

# ALLEN COUNTY CODE TITLE 14 CABLE TELEVISION

## ARTICLE 2 CONTRACT WITH CABLE TELEVISION COMPANY

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### 14-2-1 Chapter 1: Heading

THIS FRANCHISE GRANT AND CONTRACT, made and entered into by and between the COUNTY OF ALLEN, INDIANA, (hereinafter referred to as “County” or “Grantor”) and Comcast Cablevision of Fort Wayne, L.P., an Indiana Limited Partnership, having its principal office at 720 Taylor Street, Fort Wayne, Indiana, (hereinafter referred to as the “Company” or “Grantee”), this 24th day of June, 1998.

### 14-2-2 Chapter 2: History

WHEREAS, the County has conducted public proceedings, after prior public notice, and has afforded full due process of law to all persons interested in the matters contained herein, and, in accordance with said proceedings has agreed to award to the Company renewal of its nonexclusive franchise to provide certain cable television services, in exchange for which, the Company has agreed that it will undertake to provide such cable television services to urbanized areas of the County, all pursuant to the terms and conditions herein set forth:

### 14-2-3 Chapter 3: Agreement

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the parties do hereby agree as follows:

### 14-2-4 Chapter 4: Definitions

For purposes of this Franchise Grant and Contract, the following terms, phrases, words, abbreviations and derivations shall have the same meaning given herein. When not inconsistent with the context, words used in the present tense, include the future; words in the plural number, include the singular number, words in the singular number include the plural.

#### 14-2-4-1

“**BASIC SERVICE**” shall mean any service tier which includes the retransmission of local television broadcast signals.

#### **14-2-4-2**

“**CABLE TELEVISION SYSTEM**” shall mean any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public. As used herein, Cable Television System refers to the Company’s Cable Television System, which serves the County. Such definitions shall not include any such facility, which does not use or cross any Public Way.

#### **14-2-4-3**

“**COMPANY**” shall mean Comcast Cablevision of Fort Wayne, Limited Partnership.

#### **14-2-4-4**

“**CONVERTER**” shall mean an interface device which may be furnished to Subscribers in order that non-standard television channels carried on the Cable Television System may be received or blocked from receipt on a conventional home television receiver, or to prevent interference from strong broadcast signals. The device may be used on top of the TV set (“set-top”), or attached to the back of the TV set, or installed at a remote location.

#### **14-2-4-5**

“**COUNTY**” shall mean Allen County, Indiana.

#### **14-2-4-6**

“**COUNTY COMMISSIONERS**” shall mean the Board of Commissioners of Allen County, Indiana.

#### **14-2-4-7**

“**COUNTY COUNCIL**” shall mean the County Council of Allen County, Indiana.

#### **14-2-4-8**

“**COUNTY OFFICE**” shall mean the office of the Allen County Commissioners located in the City/County Building, 1 Main Street, Fort Wayne, Indiana 46802.

#### **14-2-4-9**

“**FEDERAL COMMUNICATIONS COMMISSION**” and “**FCC**” shall mean that federal agency as presently constituted by the Communications Act of 1934, as amended or any successor agency.

#### **14-2-4-10**

“**FRANCHISE AGREEMENT**” shall mean this Franchise Grant and Contract as amended and modified from time to time in the manner set forth herein.

#### **14-2-4-11**

“**GROSS RECEIPTS**” shall mean any and all revenue derived directly or indirectly by the Company or any Person in which the Company has a financial interest from or in connection with the operation of the Cable Television System pursuant to a Franchise granted hereunder, except it shall not include bad debt, sales tax or other taxes or charges imposed on the Company in addition to its Franchise obligations and collected for direct pass-through to State or federal government.

#### **14-2-4-12**

“**PERSON**” shall mean any natural person or any association, firm, individual, partnership, joint stock company, joint venture, trust, corporation, limited liability company, limited liability partnership, or other legally recognized entity, private or public, whether for-profit or not-for-profit.

#### **14-2-4-13**

“**PUBLIC WAY**” shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive or other public right-of-way, including public utility easements or rights-of-way, now or hereafter held by the County which shall entitle the County and the Company to the use thereof for the purpose of installing and maintaining Cable Television Systems.

#### **14-2-4-14**

“**SUBSCRIBER**” shall mean any Person who contracts to purchase the regular subscriber service and/or any one or more of such other services as may be provided by the Company’s Cable Television System, who receives such service(s) and who pays the charges therefor.

## **14-2-5 Chapter 5: Grant of Franchise**

The County hereby grants to the Company the nonexclusive right, authority, power, and franchise to construct, reconstruct, maintain and operate a Cable Television System within the unincorporated areas of the County; to sell service on such system to residents, businesses, and other institutions and organizations within certain areas of the County as set forth in Chapter 7 hereof; to use and occupy the public ways within the County to construct, operate, maintain, relocate, and rebuild all towers, poles, cables, amplifiers, conduits, and other facilities owned, leased or otherwise used by the Company for furnishing cable television services within the unincorporated areas of the County.

## **14-2-6 Chapter 6: Term Of Franchise**

The term of this Franchise Grant and Contract shall be for thirteen (13) years, unless renewed, revoked, or terminated sooner as herein provided, beginning with the date this Franchise Grant and Contract is adopted by Ordinance of the Allen County Commissioners.

## **14-2-7 Chapter 7: Franchise Area And Line Extension**

### **14-2-7-1 Boundaries**

Having considered the geography, demography, history, culture, transportation patterns, and school districts of the County, and recognizing that there are no unique boundaries, separate communities, or governmental units which define the unincorporated areas of Allen County, the Allen County Commissioners do now determine, after a public proceeding, that the franchise area and community to be served by the Cable Television System shall consist of the entire County.

### **14-2-7-2 Service**

The Company shall, upon request from the County, extend full service to any new residential developments within the County which have a density of at least 60 homes per mile of cable and which are contiguous to any then served area.

### **14-2-7-3 Service to New Residential Developments**

The Company shall, upon request from the County, extend full service to any new residential developments within the County which have a density of at least 60 homes per mile of cable and which are contiguous to any then served area.

### **14-2-7-4 Extended Service**

Upon written request of the residents of 100 or more dwelling units within the County, the Company shall extend service to any residential development within the County that is more than 1000 feet from the franchise area provided that:

- a. The residential development has 200 or more dwelling units;
- b. The residential development has a density of at least 75 homes per cable mile; and;
- c. The residents thereof are willing to pay the Company in advance the direct total cost of the distribution cable that exceeds 1,000 feet or microwave facilities to reach the nearest technically feasible point on the Company's Cable Television System.

## **14-2-8 Chapter 8: System Description And Service**

### **14-2-8-1 Complying With FCC Rules And Regulations And Other Laws**

The Cable Television System shall comply in all respects with the technical performance requirements set forth in the FCC's Rules and Regulations for cable television as amended and published as of the date of this Franchise Grant and Contract, as well as all other applicable laws, ordinances, construction standards, and governmental requirements.

### **14-2-8-2 Service To Schools And Public Agencies**

The Company shall provide, without charge, at the request of the County, one service outlet to each public and private school, and each public building, within its service area as designated by the Allen County Commissioners; provided, however, that, if it is necessary to extend the Company's trunk on feeder lines more than 300 feet solely to provide such service, the County shall have the option of either paying the Company's direct cost of such extension, in excess of 300 feet, or of releasing the Company from the obligation to provide service to such building. The Company shall abide by FCC regulations in order to transmit emergency information over the Cable Television System.

### **14-2-8-3 Signals**

The Company shall exercise its best efforts to design, construct, operate, and maintain the Cable Television System at all times so that signals carried are delivered without significant degradation in quality.

### **14-2-8-4 Failures**

The Company shall use commercially reasonable efforts to limit failures to a reasonable minimum and to locate and correct all malfunctions of the Cable Television System within twenty-four (24) hours following notice by a subscriber.

### **14-2-8-5 Service Interruptions**

The Company shall keep its intentional service interruptions as short as practical and, insofar as possible, schedule such interruptions during periods of minimum use of the Cable Television System and precede such interruptions by notice to the Company's subscribers.

## **14-2-9 Chapter 9: Street Occupancy**

### **14-2-9-1 Poles For Distribution System**

- a. The poles used for the Cable Television System shall be those erected and maintained by the power and light company or telephone company serving the County, when and where practicable.
- b. Where use of existing poles is impractical or where mutually satisfactory agreements cannot be reached, the Company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction, maintenance, and continuity of the Cable Television System in such situations, subject to the following conditions:
  1. Plans for the erection of poles which are not in locations already occupied by other poles, but which are necessary for the operations of the Cable Television System, shall be filed in detail with the Allen County Plan Commission, who shall approve such erection of poles after consideration of any special factors involved.
  2. The Company shall, in placing such poles and any other fixtures, consider the desires of persons residing at the location of any proposed poles or fixtures and of persons who are to receive electronic services provided by such poles.
  3. The Allen County Commissioners may order such poles or fixtures removed by the Company at the Company's cost after due notice and the opportunity for a hearing.

### **14-2-9-2 Underground Wiring Requirements**

- a. Wherever all electrical and telephone utility wiring is located underground, either at the time of initial construction or subsequently, at the direction of the County, the Company's coaxial or fiber optic cable shall also be located underground, at the Company's expense.
- b. If the facilities of either the electronic or telephone utility are aerial, the Company's coaxial or fiber optic cable may be located underground at the request of a property owner, provided that the excess cost over aerial location shall be borne by the property owner making the request.

### **14-2-9-3 Alteration And Restoration Of Pavement, Sidewalks, Curbs and Land**

- a. Any pavement, sidewalk, or curbing taken up or any and all excavations made by the Company shall be done under the supervision and direction of the Allen County Plan Commission and shall be made and done in such manner as to give the least inconvenience to the inhabitants of the County, and the public generally.
- b. All such pavements, sidewalks, curbing and excavations shall be restored to their approximate original condition, with all possible speed, by and at the expense of the Company, said expense separate, and in addition to, any franchise fee paid to the County under this Franchise Grant and Contract, and the Company shall guarantee such restoration for one year against defective materials and workmanship.

### **14-2-9-4 Maps and Records**

The Company shall make and keep full and complete maps and records showing the exact locations of its facilities located on or within public utility poles, streets, alleys and other public ways and places within the County, which maps and records shall be available to the Allen County Commissioners or their designees at all reasonable times.

### **14-2-9-5 Necessary Removal or Relocation**

In the event that at the time during the period of this Franchise Grant and Contract, the County shall lawfully elect to alter any utility poles or other public way, the Company, upon reasonable notice by the County, shall remove, relay, or relocate its poles, wires, cable, conduits, or other fixtures at the Company's expense, said expense separate, and in addition to, any franchise fee paid to the County under this Franchise Grant and Contract.

### **14-2-9-6 Disaster Damage**

Whenever, in case of fire or other disaster, it becomes necessary in the judgement of the Chief of the Fire Department, or the Allen County Sheriff, to remove or damage any of the Company's facilities, no charge shall be made against the County for restoration and repair.

### **14-2-9-7 Temporary Changes**

- a. At the request of any person holding a valid building moving permit issued by the County, and upon at least 96 hours notice, the Company shall temporarily raise or lower its wires as may be necessary to facilitate such move.
- b. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and the Company shall have the authority to require payment in advance.

## **14-2-9-8 Trimming Trees**

The Company shall have the authority to trim trees at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the County, and after notification to the effected property owner or resident.

## **14-2-10 Chapter 10: Subscriber Fees**

### **14-2-10-1 County Regulation of Rates**

The County may regulate the Company's rates and charges to the extent authorized by, and in accordance with, applicable federal, state and local law and regulations.

### **14-2-10-2 Discontinuance**

The Company agrees that any subscriber may either discontinue basic service or completely discontinue all service, at any time, without penalty by reason of such discontinuance, and that the Company may discontinue service for non-payment for such service and, after due notice, peaceably remove its property from the premises of said subscriber.

## **14-2-11 Chapter 11: Notice of Changes in Subscriber Fees**

The service rates outlined in Exhibit "A" shall be in effect upon the signing of this Grant of Franchise and Contract, subject to any pending rate reviews pending before the FCC. The Company shall furnish the Allen County Commissioners a copy of all new rates as established.

## **14-2-12 Chapter 12: Franchise Fee**

### **14-2-12-1 Amount, Payment Due Dates, and Audits**

The Company shall pay to the County a franchise fee or license fee of five percent (5%) of the Company's annual Gross Receipts received by the Company. Pursuant to this Franchise Grant and Contract, said fee shall be paid quarterly within thirty (30) days after the closing of the Company's quarter. The Company shall furnish an unaudited statement of revenues from which the franchise fee is calculated which shall be submitted in writing and certified by the local manager of the appropriate authority within the Company. Further, the Company shall furnish to the County, upon written request, an audited revenue statement of the Gross Receipts. Said statement shall be furnished within ninety (90) days of the written request or ninety (90) days after close of the Company's fiscal year, whichever is the later. Upon ten (10) days prior to written notice, the County shall have the right to conduct an independent audit of the Company's records, in accordance with generally accepted accounting principles and if such audit indicates a Franchise Fee



underpayment of five percent (5%) or more, the Company shall assume all reasonable costs of such an audit.

### **14-2-12-2 Effect of Acceptance of Payment**

Except as otherwise provided by law, no acceptance of any payment by the County shall be construed as a release or as an accord and satisfaction of any claim the County may have for further or additional sums payable as a Franchise Fee under the Ordinance, the Franchise Grant and Contract, or for the performance of any other obligation of the company.

### **14-2-12-3 Interest**

In the event that any Franchise Fee payment or recomputed amount is not made on or before the dates specified, the Company shall pay as additional compensation an interest charge, computed from such due date, at an annual rate equal to the prime lending rate plus one and one-half percent (1 ½%) during the period for which payment was due.

## **14-2-13 Chapter 13: Service, Adjustment and Complaint Procedures**

### **14-2-13-1 Maintenance Service**

Except in circumstances beyond the Company's control, such as acts of God, wars, riots, and civil disturbances, the Company shall establish a maintenance service capable of locating and correcting major system malfunctions promptly. Said maintenance service shall be available, in addition to normal business hours, to correct such major system malfunctions affecting a significant number of subscribers which occur from the time the Company's main, local office closes until 12:30 a.m. Monday through Friday and from 8:00 a.m. until 12:30 a.m. on Saturdays, Sundays and holidays.

### **14-2-13-2 Local Maintenance Service**

The Company shall maintain a business office or agent in the County and a listed local telephone number shall be made available to subscribers for service calls at any time of day or night.

- a. Investigative action shall be initiated in response to all service calls, other than major outages, not later than the next business day after the call is received.
- b. Corrective action shall be completed as promptly as practicable
- c. Appropriate written records shall be made of service calls, showing when and what corrective action was completed. Such records shall be retained in the Company's files for not less than three (3) years and, subject to applicable law, shall be open to reasonable public inspection.

### **14-2-13-3 Written Instructors to Subscriber**

The Company shall furnish each subscriber, at the time service is installed, written instructions clearly setting forth procedures for placing a service call, or requesting an adjustment. In addition, at the time service is installed, the Company shall furnish written instructions which indicate the address and telephone number of the Allen County Commissioner's Office for purposes of lodging a complaint against the Company.

### **14-2-13-4 Subscriber Complaints**

In the event a subscriber does not obtain a satisfactory response or resolution to his or her request for service or an adjustment within a reasonable time, he or she may advise the Allen County Commissioner's Office in writing of this dissatisfaction and the Allen County Commissioners or any one of them or their designated staff member shall have an obligation to investigate the matter, keep records with respect to all such complaints for the remaining term of the Grant of Franchise and Contract or three (3) years, whichever is more, and if possible, bring such complaints to a satisfactory resolution.

## **12-2-14 Chapter 14: Records and Reports**

### **14-2-14-1 Copies Of Petitions and Reports**

Copies of petitions, reports, applications and other documents filed by the Company with any Federal or State agencies shall be furnished upon request to the Allen County Commissioners

### **14-2-14-2 Copies of Subscriber Documents**

Copies of the Company's schedule of charges, contract or application forms for regular subscriber service, policy regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Company's policy in connection with its subscribers shall be filed with the Allen County Commissioners.

### **14-2-14-3 Statement of Ownership and Compliance**

The Company shall keep on file with the Allen County Commissioners an up-to-date statement of financial ownership and control. The Company shall provide to the Allen County Commissioners, upon written request, evidence of compliance with all applicable State and Federal securities laws.

## **14-2-15 Chapter 15: Franchise Renewal**

The Company's franchise may be renewed and any such renewal shall comply with the provisions of the Cable Communications Policy Act of 1984, as amended, and other applicable laws.

## **14-2-16 Chapter 16: Franchise Revocation Procedure**

### **14-2-16-1 Written Notification of Non-Compliance**

Whenever the Company shall materially breach the terms of this Grant of Franchise and Contract, the Allen County Commissioners shall notify the Company in writing, setting forth the nature and facts of such non-compliance they believe has occurred. If within thirty (30) days following receipt by the Company of such written notification by the Allen County Commissioners, the Company has not furnished proof that corrective action has been taken or is being actively and expeditiously pursued, clear and convincing evidence that corrective action is not reasonably practicable under the circumstances, or evidence that the alleged violations did not occur, the Allen County Commissioners shall place a request for termination of the Grant of Franchise and Contract on the agenda of the next Allen County Council meeting.

### **14-2-16-2 Non-Compliance with Just Cause**

If, after considering the Allen County Commissioners request for termination of the Grant of Franchise and Contract, the Allen County Council determines that the non-compliance of the Company was with just cause, it shall direct the Company to comply within such time and manner on such terms and conditions as are reasonable and consistent with the terms and conditions of this Franchise Grant and Contract.

### **14-2-16-3 Non-Compliance without Just Cause**

If the Allen County Council determines that such non-compliance was without just cause, then the Allen County Council may adopt a resolution that either:

- a. Forthwith terminates the Grant of Franchise and Contract and instructs the Company to promptly remove from the public ways all of its Cable Television System facilities within one (1) year from the date the Company receives a written copy of said resolution; or
- b. Invoke the County's right to purchase all of the assets of the Company's Cable Television System at a price not to exceed its fair market value as a going concern without value allocated to the Grant of Franchise and Contract itself; or
- c. Order the Company to sell the Cable Television System to another cable television operator; unless there is compliance by the Company within such period as the Allen County Council may fix.

#### **14-2-16-4 Additional Rights of the County**

In addition to all the other rights reserved to the County by virtue of the Grant of Franchise and Contract or otherwise, the County may invoke the rights defined in section 14-2-16-3 above in the event:

- a. The Company is adjudged bankrupt, or is placed in receivership.
- b. The Company practices any fraud upon the County or subscribers.

#### **14-2-16-5 County Council Resolution Required**

No revocation, termination, transfer or right to purchase pursuant to this Chapter shall be effected unless the Allen County Council, at any regular or special meeting at which all interested parties, including the Company, have been heard, shall have adopted a resolution setting forth the reasons for revocation, termination, transfer, or right to purchase of this Franchise Grant and Contact depends on a finding of fact, such finding of fact as made by the Allen County Council after said hearing, shall be deemed to be conclusive unless modified as a result of arbitration provided for in Section 29 hereof.

#### **14-2-16-6 Reasons Beyond Company's Control**

The Company shall not be declared at fault or be subject to any sanction under any provision of this Franchise Grant and Contract in any case in which performance of any such provision is prevented for reasons beyond the Company's control.

#### **14-2-16-7 Rights of the County**

The termination of the Franchise Grant and Contract shall in no way affect any of the rights the County may have under the provisions of the Franchise Grant and Contract which survive termination or any provision of law.

#### **14-2-17 Chapter 17: Arbitrary and Capricious Action by the Company**

If, as a result of a dispute between the Company and the County and prior to a settlement of that dispute as provided herein, the Company arbitrarily or capriciously discontinues service to its subscribers, the Company shall forfeit its rights of notice and a hearing as provided herein, and the Allen County Council may, by resolution, declare the Franchise Grant and Contract immediately terminated and the County shall, forthwith, seek appropriate judicial injunctive relief and shall proceed to exercise its rights and powers as provided for herein.

## **14-2-18 Chapter 18: Provision for Arbitration**

In the event the County elects to purchase the Company's Cable Television System and the value cannot be agreed upon, the purchase price shall be determined by arbitration as described in Chapter 29 hereof.

## **14-2-19 Chapter 19: Transfer of Ownership to County**

In the event the County exercises its right to purchase the Cable Television System, and upon payment, in full, of the purchase price, the Company shall immediately transfer to the County possession and title to facilities and property, real and personal, related to the Cable Television System free from any and all liens and encumbrances not agreed to be assumed by the County in lieu of some portion of the purchase price. The Company shall execute such warranty deeds and other instruments of conveyance to the County as shall be necessary.

## **14-2-20 Chapter 20: The Company's Obligation as Trustee**

Until such time as the Company transfers to the County possession and title to all assets, real and personal, related to its Cable Television System, the Company shall, as trustee for its successor in interest, continue to operate the Cable Television System under the terms and conditions of this Franchise Grant and Contract and to provide the regular subscriber service and any and all of the services that may be provided at that time. During such interim period, the Company shall not make any material, administrative or operational change that would tend to (1) degrade the quality of service to the subscribers; (2) decrease income; or (3) materially increase expenses without the express permission, in writing, of the County or its assignee.

## **14-2-21 Chapter 21: Management Fee**

During the period of trusteeship, the Company shall be entitled to operate and maintain the Cable Television System, subject to Section 17, receive the gross revenues of the Cable Television System and shall be responsible for paying all liabilities and obligations incurred in the normal course of business during the period between the date the Company received written notice from the County of its intent to purchase the Cable Television System and the payment of the purchase price. Such management services shall not be continued without the Company's consent for more than nine (9) months.

## **14-2-22 Chapter 22: Indemnification**

### **14-2-22-1 Indemnity Against Liability**

The Company shall indemnify, hold harmless, release and defend the County, its officers, officials, agents and employees from and against any and all lawsuits, claims, actions, demands, damages, liabilities, disability, losses, costs, expenses including attorney's fees

and other defense costs or liabilities of any nature that may be asserted by any person or entity arising out of the activities of the Company, its subcontractors, employees, and agents hereunder. The Company shall be solely responsible and save the County harmless from all matters relative to payment of the Company's employees including compliance with Social Security, withholdings, etc.

#### **14-2-22-2 Indemnity not Limited by Company's Insurance**

This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the Company under Workers' Compensation, disability or other employee benefits acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitations of any insurance held by the Company.

#### **14-2-22-3 Non-Waiver Provision**

The County does not, and shall not, waive any rights against the Company which it may have by reason of this indemnification, because of the acceptance by the Company, or the deposit with the County by the Company, of any of the insurance policies described in the Franchise Grant and Contract.

#### **14-2-22-4 Application Of Indemnity**

This indemnification by the Company shall apply to all damages and claims for damages of any kind suffered by reason of any of the aforesaid operations referred to in this Chapter, regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

#### **14-2-22-5 County's Negligence**

The Company shall not be required to indemnify the County for negligence or misconduct on the part of the County or its officials, boards, commissions, agents, or employees (hereinafter "such acts"). The County shall hold the Company harmless for any damage resulting from any such acts of the County or its officials, boards, commissions, agents, or employees in utilizing any PEG access channels, equipment, or facilities and for any such acts committed by the County in connection with work performed by the County and permitted by this Franchise Grant and Contract, on or adjacent to the Cable Television System.

### **14-2-23 Chapter 23: Liability Insurance**

#### **14-2-23-1 Insurance Requirements**

Upon the effective date of renewal, the Company shall, at its sole expense, and prior to the commencement of construction of any kind, take out and maintain during the life of

this Franchise Grant and Contract liability insurance with a company licensed to do business in the State of Indiana with a rating by Best of not less than “A-“ that shall protect the Company, the County, and the County’s officials, officers, directors, employees and agents, or any subcontractors of the Company. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from the Company’s automobiles, products, equipment, and completed operations. The Company shall have in full force and effect and file evidence thereof with the County, a good and sufficient policy (or policies) covering, at a minimum, \$1,000,000.00 bodily and personal injury, each person; \$1,000,000.00 bodily and personal injury, each accident; and \$1,000,000 property damage. The County shall be named as an additional insured on the policy or policies. The Company shall also cause an endorsement to attach to the policy or policies which states that the policy or policies shall not be canceled without thirty (30) day written notice of such cancellation given to the County.

### **14-2-23-2 County’s Right to Adjust Insurance Requirements**

The County reserves the right to adjust the limit coverage requirements no more than every five (5) years. Any such adjustment by the Company will be no greater than the increase in the State of Indiana Consumer Price Index (all consumers) for such five (5) year period.

## **14-2-24 Chapter 24: Rights Reserved to the County**

### **14-2-24-1 Government Powers**

To exercise its governmental powers, now or hereafter to the full extent that such powers may be vested in or granted to the County.

### **14-2-24-2 Additional Requirements**

To adopt, in addition to the provisions contained herein and in any existing applicable ordinance, such additional lawful regulations as it shall find necessary in the exercise of its police power; provided, however, that such regulations, by ordinance or otherwise, shall be reasonable and not in substantial conflict with the rights herein granted.

## **14-2-25 Chapter 25: Assignments**

The Company shall not assign or transfer this Franchise Grant and Contract, except to an affiliated company, without the written consent of the Allen County Commissioners, which consent shall not be unreasonably withheld. This restriction of assignment shall not apply to an assignment of the assets of the Company and the Franchise Grant and Contract for the sole purpose of securing a loan or lease from any financing institution.

## **14-2-26 Chapter 26: Recovery of Process**

During the term of this renewal, if the Company, pursuant to the Ordinance, initiates a request for approval regarding the assignment of this Franchise Grant and Contract, the Company shall reimburse the County for all reasonable out-of-pocket costs up to Five Thousand Dollars (\$5,000.00), including attorneys' and consultants' fees and costs, incurred by the County as part of the Company's review and processing of the Company's request. Payments of such costs and expenses shall not be deemed to be "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. 542), or otherwise as stated in the Ordinance or this Franchise Grant and Contract.

## **14-2-27 Chapter 27: Equal Employment Opportunities**

Equal opportunity employment shall be afforded by the Company to all qualified persons, and no persons shall be discriminated against in employment because of race, color, religion, national origin or sex. The Company shall comply with the equal employment opportunity requirements as set forth in Section 76.311 of the Rules and Regulations of the FCC.

## **14-2-28 Chapter 28: Special Relief**

Subject to section 625 of the Cable Communications Policy Act of 1984, as amended, if it is subsequently determined that full compliance with the provisions of the Franchise Grant and Contract would cause an unusual economic burden to the Company or would result in inferior service or, with the passage of time, would result in substantial rate increases for a significant number of subscribers, the Company may petition the Allen County Commissioners for special relief.

### **14-2-28-1 Petition to be Specific and Inclusive**

Said petition shall specify the specific relief requested and shall include all reasonable and necessary supporting documentation.

### **14-2-28-2 Public Hearing**

Within sixty (60) days after the receipt of said petition, the Allen County Commissioners shall hold a public hearing affording the public and other interested parties the opportunity to support or oppose the petition.

### **14-2-28-3 Petition Opposed**

If the petition is opposed, the Allen County Commissioners may request additional reasonable information and may hold further hearings within thirty (30) days after the date of the first hearing.



#### **14-2-28-4 Decision Rendered**

Within thirty (30) days after the final hearing, the Allen County Commissioners shall render a decision either granting or denying said petition.

#### **14-2-28-5 Arbitration**

If the petition is denied and the relief requested pertains to Chapters 7,8,9,11,13,22,or 23 of this Franchise Grant and Contract, the Company may, within 30 days request that the matter be submitted to arbitration in accordance with Chapter 29.

#### **14-2-29 Chapter 29: Arbitration**

Except as otherwise set forth in the Cable Communications Policy Act of 1984, as amended, any controversy, claim, or dispute arising under this agreement, which the parties are unable to resolve between themselves, shall be settled by arbitration to be held in the County of Allen, State of Indiana, subject to and in accordance with the rules of the American Arbitration Association and/or the laws of the State of Indiana in effect at the time said controversy, claim or dispute is presented for arbitration, and shall be submitted to aboard of five (5) arbitrators, two to be selected by the Company, two to be selected by the Allen County Commissioners, and the fifth by the four so selected. Each of the arbitrators so selected shall be recognized in the cable television industry as qualified individuals, with reasonable experience in the matter being arbitrated, if the matter is of a technical nature.

#### **14-2-29-1 Decision of Arbitrators**

The decision of the arbitrators shall be final and binding on the parties, both as to law and to fact, subject to appeals to courts of competent jurisdiction allowed by the rules of procedure of the American Arbitration Association.

#### **14-2-29-2 Expense of Arbitration**

The expense of the arbitration shall be borne by the party against whom the arbitration decision is rendered.

#### **14-2-30 Chapter 30: Modification of FCC Rules**

Any modification of the rules addressed in Section 76.301 of the Federal Communications Commission Rules resulting from amendment by said Commission shall be incorporated into this Franchise Grant and Contract within one (1) year of the adoption of the modification by the FCC or at the time of the franchise renewal, whichever occurs first.

### **14-2-31 Chapter 31: Individual Rights**

The Company shall comply with the provisions of Section 631 of the Cable Communications Policy Act of 1984, as amended, and all other applicable laws and rules pertaining to subscriber privacy.

### **14-2-32 Chapter 32: Approval of Qualifications**

The County having conducted a full public proceeding affording due process, herewith approves the legal, character, financial, technical and other qualifications of the Company.

### **14-2-33 Chapter 33: More Favorable Franchise Terms**

The County agrees that if it grants a non-exclusive franchise to any other company or if any other governmental entity grants a non-exclusive franchise to any other company to serve any or all of the franchise area upon more favorable terms than those set forth herein, the County agrees that it shall also amend this Franchise Grant and Contract to reflect any more favorable terms.

### **14-2-34 Chapter 34: Severability**

Should any part of the terms and provisions of this Franchise Grant and Contract be ruled invalid by any authority having jurisdiction over same, such invalidity shall not affect the remainder of this Franchise Grant and Contract.

### **14-2-35 Chapter 35: Effective Date**

This Franchise Grant and Contract shall be in full force and effect from and after the date on which it is duly adopted by ordinance of the Board of County Commissioners as provided by law.

IT IS THEREFORE ORDERED AND RESOLVED that the Board of Commissioners of Allen County are hereby authorized to execute the "Franchise Grant and Contract for Cable Television" with Comcast Cablevision of Fort Wayne, L.P.; and Allen County Code Title 14-2 is hereby amended to read as set forth herein above which Amendment is hereby duly approved and adjusted.

Executed this 24<sup>th</sup> day of June, 1998.

ALLEN COUNTY, INDIANA

By: THE BOARD OF  
COMMISSIONERS

\_\_\_\_\_  
Commissioner Linda K. Bloom

\_\_\_\_\_  
Commissioner Jack McComb

\_\_\_\_\_  
Commissioner Edwin Rousseau

ATTEST:

\_\_\_\_\_  
Therese M. Brown,  
Auditor of Allen County  
Executed this \_\_\_ day of June, 1998  
Effective 4/1/98

CABLE SERVICE RATES

City of Fort Wayne, Allen County, Huntington County, City of New Haven, Huntertown,  
Roanoke, Woodburn, and Whitley County

	<u>RATES</u> <u>Non-Upgraded Areas</u>	<u>RATES</u> <u>Upgraded Areas</u>
<u>PROGRAMMING SERVICE</u>		
Limited Basic	\$8.37	\$8.37
Standard Service	\$17.10	\$17.10
Value Pak	\$2.90	\$5.15
Cable Guard	\$0.47	\$0.47
FULL STANDARD SERVICE	\$28.84	\$31.09
 <u>EQUIPMENTAL RENTAL</u>		
Non-Addressable Converter	\$1.06	\$1.06
Addressable Converter	\$1.64	\$1.64
Standard Remote	\$0.57	\$0.57

SERVICE CHARGES

Hourly Service Charge	\$31.11	\$31.11
Minimum Service Charge (per visit)	\$31.11	\$31.11
Change of Service – No Truck Roll	\$ 1.99	\$ 1.99
Change of Service – Truck Roll	\$15.56	\$15.56

INSTALLATION RATES

New Connect	\$46.67	\$46.67
Prewired New Connect	\$31.11	\$31.11
Reconnect	\$31.11	\$31.11
Additional Outlet – Initial Installation	\$15.56	\$15.56
Additional Outlet – Separate Trip	\$31.11	\$31.11
Custom Installation/Hourly Rate	\$31.11	\$31.11

OTHER CHARGES

Program Guide	\$2.75	\$2.75
Additional Outlet Premium Charge	\$4.75	\$4.75

PREMIUM PROGRAMMING

HBO	\$15.95	\$15.95
Showtime	\$15.95	\$15.95
Cinemax	\$15.95	\$15.95
Disney	\$15.95	\$15.95

PACKAGES

Select 1...One Premium Channel	\$43.95	\$46.20
Select 2...Two Premium Channels	\$49.95	\$52.20
Select 3...Three Premium Channels	\$54.95	\$57.20
Select 4...Four Premium Channels	\$59.95	\$62.20

NOTE: Above rates do not include franchise fees, FCC Regulation Fee, and sales tax, which will appear as a separate line item on your statement.