one year after termination or cancellation of this bond.

6. No right of action shall accrue on this bond for the use of any person, corporation or entity other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.

7. The aggregate liability of the surety is limited to the penal sum stated herein regardless of the number of years this bond remains in force or the amount or number of claims brought against this bond.

8. This bond is and shall be construed to be strictly one of suretyship only. If any conflict or inconsistency exists between the Surety's obligations as described in this bond and as may be described in any underlying agreement, permit, document or contract to which this bond is related, then the terms of this bond shall supersede and prevail in all respects.

**IN WITNESS WHEREOF**, the above bounded Principal and Surety have  
hereunto signed and sealed this bond effective this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Principal

Surety

By: \_\_\_\_\_

By: \_\_\_\_\_

Attorney-in-Fact

SAMPLE

**EXHIBIT E-2**

**FORM OF LETTER OF CREDIT**

This is an EXAMPLE of a letter of credit. In no way does this guarantee that the JPMorgan Chase Letter of Credit will read exactly as stated below:

Dated

OUR L/C NO.: XXXX-123456

APPLICANT REF. NO.: VZ12

TO:

CITY OF NEW YORK, NY

ATTN: CITY CLERK OFFICE

TBD STREET

NEW YORK, NY XXXXX

APPLICANT:

VERIZON COMMUNICATIONS INC.

O/B/O VERIZON NEW YORK INC.

140 WEST STREET

NEW YORK, NY 10007

ATTN:

EXECUTIVE VICE PRESIDENT

AND

GENERAL MANAGER

WE HAVE ESTABLISHED OUR IRREVOCABLE STANDBY LETTER OF CREDIT  
IN YOUR FAVOR AS DETAILED HEREIN SUBJECT TO 600

DOCUMENTARY CREDIT NUMBER: XXXX-123456

DATE OF ISSUE: JUNE XX, 2008

BENEFICIARY: CITY OF NEW YORK, NY

ATTN: CITY CLERK OFFICE

TBDNEW YORK, NY XXXXX

APPLICANT:

VERIZON COMMUNICATIONS INC

O/B/O VERIZON NEW YORK INC.

140 WEST STREET

NEW YORK, NY 10007

DATE AND PLACE OF EXPIRY:

JUNE XX, 2009

AT OUR COUNTER  
DOCUMENTARY CREDIT AMOUNT: USD \$20,000,000.00  
AVAILABLE WITH: JPMORGAN CHASE BANK, N.A.  
BY PAYMENT

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL 12 MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, UNLESS AT LEAST 60 DAYS PRIOR TO THE CURRENT EXPIRY DATE WE SEND NOTICE IN WRITING TO THE CITY OF NEW YORK VIA SWIFT, TELEX, OR HAND DELIVERY AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD. HOWEVER IN NO EVENT SHALL THIS LETTER OF CREDIT BE AUTOMATICALLY EXTENDED BEYOND THE FINAL EXPIRY DATE OF JUNE XX, 2009. UPON SUCH NOTICE TO THE CITY OF NEW YORK, THE CITY OF NEW YORK MAY DRAW ON US AT SIGHT FOR AN AMOUNT NOT TO EXCEED THE BALANCE REMAINING IN THIS LETTER OF CREDIT WITHIN THE THEN-APPLICABLE EXPIRY DATE, BY YOUR SWIFT OR PRESENTATION OF YOUR DRAFT AND DATED STATEMENT PURPORTEDLY SIGNED BY ONE OF YOUR OFFICIALS READING EXACTLY AS FOLLOWS:

THE AMOUNT OF THIS DRAWING USD ..... UNDER JPMORGAN CHASE BANK, N.A. LETTER OF CREDIT NUMBER XXX REPRESENTS FUNDS DUE US AS WE HAVE RECEIVED NOTICE FROM JPMORGAN CHASE BANK, N.A. OF THEIR DECISION NOT TO AUTOMATICALLY EXTEND LETTER OF CREDIT NUMBER TPTS-XXX AND THE UNDERLYING OBLIGATION REMAINS OUTSTANDING.

IN THE EVENT THIS LETTER OF CREDIT IS SUBSEQUENTLY AMENDED BY US TO EITHER:

- I) RESCIND A NOTICE OF NON-EXTENSION AND TO EXTEND THE EXPIRY DATE HEREOF TO A FUTURE DATE, OR
- II) EXTEND THE EXPIRY DATE TO A DATE THAT IS AFTER THE STATED FINAL EXPIRY DATE HEREOF, SUCH EXTENSION SHALL BE FOR THAT SINGLE PERIOD ONLY AND THIS LETTER OF CREDIT WILL NOT BE SUBJECT TO ANY FUTURE AUTOMATIC EXTENSIONS UNLESS AN AUTOMATIC EXTENSION PROVISION IS EXPRESSLY INCORPORATED INTO SUCH AMENDMENT.

ADDITIONAL DETAILS:

THIS LETTER OF CREDIT IS AVAILABLE WITH JPMORGAN CHASE BANK, N.A., AGAINST PRESENTATION OF YOUR DRAFT AT SIGHT MENTIONING THEREON DRAWN ON JPMORGAN CHASE BANK, N.A., LETTER OF CREDIT NUMBER XXX WHEN ACCOMPANIED BY THE DOCUMENTS INDICATED HEREIN.

BENEFICIARY'S DATED STATEMENT PURPORTEDLY SIGNED BY ONE OF ITS OFFICIALS READING AS FOLLOWS:

“THE AMOUNT OF THIS DRAWING LIMITED TO THE AMOUNT REFLECTED ON THE ACCOMPANYING COURT ORDER USD....., UNDER JPMORGAN CHASE BANK, N.A. LETTER OF CREDIT NO. XXXX-123456 REPRESENTS FUNDS DUE THE CITY OF NEW YORK, NY AS:” THE APPLICANT, VERIZON NEW YORK INC., FAILED TO PERFORM UNDER MATERIAL PROVISIONS OF AGREEMENT (DATED) BETWEEN CITY OF NEW YORK, NY AND VERIZON NEW YORK INC. UNDER A COURT ORDER DEMONSTRATING A FINAL JUDGMENT IN FAVOR OF THE CITY OF NEW YORK NOT SUBJECT TO APPEAL OR FURTHER JUDICIAL RELIEF’.

ALL CORRESPONDENCE AND ANY DRAWINGS HEREUNDER ARE TO BE DIRECTED TO JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, STANDBY LETTER OF CREDIT DEPT. 4TH FL. 10420 HIGHLAND MANOR DRIVE, TAMPA, FLORIDA 33610.

CUSTOMER INQUIRY NUMBER IS 1-800-634-1969 CHOOSE OPTION 1. E-MAIL ADDRESS IS: [GTS.CLIENT.SERVICES@JPMCHASE.COM](mailto:GTS.CLIENT.SERVICES@JPMCHASE.COM). PLEASE HAVE OUR REFERENCE NUMBER AVAILABLE WHEN YOU CONTACT US.

WE HEREBY AGREE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED.

THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 600.

THIS LETTER OF CREDIT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

THE NUMBER AND THE DATE OF OUR CREDIT AND THE NAME OF OUR BANK MUST BE QUOTED ON ALL DRAFTS REQUIRED.

---

AUTHORIZED SIGNATURE

**APPENDIX F**

**FTTP UPGRADE SCHEDULE**

All dates in this schedule refer to December 31 of the year indicated, except for the year 2014, which refers to June 30.

Cumulative Prems Passed (k) - % Complete								
Boro	Type	2008	2009	2010	2011	2012	2013	2014
Manhattan	SFU	98%	100%	100%	100%	100%	100%	100%
	MDU	57%	62%	66%	73%	82%	91%	100%
	Total	57%	62%	67%	73%	82%	91%	100%
Bronx	SFU	30%	46%	59%	69%	84%	96%	100%
	MDU	6%	23%	39%	58%	75%	92%	100%
	Total	13%	29%	45%	61%	77%	93%	100%
Queens	SFU	23%	39%	55%	69%	82%	95%	100%
	MDU	7%	21%	37%	54%	72%	93%	100%
	Total	15%	30%	46%	61%	77%	94%	100%
Staten Island	SFU	98%	100%	100%	100%	100%	100%	100%
	MDU	100%	100%	100%	100%	100%	100%	100%
	Total	98%	100%	100%	100%	100%	100%	100%
Brooklyn	SFU	17%	33%	47%	63%	77%	92%	100%
	MDU	8%	27%	42%	57%	76%	93%	100%
	Total	12%	30%	45%	60%	76%	93%	100%
NYC	SFU	32%	46%	59%	71%	83%	95%	100%
	MDU	27%	40%	51%	63%	78%	92%	100%
	Total	29%	42%	54%	66%	79%	93%	100%

**APPENDIX G**

**FRANCHISE AREA**

**[See Attached Map]**

**APPENDIX H**

**FORM OF GUARANTY**

In consideration of the award of the Cable Franchise Agreement by and between the City of New York and Verizon New York Inc., dated \_\_\_\_\_2008, we, Verizon Communications Inc., hereby unconditionally and irrevocably agree to provide all the financial resources necessary for the satisfactory performance of the obligations of the Franchisee under the Cable Franchise Agreement and also to be legally liable for performance of the obligations of the Franchisee in case of default or revocation of the Cable Franchise Agreement.

\_\_\_\_\_  
Signature

Corporate Seal

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title & Official Name of Guarantor

\_\_\_\_\_  
Date

## APPENDIX I

### INVESTIGATION CLAUSE

1.1 The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

1.1 (a) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York; or

(b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City.

1.2 (a) The commission or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

(b) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to Section 1.3 below without the City incurring any penalty or damages for delay or otherwise.

1.3 The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:

(a) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a

member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

(b) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

1.4 The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (c) and (d) below in addition to any other information which may be relevant and appropriate:

(a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(c) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

(d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under 1.3 above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in 1.2(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

1.5 (a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

(b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(c) The term “entity” as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City, or otherwise transacts business with the City.

(d) The term “member” as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

## APPENDIX J

### SYSTEM ARCHITECTURE

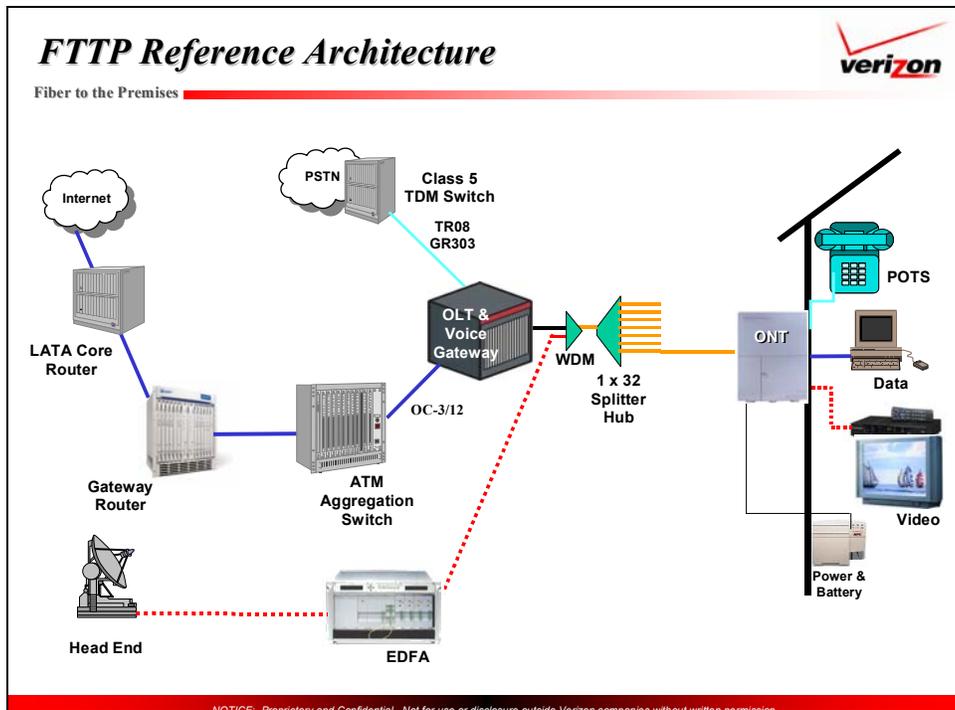
#### FTTP System Architecture

##### End-to-End Architecture

Figure 1 shows the architecture topology for supporting service across multiple market areas. A brief summary of the end-to-end architecture follows. Subsequent sections provide more information on each major component within the planned Verizon FTTP overlay architecture.

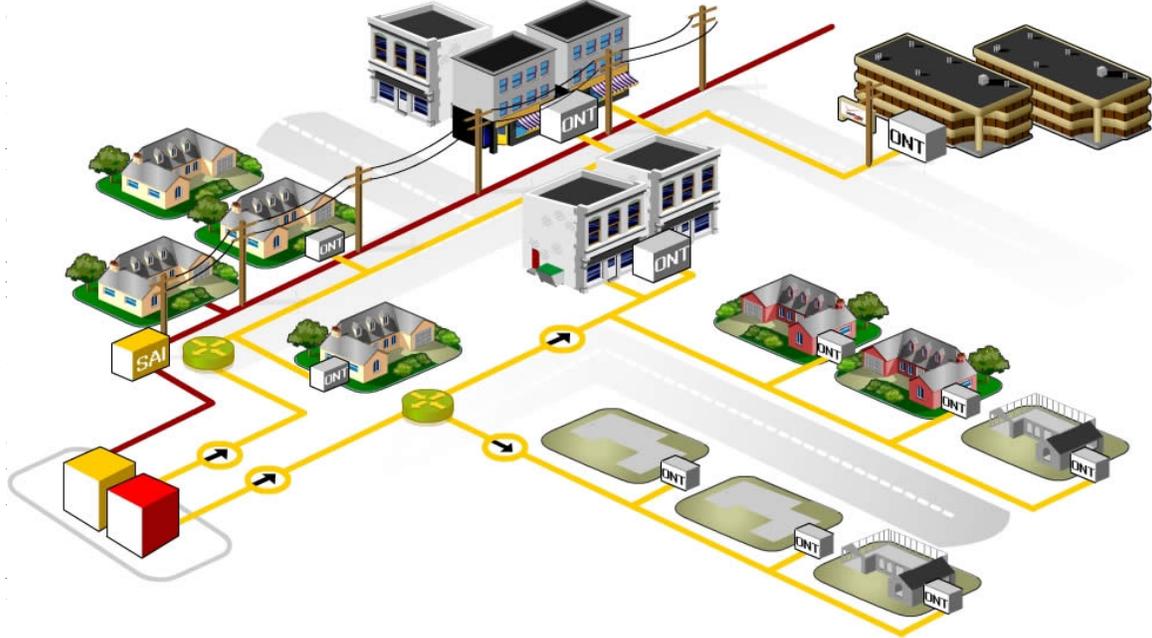
Figure 2 shows full build and overlay architecture. FTTP will be built instead of copper facilities in new communities. In existing communities, the existing copper network will continue to serve those customers who have not migrated to the FTTP network. The fiber is deployed from a Central Office location within a wire center area.

Figure 1-High Level End to End Architecture



**Figure 2-FTTP Full Build and Overlay Architectures**

At the national or regional level, a “super” headend (SHE) shall serve as the single point



At the premise, the optical cable television signal is de-multiplexed and converted to an electrical signal, which meets cable television industry standards for cable services. Standard home wiring practices, using coaxial cables, as well as alternative media, shall distribute the signal to cable ready TVs and standard set top boxes (STB).

There will be 24x7 control and surveillance of the cable television platform from a remote location. This Network Operations Center (NOC) will be centrally located and shall be responsible for the operation and maintenance of the Conditional Access System (CAS), which directs the encryption functions performed back at the VHO.

**Super Headend (SHE)**

A “super” headend (SHE) shall serve as the single point of national content aggregation. At general service availability, Verizon shall deploy a primary SHE and an additional SHE for redundancy.

Both the primary and redundant SHEs will be strategically located to ensure technical and environmental requirements are met.

The key functions of the SHE include:

Content Reception

Signal Processing

Encoding

## Network Interface

The majority of cable television sources shall be individual content provider programming. A mix of standard and high definition formats shall be supported. All content shall be encoded into MPEG2 streams, formatted for SONET and/or ROADM, and transported via a SONET and/or ROADM transport facilities to a local point-of-presence (POP) for wide area (national) transport.

## **Wide Area Transport**

In support of the cable television service, Verizon will use SONET and/or ROADM network facilities in the POPs serving target cable markets. Where multiple POPs exist within a market, redundancy options shall dictate if a single or multiple POPs shall be designated for supporting the cable television traffic.

In most cases, it is expected that the cable television traffic shall traverse multiple interconnected rings between the SHE and the destination market. Once the cable traffic reaches a POP located in a target market, it will be forwarded to a SONET and/or ROADM interface connected to metro/local SONET and/or ROADM facilities. These facilities shall connect the POP to a Video Hub Office (VHO). VHOs are capable of serving multiple communities within a target market. If more than one VHO is required, the metro SONET and/or ROADM ring(s) would be deployed to cover multiple sites.

## **Video Hub Office (VHO)**

The VHO serves as the metro or local point of aggregation. The VHO location is based on a combination of technical factors, metro fiber/IOF availability, local channel reception characteristics, and municipal regulations (e.g., zoning ordinances).

Under current network design plans, the anticipated functions of the VHO include:

WAN Interface for Cable television Transport

Ad Insertion

PEG Content

Signal Grooming and Multiplexing

Emergency Alert Service

Interactive Program Guide

## **Conditional Access**

### **Local Content**

The VHO shall aggregate three basic sources of content: national broadcast channels, local broadcast channels, and public, education, & government (PEG) channels. The

national content is the traffic sent from the SHE and is delivered via a SONET interface from the SONET POP. The local broadcast channels shall be received off-air via antennas or terrestrial fiber transport located at the VHO site. The PEG channels shall be collected via terrestrial connections from each local franchising area (LFA) served by the VHO.

The final collection of content is placed into the RF spectrum between 50 – 870 MHz as either an analog AM-VSB signal or, as part of a digital multiplex, into a 256-QAM modulated carrier. Digital content requiring encryption by the CAS shall also be multiplexed into QAM modulators and combined with other analog and digital carriers. In addition, an out-of-band downstream channel is generated which carries the Interactive Program Guide (IPG), provisioning, and management messages to STBs. The combined RF signal is converted to optics and fed into EDFAs at egress from the VHO. These optical cable television signals are transported on the 1550 nm wavelength of the G.983-specified Enhancement band to Verizon Video Serving Offices (VSOs).

As noted previously, it is intended that the broadcast cable television traffic/service that exits the VHO shall look like the final product viewed by the end user subscriber.

### **Metro Area Transport**

The optical cable television signals coming from the VHO are transported on the 1550 nm wavelength over fiber available within Verizon's inter-office facilities (IOF).

#### **Video Serving Office (VSO) & Passive Optical Network (PON)**

The VSO is a location within the central office containing FTTP equipment. If technically feasible or otherwise appropriate, PEG insertion may occur at this location in the network.

The key function of the VSO is to combine Broadcast Cable television into the Voice and High Speed Data FTTP Network

Once in the VSO, the optical cable television signal is sent through an EDFA and then to a Wave Division Multiplexer (WDM) combiner and splitter, which is used to add the cable signal to the voice and high-speed data signals' wavelength (1490nm) – coming from the Optical Line Terminal (OLT) – together with the cable wavelength onto a single optical source. This optical signal is then sent towards the subscriber premises via a PON. The VSO will also play a role in supporting upstream signals from the customer premises for pay-per-view services. Pay-per-view usage data uses the data service's 1310nm upstream wavelength. The upstream data communications shall be sent back to a subscriber database located in the Operations Center located in the VHO.

### **Customer Premises**

At the premise, an Optical Network Terminal (ONT) de-multiplexes the 1550nm optical signal and simply converts it to a voice, data and cable television electrical signal, which meets cable television industry standards for cable services.

It is expected that, in many cases, standard home wiring practices, using coaxial cables, will distribute the signal to cable ready televisions and to STBs for digital subscribers.

**APPENDIX K**  
**FORM OF FRANCHISE FEE REPORT**