

CABLE FRANCHISE AGREEMENT
BETWEEN
TOWN OF BETHANY BEACH
AND
MEDIACOM DELAWARE LLC

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CABLE FRANCHISE AGREEMENT

This Cable Franchise Agreement (hereinafter referred to as the "Agreement") is executed as of the [] day of [] 2020 (hereinafter referred to as the "Effective Date") by and between the Town of Bethany Beach, a municipality located in Sussex County, Delaware (hereinafter referred to as the "Town") and Mediacom Delaware LLC (hereinafter referred to as "Mediacom").

WHEREAS, pursuant to the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996 (hereinafter collectively referred to as the "Cable Act"), the regulations of the Federal Communications Commission (hereinafter referred to as the "FCC") and Delaware law, the Town is authorized to grant and renew franchises to construct, operate and maintain a Cable System utilizing public rights-of-way and properties within the Town's jurisdiction; and

WHEREAS, Mediacom currently holds a cable franchise from the Town by virtue of a cable franchise agreement originally granting a cable franchise to Mediacom or to a predecessor to Mediacom; and

WHEREAS, Mediacom has requested that the Town renew Mediacom's franchise to maintain, construct, operate, and upgrade its Cable System over, under and along the aforesaid rights-of-ways for use by the Town's residents; and

WHEREAS, the aforesaid rights-of-way used by Mediacom are public properties acquired and maintained by the Town held in trust on behalf of citizens of the Town and the right to use said rights-of-way is a valuable property right; and

WHEREAS, The Town desires to protect and manage the aforesaid rights-of-way, require high standards of customer service, encourage future technical improvements to maintain a technologically-advanced Cable System, establish certain reporting requirements, obtain certain complimentary services, preserve the right to obtain the use of educational and governmental channels, receive franchise fees for Mediacom's use of the Town's rights-of-ways as provided by federal law, and provide for the current and future cable-related needs of its residents; and

WHEREAS, the Town held a public hearing on the subject of cable franchise renewal, including reviewing the cable operator's past performance and identifying the Town's future cable-related community needs; and

WHEREAS, the Town has determined that Mediacom has the financial, legal and technical ability to provide Cable Service to Subscribers located in the Town; and

WHEREAS, the Town, after affording the public notice and opportunity for comment, has determined that the public interest would be served by renewing Mediacom's franchise according to the terms and conditions contained herein;

NOW THEREFORE, in consideration of the mutual promises contained herein and intending to be legally bound hereby, the Town and Mediacom agree as follows:

SECTION 1 **GRANT OF FRANCHISE**

1.1 GRANT OF AUTHORITY

Pursuant to the Cable Act, the regulations of the FCC and Delaware law, the Town hereby grants a non-exclusive and revocable franchise to Mediacom, authorizing and permitting Mediacom to construct, operate, and maintain a Cable System in the Town's public rights-of-way.

Subject to the terms and conditions contained herein, the Town hereby grants to Mediacom the right to construct, extend, install, operate maintain, upgrade and rebuild a Cable System, including such wires, cables, fiber, conductors, ducts, conduits, amplifiers, pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the Cable System in, under, over, along, across and upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places and rights-of-way under the jurisdiction of the Town, including property over which the Town has a sufficient easement or right-of-way, for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video and audio signals to provide Cable Services as permitted by applicable law.

Except for the locations where aerial cable presently exists as of the effective date of this Agreement, no aerial cable shall be placed over any navigable Waterway located in the Service Area or directly adjacent to it without written consent of the Town, further, the Town agrees that no other cable provider or utility provider shall be allowed to place their facilities over any navigable Waterway located in the Service Area or directly adjacent to it without written consent of the Town. As of the Effective Date, Mediacom acknowledges that, to the best of its knowledge, it has 2 aerial cables over navigable Waterways located in the Service Area or directly adjacent to it which are as follows: (i) an aerial cable running east and west over the Assawoman Canal approximately twenty (20) feet north of the State Route 26/Assawoman Canal Bridge, and (ii) an aerial cable running north and south over the Loop Canal on the west side of the state Route 1/Loop Canal Bridge.

1.2 TERM OF FRANCHISE

The term of this Agreement shall be for a period of four (4) years, commencing on the Effective Date and expiring on _____.

1.3 [CL2]NON-EXCLUSIVITY

(a) Mediacom acknowledges and agrees that the Town reserves the right to grant one or more additional franchises to construct, operate, and maintain a Cable System within the Town.

(b) The franchise granted to Mediacom is non-exclusive; however, if the Town grants a subsequent Franchise that, when taken as a whole upon consideration of all of its material obligations, is more favorable or less burdensome to the subsequent franchisee than this Agreement is to Mediacom, then Mediacom may request an amendment to this Agreement to provide Mediacom with competitive equity. If the Town agrees with Mediacom that, when taken as a whole upon consideration of all its material obligations, the subsequent Franchise is more favorable or less burdensome, then the Town and Mediacom shall enter into discussions in order to modify this Agreement to the mutual satisfaction of both parties to provide Mediacom with such competitive equity.

(c) In the event an application for a new Franchise for Cable Service is submitted to the Town proposing to serve Subscribers within the Town, then the Town shall notify Mediacom in writing of the submission of the application.

1.4 POLICE POWERS

Mediacom's rights under this Agreement are subject to the police powers of the Town to adopt and enforce general laws and regulations necessary for the safety and welfare of the public. Such laws and regulations are separate and distinct from the terms and conditions contained in this Agreement.

1.5 NO WAIVER OF RIGHTS

No course of dealing between the Town and Mediacom, nor any delay on the part of the Town in exercising any rights hereunder, shall operate as a waiver of any such rights of the Town of acquiescence in the actions of Mediacom in contravention of such rights, except to the extent expressly waived by the Town.

SECTION 2 **COMPENSATION TO THE TOWN**

2.1 FRANCHISE FEES

Mediacom shall pay to the Town as amount equal to five percent (5%) of the Gross Revenues derived from the operation of its Cable System to provide Cable Service in the Town. The term "Gross Revenues" is defined in Section 14 "Definitions." Mediacom shall not deduct or otherwise credit against the franchise fee any tax, fee or assessment of general applicability. The Town may amend the franchise fee upon sixty (60) days written notice to Mediacom provided that the franchise fee may not exceed the maximum percentage permitted by law. Any change in Mediacom's franchise fee obligation contained herein shall commence within sixty (60) days from such written notice.

2.2 QUARTERLY PAYMENTS

Franchise fee payments to the Town under this provision shall be computed at the end of each calendar quarter. Such payments shall be made no later than forty-five (45) days following the end of each calendar quarter. Specifically, payments shall be due and payable on or before May 15 (for the first quarter), August 15 (for the second quarter), November 15 (for the third quarter), and February 15 (for the fourth quarter). Upon request and if mutually agreeable, Mediacom shall deposit the franchise fee payments electronically into an account as designated by the Town. In the event that any franchise fee payment is not made on or before the date by which it is due, then interest shall be added at the annual rate of six percent (6%) of the amount of franchise fee revenue due to the Town. The interest rate shall be applied as described from the date such franchise fee payment was originally due. No acceptance of any payment shall be construed as an accord that the amount is paid in fact the correct amount, nor shall acceptance of any payment be construed as a release of any claim the Town may have for additional sums payable under this Agreement.

2.3 QUARTERLY REPORTS

Each franchise fee payment shall be accompanied by a written report containing an accurate statement of Mediacom's Gross Revenues received for Cable Services for each calendar quarter in connection with the operation of Mediacom's Cable System and a brief description showing the basis for computation of fees. Specifically, the report shall contain line items for sources of revenue received and the amount of revenue received from each source. The report shall be verified by a financial representative of Mediacom. Furthermore, upon written request each time and no more than twice per year, Mediacom shall provide the then current subscriber counts to the Town.

2.4 AUDITS

No more than once every three (3) years during the term of this Agreement, upon thirty (30) days prior written notice, the Town shall have the right to conduct an independent audit or franchise fee review of Mediacom's records reasonably related to the sources, amounts and computation of Gross Revenues in accordance with generally accepted accounting principles. Upon request, Mediacom shall provide the Town with copies of financial records related to the franchise fee audit or review. Such records shall also be kept or made available to the Town at the notice location for Mediacom specified in Section 13.3. If the audit or franchise fee review shows that franchise fees have been underpaid, then Mediacom shall pay the underpaid amount and monetary fines of five percent (5%) of the underpayment. If franchise fees have been underpaid by ten percent (10%) or more, then Mediacom shall also pay the total cost of the audit or franchise fee review.

2.5 BUNDLED SERVICES

If Cable Services subject to the franchise fee required under this Section are provided to Subscribers with non-Cable Services and the total cost of the bundle reflects a discount from the aggregate retail prices of the services contained therein, the franchise fee shall be applied to the retail price of the Cable Services in the bundle reduced by no more than a proportionate share of the overall discount.

SECTION 3 **SYSTEM CONSTRUCTION, OPERATION AND MAINTENANCE**

3.1 TECHNICAL STANDARDS

Mediacom shall operate, maintain, construct and extend the Cable System so as to offer high quality signals and reliable delivery of one-way and two-way Cable Services for all programming services throughout all parts of the Town where the density requirements of Section 3.2 are met. The video signals provided by the Cable System shall be delivered in high quality resolution in accordance with FCC standards. Mediacom shall take necessary steps to assure the audio level is relatively equal between channels and/or between programming and advertising originated by Mediacom. Audio levels shall also comply with FCC standards. The Cable System shall meet any and all generally applicable technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code and any other applicable federal laws and the laws, ordinances and construction standards of the State of Delaware and the Town. Upon issuance by the FCC (to be issued by December 15, 2011) a rule limiting the loudness of commercials in accordance with the Commercial Advertisement Loudness Mitigation Act (“CALM”) enacted into law on December 15, 2010, Mediacom shall take the necessary action to comply with such rules. Mediacom shall take necessary steps to assure the synchronization between the audio and video programming on each channel.

Stand-by power at the headend(s) shall be provided in the event of a service interruption. Stand-by power must activate upon the failure of commercial utility power. Battery backup shall be provided at the hub(s) service the Service Area.

3.2 AREA TO BE SERVED

(a) Cable Services shall be made available to every dwelling occupied by a person requesting Cable Service provided that Mediacom is able to obtain from the property owners any necessary easements and/or permits in accordance with Section 621(a)(2) of the Cable Act. Mediacom shall extend the Cable System into all areas within the Town that are contiguous to Mediacom's existing distribution facilities where there is a minimum of 10 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of Mediacom's trunk or distribution cable which is to be extended. Mediacom shall complete said extensions within three (3) months of written notification to Mediacom by the Town that an area has met the minimum density standard set forth herein (weather permitting). Mediacom's obligation hereunder shall be subject to the timely performance of walk-out, make ready and location of all underground utilities. Notwithstanding the foregoing, Mediacom shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of Mediacom, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

(b) Any dwelling unit within one hundred twenty-five feet (125 ft.) aerial distance of the cable plant shall be entitled to a standard installation rate. For any dwelling unit in excess of one

hundred twenty-five feet (125 ft.) aerial distance or that requires an underground installation, Mediacom shall extend Cable Service at a rate not to exceed Mediacom's actual cost of installation from its main distribution system.

(c) In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, Mediacom likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this subsection shall require Mediacom to construct operate, and maintain underground any ground-mounted appurtenances.

3.3 SERVICE TO MULTIPLE DWELLING UNITS (“MDU’s”)

Mediacom and the Town hereto acknowledge and agree that installation and provision of Cable Service to MDU's are subject to a separate negotiation between the landlord, owner or governing body of any such MDU and Mediacom, which negotiations shall be conducted in accordance with the procedures set forth in the Communications Act of 1934, as amended, applicable FCC regulations, the Landlord Tenant Act of 1951, as amended and the applicable provisions of 68 PS. §§ 250.501 *et seq.*

3.4 PERMITS

Mediacom shall apply to the Town for all generally-applicable required permits and shall not undertake any activities in the public rights-of-way subject to a permit without receipt of such permit — exempting Cable Service drops for individual Subscribers, servicing or installation of a single pedestal, or other routine facility maintenance and replacements, issuance of which shall not be unreasonably withheld by the Town. Mediacom shall be required to pay any required permit fees.

3.5 REPAIRS AND RESTORATION

(a) Whenever Mediacom or any agent, including any subcontractor, takes up or disturbs any pavement, sidewalk or other improvement of any public or private way or place, the same shall be replaced and the surface restored in as good condition as before the disturbance within thirty (30) business days of the completion of the disturbance weather permitting. In addition; in areas with underground installation, when Mediacom lays temporary cable on the ground (whether for repair or new service), Mediacom shall complete such installation and surface repair within the aforementioned time period — weather permitting. Upon failure of Mediacom to comply within the time specified and the Town having notified Mediacom in writing of the restoration and repairs required, the Town may cause proper restoration and repairs to be made and the expense of such work shall be paid by Mediacom upon demand by the Town along with any liquidated damages applied by the Town in accordance with Section 9 "Franchise Violations, Damages and Revocation."

(b) Whenever Mediacom or any agent, including any subcontractor, shall install, operate or maintain equipment, cable, or wires, it shall avoid damage and injury to property, including structures, improvements and trees in and along the routes authorized by the Town if required for

the proper installation, operation and maintenance of such equipment, cable, or wires. Mediacom shall promptly repair and restore any private property that is damaged as a result of construction, installation, repair or maintenance of the Cable System within ten (10) business days.

(c) Mediacom's operating, construction, repair and maintenance personnel, including all agents and subcontractors, shall be thoroughly trained in the use of all equipment and the safe operation of vehicles. Mediacom's operation, construction, repair and maintenance personnel shall follow all safety procedures required by all applicable federal, state and local laws and regulations. All areas of the Cable System shall be inspected in accordance with such applicable federal, state and local laws and regulations so as to prevent hazardous conditions or risks to safety for the public and/or operating and maintenance personnel. Mediacom shall install and maintain its wires, cables, fixtures, and other equipment in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.

(d) Should a public safety emergency occur as a result of, incident to, or connected with operation, construction, repair, or maintenance activities by Mediacom personnel, including all agents and subcontractors, then such personnel shall immediately contact the applicable public safety emergency dispatcher (e.g. 9-1-1),

(e) Whenever Mediacom or any agent, including any subcontractor, shall disturb any pavement, sidewalk or other public property in order to perform any underground activity, it shall utilize the Delaware One Call System "Miss Utility" prior to any such disturbance. Mediacom also shall adhere to any additional requirements which the State and/or Town may establish in the future. Mediacom shall also adhere to all requirements of the Delaware Underground Utility Line Protection Act 26 Del, C, §801.

(f) All structures and all lines, equipment and connections in, over, under, and upon streets, sidewalks, alleys, and public and private ways and places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe, non-hazardous and suitable condition and in good order and repair in accordance with customary industry standards and practices.

3.6 SYSTEM MONITORING

Upon completion of any construction, Mediacom shall conduct periodic signal monitoring in accordance with the requirements of the FCC. Such capability shall enable Mediacom to monitor the signal quality of all channels delivered on the Cable System, including any Educational and/or Governmental Channels.

3.7 SERVICE AREA MAPS

Upon request, Mediacom shall provide to the Town for its exclusive use and shall maintain at its local offices a complete set of Mediacom service area maps of the Town, on which will be shown those areas in which its facilities exist and the location of all streets. The maps shall be provided to the Town in hardcopy and also, if requested and available in an

electronic GIS format which is compatible with the Town's GIS format. The maps shall also designate where the cable wires and other equipment are aerial and where they are underground. Mediacom shall provide the Town with updated maps within thirty (30) days after any request by the Town.

3.8 BUILDING MOVES

In accordance with applicable laws, Mediacom shall, upon the request and at the expense of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of the building. Mediacom shall be given at least thirty (30) days advance notice to arrange for such temporary wire changes. If the building to be moved is owned or operated by the Town, Mediacom shall raise or lower its wires at no cost to the Town.

3.9 DISCONNECTION AND RELOCATION

Upon its receipt of reasonable advance written notice, to be not less than ten (10) [CL3]business days Mediacom shall, at no cost to the Town, protect, support, temporarily disconnect, relocate in the same street, or other public way and place, or remove from any street or any other public way or place, any of its property as required by the Town or its designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, site distance visibility, or the construction of any public improvement or structure which are not used to compete with the Mediacom's services. Mediacom shall in all cases have the right of abandonment of its property.

3.10 EMERGENCY REMOVAL OF EQUIPMENT

(a) If, at any time, in case of fire or other disaster in the Town, it shall be necessary, in the reasonable judgement of the Town or its agent, to cut or move any of the wires, cable or equipment of the Cable System, the Town shall have the right to do so without cost or liability, provided that, wherever possible, the Town shall give Mediacom notice and the ability to relocate wires, cable or other equipment.

(b) In cutting or moving any of the wires, cable or equipment of the Cable System in the Event of fire or other disaster, the Town shall treat Mediacom the same as, and require no more of Mediacom than, any other similarly situated entity.

3.11 TREE TRIMMING

(a) Mediacom, or its agents, including subcontractors, shall have the authority to trim trees upon and overhanging public streets, alleys, sidewalks and the public rights-of-way so as to prevent the branches of such trees from coming in contact with the wires, cables, or other equipment of Mediacom. Any such tree trimming shall only be performed in accordance with applicable laws and regulations by licensed professionals. If Mediacom or its agents, including subcontractors, wish to cut down and remove any tree or trees as may be necessary for the installation and maintenance of its equipment, Mediacom shall notify adjacent property owners

and the Town within ten (10) days before performing such cutting and removal in accordance with the regulations of the Town

SECTION 4 **CABLE SYSTEM AND STATE-OF-THE-ART**

4.1 CABLE SYSTEM

The parties understand and agree that upon execution of this Agreement, Mediacom has designed, constructed and maintains a Cable System covering the Town that utilizes fiber optic backbone connections from headend to hubs, hubs to hubs, and hubs to nodes. This Cable System has been built for analog and/or digital television standards with a bandwidth no less than 750 MHz with addressable technology with no less than one hundred fifty (150) video programming choices received for digital and/or analog transmission and shall allocate sufficient portion of said bandwidth to deliver reliable two-way Cable Services. The Cable System shall be capable of providing high definition television signals and Internet access service via cable modem.

4.2 STATE-OF-THE-ART

(a) Mediacom and the Town acknowledge that the technology of Cable Systems is an evolving field. Mediacom's Cable System in the Town shall be capable of offering Cable Services that are comparable to other Cable Systems owned and managed by Mediacom or its Affiliated Entities in Sussex County, Delaware ("Comparable Systems") pursuant to the terms of this section. The Town may send a written notice to Mediacom, not to exceed one (1) request per year, requesting information on Cable Services offered by such Comparable Systems.

(b) If the identified Cable Services are being offered by Mediacom and/or its Affiliated Entities to at least forty percent (40%) of the total Subscribers in the Comparable Systems, then the Town may request that Mediacom make such Cable Services available in the Town. Should the Town determine that Mediacom shall provide comparable Cable Services, then the Town and Mediacom shall enter into good faith discussions to negotiate a schedule for deployment of such Cable Services. The discussions shall take into consideration the benefits from the provision of such Cable Services, the cost of implementing them in the Town, the technical and economic feasibility of implementing such improvements, and the impact, if any, on Subscriber rates. If implementation of the identified Cable Service would result in violation of any law or third party agreement, Mediacom shall not be obligated to provide such Cable Service.

SECTION 5 **CUSTOMER SERVICE STANDARDS**

5.1 OFFICE HOURS AND TELEPHONE AVAILABILITY

(a) Mediacom shall maintain a business office that is located within twenty (20) miles

from the Cable System serving the Town and shall be open during Normal Business Hours as listed on Subscribers' bills. Mediacom shall provide and maintain a local or toll free telephone access line that will be available to Subscribers twenty-four (24) hours a day, seven (7) days a week. Trained representatives shall respond to customer telephone inquiries during Normal Business Hours, including scheduling service calls or arranging for pick up of equipment. If, in the sole discretion of Mediacom, a customer inquiry requires the attention of a supervisor or above, Mediacom shall use best efforts to contact the customer as promptly as possible though in no instance shall such time period exceed three (3) business days. If after this initial contact Mediacom determines that more time is needed to resolve the issue, the customer will be informed of such need. After Normal Business Hours, the access line may be answered by a service or an automated response system. Inquiries received after Normal Business Hours must be responded to by a trained company representative on the next business day.

(b) Under Normal Operating Conditions and during Normal Business Hours, telephone answering time by a customer representative, including wait time, shall not exceed thirty (30) seconds after the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. The term "Normal Operating Conditions" is defined in Section 14 "Definitions."

(c) Under Normal Operating Conditions, the customer shall receive a busy signal less than three (3) percent of the time.

(d) Mediacom shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering requirements above unless a historical record of Complaints indicates a clear failure to comply. If the Town determines, after receiving Complaints itself and/or receiving a record of Complaints made to Mediacom, that there is a clear failure to comply with the telephone answering requirements above, the Town shall notify Mediacom in writing that it must measure its compliance with these requirements for the next ninety (90) days and report to the Town with its results.

5.2 INSTALLATIONS AND SERVICE CALLS

(a) Mediacom shall maintain a competent staff of well-trained employees sufficient to provide adequate and prompt service to its Subscribers. Mediacom shall require that any employee or agent, including any subcontractor, who personally visits any residential dwelling shall display a photo identification badge. Any vehicle used for installation, operation, or maintenance activities by any Mediacom employee or agent, including any subcontractor, shall prominently display the Mediacom logo.

(b) Standard installation will be performed within seven (7) business days after an order has been placed. "Standard" installations are those aerial installations that are located up to one hundred twenty-five (125) feet from the existing distribution system.

(c) Excluding conditions beyond its control, Mediacom shall begin working on a Service Interruption promptly and in no event later than twenty-four (24) hours after the interruption becomes known and shall diligently pursue to completion. Notice of a Service Interruption of a

single Subscriber shall give rise to this obligation on behalf of Mediacom. The term “Service Interruption” is defined in Section 14 “Definitions.” All other service calls not affecting public health, safety, or welfare shall occur within a maximum of forty-eight (48) hours after notice to Mediacom or scheduled at the convenience of the customer.

(d) Upon scheduling of appointments with the customer for installations, service calls and other activities, Mediacom shall provide the customer with either a specific time or an “appointment window” of a maximum of four (4) hours during Normal Business Hours as listed on the customer’s bill. Mediacom may schedule service calls and installation activities outside of Normal Business Hours at a time that is convenient for the customer.

(e) Mediacom may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If, at any time, an installer or technician is running late, an attempt to contact the customer must be made prior to the time of the appointment. If the appointment must be rescheduled, it must be done so at a time that is convenient for the customer.

5.3 NOTICES

(a) Mediacom shall provide written notice to each Subscriber upon initial subscription, and once per calendar year thereafter to each Subscriber, and at any time upon request, regarding each of the following areas:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services; pricing shall include seasonal rates, advance payment discounts, and credits such as “on time guarantee” credits;
- (3) Channel positions of all programming (including analog, digital and HD channels whether receivable on analog TV’s, digital TV’s with QAM tuners or digital converters or tuners) carried on the Cable System;
- (4) Installation and service maintenance policies;
- (5) Instructions on how to use the Cable Service and any converters;
- (6) Billing and customer Complaint procedures; instructions such as when the customer may contact the Local Franchise Authority. If possible, these instructions and the Local Franchise Authority’s address and phone number shall be at least the same size print as the rates and service information notice.

The Local Franchise Authority information on the bill shall read:

For unresolved billing, service or customer service problems, you may contact your local franchise authority – [Town] – at [Phone];

- (7) Mediacom's address, telephone number and office hours;
- (8) A notice of Subscriber privacy rights required by federal law; and
- (9) Customer Service Standards (i.e. Picture and Sound Standards).

(b) Mediacom shall notify Subscribers and the Town in writing of any changes in rates, programming services or channel positions a minimum of thirty (30) days in advance of such changes, provided that such change is within the control of Mediacom. Mediacom shall not be required to provide prior notice to Subscribers of any rate change that is the result of a regulatory fee, franchise fee or any other fee, tax, assessment or charge of any kind imposed by any federal agency, the State of Delaware or the Town on the transaction between Mediacom and the Subscriber.

(c) In accordance with federal law, Mediacom shall maintain a file available to the public containing all written notices provided to Subscribers pursuant to the requirements contained herein by Mediacom during the previous twelve (12) months.

5.4 BILLING

(a) Bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, all applicable service tiers, equipment charges and any installation or repair charges. Bills shall state the billing period, including an effective due date, the amount of current billing and any relevant credits or past due balances. Should products change, Subscribers will be notified of any change in service that impacts billings, titles, and/or amounts. Bills shall also include the Local Franchise Authority; its address and phone number; and shall be printed at least the same size as the billing details.

(b) Mediacom shall not assess late fees for non-payment of a current bill until at least thirty (30) days have elapsed since the mailing of the bill by Mediacom.

5.5 CUSTOMER COMPLAINT PROCEDURES

Mediacom shall establish clear written procedures for resolving all customer Complaints, which shall include at least the following:

(a) Mediacom shall address, by telephone contact or by any other method Mediacom deems appropriate, Complaints within (30) days of its receipt at the local business office. Should customer request a written response, Mediacom shall provide such written response within 30 days of a receipt for the Complaint.

(b) If the Town is contacted directly about a customer Complaint, it shall notify Mediacom promptly in writing and/or electronically. When Mediacom receives such notification, the time period for Media com to respond, in writing, shall be as required by Section 5.5(a).

(c) Subscribers must notify Mediacom of any billing dispute within thirty (30) days of the date of the disputed bill. Failure to notify Mediacom within the thirty (30) days will constitute a waiver of subscribers right to a refund or credit. The subscriber must pay all undisputed charges and cooperate in determining the appropriateness of the charges in dispute. The disputed charges will remain on the account and if Mediacom determines that a credit for the disputed charges is due, the credit (including any late fee assessed to the disputed amount) will appear on the next monthly bill. Mediacom will not disconnect Service until an investigation of the dispute is completed and you are informed of the findings.

(d) Mediacom shall maintain customer Complaint records for inspection by the affected Subscriber, which shall contain the date each Complaint is received, the name and address of the affected Subscriber, a description of the Complaint, the date of resolution of the Complaint, and a description of the resolution.

5.6 DISCONNECTION

Mediacom may disconnect or terminate a Subscriber's service for cause:

(a) If at least sixty (60) days have elapsed from the due date of the bill that Subscriber has failed to pay, except for that portion of the bill that customer has disputed pursuant to 5.5(c) above; and

(b) If Mediacom has provided at least ten (10) days written notice to the affected Subscriber prior to disconnection, specifying the effective date after which Cable Services are subject to disconnection; and

(c) If there is no pending dispute with Mediacom regarding the bill; or

(d) If at any time and without notice, Mediacom determines in good faith that Subscriber has tampered with or abused Mediacom's equipment, service, subscriber agreement or other policies, or is engaged in theft of Cable Service,

5.7 SERVICE CANCELLATIONS

If a Subscriber requests the cancellation of his or her Cable Service from Mediacom, then Mediacom must cancel such Cable Service and cease billing the Subscriber for such Cable Service within seven (7) days of the request unless the Subscriber specifically requests a later date. The Subscriber must return any converter box or other equipment in his or her possession to Mediacom's business office described in Section 5.1(a) or call Mediacom to arrange for pickup of the equipment within fourteen (14) days of the Subscriber's request to cancel such Cable Service.

5.8 CREDIT FOR SERVICE INTERRUPTIONS

In the event that there is a Service Interruption to any Subscriber for twenty-four (24) or more consecutive hours, excluding any scheduled interruption, power outage, inclement weather or Act of God, upon receipt of written or credible oral request, Mediacom shall grant such Subscriber a pro rata credit of monthly recurring charges for services for the period of such failure.

5.9 PRIVACY

(a) Mediacom shall respect the rights of privacy of every Subscriber and shall not violate such rights through the use of any device or signal associated with the Cable System. Mediacom shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal and state privacy laws and regulations.

(b) Mediacom shall be responsible for complying with such privacy policy and shall at all times maintain adequate physical technical and administrative security safeguards to ensure that personally-identifiable Subscriber information is handled and protected strictly in accordance with this policy and all applicable laws and regulations.

(c) Absent a warrant, a court order or other requirement of federal or state law, neither Mediacom nor its designee shall tap, monitor, arrange for the tapping or monitoring, or permit any person to tap or monitor any cable line, signal, input device, or Subscriber outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber or user, provided, however, that Mediacom may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, billing for pay services or monitoring channel usage in a manner not inconsistent with the federal law. Except in instances where monitoring is authorized by appropriate process, Mediacom shall report to the affected Subscribers any instances of monitoring or tapping of the Cable System, or any part thereof, of which it has knowledge, whether or not such activity has been authorized by Mediacom. Mediacom shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes,

(d) Except as permitted by Section 631 of the Cable Act as amended, neither Mediacom nor its designee nor its employees shall make available to any third party, including the Town, information concerning the viewing habits or subscription package decisions of any individual Subscriber. If a court authorizes or orders such disclosure, Mediacom shall notify the Subscriber prior to disclosure in conformance with Section 631 of the Cable Act, unless such notification is otherwise prohibited by applicable law or the court,

(e) Upon a request by a Subscriber, Mediacom shall make available for inspection at a reasonable time and place all personal Subscriber information that Mediacom maintains regarding said Subscriber. Mediacom shall ensure that all information related to billing and service requests is accurate and up-to-date and shall promptly correct any errors upon discovery.

(f) Mediacom shall not make its Subscriber list or lists, or any portion thereof, available to any other person or entity, with or without remuneration, in conformance with Section 631 of the Cable Act.

SECTION 6 **SERVICES TO THE COMMUNITY**

6.1 SERVICES TO COMMUNITY FACILITIES

Upon request Mediacom shall} at no charge to the Town, provide complimentary services as described herein below to all present and future public facilities that are passed by its Cable System including, but not limited to, the following: the Town Administration Building, police stations, fire companies} public works buildings, water and sewer authorities, all public school buildings and public libraries ("Permitted Free Locations"), No charge shall be made for standard installation within one hundred twenty-five (125) feet of the cable plant or service, except that Mediacom may charge for installation or service for more than one (1) drop in Permitted Free Locations and may charge for the incremental portion of Installations beyond one hundred twenty-five (125) feet of the cable plant. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from Mediacom. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Town shall take reasonable precautions to prevent any inappropriate use of Mediacom's Cable System or any loss or damage to Mediacom's Cable System. The Town shall hold Mediacom harmless from any and all liability or claims arising out of the Town's use of Cable Service required by this subsection. Mediacom shall not be required to provide an outlet to such buildings where a non-standard installation is required, unless the Town or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-standard installation. If additional outlets of Basic Cable Service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

(a) Within three (3) months of the Effective Date and upon request, Mediacom shall provide or maintain one (1) cable Drop, outlet, converter box (and any other required end user equipment) and Standard cable level Services (or equivalent) package to each Permitted Free Location. No charge shall be made for standard installation, equipment or servicer

(b) For the purposes of this section, the term "school" means an educational institution that receives funding pursuant to Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq. as amended, and does not include "home schools" or "cyber schools," or any other educational situation that does not meet specific criterion set forth herein. During the term of this Agreement, new public facilities shall be eligible to receive such complimentary service to the extent that they meet the qualifications as set forth herein above as Permitted Free Locations.

6.2 EDUCATIONAL AND GOVERNMENTAL (EG) CHANNELS

(a) Mediacom shall provide to the Town, within ninety (90) days of a written request as set forth herein, the use of one (1) dedicated educational and governmental ("EG") access channel in accordance with Section 611 of the Cable Act and this Section 62 for shared use by the participating municipalities of the Town and/or its designee. Mediacom shall provide the use of a second EG access channel as set forth in Section 6.2(b). Such EG channel(s) shall be used for community programming related to educational and/or governmental activities. Their purpose is to contribute to an informed citizenry by, among other things, showing local government at work} responding to local needs, telecasting community programs, and bringing local education into the home. The Town shall have complete control over the content, scheduling, administration and all other programming aspects of the EG channel(s) and may delegate such functions to an appropriate designee. If requested by any neighboring municipality served by Mediacom from the same hub site as that providing service to the Town, then the Town agrees to cooperate with such municipality in the shared use of the EG channel(s), until such time as technology utilized by Mediacom eliminates the need for the shared use. Mediacom shall not exercise any editorial control over EG channel(s) programming. Whether operating on an analog or digital format, Mediacom shall cablecast any activated EG channel(s) so that they may be received by all Mediacom Subscribers in the Town.

(b) Upon activation of the initial EG channel, the Town may request one (1) additional (EG) channel to be made available for shared use by the Town or its designee in accordance with Section 611 of the Cable Act and this Section 62. Mediacom shall activate such additional (EG) channel and programming shall occur as set forth herein within ninety (90) days of Mediacom's receipt of the aforementioned notice in writing from the Town.

(c) In the event the Town or its designee does not program any EG channel, Mediacom shall be entitled to use such channel after providing notice to the Town. If the Town requests the utilization of the EG channel being programmed by Mediacom, Mediacom shall relinquish such use no later than sixty (60) days after receipt of written notification from the Town that it requires such channel for educational and/or government use.

(d) To enable distribution of the EG channel(s), Mediacom shall install the appropriate wiring and encoder if necessary, for an Internet-based or other type of capable technology enabling cablecast and distribution via the Cable System to Subscribers in the Town. No charge shall be made for the installation of the wiring and encoder if necessary; however all recurring monthly costs for the Internet-based or other type of capable technology and/or the recurring costs of a third party program support provider shall be at the expense of the Town.

(e) If the Town wishes to cablecast live programming, and such live programming cannot be accommodated through an Internet-based or other type of capable technology, then the Town shall select up to two (2) locations within the municipal boundaries of the Town and Mediacom shall provide and install, within one hundred eighty (180) days of a written notice from the Towns the cables, wires, lines, and other signal distribution equipment for an alternative technology such that live programming can originate from the selected location(s) and be distributed via the Cable System to Subscribers in the Town. These cables, wires, lines and other signal distribution equipment shall be collectively known as the "Return Line(s)"

(f) Any expenditures made in connection with construction and maintenance of Return Lines for live programming, not utilizing an Internet-based or other type of capable technology, shall be at the expense of the Town, The Town and Mediacom further agree that any and all costs incurred by Mediacom for supporting such EG channel(s), including any and all equipment, capital grants, and maintenance and repair, may be designated as "costs of franchise requirements" or "external costs" as defined by the FCC, except that it is mutually agreed that such costs shall not be itemized on Subscribers' bills

(g) Mediacom shall be responsible for maintaining the wiring to the video origination points, provided that the Town provides Mediacom with access to those locations and access to the EG equipment within these locations. Mediacom shall provide, install and maintain in good working order the equipment and the fiber necessary for transmitting the signal to the channel aggregation site for further processing and distribution to Subscribers, Mediacom shall deliver the EG channel signals at a level of technical quality that is comparable to the level of technical quality provided by Mediacom for signals of commercial channels transmitted to Subscribers in the Town; provided, however, that Mediacom shall have no responsibility to improve upon or modify the signal quality of any EG channel content provided to Mediacom by any EG channel programmer.

(h) The Town or its designee shall be responsible for providing any necessary production or playback equipment and shall be responsible for securing and supervising any trained/qualified personnel who conduct the operation of the EG channel(s). The Town and Mediacom agree to work cooperatively in implementing the EG channel(s) through such means and in such manner as shall be mutually satisfactory.

(i) For the purposes of EG Access, Mediacom shall make a reasonable effort to allow connection by another cable operator(s) to the site location of any Educational and Governmental access programming studio or transmission source in a manner consistent with this Agreement. Such connection may be accomplished by return line or other reasonable method of connection, but shall be separate and independent from, and not technically reliant upon the Cable System.

SECTION 7 **REGULATION BY THE TOWN**

7.1 RIGHT TO INSPECT

(a) The Town shall have the option, not more than once annually, and upon twenty (20) business days written notice and during Normal Business Hours, to inspect at the notice location for Mediacom specified in Section 13.3 all documents, records and other pertinent information maintained by Mediacom which relate to the terms of this Agreement

(b) In addition, Mediacom shall maintain for inspection by the public and the Town all records required by the FCC and as specified in 47 C.F.R. § 76.305 in the manner specified therein.

7.2 RIGHT TO CONDUCT COMPLIANCE REVIEW

The Town or its representatives may conduct a full compliance review, including a possible public hearing, with respect to whether Mediacom has complied with any given material term(s) and condition(s) of this Agreement so long as it provides Mediacom with twenty (20) days written notice in advance of the commencement of any Such reviews or public hearings. Such notice shall specifically reference the section(s) or subsection(s) of the Agreement that is under review, so that Mediacom may organize the necessary books and records for appropriate review by the Town. Mediacom shall not be required to disclose information in violation with Section 7.1.

7.3 RESERVED AUTHORITY

The Town reserves the regulatory authority arising from the Cable Act, any amendments thereto, and any other federal or state laws or regulations.

SECTION 8

REPORTING REQUIREMENTS

8.1 CUSTOMER COMPLAINT REPORT

Upon written request, Mediacom shall submit to the Town, no later than thirty (30) days after such written request, a report showing the number of Complaints, as defined in Section 14 of "Definitions" that required a work order and/or service call, originating from customers within the Town received during the previous twelve month reporting period, the dates they were received, summary descriptions of the Complaints, the dates the Complaints were resolved and summary descriptions of the resolutions.

8.2 GOVERNMENT REPORTS

Upon written request, Mediacom shall provide to the Town, no later than thirty (30) days after such written request, copies of any and all communications, reports, documents, pleadings and notifications of any kind which Mediacom has submitted to any federal, state or local regulatory agencies if such documents relate to Mediacom's Cable System within the Town. Mediacom shall not claim confidential, privileged or proprietary rights to such documents unless such documents have been determined to be confidential, privileged or proprietary in accordance with applicable industry norms for cable operators

SECTION 9

FRANCHISE VIOLATIONS, DAMAGES AND REVOCATION

9.1 VIOLATIONS AND OPPORTUNITY TO CURE

(a) If the Town has reason to believe that Mediacom violated any provision of this Agreement, it shall notify Mediacom in writing of the nature of such violation and the section of this Agreement that it believes has been violated. If the Town does not notify Mediacom of any violation of this Agreement, it shall not operate as waiver of any rights of the Town hereunder or pursuant to applicable law.

(b) Mediacom shall have thirty (30) days to cure such violation after written notice is received by taking appropriate steps to comply with the terms of this Agreement. If the nature of the violation is such that, in the Town's reasonable judgment, it cannot be fully cured within thirty (30) days due to circumstances outside of Mediacom's control, the period of time in which Mediacom must cure the violation may be extended by the Town in writing for such additional time necessary to complete the cure, provided that Mediacom shall have promptly commenced to cure and is diligently pursuing its efforts to cure in the reasonable judgment of the Town.

(c) If the violation has not been cured within the time allowed under Section 9.1(b), then Mediacom shall be liable for liquidated damages and the Town's costs in accordance with Section 9.2.

9.2 LIQUIDATED DAMAGES

Because Mediacom's failure to comply with provisions of this Agreement will result in harm to the Town and because it will be difficult to measure the extent of such harm, the Town may assess liquidated damages against Mediacom in the following amounts provided Mediacom has had an opportunity to cure in accordance with Section 9.1 (b). Such damages shall not be a substitute for specific performance by Mediacom or legal action by the Town, but shall be in addition to such performance or action.

- (a) For failure to comply with the technical requirements specified in Section 3.1: \$100 per day for each day the violation continues;
- (b) For failure to provide and maintain Cable Service as specified in Section 3.2: \$100 per day for each day the violation continues;
- (c) For failure to obtain and maintain permits as specified in Section 3.4: \$100 per day for each day the violation continues;
- (d) For failure to make repairs and restorations as specified in Section 3.5: \$100 per day for each day the violation continues;
- (e) For failure to raise or lower, disconnect, relocate, or remove equipment as specified in Sections 3.8, 3.9, and 3.10: \$100 per day for each day the violation continues;
- (f) For failure to perform tree trimming cutting, or removing as specified in Section 3.11: \$100 per tree;
- (g) For failure to comply with the Cable System specifications or the state-of-the-art requirements specified in Sections 4.1 and 4.2: \$100 per day for each day the violation continues
- (h) For failure to comply with any customer service standard as specified in Section 5: \$100 per day for each day the violation continues;

- (i) For failure to provide complimentary services to the community as specified in Section 6.1: \$100 per day for each day the violation continues;
- (j) For failure to provide educational and governmental (EG) channels as specified in Sections 6.2: \$100 per day for each day the violation continues;
- (k) For failure to permit inspections or compliance reviews as specified in Section 7: \$100 per day for each day the violation continues;
- (l) For failure to submit reports in a timely fashion as specified in Section 8: \$100 per day for each day the violation continues;
- (m) For failure to provide a performance bond as specified in Section 9.3. \$100 per day for each day the violation continues;
- (n) For failure to comply with the indemnification requirements as specified in Section 11.1: \$100 per day for each day the violation continues;
- (o) For failure to carry all the insurance required in Section 11.2: \$100 per day for each day the violation continues;
- (p) For failure to comply with transfer or renewal provisions as specified in Section 12: \$100 per day for each day the violation continues;
- (q) For failure to comply with the removal of system requirements as specified in Section 13.2: \$100 per day for each day the violation continues.

The amount of all liquidated damages per annum shall not exceed twelve thousand dollars (\$12,000) in the aggregate. With respect to the damages assessed pursuant to Section 9.2, all similar violations or failures from the same factual events affecting multiple subscribers shall be assessed as a single violation, and a violation or a failure may only be assessed under any one of the above-referenced categories. Violations or failures shall not be deemed to have occurred or commenced until they are not cured as provided in Section 9.1 (b).

9.3 PERFORMANCE BOND

(a) Mediacom shall obtain and maintain during the Franchise term, at its sole cost and expense, a performance bond running to the Town with a surety company licensed to do business in the State of Delaware and satisfactory to the Town to ensure Mediacom's faithful performance of its obligations. The performance bond shall provide that the Town may recover from the principal and surety any and all liquidated damages and/or compensatory damages incurred by the Town for Mediacom's violations of this Agreement, after notice and opportunity to cure, in accordance with Sections 9.1 and 9.2.

(b) The performance bond shall be in the amount of Twenty-five Thousand Dollars (\$25,000). Mediacom shall not reduce, cancel or materially change said bond from the requirement contained herein without the express prior written permission of the Town.

9.4 REVOCATION

(a) Notice of Violation. In the event that the Town believes that Mediacom has not complied with any material term of the Franchise, the Town shall informally discuss the matter with Mediacom. If these discussions do not lead to resolution of the problem, the Town shall notify Mediacom in writing of the exact nature of such alleged noncompliance.

(b) Mediacom's Right to Cure or Respond. Mediacom shall have thirty (30) days from receipt of the notice described in subsection 9.4(a) to: (A) respond to the Town, contesting the assertion of such noncompliance, or (B) cure such default, or (C) in the event that, by the nature of such default, it cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Town of the steps being taken and the projected date that they will be completed.

(c) Public Hearing. In the event that Mediacom fails to respond to the notice described in subsection 9.4(a) pursuant to the procedures set forth in subsection 9.4(b) or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to subsection 9.4(c) above, if it intends to continue its investigation into the default, then the Town shall schedule a public hearing. The Town shall provide Mediacom at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide Mediacom the opportunity to be heard.

(d) Enforcement. Subject to applicable federal and state law, in the event the Town, after the hearing set forth in subsection 9.4(c), determines that Mediacom is in material default of any provision of the Franchise, the Town may:

- i. Commence an action at law for monetary damages or seek other equitable relief; or
- ii. In the case of repeated or ongoing substantial non-compliance with a material term or terms of the Franchise, seek to revoke the Franchise in accordance with subsection 9.4(e).

(e) Revocation. Should the Town seek to revoke the Franchise after following the procedures set forth in subsections 9.4(a) through 9.4(d) above, the Town shall give written notice to Mediacom of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. Mediacom shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection; In the event the Town has not received a satisfactory response from Mediacom, it may then seek termination of the Franchise at a public hearing. The Town shall cause to be served upon Mediacom, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Mediacom shall be provided a fair opportunity for full participation} including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Town, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing.

Following the hearing, the Town shall determine whether or not the Franchise shall be revoked. If the Town determines that the Franchise shall be revoked} the Town shall promptly provide Mediacom with its decision in writing. Mediacom may appeal such determination of the Town to an appropriate court which shall have the power to review the decision of the Town *de*

novo. Mediacom shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Mediacom's receipt of the determination of the Town.

The Town may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Town's rights under the Franchise in lieu of revocation of the Franchise.

Furthermore, the parties hereby agree that it is not the Town's intention to subject Mediacom to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to Mediacom which outweigh the benefit to be derived by the Town and/or Subscribers.

SECTION 10 PROGRAMMING

10.1 CHANNEL CAPACITY

Mediacom shall meet or exceed programming and channel capacity requirements set forth in this Agreement and required by federal and state law and regulations.

10.2 BROADCAST CHANNEL

To the extent required by federal law, Mediacom shall provide all Subscribers with the most basic tier of service including, but not limited to: 1) all broadcast television signals carried in fulfillment of the requirements of Section 614 of the Cable Act; 2) the signals of qualified non-commercial educational television signals carried in fulfillment of the requirements of Section 615 of the Cable Act; and 3) the Educational and Governmental access channel(s). All such signals shall be delivered to Subscribers in high quality resolution.

10.3 SIGNAL SCRAMBLING

Mediacom shall at all times comply with FCC regulations regarding scrambling or other encryption of audio and video signals.

10.4 CONTINUITY OF SERVICE

(a) Subscribers shall continue to receive service from Mediacom provided their financial and other obligations to Mediacom are honored. Mediacom reserves the right to change, re-arrange, add, delete or discontinue packages or services (including the networks} programs or other item) and their features, functionality and other aspects of the services, The availability of one or more programs, networks, channels, sporting events, or other content or resource may be permanently or temporarily interrupted, In addition, certain programming, including sports events, may be "blacked out" in the Service Area as required by law or for other reasons. These actions may occur without notice, except as mandated by law.

For the purpose of construction, routine repairing or testing of the Cable System, Mediacom shall use its best efforts to interrupt service only during periods of minimum use. When necessary service interruptions of more than twenty-four (24) hours can be anticipated, Mediacom shall notify Subscribers in advance of such service interruption along with providing Subscribers with a pro-rata credit for the time of such service interruption.

(b) Routine tests of the Emergency Alert System (EAS) shall be performed in accordance with FCC requirements. Although tests are required to be done at random times on random days, they shall be performed during periods of minimal programming impact. At no time shall they be performed during newscasts or sporting event broadcasts.

10.5 PARENTAL CONTROL CAPABILITY

Mediacom shall provide Subscribers with the capability to control the reception of any video and/or audio channel on the Cable System providing sexually explicit adult programming.

10.6 TIER BUY THROUGH PROHIBITION

Mediacom shall not require Subscribers in the Town to purchase a particular video service tier, other than the Basic Service tier, in order to obtain access to video programming on a per-channel or per-program basis, unless Mediacom has been granted a written waiver by the FCC pursuant to Section 623(b)(8)(c) of the Cable Act or has filed a petition with the FCC for a determination of effective competition pursuant to 47 C.F.R. 76.907 and an order granting the petition has been entered relating back to the date of filing.

SECTION 11

LIABILITY AND INDEMNIFICATION

11.1 INDEMNIFICATION

Mediacom shall indemnify, defend, save and hold harmless the Town, its elected and appointed officials, officers, agents and employees acting in their official capacities, from claims for injury, loss, liability, cost or expense arising in whole or in part from, caused by or connected with any act or omission of Mediacom, its officers, agents, contractors, subcontractors or employees, arising out of but not limited to, the construction, installation, upgrade, reconstruction, operation, maintenance or removal of the Cable System or any other equipment or facilities. The obligation to indemnify, defend, save and hold the Town harmless shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, penalties, attorneys fees, expert fees, court costs and all other costs of such indemnification.

11.2 INSURANCE

(a) Mediacom shall maintain insurance throughout the term of this Agreement with the Town as an additional insured, with an insurance company which is authorized to conduct business in Delaware and which has an A.M Best rating (or equivalent) no less than "A-minus

VII", indemnifying the Town from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, reconstruction, operation, maintenance or removal of the Cable System by Mediacom or any of its contractors, subcontractors, agents or employees in the following amounts:

- (1) The amount of such insurance against liability for damage to property shall be no less than One Million Dollars (\$1,000,000) as to any one (1) occurrence.
- (2) The amount of such insurance against liability for injury or death to any person shall be no less than One Million Dollars (\$1,000,000) per person.
- (3) The amount of such insurance for excess liability shall be Three Million Dollars (\$3,000,000) in umbrella form.
- (4) The amount of such insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability shall be One Million Dollars (\$1,000,000) per person.

(b) All insurance coverage shall be maintained throughout the period of this Agreement. All insurance policies shall contain a provision that the Town will receive thirty (30) days written notice prior to any changes or cancellation of the policy. All expenses incurred for said insurance shall be at no cost to the Town.

(c) A certificate evidencing the insurance coverage required herein shall be provided by Mediacom to the Town within thirty (30) days of the Effective Date and upon request and within thirty (30) days of obtaining new insurance coverage or renewal of such insurance coverage throughout the term of this Agreement.

SECTION 12 **FRANCHISE TRANSFER AND RENEWAL**

12.1 TRANSFER, ASSIGNMENT OR CHANGE IN CONTROL

(a) Neither Mediacom nor its parent nor any Affiliated Entity shall transfer, assign or otherwise encumber, through its own action or by operation of law, its right, title or interest in the Cable System or in this Agreement without the prior written consent of the Town, which shall not be unreasonably withheld, however, Mediacom may transfer or assign its right, title or interest without consent to a wholly owned subsidiary or affiliate provided that it shall promptly notify the Town,

(b) Neither Mediacom nor its parent nor any Affiliated Entity shall change, transfer or assign, through its own action or by operation of law, its control of the Cable System or of this Agreement without the prior written consent of the Town, which shall not be unreasonably

withheld, however, Mediacom may transfer or assign its control without consent to a wholly owned subsidiary or affiliate provided that it shall promptly notify the Town.

(c) Mediacom shall make written application to the Town of any transfer, change in control or assignment as described above and shall provide all information required by FCC Form 394 and any other applicable federal, state, and local statutes and regulations regarding transfer or assignment. The Town shall have thirty (30) days from the receipt of FCC Form 394 to notify Mediacom of any additional information it needs to make an informed decision on the transfer or assignment. The Town shall have one hundred twenty (120) days from the receipt of all required information to take action on the transfer or assignment,

(d) Any consent by the Town for any transfer or assignment described above shall not be effective until the proposed transferee or assignee shall have executed a legally binding agreement stating that it shall be bound by all the terms and conditions contained in this Agreement.

(e) Notwithstanding any provisions set forth in this Section 12.1, in no event will any such action(s) have any impact on the new cable operator party's obligations as otherwise set forth in this Agreement as such obligations will remain as if no such action(s) occurred.

12.2 RENEWAL

The Town and Mediacom agree that any proceedings or activities that relate to the renewal of Mediacom's franchise shall be governed by applicable federal and state law.

SECTION 13 **MISCELLANEOUS**

13.1 FORCE MAJEURE

If for any reason of force majeure, Mediacom is unable in whole or in part to carry out its obligations hereunder, Mediacom shall not be deemed in violation of this Agreement during the continuance of such inability. The term "force majeure" as used herein shall have the following meaning: acts of God; acts of public enemies, including terrorist attacks; orders of any kind of the government of the United States of America or of the State of Delaware or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots; labor strikes; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; explosions, unavailability of materials or equipment, and partial or entire failure of utilities. Any Service interruption due to force majeure shall not relieve Mediacom of its responsibility to issue Service interruption credits as set forth in Section 5.8.

13.2 REMOVAL OF SYSTEM

(a) Upon lawful denial of renewal or revocation of this Agreement or of any renewal hereof by passage of time or otherwise, Mediacom shall remove its supporting structures, poles, transmissions and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public and private places in, over, under, or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within three (3) months of such lawful denial of renewal or revocation, the Town or property owner may deem any property not removed as having been abandoned and the Town may remove it at Mediacom's cost.

(b) During the term of the Agreement, if Mediacom decides to abandon or no longer use all or part of its Cable System, it shall give the Town written notice of its intent at least ninety (90) days prior to the announcement of such decision, which notice shall describe the property and its location. The Town shall have the right to either require Mediacom to remove the property, remove the property itself and charge Mediacom with the costs related thereto, or transfer ownership of the property to the Town's designee provided fair market value is paid to Mediacom.

13.3 NOTICES

Every notice or payment to be served upon or made to the Town shall be sent to:

Town of Bethany Beach
ATTN: Town Manager
214 Garfield Parkway
Bethany Beach, DE 19930[CL4]

The Town may specify any change of address in writing to Mediacom.

Every notice to be served upon Mediacom shall be sent to:

Mediacom Communications
ATTN: Government Relations Manager
1613 Nantahala Beach Rd.,
Gulf Breeze, FL 32563

With a Copy to:
Mediacom Delaware LLC
ATTN: Legal Department
1 Mediacom Way
Mediacom Park, NY 10918[CL5]

Mediacom may specify any changes of address in writing to the Town.

Each delivery to Mediacom or the Town shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

13.4 EQUAL EMPLOYMENT OPPORTUNITY

Mediacom is an equal opportunity employer and shall comply with all applicable federal and state laws and regulations regarding equal opportunity employment.

13.5 CAPTIONS

The captions for 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.

13.6 GOVERNING LAW

This Agreement shall be governed and construed by and in accordance with the laws of the State of Delaware. If suit is brought by a party to this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of Delaware, County of Sussex, or in the United States District Court for the District of Delaware.

13.7 ENTIRE AGREEMENT

This written instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals whether written or oral except as specifically incorporated herein, and cannot be changed without written amendment approved by both the Town and Mediacom. This Franchise Agreement supersedes all prior agreements or ordinances: or parts of agreements or ordinances that are in conflict with the provisions herein.

13.8 SEVERABILITY

If any section, provision or clause of this Agreement is held by a court of competent jurisdiction to be unlawful, invalid or unenforceable, or is pre-empted by federal or state laws or regulations, such section, provision or clause shall be deemed to be severable from the remaining portions of this Agreement and shall not affect the legality, validity or enforceability of the remaining portions of this Agreement.

13.9 CHANGE OF LAW

In the event there is a change in a federal or state statute or regulation applicable to the Cable System or to this Agreement, the Town or Mediacom may notify the other party of its desire to amend this Agreement in order to comply with the change in statute or regulation. The Town and Mediacom may amend this Agreement to comply with such change in statute or regulation provided such amendment is approved by the Town and Mediacom.

13.10 APPLICABILITY OF AGREEMENT

All of the provisions in this Agreement shall bind Mediacom, the Town and their respective successors and assigns. This Agreement is authorized by Resolution No. [] [CL6]dated [] , [CL7] of the Town

SECTION 14 **DEFINITIONS**

The following terms used in this franchise shall have the following meanings:

- (a) **Affiliated Entity** - Any corporation; partnership or other business entity that owns or controls, is owned or controlled by, or is under common ownership or control with Mediacom.
- (b) **Basic Service** - That service tier which shall include at least the retransmission of local broadcast television signals and any educational and/or governmental access channels.
- (c) **Broadcast** - Over-the-air transmission by a television or radio station.
- (d) **Cable Service** - The one-way transmission to Subscribers of video programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (e) **Cable System** - A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Town, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621 of the Cable Act) to the extent that facility is used in the transmission of video programming directly to Subscribers unless the extent of that use is solely to provide interactive on-demand services; (D) an open video system that complies with Section 653 of the Cable Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.
- (f) **Complaint** - Any written (including electronic) or oral communication by a Subscriber expressing dissatisfaction with any aspect of Mediacom's business or the operation of its Cable System
- (g) **Drop** - The coaxial or fiber optic or other cable that connects a home or building to the Cable System
- (h) **FCC** - Federal Communications Commission.
- (i) **Gross Revenues** - All revenue received directly or indirectly by Mediacom or its Affiliated Entities attributable to, or in any way derived from the operation of Mediacom's Cable

System in the Town to provide Cable Services calculated in accordance with Generally Accepted Accounting Principles ("GAAP"), Gross Revenues shall include, but are not limited to, the following:

- (1) Basic Service fees;
- (2) fees charged to Subscribers for any service tier other than Basic Service;
- (3) fees charged for premium services;
- (4) fees charged to Subscribers for any optional, per-channel or per-program services;
- (5) revenue from the provision of any other Cable Services;
- (6) charges for installation, additional outlets relocation, disconnection, reconnection and change-in-service fees for video or audio programming;
- (7) fees for downgrading any level of Cable Service programming;
- (8) fees for service calls;
- (9) fees for leased access channels;
- (10) charges based on the sale or lease of any portion of the cable System for Cable Service;
- (11) rental or sales of any and all subscriber equipment, including converters and remote-control devices;
- (12) studio rental, production equipment and personnel fees;
- (13) any and all locally-derived advertising revenues,
- (14) revenues or commissions from locally-derived home shopping channels;
- (15) revenue from interactive television services;
- (16) fees for any and all music services;
- (17) fees for video-on-demand;
- (18) sales of hard-copy program guides;
- (19) late payment fees; and
- (20) NSF check charges

Gross Revenues shall not include bad debts, investment income, refunded deposits, or any taxes on services furnished by Mediacom and imposed directly upon any Subscriber or user by the Town, state, federal or other governmental unit.

(j) Headend - The control center of a cable television system, where incoming signals are amplified, converted, processed and combined into a common cable along with any original cablecasting, for transmission to subscribers. The system usually includes antennas, preamplifiers, frequency converters, demodulators, modulators, processors and other related equipment. Or the central location on the cable network that is responsible for injecting broadcast video and other signals in the downstream direction.

(k) Hub - Device used to connect segments of a network. A hub offers bandwidth on demand to shared resources vs. being fixed to all accessible ports. A signal distribution point for part of an overall system. Larger cable systems are often served by multiple hub sites, with each hub in turn linked to the main headend with a transportation link such as fiber optics, coaxial supertrunk, or microwave.

- (l) Node - Point in a cable television system that interconnects the fiberoptic feed from the hub with the coaxial cables serving local areas in the community.
- (m) Normal Business Hours - Those hours during which most similar businesses in the community are open to serve customers, In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.
- (n) Normal Operating Conditions - Business conditions within Mediacom's service department which are within the control of Mediacom. Those conditions that are not within the control of Mediacom include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions.
- (o) Outlet - An interior receptacle that connects a television set to the Cable System
- (p) Programming - Any video or audio signal carried over the Cable System.
- (q) Service Area - Means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.
- (r) Service Interruption - The loss, or degradation of signal as compared to an objective, reasonable standard applicable to cable operator industry norms, of picture or sound on one (1) or more channels.
- (s) Subscriber - A person or entity who contracts with Mediacom for, and lawfully receives, the video signals and Cable Services distributed by the Cable System.
- (t) Waterway - Shall mean any canal, lagoon, creek, river, cove, bay or other body of water which is navigable by any ship, boat, sailboat, rowboat, dingy, raft or other water craft.

WITNESS our hands and official seals to this Cable Franchise Agreement.

ATTEST

TOWN OF BETHANY BEACH

By: _____

Name (Print): _____

Title: _____

Date: _____

ATTEST

MEDIACOM DELAWARE LLC

By: _____

Name (Print): _____

Title: _____

Date: _____