

1 **1.3.1** Cable Gross Revenues shall include, but not be limited to, revenues from cable
2 subscribers (including, but not limited to, those for basic cable services; additional
3 tiers; premium services; pay per view; services included under Section 1.6, et al.,
4 program guides; forfeited deposits; installation, disconnection or service call fees;
5 fees for the provision, sale, rental or lease of converters, remote controls, additional
6 outlets and other customer premises equipment; fees for Cable System Internet
7 access, game channels, or cable modem service, if available, and amounts received
8 from subscribers for franchise fees), revenues from the use of leased access
9 channels, advertising revenues (national, regional or local); leased access rentals,
10 commissions, per inquiry fees and all other monies or consideration received from
11 home shopping services, and entities providing programming used on the Cable
12 System.

13
14 **1.3.2** Cable Gross Revenues shall be computed at the level where first received from
15 an entity not affiliated with Company and shall not be net of operating expenses,
16 commissions or any other expenditures.

17
18 **1.3.3** Advertising revenues, home shopping network revenues or other revenues
19 whose source cannot be specifically identified with a particular subscriber shall be
20 allocated to Municipality in proportion to the number of subscribers in Municipality
21 compared to the number of subscribers from whom the revenues are attributable.

22
23 **1.3.4** As of the effective date of this Agreement, the Illinois sales and use tax and
24 local sales tax do not apply to Cable Services. To the extent the Illinois sales and use
25 tax or local sales tax is extended to Cable Services, amounts collected by Company
26 due to the application of such tax(es) shall not be included in Cable Gross Revenues.

27
28 **1.4 Cable Services** means:

29
30 **1.4.1** The one-way transmission to all subscribers of (i) Video Programming, or (ii)
31 other programming services including cable modem services.

32
33 **1.4.2** Subscriber interaction, if any, used for the selection or use of such Video
34 Programming or other programming services.

35
36 **1.4.2** Shall not include Telecommunications Services or services provided within
37 Municipality by entities that are not required to obtain a franchise under any
38 applicable law, statute, or municipal code.

39 **1.5 Cable System or System** means Company's system which consists of a set of
40 closed transmission paths and associated signal generation, reception and control equipment
41 that is designed to provide Cable Services which includes Video Programming to multiple
42 subscribers within the Municipality, but such term does not include (i) a facility that serves only
43 to re-transmit the television signals of one or more television broadcast stations; (ii) a facility

1 that serves only subscribers in one or more multiple dwellings under common ownership,
2 control or management, unless such facility or facilities uses any public right of way, (iii) a
3 facility of a common carrier which is subject in whole or in part to the provisions of Title II of
4 the Communications Act of 1934, as amended, except that such a facility shall be considered
5 a Cable System to the extent such facility is used in the transmission of Video Programming
6 directly to subscribers, except if the extent of such use is solely to provide interactive
7 on-demand services. For the purpose of the preceding, the term “interactive on-demand
8 services” means a service providing video programming to subscribers over switched
9 networks on an on-demand, point-to-point basis, but does not include service providing video
10 programming prescheduled by the programming provider.

11
12 **1.6 Capital Facilities** means PEG access related facilities and equipment, including
13 fiber lines, studios, production facilities, vans and cameras.

14
15 **1.7 Company** means TCI of Illinois, Inc.,

16
17 **1.8 Construction** means the erection, alteration, enlargement, removal or demolition of
18 any structure or property within the Municipality.

19
20 **1.9 Control** (and its variants) means actual working control or ownership of a cable
21 television system within the Village in whatever manner exercised. A rebuttable presumption
22 of the existence of control or a controlling interest shall arise from the beneficial ownership,
23 directly or indirectly by any person or entity (except underwriters during a period in which they
24 are offering securities to the public) of 20 percent (20%) or more of a Cable System or the
25 Franchise under which the Cable System is operated. Control or a controlling interest may be
26 held simultaneously by more than one person or entity.

27
28 **1.10 Drop** means the cable or wire that connects the distribution portion of a Cable
29 System to a customer's premises.

30
31 **1.11 FCC** means the Federal Communications Commission.

32
33 **1.12 Franchise or Franchise Agreement** means this document.

34
35 **1.13 JULIE** means the utility notification program described in Section 4.29, or
36 successor programs.

37 **1.14 Local Off Air Channels** means “local commercial television stations” and “qualified
38 non-commercial educational television stations” as such terms are defined in sections 614
39 and 615 of the Federal Communications Act of 1934 (as in effect on October 1, 1997).

40
41 **1.15 Municipality** means the Village of Skokie.

42
43 **1.16 Municipal Charter** means Municipality's charter.

1
2 **1.17 Municipal Code** means the ordinances of the Village of Skokie.

3
4 **1.18 Normal Operating Conditions** means those service conditions that are within the
5 control of Company.

6
7 **1.19 PEG Channels** means public channels, educational channels and government
8 channels provided by Company on the Cable System under Part 8.

9
10 **1.20 Public Ways** means all dedicated public rights-of-way, streets, highways, and
11 alleys within the boundaries of Municipality regardless of whether or not they are under the
12 jurisdiction of Municipality. "Public Ways" shall not include property of Municipality that is not
13 a dedicated public right-of-way, street, highway, or alley.

14
15 **1.21 School Systems** means Illinois School Districts 65, 68, 69, 72, 73, 73½, and 219
16 and Oakton Community College.

17
18 **1.22 Telecommunications Service** means the offering of telecommunications directly
19 to the public, or to such classes of users as to be effectively available directly to the public,
20 regardless of the facilities used, where the term "telecommunications" means the
21 transmission, between or among points specified by the user, of information of the user's
22 choosing, without change in the form or content of the information as sent and received.
23 "Telecommunications Services" shall not include Cable Services.

24
25 **1.23 Telecommunications System** means Company's or its Affiliate's facilities
26 designed and used to provide Telecommunications Services.

27
28 **1.24 User** means an entity authorized to administer or operate a PEG Channel including
29 Municipality. If several persons share a PEG channel each entity shall be a separate User.

30
31 **1.25 Video Programming** means programming provided by, or generally considered
32 comparable to programming provided by, a television broadcast station.

33
34 **1.26 Village Board** means the Mayor and Board of Trustees of Municipality, or its
35 designee.

36
37 **1.27 Village Manager or Manager** means the Municipality's Manager or his or her
38 designee.

39
40 **2 GRANT OF RIGHTS**

41
42 **2.1 Permission/Franchise Agreement:** Subject to all the terms and conditions
43 contained herein, the United States Constitution, the Cable Act, the rules and regulations of

1 the Federal Communications Commission, the Illinois Constitution, the laws of the State of
2 Illinois, the Municipal Charter, the Municipal Code and Municipal ordinances as from time to
3 time in effect, Municipality hereby grants Company non-exclusive permission to erect,
4 construct, install and maintain a Cable System in, over, under, along and across the Public
5 Ways in the Municipality and to transact a cable television business in such area.
6

7 **2.1.1** Company accepts the grant set forth above and agrees as set forth herein to
8 erect, construct, install and maintain the Cable System (including the Emergency Alert
9 System) and, during the Term of this Franchise Agreement, to transact a Cable
10 Television Business in Municipality in conformance with the provisions of this
11 Franchise Agreement.
12

13 **2.2 Easement Usage:** To the extent allowed by applicable state and Federal law, this
14 Franchise Agreement authorizes the construction maintenance and operation of the Cable
15 System over Public Ways, and through easements within the Municipality. Company shall
16 arrange any easements over or under private property necessary for the construction or
17 operation of the Cable System. Any easements over or under property owned by Municipality
18 other than the Public Ways shall be separately negotiated with Municipality, except that
19 Company may use general utility easements that are dedicated for compatible uses on
20 property owned by Municipality.
21

22 In using all easements, Company shall comply with all federal, State, and local laws and
23 regulations.
24

25 **2.3 Lease or Use of Facilities; Overlapping:** Company shall not lease, sublease,
26 license or otherwise allow the physical use of wires, conduit, poles or facilities in the Public
27 Ways by a person who by law is required to obtain Municipality's permission or consent to
28 transact a local business in Municipality, and who lacks such permit, permission or consent.
29

30 **2.4 No Priority:** This Franchise Agreement does not establish any priority for the use
31 of the Public Ways by Company or by any present or future recipients of franchise agreements,
32 franchisees or other permit holders. In the event of any dispute as to the priority of use of the
33 Public Ways, the first priority shall be to the public generally, the second priority to Municipality,
34 the third priority to the State of Illinois and its political subdivisions in the performance of their
35 various functions, and thereafter, as between recipients of franchise agreements, franchisees
36 and other permit holders, as determined by Municipality in the exercise of its powers, including
37 the police power and other powers reserved to and conferred on it by the State of Illinois.
38

39 **2.5 Municipality's Rights In Public Ways:** Company acknowledges that by this
40 Franchise Agreement it obtains no rights for further use of the Public Ways other than those
41 expressly granted herein. Company acknowledges and accepts as its own risk, provided that
42 Municipality has the legal authority for the use or uses in question, that Municipality may make
43 use in the future of the Public Ways in which the Cable System is located in a manner

1 inconsistent with Company's use of such Public Ways for its placement and use of such
2 System and in that event Company shall not be entitled to compensation from Municipality.
3

4 **2.6 Vacation:** If a Public Way where Company has facilities is vacated, eliminated,
5 discontinued or closed, Company shall be notified of same and all rights of Company under
6 this Franchise Agreement to use same shall terminate and Company shall immediately
7 remove the Cable System from such Public Way unless Company obtains any necessary
8 easements from the affected property owners to use the former Public Way or a court orders
9 the provision of such easements. Where reasonably possible and to the extent consistent with
10 the treatment of other utility facilities in the former Public Way, Municipality shall reserve
11 easements for Company to continue to use the former Public Way. Company shall bear the
12 cost of any removal or relocation of the Cable System unless the vacation is primarily for the
13 benefit of a private party, in which case the private party shall bear such costs. Company shall
14 be provided thirty (30) days notice of any proposed vacation proceedings involving its
15 facilities.
16

17 **2.7 Emergencies:** Municipality may, in its discretion, remove or damage portions of the
18 Cable System in the case of fire, disaster, or other emergencies. Neither Municipality nor its
19 agents, contractors or employees shall be liable for damages caused by such removal or
20 damage. Where possible, prior notice shall be given to the Company. In any event notice of
21 such action shall be given to the Company after such removal or damage.
22

23 **2.8 No Burden on Public Ways:** Company shall not erect, install, construct, repair,
24 replace or maintain its Cable System in such a fashion as to unduly burden the present or
25 future use of the Public Ways. If Municipality in its reasonable judgment determines that any
26 portion of the Cable System is an undue burden, Company, at its expense, shall modify its
27 Cable System or take such other actions as the Municipality may determine is in the public
28 interest to remove or alleviate the burden, and Company shall do so within the reasonable time
29 period established by the Municipality.
30

31 **2.9 Relocation of the Systems:** Company shall, at its own cost and expense, protect,
32 support, disconnect, relocate or remove from the Public Ways any portion of the Cable System
33 when reasonably required to do so by Municipality due to Public Way excavation, construction,
34 repair, grading, regrading; traffic conditions; the installation of sewers, drains, water pipes,
35 power or signal lines, trackways or tracks; municipally owned facilities; or the vacation,
36 construction or relocation of Public Ways or any other type of structure; or other improvements
37 by the Municipality or another public agency or any other type of improvement which the
38 Municipality reasonably deems necessary for the public health, safety or welfare. Municipality
39 may temporarily disconnect, remove or relocate any of the Company's facilities which have
40 not been disconnected, removed or relocated within a reasonable period of time after a
41 request from Municipality and Company shall reimburse Municipality its entire expense
42 including a reasonable cost of overhead. Neither Municipality nor any agent, contractor or
43 employee thereof shall be liable to Company, its customers or third parties for any damages

1 caused them or the Cable System due to any activities described in the preceding two
2 sentences.

3
4 **2.10 Compliance With Law:** Company shall be subject to and comply with all
5 applicable and controlling local, state and Federal laws, including the rules and regulations of
6 any and all agencies thereof, whether presently in force or whether enacted or adopted at any
7 time in the future. In constructing, reconstructing, maintaining and operating the Cable System,
8 Company shall act in a good and workmanlike manner, observing high standards of
9 engineering and workmanship and using materials of good and durable quality. Company
10 shall comply in all respects with applicable codes and industry standards, including but not
11 limited to the National Electrical Safety Code (latest edition); the National Electric Code (latest
12 edition); all rules, standards, practices, procedures and the like of the FCC and the
13 requirements of other utilities whose poles and conduits it uses.

14
15 **2.11 Other Permits:** This Franchise Agreement does not relieve Company of the
16 obligation to obtain permits, licenses and other approvals from Municipality or other units of
17 government that are required for the construction, repair or maintenance of the Cable System
18 or provision of Cable Services; or from compliance with generally applicable municipal codes
19 and ordinances such as zoning and land use ordinances, pavement cut ordinances,
20 subdivision and project improvement ordinances, curb cut permits, building permits and the
21 like.

22
23 **2.12 Permits - Coordination:** During any significant construction phases, Municipality
24 shall, if requested, designate a single point of contact to coordinate and facilitate all permitting
25 and licensing with the Company.

26
27 **2.13 Right of Condemnation Reserved:** Nothing in this Franchise Agreement shall
28 limit any right the Municipality may have to acquire by eminent domain any portion of the Cable
29 System.

30
31 **2.14 Fees:** Nothing in this Franchise Agreement shall be construed to limit the authority
32 of the Municipality to impose a tax, fee, or other assessment of any kind on any person.
33 Company shall pay all fees necessary to obtain all applicable Federal, State, and local
34 licenses, permits, and authorizations required for the construction, installation, maintenance,
35 or operation of its Cable System.

36 37 **3 CABLE SYSTEM**

38
39 **3.1 Premises Served:** Company shall maintain and extend (as necessary) the Cable
40 System so that it is capable of providing service to all residences and businesses located
41 along Public Ways and to all public institutions located within Municipality.

1 **3.2 Minimum Channel Capacity:** The cable system architecture configuration and
2 capacity shall permit the offering of a minimum of 90 channels by January 1, 1999.

3
4 **3.3 Backup Power:** Company shall install an electric generator which starts
5 automatically in the event of loss of conventional power to provide electric service to the Cable
6 System head-end and associated equipment in the event of a power failure. Company shall
7 provide battery backup power (or an electric generator) at all locations on the Cable System
8 in the Public Ways where the loss of electric power might disrupt the provision of service within
9 Municipality such that the Cable System shall operate for at least four (4) hours even if electric
10 service from conventional utility lines is interrupted.

11 12 **4 CONSTRUCTION**

13
14 **4.1 Identification:** All field employees and service personnel of Company or its
15 contractors or subcontractors shall wear on their clothing a clearly visible identification card
16 bearing their name and photograph. Company shall account for all identification cards at all
17 times. In addition, such service personnel of Company shall wear uniforms and outer gear with
18 Company's name and logo clearly visible at all times on the front or back. Every service
19 vehicle of Company, its contractors or subcontractors shall be clearly identified as such to the
20 public. Company vehicles shall have Company's logo and phone number plainly visible; those
21 of contractors and subcontractors working for Company shall have the
22 contractors/subcontractors name and phone number plus markings (such as a magnetic door
23 sign) indicating they are under contract to Company and Company's phone number.

24
25 **4.2 Weather:** No undergrounding of drops or other non-emergency work activities
26 requiring restoration may be initiated when weather conditions prohibit proper restoration of
27 disturbed areas in a timely manner. The Village Manager may waive the preceding
28 requirement on a case by case basis, with conditions appropriate to the circumstances.

29
30 **4.3 Restoration of Property:** Company shall restore, at its sole cost and expense,
31 within ten (10) working days, or such additional time as specified by the Village Manager, any
32 portion of the Public Ways that is in any way disturbed by the construction, operation,
33 maintenance or repair of the Cable System to as good or better condition than existed
34 previously. In addition, Company shall, at its sole cost and expense, restore and replace any
35 other property, real or personal, disturbed, damaged or in any way injured by or on account of
36 Company's acts or omissions, to the same condition as such property was immediately prior
37 to the disturbance, damage or injury. In the event that Company and its contractors and
38 subcontractors fail to make such repair within the time specified by Municipality, Municipality
39 may make repairs or have such repairs made and Company shall pay the costs of Municipality
40 for such repair.

41
42 **4.4 Barriers:** While construction or maintenance activities are in progress on any
43 portion of the Public Ways, Company shall maintain reasonable barriers, lights at night and

1 other warnings to the users of the Public Ways in compliance with applicable government
2 regulations or as reasonably requested by the Village Manager.

3
4 **4.5 Traffic Control:** For all work in the Public Ways which may disturb the normal flow
5 of vehicular or pedestrian traffic, Company shall employ roadway closure or partial closure
6 practices, as delineated in the Illinois Manual of Uniform Traffic Control Devices and the
7 standards established by the Village Manager and shall submit an alternate traffic routing plan.

8
9 **4.6 Minimum Interference:** The Cable System shall be erected and maintained by
10 Company so as to cause the minimum interference with the use of the Public Ways and with
11 the rights or reasonable convenience of property owners.

12
13 **4.7 Map Accuracy:** The Municipality does not guarantee the accuracy of any maps
14 showing the horizontal or vertical location of existing substructures. In Public Ways, where
15 necessary, the location shall be verified by excavation or by requesting "locates" from
16 Municipality and from JULIE.

17
18 **4.8 Trees and Landscaping** The following applies to trees or shrubs within the Public
19 Ways.

20
21 **4.8.1** Trees or shrubs to be transplanted shall be transplanted in accordance
22 Municipality's tree planting standards with the approval of the Municipal Forester. All
23 damaged trees or shrubs shall be replaced or restored in a mutually agreeable
24 fashion.

25
26 **4.8.2** Replacement sod shall be maintained until the lawns are established. Mulch
27 shall be removed and properly disposed of in a timely fashion.

28
29 **4.8.3** Where construction or maintenance encroaches within close proximity to trees
30 or shrubs, they shall be guarded so as to avoid all injury to the trunk, crown and root
31 system. Building materials, soil or other debris shall not be placed on Municipality's
32 property within the drip line of trees owned by Municipality. Whenever possible,
33 underground structures and conduits shall be relocated outside of the tree or shrub
34 drip line. If the above criteria cannot be met, the facilities in question shall be
35 installed by auguring according to the following table, where "DBH" means tree
36 diameter measured at breast height, which is 4.5 feet above the ground:

37

38 0-2" DBH:	Auger 1 foot from face of tree in all directions.
39 3-4" DBH:	Auger 2 feet from face of tree in all directions.
40 5-9" DBH:	Auger 5 feet from face of tree in all directions.
41 10-14" DBH:	Auger 10 feet from face of tree in all directions.
42 15-19" DBH:	Auger 12 feet from face of tree in all directions.
43 19" and over DBH:	Auger 15 feet from face of tree in all directions.

1
2 **4.9 Construction-General:** Company shall meet or exceed all the construction and
3 service requirements set out in this Franchise Agreement and those set out in the
4 Municipal Code.
5

6 **4.10 Drops:** Company's standard installation charge shall include a 150 foot Drop from
7 the Cable System, such that current or potential subscribers shall only be charged for a Drop
8 to the extent the Drop serving them exceeds 150 feet, measured from the tap on the
9 distribution portion of the Cable System to the subscriber's premises. All Drops shall be
10 made from a pole, not from mid-span.
11

12 **4.10.1** Upon the termination of service, Company shall either entirely remove its
13 Drop or secure the Drop in a method reasonably acceptable to Municipality.
14

15 **4.11 Construction Bond:**
16

17 **4.11.1** Company shall not begin significant reconstruction of the Cable System
18 unless the bond described herein is in full force and effect. Company shall, prior to
19 the start of construction, provide to Municipality and thereafter maintain at its sole
20 cost and expense, a corporate surety bond in the amount of \$100,000.00 issued by
21 a surety company authorized to do business in the State of Illinois and acceptable to
22 Municipality. Said construction bond shall assure Municipality of recovery of any and
23 all damages, losses, costs and expenses sustained or suffered by Municipality as a
24 result of the failure of Company satisfactorily and timely to reconstruct its Cable
25 System.
26

27 **4.11.2** When the Cable System reconstruction is completed in accordance with the
28 plans submitted to Municipality and sixty (60) days written notice of such completion
29 has been provided to Municipality by Company, the construction bond need no longer
30 be maintained (except that Company shall maintain the bond so long as there are
31 mechanic's (or similar) liens outstanding against Company, related to the System,
32 with the amount of the bond then not to exceed the lesser of the liens or the amount
33 specified in Section 4.11.1).
34

35 **4.11.3** The construction bond shall contain the following endorsement: "It is hereby
36 understood and agreed that this bond shall not be canceled by the surety, nor the
37 intention not to renew be stated by the surety, until sixty (60) days after receipt by
38 Municipality, by certified mail, of a written notice of such intent to cancel or not to
39 renew."
40

41 **4.12 Emergency Notification:** Company shall provide the Village Manager with a
42 twenty-four (24) hour emergency telephone number at which a named representative of
43 Company (not voice mail or a recording) can be accessed in the event of an emergency.

1 **4.13 Inspections and Quality Assurance Program**

2
3 **4.13.1** Village shall have the right to inspect all construction work, including
4 installations and removals of drops, and to make such tests as it deems necessary
5 to insure compliance with the terms of this Agreement, the Municipal Code, or other
6 pertinent provisions of law.
7

8 **4.13.2** Within 45 days of the effective date of this Agreement, Company shall provide
9 Village with a quality assurance program (QAP). The QAP shall set forth in detail all
10 policies of the Company related to construction and maintenance including notices
11 to the Village and affected property owners, storage of equipment, clean up and
12 restoration and installation and removal of drops. At a minimum, the following shall
13 be components of the QAP:
14

15 **4.13.2.1** random inspection with a designated municipal inspector for each 25
16 subscriber installations or drop removals.
17

18 **4.13.2.2** Upon the termination of service, Company shall either entirely remove
19 its drop to the pole or secure the drop in a method reasonably acceptable to the
20 Village.
21

22 **4.13.2.3** Company shall provide at least 24 hours advance notice to affected
23 property owners prior to entry or crossing of any private property or work in
24 abutting Public Ways by way of door hanger or such other means as is
25 acceptable to Village. During emergency or unplanned maintenance work or
26 outage repair, Company shall attempt to notify affected residents and
27 businesses (such as by knocking and, if no answer, leaving a door hanger) prior
28 to entering private property.
29

30 **4.14 Notice of Construction to Municipality:** Company shall give Municipality written
31 notice, a reasonable time before the commencement of construction or reconstruction in any
32 block (meaning an area typically bounded by four streets) but in no event shall said notice be
33 given less than seven (7) business days before such commencement throughout the period
34 of construction. Company shall give Municipality a monthly schedule of construction areas and
35 planned Public Way disturbances.
36

37 **4.15 Notice of Construction:** Company shall provide at least 48 hour advance notice
38 to affected property owners or occupants (such as by door hanger) prior to construction or
39 reconstruction requiring entry on private property or work in the Public Ways abutting such
40 private property. During maintenance work, installation work, and outage repair, Company
41 shall attempt to notify affected residents and businesses (such as by knocking and, if no
42 answer, leaving a door hanger) prior to entering private property. Work performed in an
43 emergency in Public Ways to repair the systems is exempted from this section.

1
2 **4.16 Utility Crowding:** In areas of Municipality where the Village Manager finds that the
3 Public Ways will not readily accommodate further underground facilities, the Village Manager
4 may require any newly installed conduits be oversized, duplicated, or placed in multiple
5 configurations, and Company shall share the use of its underground conduits and multiple
6 configurations at such locations at reasonable rates. Municipality shall determine such rates
7 if Company and third parties cannot agree on same.
8

9 **4.17 Removal of Obsolete Facilities/Cooperation:** When Company opens a trench,
10 accesses a conduit or boring , or is working on aerial locations, it shall remove all unusable
11 and inactive Cable System facilities (excluding those held for future use) from such locations.
12

13 **4.17.1** When Company applies for a permit to open a trench or gain access to
14 borings, it shall notify all other holders of franchise agreements, franchisees and
15 permittees (to which it has notice) in advance of such work, so that those other
16 persons or entities may remove their obsolete facilities from such locations or add
17 new facilities. Company shall cooperate with such persons in such activities.
18

19 **4.17.2** When Company receives notification from another entity that it is opening a
20 trench or access to borings, Company shall remove all of its obsolete facilities from
21 such location while they are open.
22

23 **4.18 New Developments:** Company shall install its Cable System (excluding only
24 Drops to individual units) in all new subdivisions and developments on the date on which
25 electric or telephone facilities are installed in such subdivision or development unless
26 Company is not notified of the subdivision or development. After Cable System installation
27 Company shall be capable of providing Cable Service to any unit in such subdivision or
28 development solely by the construction of a Drop to the subscriber premises when such unit
29 is constructed.
30

31 **4.19 Parallel Installation:** All cables and wires or other work shall be installed parallel
32 with existing telephone and electric utility wires whenever possible. Multiple cable
33 configurations shall be in parallel arrangement and bundled in accordance with engineering
34 and safety considerations and all applicable codes.
35

36 **4.20 Identification:** Company shall identify newly installed portions of its Cable System
37 and cable Drops (by color code, stamping, engraving, tags, stickers, or other appropriate
38 method selected by Company) so as to distinguish Company's cables from that of all other
39 cable operator(s), utilities, and service providers in the Municipality.
40

41 **4.21 Joint Use by Municipality:** Company shall permit, without charge, the joint use
42 of excess height, space and capacity in its poles, conduits and facilities located in the Public

1 Ways by the Municipality or other governmental entities as long as such joint use does not
2 materially impair the ability of Company to provide Cable Service to subscribers.
3

4 **4.22 Poles:** Company shall not erect any utility poles without the advance written
5 permission of Municipality for the pole(s) in question.
6

7 **4.23 Underground Facilities:** Company's cable, wires and other equipment shall be
8 placed underground wherever existing utilities are underground. If Municipality, in the future,
9 requires that utilities in all or any portion of Municipality place their lines underground, then
10 Company, at its expense, shall in a reasonable period of time, place its existing and its future
11 cable, wires, or other equipment in such area underground without charge, expense or liability
12 therefore to Municipality.
13

14 **4.24 Underground Street Crossing:** Whenever Company must place the Cable
15 System or other facilities beneath the traveled or paved portion of the Public Ways, unless
16 otherwise approved in advance by the Village Manager, Company shall do so by directional
17 boring and not by excavation of a trench in which to place cable conduit. Directional boring
18 shall be done wherever possible so that the excavations necessary for it are not in the paved
19 portion of the right-of-way.
20

21 **4.25 Temporary Relocation:** Upon 10 business days notice, Company shall either
22 temporarily raise or lower its wires or other equipment upon the request of any person,
23 including without limitation, a person holding a building moving permit issued by Municipality.
24 To entities other than Municipality, Company may charge a reasonable rate for this service,
25 not to exceed its actual costs and may require an advance deposit of the estimated cost.
26

27 **4.26 Pavement Cut Coordination/Additional Fees:** Company shall coordinate its
28 construction program and all other work in the Public Ways with Municipality's program for
29 Public Way construction, rebuilding and resurfacing (collectively, "Street Construction").
30 Company shall meet with the Village Manager at least twice per year to this end.
31

32 **4.26.1** The goals of such coordination shall be to require Company to conduct all
33 work in the Public Ways in conjunction with or immediately prior to any Street
34 Construction planned by Municipality, and to prevent a Public Ways from being
35 disturbed by Company within ninety-six (96) months after it has been constructed,
36 rebuilt, resurfaced, or repaired (collectively, "Resurfaced").
37

38 **4.26.2** Company shall not cut or otherwise breach or damage the surface of any
39 paved Public Ways within ninety-six (96) months after such public right-of-way has
40 been resurfaced without Village Manager approval.
41

42 **4.26.3** In addition to any other fees or payments required by this Agreement,
43 Company shall pay to Municipality the sum of One Thousand Two Hundred Fifty
Dollars (\$1,250) for each fifty linear feet (50') of a cut into or excavation of any Public

1 Way, or portion thereof, which was Resurfaced within ninety-six (96) months prior to
2 such cut or excavation. This fee is in addition to and not in lieu of the obligation to
3 restore the Public Ways.
4

5 **4.26.4** Municipality may waive the preceding requirement due to the presence of
6 extraordinary circumstances, such as where there is no feasible alternative for
7 maintenance of the Cable System.
8

9 **4.27** This section intentionally left blank.
10

11 **4.28 MAPS/Location of Facilities:** Company shall keep accurate, complete and
12 current maps and records of the Cable System and its facilities and shall provide copies to
13 Municipality as set forth below.
14

15 **4.28.1** Company shall furnish to Municipality two complete sets of strand maps and
16 records and copies of any new or revised maps or comparable drawings as they are
17 generated for rebuilt portions of the Cable System. Company, upon request in an
18 emergency, as soon as possible (but no more than 1 business day from the request),
19 shall inform Municipality of any changes from such maps and records previously
20 supplied and shall mark up any maps provided by Municipality so as to show the
21 location of the Cable System.
22

23 **4.28.2** The strand maps shall include, at a minimum, all system and facility routings
24 and the location of appurtenant structures, such as nodes, amplifiers, power supplies
25 and system monitor test points, and shall be drawn to a scale and upon such media
26 as required by the Village Manager.
27

28 **4.28.3** Company shall develop a Geographical Information System (GIS) layer, using
29 a program and format which accurately displays its strand map of the Cable System.
30 This layer will be kept current and update annually. The GIS layer, including but not
31 limited to, all databases, plots and computer discs will be provided to Municipality on
32 computer disk in a format compatible with Municipality's GIS System in accordance
33 with the preceding schedule. In addition, Company shall provide information and
34 assistance on the GIS program it is using and its implementation so as to aid
35 Municipality in using the layer.
36

37 **4.29 JULIE:** Company shall participate in and be a member of the "JULIE" utility
38 notification program set forth in the Illinois Underground Facilities Damage Prevention Act,
39 Illinois Compiled Statutes Ch. 220, Act 50 (220 ILCS 50/1, *et seq.*).
40

41 **4.30 Discontinuance and Removal of the Systems:** Upon the revocation,
42 termination, or expiration of this Franchise Agreement, Company either (a) by mutual
43 agreement of Municipality and Company, (b) by Company's acquiescence or failure to
44 challenge same, or (c) by a final order of a court which Company either does not appeal or
45 from which there is no further right of appeal, shall immediately discontinue the provision of

1 Cable Services and all rights of Company to use the Public Ways shall cease. Company, at
2 the direction of Municipality, shall remove its Cable System, including all supporting structures,
3 poles, transmission and distribution portions of the systems and other appurtenances, fixtures
4 or property from the Public Ways, in, over, under, along, or through which they are installed
5 within six (6) months of the revocation, termination, or expiration except that (a) Company may
6 abandon its facilities in place with Municipality's consent, and (b) Company cannot remove
7 underground facilities without Municipality's consent in advance, which shall not be
8 unreasonably withheld. Prior to any removal Company shall notify Municipality where removal
9 will occur. Company shall also restore any property, public or private, to the condition in which
10 it existed prior the installation, erection or construction of its Cable System, including any
11 improvements made to such property subsequent to the construction of its Cable System.
12 Restoration of Municipal property, including, but not limited to, the Public Ways, shall be in
13 accordance with the directions and specifications of Municipality, and all applicable laws,
14 ordinances and regulations, at Company's sole expense. If such removal and restoration is
15 not completed within six (6) months after the revocation, termination, or expiration, all of
16 Company's property remaining in the affected Public Ways shall, at the option of Municipality,
17 be deemed abandoned and shall, at the option of Municipality, become its property or
18 Municipality may obtain a court order compelling Company to remove same. In the event
19 Company fails or refuses to remove its Cable System or to satisfactorily restore all areas to
20 the condition in which they existed prior to the original construction of the Cable System,
21 Municipality, at its option, may perform such work and if such work is performed within four (4)
22 years of the revocation, termination or expiration of this Franchise Agreement collect the costs
23 thereof from Company. No surety on any performance bond shall be discharged until
24 Municipality has certified to Company in writing that the Cable System has been dismantled,
25 removed, and all other property restored, to the satisfaction of Municipality.

26
27 **4.31 Failure to Discontinue Service:** In the event that Company fails to discontinue
28 the provision of Cable Services pursuant to the terms set forth in Section 4.30 then Company
29 shall deposit into an escrow account acceptable to Municipality one half of all Cable Gross
30 Revenues generated from such continuing operations. Company shall deposit such monies
31 into such escrow account immediately upon receipt of such Gross Revenues. This obligation
32 shall survive the revocation, termination, or expiration of this Franchise Agreement.

33
34 **5. MAINTENANCE**

35
36 **5.1 Preventive Maintenance:** Upon completion of construction or reconstruction,
37 Company shall institute and adhere to a preventive maintenance program attached hereto as
38 Exhibit A.

39
40 **5.2 Maintenance and Repair:** Company shall keep and maintain a proper and
41 adequate inventory of maintenance and repair parts for the Cable System. Company shall
42 maintain or otherwise have available a work force of skilled technicians for Cable System
43 repair and maintenance. All maintenance or repair work requiring excavation, street blockage

1 or access to or over private property shall be performed in compliance with the requirements
2 of Part 4 above.

3
4 **5.3 Service Interruptions:** Any service interruptions for maintenance or repair shall be
5 only for good cause and for the shortest time possible. Scheduled maintenance which will
6 require service interruptions shall, insofar as possible, be preceded by notice and shall occur
7 during periods of minimum use of the system, between the periods of 12 midnight and 6:00
8 a.m. Monday through Friday and 1:00 a.m. to 6:00 a.m. Saturday, Sunday and any State or
9 national holiday.

10
11 **5.4 Tree Trimming:** Company may trim trees upon and overhanging the Public Ways
12 so as to prevent the branches of such trees from coming into contact with the Cable System.
13 Company shall dispose of all trimmed materials. No trimming shall be performed in the Public
14 Ways without previously informing Municipality. Except in emergencies, all trimming of trees
15 on public property shall have the advance approval of Municipality and all trimming of trees on
16 private property shall require notice to the property owner.

17
18 **5.5 Maintenance of Internally Installed Cable:** Company shall continue to own all
19 cable internally installed by Company unless a subscriber purchases that cable upon
20 termination of cable service. Upon request from a current cable subscriber, Company shall
21 repair such internally installed cable without charge to the subscriber unless the need for repair
22 is actions or omissions of the subscriber. In such case, Company may charge its normal fee
23 for such repair.

24
25 **5.6 Compliance With Construction Requirements:** Company shall comply with all
26 requirements of Part 4 above when maintenance work requires excavation, blocking of right
27 of ways, entrance onto private property, installation of new facilities or other work similar to
28 Construction.

29 30 **6 CABLE SERVICE**

31
32 **6.1 Programming Services:** Company shall include in the non-premium, non-pay TV
33 video programming it offers cable subscribers the following:

34
35 **6.1.1** Local Off Air Channels subject to the “must carry/retransmission consent” rules
36 of the FCC;

37 **6.1.2** Programming (to the extent available) in the following broad categories:

38 **6.1.2.1** National and local weather programming.

39
40 **6.1.2.2** News programming.

41
42 **6.1.2.3** Public affairs programming.
43

1
2 **6.1.2.4** Sports programming.

3
4 **6.1.2.5** Children and family entertainment programming.

5
6 **6.1.2.6** Programming oriented to one or more ethnic groups.

7
8 **6.1.2.7** Federal government proceedings.

9
10 **6.2 First Amendment:** Company shall not include in the programming or services it
11 offers subscribers any program or service which is not protected by the First Amendment to
12 the U.S. Constitution.

13
14 **6.3 Service Provided:** Cable Service shall conform to the following specifications:

15 **6.3.1** At least 90 activated channels of programming.

16 **6.3.2** All subscribers shall have the option of obtaining a basic service, which shall
17 include the following:

18 **6.3.2.1** Local Off Air Channels described in Section 6.1.1 above.

19 **6.3.2.2** The PEG channels described in Part 8 hereof.

20 **6.3.2.3** Such additional channels, if any, as may be from time to time required by
21 federal law.

22 **6.3.2.4** At Company's option additional channels selected by Company so long as
23 their inclusion collectively does not appreciably affect the rate for basic service.

24
25 **6.4 Access to Service:** Company shall not deny service, deny access, or otherwise
26 discriminate on the availability or rates, terms or conditions of Cable Services provided to
27 actual or potential subscribers on the basis of race, color, creed, religion, ancestry, national
28 origin, sex, disability, age, marital status, location within Municipality, difficulty in constructing
29 Drops, status with regard to public assistance, income level, or other demographics.
30 Company shall comply at all times with all applicable federal, state and local laws and
31 regulations relating to nondiscrimination.

32
33 **6.5 Universal Service:** Company's Cable System currently makes Cable Services
34 physically available to any and all residential subscribers requesting same at any location
35 within the Municipality. No current subscriber shall be required to pay for a new service drop
36 due to reconstruction of the Cable System. Additionally, no subscriber shall be required to pay
37 for any line extension charges for a standard installation with a drop of 150' or less.

1
2 **6.6 Free Service:** Company shall provide without any installation charge or monthly
3 charge one free Cable System outlet in each Municipal building or facility; in each building
4 used by a state-accredited public, private, charter or parochial K-12 school, university or
5 college; and in each building housing facilities of the Skokie Library District and Skokie Park
6 District and shall provide internal extensions of such service to some or all rooms, classrooms
7 and auditoriums. Any extension costs exceeding One Thousand Two Hundred dollars (\$1200)
8 per facility shall be borne by governmental entity seeking the extension. Governmental entities
9 shall not be charged any fee during the term of this Franchise Agreement for any basic or
10 expanded basic channels or programming, excluding premium channels (such as HBO or
11 Showtime) or pay per view channels. All extension costs and charges shall be determined at
12 Company's actual cost without any markup. To allow for extensions of service, the signal level
13 at the initial outlet shall be +10dBmV or higher. Should the governmental entities described
14 above wish to install internal cable themselves, Company may require that said wiring is
15 installed according to code. Additionally, Company shall not be responsible for signal quality
16 and service over cable not installed by Company.

17
18 **6.6.1** A list of the municipal, school, Park District and Library District buildings and
19 facilities within the Municipality which shall be provided such service as of the
20 Effective Date of this Agreement are set forth on Exhibit B.

21
22 **6.6.2** In order for Municipality to monitor the programming and use of the Cable
23 System for compliance with this Franchise Agreement, Municipal Code, FCC
24 Technical Standards, and other applicable law, it shall receive at its Village Hall,
25 without charge, all programming (and any other services) provided by Company
26 whether of a premium, pay per view or other nature at four (4) locations as specified
27 by Municipality. The location of the television set with these services shall be in an
28 office location and not in a location available for public viewing.

29
30 **6.6.3** In addition, Company shall, without charge, provide internal wiring and outlets
31 for cable service at all additional Municipal, School, Library and Park District
32 locations constructed or occupied and designated by Municipality in the future.

33
34 **6.6.4** Except as provided in this Franchise Agreement, Company shall not provide
35 free or discounted service to elected or appointed officials of Municipality or to
36 Municipality's employees, agents, officers, including members of its Cable Television
37 Advisory Board or Village Board. The term "free or discounted service" means any
38 service on terms and conditions other than those available to residents of Municipality
39 generally.

40
41 **6.6.5** Company shall, within 120 days of a request by Municipality, activate a return
42 path and provide the equipment necessary for Municipality and EG Users to place
43 access programming on Company's System for distribution over the subscriber

1 network. Upon request, the return path and equipment shall be provided to the sites
2 set forth in Exhibit C and to as many as 10 additional publicly owned sites within
3 Municipality.
4

5 **6.7 Interconnection:** Upon written request by Municipality, Company shall promptly
6 start the process of interconnecting the Cable System with cable serving (a) Municipality or
7 any portion thereof, or (b) contiguous communities (if the cable operator in the contiguous
8 community is Company or a willing operator and the contiguous community is desirous of
9 interconnection), so as to transmit, receive, and exchange programming with such systems
10 or the entities operating PEG channels on such systems. In the event of any dispute between
11 Company and the person or entity operating any other Cable System with respect to the costs
12 of such interconnection, such dispute shall be submitted to the Village Manager. If either
13 provider disagrees with the decision of the Village Manager, it may submit the dispute to the
14 Village Board, whose decision thereon shall be final and binding on all parties.
15

16 **6.7.1** Company and the other provider(s) shall be given notice of the submission of
17 any dispute to the Village Manager or Village Board at least ten (10) days in advance
18 of any action by the Village Manager or of the meeting of the Village Board to act on
19 the dispute. Company may appear before the Village Manager or at the Village
20 Board meeting at which the dispute is to be resolved either in person, by agent or by
21 letter (or other writing) to submit its views with respect to the interconnection.
22

23 **6.7.2** Upon request, Company may be granted reasonable extensions of time to
24 interconnect. Municipality shall grant said request if it finds that Company has
25 negotiated in good faith and has failed to obtain an approval from the system or
26 systems of the proposed interconnection or that the systems of the proposed
27 interconnection or that the cost of the interconnection would cause an unreasonable
28 or unacceptable increase in subscriber rates.
29

30 **6.7.3** Company shall cooperate with any interconnection corporation, regional
31 interconnection authority or city, village, township, county, state or federal regulatory
32 agency which may be hereafter established for the purpose of regulating, financing,
33 or otherwise providing for the interconnection of cable systems beyond the
34 boundaries of Municipality.
35

36 **6.8 Emergency Alert System:** Company shall install and maintain an Emergency Alert
37 System (EAS) for use in transmitting Emergency Act Notifications (EAN) and Emergency Act
38 Terminations (EAT) in local and state-wide situations as may be designated to be an
39 emergency by the Local Primary (LP), the State Primary (SP) and/or the State Emergency
40 Operations Center (SEOC), as those authorities are identified and defined within FCC Reg.
41 Section 11.51.
42

1 **6.8.1** The Municipality shall permit only appropriately trained and authorized persons
2 to operate the EAS equipment and shall take reasonable precautions to prevent any
3 use of the Company's Cable System in any manner that results in inappropriate use
4 thereof, or any loss or damage to the Cable System. Except to the extent expressly
5 prohibited by law, the Municipality shall hold the Company, its employees, officers
6 and assigns harmless from any claims arising out of the emergency use of its
7 facilities by the Franchising Authority.
8

9 **6.8.2** The EAS shall permit the Municipality to override the audio portion of all
10 channels on the cable system serving municipalities with an emergency message.
11 Additionally, the EAS shall permit Municipality to override the audio portion of only
12 the PEG channels on the cable system service Municipality.
13

14 **6.8.3** Upon 30 days written request from Municipality, each year during the months
15 of October through February, Company shall include a bill message in subscriber bills
16 consisting of a reasonable number of characters within Company's software
17 limitations for the purpose of providing subscribers with information regarding the
18 Village's snow removal program.
19

20 **6.8.4** Municipality shall be able to activate and use the preceding systems from three
21 (3) different locations as designated by Municipality.
22

23 **7 CUSTOMER SERVICE STANDARDS**

24
25 Company shall at all times comply with the more stringent of the provisions of the
26 customer service and consumer protection provisions of this Franchise Agreement, the
27 Municipal Code, or those from time-to-time adopted by Company or the FCC.
28

29 **7.1 Office Hours and Telephone Availability:**

30
31 **7.1.1** Company will maintain a local or toll-free telephone access line that will be
32 available to its customers 24 hours a day, seven days a week.
33

34 **7.1.2** Trained representatives will be available to respond to customer telephone
35 inquiries 24 hours a day, seven days a week.
36

37 **7.1.3** Under normal operating conditions, telephone answer time by a customer
38 representative, including wait time, shall not exceed 30 seconds when the connection
39 is made. If the call needs to be transferred, transfer time shall not exceed 30
40 seconds. These standards shall be met no less than 90% of the time under normal
41 operating conditions, measured on a quarterly basis.
42

- 1 **7.1.4** Under normal operating conditions the customer will receive a busy signal less
- 2 than 3% of the time.
- 3
- 4 **7.1.5** Under normal operating conditions, no more than 3% of the customers' calls
- 5 measured on a quarterly basis shall be abandoned.
- 6
- 7 **7.1.6** Company shall provide reports to Municipality monthly and quarterly showing
- 8 the number of phone calls originating within the Village (or other appropriate area,
- 9 such as by telephone exchange or zip code) and measure Company's compliance
- 10 with these phone standards.

1 **7.2 Installations, Outages and Service Calls:**
2

3 **7.2.1** Standard installations will be performed within seven business days after an
4 order has been placed. “Standard installations” are those that are located up to 150
5 feet from the existing cable system.
6

7 **7.2.2** Non-Standard installations (those over 150 feet from the existing cable system)
8 shall be completed within 60 days after the customer has met all terms and conditions
9 for payment required by Company.
10

11 **7.2.3** Excluding conditions beyond its control, Company will begin working on
12 “service outages” promptly after the interruption becomes known. Company must
13 begin action to correct other service problems no later than the next business day
14 after notification.
15

16 **7.2.4** The “appointment window” alternatives for installation, service calls and other
17 installation activities will be either a specific time, or at a maximum, within a four-hour
18 time block from 8:00 a.m. to 7:00 p.m. Company may schedule service calls and
19 other installation activities outside of these hours for the express convenience of the
20 customer.
21

22 **7.2.5** Company may not cancel an appointment with a customer after the close of
23 business on the business day prior to the scheduled appointment.
24

25 **7.2.6** If a Company representative is running late for an appointment with a customer
26 and will not be able to keep the appointment as scheduled, Company will make its
27 best efforts to contact the customer. The appointment will be rescheduled, as
28 necessary, at a time, which is convenient for the customer.
29

30 **7.2.7** If the customer is not home when Company performs a service call, Company
31 shall advise the customer by telephone or in writing of any action taken during such
32 service call.
33

34 **7.2.8** The Company shall not impose any fee or charge upon a customer for any
35 service call to the customer’s premises to perform any repair or maintenance work
36 (exclusive of inside wire) unless the work was necessitated by an intentional or
37 negligent act of the customer.
38

39 **7.2.9** Failure by the Company to comply with these customer service standards
40 which results in a delay in cable service to the customer or the customer service call
41 of four (4) hours or more shall result in free service to the customer. Company shall
42 provide a credit of 1/30 of the customer’s normal monthly bill for each 24 hour period
43 that work is delayed for four (4) or more hours.

1
2
3
4 **7.3 Notifications to Customers:**
5

6 **7.3.1** Company, at the time of installation of service, at least annually to all
7 customers, and at any time upon request, shall provide written information on the
8 following:
9

10 **7.3.1.1** Name, address and telephone number of Company;
11

12 **7.3.1.2** Products and services offered;
13

14 **7.3.1.3** Prices and options for programming services and conditions of
15 subscription to programming and other services;
16

17 **7.3.1.4** Installation and service maintenance policies;
18

19 **7.3.1.5** Instructions on how to use the cable service, including the availability of
20 parental control devices and any special operating procedures;
21

22 **7.3.1.6** Customer privacy rights;
23

24 **7.3.1.7** Channel positions or programming carried on the system;
25

26 **7.3.1.8** Billing and credit practices including late fees, grounds for termination
27 of service, resolution of billing disputes, reconnection after involuntary
28 termination and credit for outages; and
29

30 A copy of this information shall also be provided to the Village Manager's office
31 at least annually, thirty (30) days prior to distribution to subscribers.
32

33 **7.3.2** Company shall notify customers and Municipality in writing of any changes in rates,
34 programming services or channel positions as soon as possible. Notice must be given to
35 customers a minimum of 30 days in advance of such changes if the change is within the
36 control of Company. In addition, Company shall notify customers 30 days in advance of any
37 significant changes in the other information required to be given in the preceding paragraph.

38 Company shall not be required to provide prior notice of any rate change that is the result of
39 a regulatory fee, franchise fee or any other fee, tax assessment or charge of any kind imposed
40 by any Federal agency, State or the Municipality. An explanation of such a change shall be
41 given with the first bill including the change.
42

43 **7.4 Billing:**

1
2 **7.4.1** Bills will be clear, concise and understandable. Bills must be fully itemized with
3 itemizations including, but not limited to, basic and premium service charges and
4 equipment charges. Bills will also clearly delineate all activity during the billing
5 period, including optional charges, rebates and credits.
6

7 **7.4.2** In case of a billing dispute, the customer shall not be required to pay the
8 disputed portion of the bill until the dispute is resolved. Company shall not apply
9 finance or late fee charges, issue delinquency notices, terminate service or initiate
10 collection procedures for the disputed portion of the bill while the dispute is
11 pending. Company shall make whatever review is necessary to resolve the dispute
12 and shall notify the customer of the results of the review in writing as soon as it is
13 completed, but not less than 30 days after receipt of the billing dispute, problem or
14 complaint. Receipt of the dispute, problem or complaint may be orally (to a customer
15 service representative) or in writing.
16

17 **7.4.3** Each bill shall specify in a fashion emphasizing same (such as bold face type,
18 underlined type or a larger font) on the face thereof: "For payments received after
19 [date] a [\$xxx] late fee may be charged."
20

21 **7.4.4** No late payment charges, however denominated, shall be added to a
22 subscriber's bill less than twenty-one (21) calendar days after the mailing of the bill
23 to the subscriber.
24

25 **7.4.5** All such late charges shall be separately stated on the subscribers' bill and
26 include the word "late" in the description of them.
27

28 **7.4.6** Late payment charges imposed by Company upon subscribers shall be fair
29 and shall be reasonably related to Company's cost of administering delinquent
30 accounts. Such fees shall be established and applied in a fair, consistent and
31 reasonable manner, consistent with all applicable local, state and federal laws and
32 regulations. Company shall provide the Village copies of all policies and procedures
33 relating to the application of such fees to the provision of its cable services.
34

35 **7.5 Refunds and Credit for Outages:**

36
37 **7.5.1** Refund checks shall be issued promptly, but no later than the customer's next
38 billing cycle following resolution of the request or 30 days whichever is earlier or the
39 return of equipment supplied by Company, if service is terminated.
40

41 **7.5.2** Credits for service will be issued no later than the customer's next billing cycle
42 following the determination that a credit is warranted.
43

1 **7.5.2.1** For service interruptions of more than four hours and up to four days the
2 Company shall provide upon notice of a customer service interruption, a credit
3 of 1/30 of the customer's normal monthly bill for each 24 hour period

1 service is interrupted for four or more hours for any customer, with the exception
2 of customer's disconnected because of non-payment or excessive signal
3 leakage.
4

5 **7.5.2.2** For interruptions of five continuous days or more in one month, the
6 Company shall provide a full month's credit for affected services for all affected
7 customers.
8

9 **7.5.3** Blocking. Upon request by any customer, Company shall make available, at
10 applicable rates, a parental control or lockout device, traps or filters to enable a
11 customer to control access to both the audio and video portions of any and all
12 channels. Company shall inform its customers of the availability of the lockout device
13 at the time of their initial subscription and at least annually thereafter.
14

15 **7.5.4** Program Guide. Upon request Company shall provide customers with a
16 periodic written or electronic program guide listing the specific programs available,
17 their times and ratings (when applicable). Company may charge a fee for this
18 service.
19

20 **7.5.5** Negative options. Company shall not engage in the practice of "negative
21 option" marketing. Nor shall it charge a customer for any service tier that the
22 customer has not affirmatively requested.
23

24 **7.5.6** Bills. Company shall maintain records of the date and place of mailing of bills
25 and upon written request from Municipality, shall certify in writing the date of mailing
26 of each group of bills mailed to customers within Municipality.
27

28 **7.6 Disconnection:**

29
30 **7.6.1** Any customer shall have the right to have their service disconnected, in
31 accordance with applicable federal and State law, which shall include the removal of
32 any equipment owned by Company from the customer's residence.
33

34 **7.6.2** Company shall only disconnect a customer for failure to pay if at least 45 days
35 have elapsed after the due date for payment of customer's bill and Company has
36 provided at least 10 days written notice to the customer prior to disconnection,
37 specifying the effective date after which cable services are subject to disconnection.
38

39 **7.6.3** Company shall not disconnect a customer for failure to pay legitimately
40 contested charges during a billing dispute. However, during a billing dispute,
41 Company may disconnect a customer for failure to pay charges that are not
42 contested.
43

1 **7.6.4** Company may disconnect a customer at any time if Company in good faith
2 believes that the customer has tampered with or abused Company's equipment, that
3 there is a signal leakage problem (or other non-compliance with FCC rules or other
4 standards which poses a risk to persons or property) on customer's premises, or that
5 the customer is or may be engaged in the theft of cable services.
6

7 **7.7 Complaints referred by Municipality**: If Municipality refers a cable service
8 complaint from a customer to Company for resolution, then within five business days of
9 Company's receipt of such referral, it shall investigate (including attempting to contact the
10 customer) and respond to Municipality in writing as to its resolution of the matter.
11

12 **7.8 Local Office**: Company shall maintain at least one location in the Village with regular
13 office hours including some evening and weekend hours for replacing inoperable equipment
14 such as remotes and converter boxes and for bill payment.
15

16 **7.9 Reports**: Company shall provide reports to Municipality monthly and quarterly which
17 measure Company's compliance with the standards regarding service outages and
18 construction.
19

20 **7.10 FCC Technical Standards**: The following shall apply to Company's
21 implementation of and compliance with the rules and regulations relating to cable television
22 technical standards for signal quality, currently set forth at 47 CFR § 76.601 and following, and
23 subsequent amendments thereto:
24

25 **7.10.1** Company shall provide Municipality with a report of testing for compliance
26 with such standards annually or upon request (but not more than twice a year).
27 Municipality may have a representative present to observe such tests and may
28 designate one location to be tested. Company shall provide Municipality with a
29 report of testing for compliance with such standards annually or upon request. Such
30 report shall state, in pertinent part, that the person doing the testing has been
31 provided a copy of and reviewed the rules and regulations of the FCC, the FCC
32 order(s) adopting such rules and regulations, and all industry standards and other
33 materials referenced therein; and that such testing when done fairly, in full compliance
34 with the FCC rules and regulations shows full compliance with such rules and
35 regulations; or in the alternative setting forth with specificity and in detail all areas of
36 non-compliance, their actual or likely scope and causes, and their professional
37 recommendation of the best corrective measures to immediately and permanently
38 correct the non-compliance.
39

40 **7.10.2** Company shall establish the following procedure for resolving complaints from
41 customers about the quality of the television signal delivered to them. All complaints
42 shall go initially to Company. All matters not resolved by Company shall, at

1 Company's or the customer's option, be referred to Municipality for it to resolve. All
2 matters not resolved by Municipality shall be referred to the FCC for it to resolve.
3

4 **7.10.3** Company shall annually notify its customers of the preceding.
5

6 **7.10.4** Municipality at its expense (no more than twice per year, barring unusual
7 circumstances) upon 30 days notice to Company may test the Cable System for
8 compliance with the FCC technical standards. Company shall cooperate in such
9 tests and provide access to the Cable System. Company shall reimburse
10 Municipality for the full expense of any test that shows a material or significant
11 non-compliance with such standards.
12

13 **8. CABLE SYSTEM ACCESS**

14

15 **8.1 PEG Channels Generally:** Company shall provide on the Cable System, public,
16 educational, and government ("PEG") access channels at no charge, as specified herein. All
17 PEG Channels shall be placed on the basic tier of service (and in the lowest tier of service,
18 if different) shall be available to all subscribers, and shall be contained within the first fifty (50)
19 channels on Company's Cable System. PEG channels shall be available twenty-four (24)
20 hours per day at no cost to subscribers, Municipality or Users.
21

22 **8.1.1** It is the expressed intent of the Company and the Municipality that PEG
23 Channels shall remain at the same channel position as exists on the effective date
24 of the Agreement and shall be grouped with other similar programming. If a channel
25 change is necessitated by the Company such changes shall occur infrequently and
26 Company shall compensate all affected PEG Users for their reasonable costs (not
27 exceeding \$3500 per User) in connection with the channel change for items such as
28 stationary, logos, advertising materials and general notification. Further, if the
29 Company requires a channel change the Company shall under no circumstances
30 move the PEG Channels beyond the first 50 channels. The Company agrees to give
31 the Municipality at least 45 days prior notice of any channel change of PEG Channels
32 whenever possible, but in no case less than 30 days prior notice. Whenever the
33 Municipality receives less than 45 days notice of a PEG Channel change by the
34 Company, the Company shall send a letter of notice to all of its subscribers in the
35 Municipality; produce and broadcast notice on the effected channels at least, four
36 times a day including prime time during the 30 day period; If the Municipal Channel
37 (or Channels) should be moved more than twice during any calendar year the
38 Company shall reimburse the Municipality for all costs of production and distribution
39 of a special issue of the Municipal newsletter.
40

41 **8.1.2** Company shall not exercise any editorial control over any public, educational
42 or governmental "PEG" use of channel capacity.
43

1 **8.1.3** Every user of an EG Channel (other than Municipality) shall have in full force
2 and effect a contract with Municipality relating to the EG Channel it uses prior to
3 providing programming on such channel.
4

5 **8.2 Number of PEG Channels:**
6

7 **8.2.1** Company shall initially provide six (6) channels for educational and
8 governmental access and one channel for public access.
9

10 **8.2.2** Municipality may request, and Company shall provide up to three (3) additional
11 PEG access channels at such time as all current PEG access channels are fully
12 utilized. For purposes of this section, full utilization of a PEG channel means at least
13 six hours per day of video programming which is not repeated programming or text
14 messages more than 30% of the time for a period of 8 consecutive weeks.
15

16 **8.3 PEG Channels:** Municipality shall allocate PEG Channels provided by Company
17 among EG Users.
18

19 **8.3.1** Municipality may at any time on six (6) months notice to Company allocate or
20 reallocate the usage of the PEG channels between different Users. This may include
21 Municipality requiring several different entities to share or jointly use a given PEG
22 channel or conversely allowing one or more entity currently sharing such a channel to
23 have a channel on which they are the sole User.
24

25 **8.3.2** Municipality shall establish the initial allocation of PEG channels between the
26 various PEG Users within six (6) months of the Effective Date.
27

28 **8.3.3** Municipality, pursuant to Section 611 of the Cable Act, may from time to time
29 adopt and revise rules and procedures as to when and how Company may use the
30 PEG Channels for the provision of video programming if the PEG Channels are not
31 being used for their respective purposes, but have not been returned to Company
32 pursuant to Section 8.3.4 below. In such an instance, Company shall use the PEG
33 Channels solely in accordance with such rules and procedures and, except for PEG
34 Channels being used by Company, shall have no responsibility or control with respect
35 to the programming of such channels.
36

37 **8.3.4** Notwithstanding Section 8.3.3, if EG Users are not effectively using the
38 allocated access channels, Municipality shall, within 90 days of a determination that
39 the channel(s) is not being used effectively as set forth below, reallocate the EG
40 Channels among the EG Users in order to return a channel(s) to Company for its
41 programming use not limited by section 8.3.3. Said channel(s) may be returned to
42 Municipality pursuant to section 8.2.2. For purposes of this section, EG Channels are
43 not being effectively used if the following criteria is not met:

1
2 **8.3.4.1** Within eighteen (18) months of the effective date of this Agreement, EG
3 Users, including Municipality, Oakton Community College, Niles Township High
4 School District, the Skokie Public Library and at least two (2) of the elementary
5 school districts serving Municipality have demonstrated a commitment to using
6 the allocated channel by, at a minimum, entering into a contract with Municipality
7 required by Section 8.1.3 above (not necessary for Municipality), making a
8 budgetary commitment to support programming on the designated channel, and
9 the participation of EG User designated staff in training to coordinate, produce
10 and operate User's Access programming. If any one of the specifically
11 designated EG Users set forth above or at least two elementary districts do not,
12 at a minimum, meet the above criteria, one (1) EG channel shall be returned to
13 company as not being effectively used.

14
15 **8.3.4.2** Within twenty-four (24) months of the effective date of this Agreement,
16 at a minimum, training of the designated staff is at or near completion resulting
17 in said staff being certified by Company to use Company's production
18 equipment. If a User has its own production equipment and will not be using
19 Company's, said User shall be able to demonstrate that its staff is capable of
20 coordinating and producing programming for the designated channel. All Users
21 shall have prepared a twenty-four (24) month production and/or programming
22 plan. Additionally, provided Company has activated the return path and
23 provided equipment to the EG Users as required by Section 6.6.5 above, each
24 EG channel shall provide not less than 1.5 hours per day of locally produced
25 video programming such as, but not limited to, Board meetings, assemblies,
26 and sporting events. Said one and one half (1.5) hours of video programming
27 shall not include text messages or programming previously cablecast on that
28 calendar day.

29
30 **8.3.4.3** If, thirty-six (36) months after the effective date of this Agreement, a
31 given EG channel provides less than three (3) hours of locally produced video
32 programming per day for a period of eight (8) consecutive weeks. Said three
33 (3) hours of video programming shall not include text messages or
34 programming previously cablecast on that calendar day.

35
36 **8.3.4.4** If, forty-eight (48) months after the effective date of this Agreement, a
37 given EG channel provides less than four and one-half (4.5) hours of video
38 programming per day for a period of eight (8) consecutive weeks. Said four
39 and one-half (4.5) hours of locally produced video programming shall not include
40 text messages or programming previously cablecast on that calendar day.

41
42 **8.3.5** No more than one (1) EG channels shall be returned to Company at any one
43 time unless Company can demonstrate that, even after combining the video

1 programming on the least used EG channel with that of other EG channels that may
2 not be in compliance, the other EG channels will still not meet the programming
3 criteria. Under no circumstances, however, will Municipality be obligated to return
4 more than three of the six (6) EG Channels.
5

6 **8.4 Obligation to Provide Capital Facilities:** Company shall provide the following
7 Capital Facilities and services for PEG access to assist in meeting the cable-related needs
8 of Municipality and its residents:
9

10 **8.4.1** A fully staffed PEG access studio with related equipment as specified in
11 Exhibit D located within the corporate limits of Municipality. Said equipment shall be
12 maintained by Company and replaced or updated as is reasonable necessary for its
13 proper and efficient use by PEG Users.
14

15 **8.4.2** Facilities and equipment training as is necessary for PEG access Users'
16 regular and efficient use of such facilities and equipment
17

18 **8.4.3** Company and Municipality agree that the obligations set forth above are not
19 "franchise fees" within the meaning of 47 U.S.C. § 542.
20

21 **8.5 Capital Grants For PEG Channels:** Company shall make payments to Municipality
22 for Capital Facilities to support PEG access as set forth below. Municipality may, but need not,
23 distribute the sums to current or potential PEG access Users as Municipality determines best
24 meets the cable-related needs of Municipality and its residents. These payments are in
25 addition to the obligations set forth in Section 8.5.
26 Company and Municipality agree that the obligations set forth herein are not "franchise fees"
27 within the meaning of 47 U.S.C. § 542.
28

29 **8.5.1** Capital Facilities Grants of fifty thousand dollars (\$50,000) each on January 1,
30 1999, January 1, 2001, and January 1, 2004, provided that Municipality continues to
31 require similar grants from competing operators.
32

33 **8.5.2** Capital Facilities Grants of not less than one dollar (\$1.00) per subscriber per
34 year, up to an amount equal to the amount provided for PEG support by or to the
35 Municipality, not exceeding one percent (1%) of Company's Cable Gross Revenues.
36 These grants shall be made as follows:
37

38 **8.5.2.1** One dollar (\$1.00) per subscriber shall be paid on January 1 of each
39 year of the Franchise.
40

41 **8.5.2.2** Additional payments, not to exceed one per cent (1%) of the Company's
42 Cable Gross Revenues, upon proof that Peg Users have made equal or greater
43 expenditures. For purposes of this section, "expenditures" shall include the

1 placement of monies in a capital fund for a specific PEG related capital
2 expenditure.
3

4 **8.5.2.3** Said additional payments shall be made quarterly within 45 days of the
5 end of the calendar quarter and shall equal the just ended quarter's expenditures
6 by PEG Users (not exceeding one (1%) percent of Company's quarterly Cable
7 Gross Revenues).
8

9 **8.5.2.4** Though grant payments are made on a quarterly basis, the Capital
10 Facilities Grants are annual grants and expenditures made by PEG Users, but
11 not matched by Company in the previous calendar quarter(s) shall carry over
12 into the next calendar quarter(s) of the same year.
13

14
15
16 **8.6 Encouragement of Public Access Cablecasting:** Company shall provide one (1)
17 public access channel and shall transmit on the cable system such programming as the Public
18 Access Users may provide. Company shall require the users of such public access channels
19 to be responsible for obtaining appropriate authorization from the owners of relevant
20 intellectual property rights for their use in connection with public access programming.
21

22
23 **8.7 Publicity:** Company shall undertake the following publicity activities at its own
24 expense:
25

26 **8.7.1** Company shall make available, at no charge to Municipality or to the
27 educational and governmental entities designated by Municipality, unsold advertising
28 avails into which Company inserts advertising, up to a maximum of three (3)
29 30-second spots per channel, per day. Said spots must meet the minimum technical
30 standards required for cable casting and be provided to Company by Municipality or
31 the designated educational and governmental entities at least five (5) days prior to
32 being cablecast.
33

34 **8.7.2** Company shall list all public, educational, and governmental access channels
35 on all print and cablecast electronic program guides and channel line-ups which it
36 produces, or originates, with the following descriptions: "Educational or Governmental
37 Access" or "Public Access" .
38

39 **8.7.3** Once yearly, Company shall insert subscriber information regarding public,
40 educational and government access programming and activities, prepared by
41 Municipality in accordance with the mechanical requirements of Company's billing
42 service, in monthly bills to subscribers. Company may, at its option, mail said
43 information to its subscribers separate from its monthly bills. Said information shall

1 simultaneously be made available at walk-in customer facilities.
2

3 **8.7.4** Company shall include written information about PEG access and
4 programming activities in materials given to new subscribers.
5

6 **8.8 Educational Services:** Company shall provide Cable in the Classroom (if
7 available) and guides, modems, and access to the Internet (when such service is available to
8 subscribers) to all schools set forth on Exhibit B free of charge.
9

10 **8.9 Leased Access:** Company shall make available suitable channel capacity for
11 leased access by third parties not Affiliated with Company to the extent from time to time
12 required by federal law and regulations. Company shall have the sole responsibility for all
13 operating aspects and for the fixing of rates and conditions for leased access use.
14

15 **9 INDEMNITY AND INSURANCE** 16

17 **9.1 Separate and Distinct Provisions:** It is the specific intent of the Company and the
18 Municipality that the indemnity provisions of Section 9.2 through 9.5 are separate and distinct
19 contractual obligations from the insurance provisions of Sections 9.6 through 9.14.
20

21 **9.2 Indemnification:** Company shall, at its sole cost and expense, indemnify, defend
22 and hold harmless Municipality and all associated, affiliated, allied and subsidiary entities of
23 Municipality, now existing or hereinafter created, and their respective officers, boards,
24 commissions, employees, agents, attorneys, and contractors (hereinafter referred to as
25 "Indemnitees" in Sections 9.2, 9.3, 9.4 and 9.5), from and against:
26

27 **9.2.1** Any and all liability, obligation, damages, penalties, claims, liens, costs,
28 charges, losses and expenses (including, without limitation, reasonable fees and
29 expenses of attorneys, expert witnesses and consultants), which may be imposed
30 upon, incurred by or be asserted against the Indemnitees by reason of any act or
31 omission of Company, its personnel, employees, agents, contractors or
32 subcontractors, resulting in personal injury, bodily injury, sickness, disease or death
33 to any person or damage to, loss of or destruction of tangible or intangible property,
34 libel, slander, invasion of privacy and unauthorized use of any trademark, trade name,
35 copyright, patent, service mark or any other right of any person, firm or corporation,
36 which may arise out of or be in any way connected with the construction, installation,
37 operation, maintenance or condition of the Cable System (including those arising
38 from any matter contained in or resulting from the transmission of programming over
39 the Cable System, but excluding any programming provided by the Indemnitees
40 which is transmitted over the Cable System), the provision of Cable Services or the
41 Company's failure to comply with any federal, state or local statute, ordinance or
42 regulation.
43

1 **9.2.2** Any and all liabilities, obligations, damages, penalties, claims, liens, costs,
2 charges, losses and expenses (including, without limitation, reasonable fees and
3 expenses of attorneys, expert witnesses and other consultants), which are imposed
4 upon, incurred by or asserted against the Indemnitees by reason of any claim or lien
5 arising out of work, labor, materials or supplies provided or supplied to Company, its
6 contractors or subcontractors, for the installation, construction, operation or
7 maintenance of the Cable System or provision of Cable Services , and, upon the
8 written request of Municipality, Company shall cause such claim or lien covering
9 Municipality’s property or funds to be discharged or bonded within thirty (30) days
10 following such request.

11
12 **9.2.3** Any and all liability, obligation, damages, penalties, claims, liens, costs,
13 charges, losses and expenses (including, without limitation, reasonable fees and
14 expenses of attorneys, expert witnesses and consultants), which may be imposed
15 upon, incurred by or be asserted against the Indemnitees by reason of any financing
16 or securities offering by Company or its Affiliates, for violations of the common law
17 or any laws, statutes, or regulations of the State of Illinois or United States, including
18 those of the Federal Securities and Exchange Commission, whether by Company or
19 otherwise.

20
21 **9.3 Assumption of Risk:** Company undertakes and assumes for its officers, agents,
22 contractors and subcontractors and employees (collectively “Company” for the purpose of this
23 section), all risk of dangerous conditions, if any, on or about any Municipality-owned or
24 controlled property, the streets and Public Ways, and Company hereby agrees to indemnify
25 and hold harmless the Indemnitees against and from any claim asserted or liability imposed
26 upon the Indemnitees for personal injury or property damage to any person arising out of the
27 Company’s installation, operation, maintenance or condition of the Cable System or
28 Company’s failure to comply with any federal, state or local statute, ordinance or regulation.

29
30 **9.4 Defense of Indemnitees:** In the event any action or proceeding shall be brought
31 against the Indemnitees by reason of any matter for which the Indemnitees are indemnified
32 hereunder, Company shall, upon notice from any of the Indemnitees, at Company’s sole cost
33 and expense, resist and defend the same with legal counsel selected by Company and
34 consented to by the Village Board, such consent not to be unreasonably withheld; provided,
35 however, that Company shall not admit liability in any such matter on behalf of the Indemnitees
36 without the written consent of Municipality and provided further that Indemnitees shall not admit
37 liability for, nor enter into any compromise or settlement of, any claim for which they are
38 indemnified hereunder, without the prior written consent of Company. Nothing herein shall be
39 deemed to prevent the Indemnitees from cooperating with Company and participating in the
40 defense of any litigation by their own counsel.

41
42 **9.5 Notice, Cooperation and Expenses:** The Indemnitees shall give Company prompt
43 notice of the making of any claim or the commencement of any action, suit or other proceeding

1 covered by the provisions of Part 9.
2

3 **9.6 Insurance:** During the term of the Franchise Agreement, Company shall maintain,
4 or cause to be maintained, in full force and effect and at its sole cost and expense, the
5 following types and limits of insurance:
6

7 **9.6.1** Worker's compensation insurance meeting Illinois statutory requirements and
8 employer's liability insurance with minimum limits of Five Hundred Thousand Dollars
9 (\$500,000) for each accident.
10

11 **9.6.2** Comprehensive commercial general liability insurance with minimum limits of
12 Ten Million Dollars (\$10,000,000) as the combined single limit for each occurrence
13 of bodily injury, personal injury and property damage. The policy shall provide blanket
14 contractual liability insurance for all written contracts, and shall include coverage for
15 products and completed operations liability, independent contractor's liability;
16 coverage for property damage from perils of explosion, collapse or damage to
17 underground utilities, commonly known as XCU coverage.
18

19 **9.6.3** Broadcasters liability coverage for loss or damage arising out of publications
20 or utterances in the course of or related to advertising, broadcasting, telecasting or
21 other communication activities conducted by or on behalf of Company with minimum
22 limits of Ten Million Dollars (\$10,000,000) as the combined single limit for each
23 occurrence of bodily injury, personal injury and property damage.
24

25 **9.6.4** Automobile liability insurance covering all owned, hired, and non-owned
26 vehicles in use by Company, its employees and agents, with personal protection
27 insurance and property protection insurance to comply with the provisions of the
28 Illinois No-Fault Insurance Law, including residual liability insurance with minimum
29 limits of Two Million Dollars (\$2,000,000) as the combined single limit for each
30 occurrence for bodily injury and property damage.
31

32 **9.6.5** At the start of and during the period of any construction, builders all-risk
33 insurance, providing coverage on all building and structures which will be installed or
34 constructed as part of the Cable System together with an installation floater or
35 equivalent property coverage covering cables, materials, machinery and supplies of
36 any nature whatsoever which are to be used in or incidental to the construction of the
37 Cable System. Upon completion of the construction of the Cable System, Company
38 shall substitute for the foregoing insurance policies of fire, extended coverage and
39 vandalism and malicious mischief insurance on the entire Cable System. The
40 amount of insurance at all times shall be representative of the insurable values
41 installed or constructed.
42

43 **9.6.6** All insurance policies shall be written on an occurrence and not on a claims

1 made basis.

2
3 **9.6.7** The coverage amounts set forth above may be met by a combination of
4 underlying and umbrella policies so long as in combination the limits equal or exceed
5 those stated.

6
7 **9.6.8** All policies of insurance shall contain a waiver of subrogation clause in form
8 and substance approved in advance by the Village Manager and Risk Manager.

9
10 **9.7 Additional Insureds:** All policies, except for business interruption and worker's
11 compensation policies, shall name the "Village of Skokie, a municipal corporation of the State
12 of Illinois and its Cable Television Advisory Board and all associated, Affiliated, allied and
13 subsidiary entities of the Municipality, its Cable Television Advisory Board, now existing or
14 hereafter created, and their respective officers, boards, commission, employees, agents and
15 contractors, as their respective interests may appear" as Additional Insureds (herein referred
16 to as the "Additional Insureds") providing coverage for the negligence or other conduct of the
17 Additional Insureds to the same extent as provided to Company, and providing full coverage
18 for all defense costs and expenses.

19
20 **9.8 Evidence of Insurance:** A certificate of insurance evidencing the preceding
21 coverages is attached as Exhibit E. Certificates of insurance for each insurance policy
22 required to be obtained by Company in compliance with this Section, along with written
23 evidence of payment of required premiums shall be filed and maintained with Municipality
24 annually during the term of the Franchise Agreement. Company shall immediately advise the
25 Additional Insureds of any claim or litigation that may result in liability to them.

26
27 **9.9 Cancellation of Policies of Insurance:** All insurance policies maintained pursuant
28 to this Franchise Agreement shall contain the following endorsement:

29 "At least sixty (60) days prior written notice shall be given to the Village of Skokie by
30 the insurer of any intention not to renew such policy or to cancel, replace or materially
31 alter same, such notice to be given by registered mail to the parties named in Section
32 17.7 of the Franchise Agreement."
33

34 **9.10 Insurance Companies:** All insurance shall be effected under valid and
35 enforceable policies, issued by insurers licensed to do business by the State of Illinois or
36 surplus line carriers on the Illinois Insurance Commissioner's approved list of companies
37 qualified to do business in Illinois. All insurance carriers and surplus line carriers shall be rated
38 A+ or better by A.M. Best Company.

39
40 **9.11 Deductibles:** All insurance policies may be written with retainages and
41 deductibles. Company agrees to indemnify and save harmless the Additional Insureds from
42 and against the payment of any retainage or deductible and from the payment of any premium
43 on any insurance policy required to be furnished by this Franchise Agreement.

1
2 **9.12 Contractors:** Company shall require that each and every one of its contractors and
3 their subcontractors carry, in full force and effect, workers' compensation, comprehensive
4 general liability and automobile liability insurance coverages of the type which Company is
5 required to obtain under the terms of this Part 9, including Section 9.7 regarding Additional
6 Insureds, with appropriate limits of insurance. In the alternative, Company, at its expense, may
7 provide such coverages for any or all its contractors or subcontractors, but if Company does
8 so it shall provide evidence of same in writing to Municipality.
9

10 **9.13 Insurance Primary:** Company's insurance pursuant to this Franchise Agreement
11 shall be primary and non-contributory with respect to the Municipality. The relationship of
12 Company's insurance with respect to any insurance provided by contractors or subcontractors,
13 pursuant to Section 9.12, shall be determined by the respective contracts or subcontracts.
14

15 **9.14 Review of Limits:** Once during every even numbered calendar year after 1999
16 during the term of this Franchise Agreement, Municipality may review the insurance coverages
17 to be carried by Company. If Municipality reasonably determines, based on changes in
18 conditions, that higher limits of coverage are necessary to protect the interests of Municipality
19 or the Additional Insureds, Company shall be so notified and shall obtain the additional limits
20 of insurance, at its sole cost and expense.
21

22 **10 FEES AND PAYMENTS**

23

24 **10.1 Franchise Fee:** Company shall pay Municipality throughout the term of this
25 Franchise a fee ("Franchise Fee") in an amount equal to 5% of Company's Cable Gross
26 Revenues.
27

28 **10.1.1** Company shall pay Franchise Fees monthly, within thirty-two (32) calendar
29 days of the last calendar day of each month (for example, fees due for the month of
30 December are due to be paid by February 1).
31

32 **10.1.2** Company shall file with the Village Manager an annual report, prepared and
33 audited by an independent certified public accounting firm, showing the yearly total
34 Cable Gross Revenues for Company's preceding fiscal year. The annual report shall
35 be filed with the Village Manager within one hundred twenty (120) calendar days of
36 Company's fiscal year end (or within one hundred twenty (120) days of any stub
37 period report, if applicable). Such annual report shall be accompanied by a written
38 report to Municipality, in the form acceptable to Municipality, containing an accurate
39 statement of Company's Cable Gross Revenues and the computation of the
40 Franchise Fees.
41

42 **10.2 Audit:** Municipality (by itself or in combination with other Municipalities served by
43 Company) may audit Company (or any entity Affiliated with Company that participates in

1 providing Cable Service to Municipality) to verify the accuracy of Franchise Fees paid
2 Municipality. Company shall make all records reasonably necessary for such audit available
3 at a location in the Chicago Metropolitan Area or Company shall pay all reasonable travel,
4 meals and lodging expenses of an appropriate number of Village employees or agents to
5 travel to where said records are available. Any additional amount due Municipality shall be
6 limited to the three calendar years preceding the audit and paid within 30 days of
7 Municipality's submitting an invoice for such sum. If such sum exceeds 3% of the total
8 Franchise Fees which the audit determines should have been paid for any calendar year,
9 Company shall also pay Municipality's cost of auditing that calendar year. If Company
10 disagrees with Municipality's determination of the additional amount due, or whether it
11 exceeds 3%, Municipality's auditor and Company's auditor shall choose a neutral auditor who
12 shall make a final and binding determination.
13

14 **10.3 Outstanding Amounts Currently Owed:** Company shall pay Municipality Fifty
15 Thousand (\$50,000) Dollars within thirty (30) days of the Effective Date. Said amount shall be
16 full consideration for all amounts currently due and owing Municipality. Company shall not
17 obtain reimbursement of said amount from subscribers as part of the franchise fee calculation,
18 as a separate line item on the subscriber bill, or as a portion of the rate calculation.
19

20 **10.4 Permits and Inspection Fees:** Company shall pay the following permit and
21 inspection fees in a manner consistent with Municipal Code for any reconstruction of the cable
22 system.
23

24 **10.4.1** Company shall pay permit fees in accordance with the Municipal Code for any
25 construction.
26

27 **10.4.2** Company shall pay the reasonable cost of municipal inspections for permitted
28 construction and any reasonable "out of pocket" expenses of Municipality which result
29 from inspections or street openings by Company, including costs of outside
30 engineers or inspectors.
31

32 **10.4.3** Fees customarily charged or reasonably incurred by Municipality for reviews
33 of preliminary or final engineering plans and specifications for reconstruction of the
34 Cable System; provided however, to the extent Municipality finds it necessary to hire
35 a specialized independent engineering firm for the resolution of non-routing, highly
36 technical, and unforeseen problems particular to the cable industry, it shall so advise
37 Company, and Company agrees to reimburse Municipality for reasonable expenses
38 incurred by such firm.
39

40 **10.4.5** In addition, should the Municipality receive a complaint regarding a subscriber
41 installation, the Company shall respond to the complaint within two (2) business days
42 and determine a course of action to resolve said complaint. In the event such
43 complaint is not responded to within two (2) business days, Municipality shall conduct

1 an inspection and Company shall pay Municipality \$50.00 for said inspection. In the
2 event the number of such complaint exceeds three during any one-week period, the
3 amount to be paid to Municipality shall be according to the remedies provided in
4 Section 13.5.
5

6 **10.5 Interest:** All sums not paid when due shall bear interest at a rate which is 1% over
7 the prime rate then being charged by First Chicago/NBD Bank (or its successors), and
8 computed monthly, on a single interest, three hundred sixty (360) days per year basis. Interest
9 shall be calculated monthly based on the actual number of days in the interest period.
10

11 CABLE RATES AND REGULATION

11
12
13 **11.1 Rates:** Company's rates and charges for the provision of Cable Services (and for
14 related services, such as equipment rental, deposits, disconnect fees and downgrade fees)
15 shall be subject to regulation by Municipality to the full extent from time to time authorized by
16 Federal law. Municipality may from time to time elect not to regulate Company's rates and
17 charges, and any such election shall not waive Municipality's rights to regulate in the future.

18 **11.2 Regulation:** Municipality reserves the right to regulate Company, the Cable
19 System, and the provision of Cable Services to the extent from time to time permitted by
20 Federal law.
21

22 **11.3 Uniformity:** Company's rates and charges for its Cable Services shall be uniform
23 throughout the Municipality, except as permitted by Federal law.
24

25 **11.4 Notice of Certain Costs:** If Company's rates are regulated, then Company shall
26 notify Municipality in writing at least annually of the identity of all costs which Company claims
27 are external costs potentially entitled to pass through to Cable Service subscribers under the
28 FCC Rate Regulation Rules in effect on the Effective Date or subsequent law with a similar
29 effect. Such notice shall state the approximate amount of such costs on subscribers' monthly
30 bills and set forth the computation of such amount. Such notice shall be provided on a date
31 set by Municipality, and unless changed by Municipality, on each annual anniversary thereof.
32

33 12 TERM

34
35 **12.1 Term:** The term of this Franchise Agreement shall be until fifteen (15) years from
36 the Effective Date (the "Term").
37

38 **12.2 Extension:** The Term may be extended for three additional two month periods by
39 the Village Manager with the approval of the Village Board upon notification of Company of
40 same in writing.
41

1 **12.3 Termination:** Subject to applicable law, this Franchise Agreement and all rights
2 of Company thereunder shall automatically terminate on the expiration of the term of this
3 Franchise Agreement.

4
5 **12.3.1** Municipality acknowledges that as of the date of this Franchise Agreement
6 its ability to enforce the preceding sentence is limited by the Cable Communications
7 Policy Act of 1984, as amended, and applicable FCC regulations.
8

9 **12.4 Performance Evaluation Sessions:** Municipality and Company may schedule
10 performance evaluation sessions every three (3) years and as may be required by federal and
11 state law. Notice of the date of such evaluation session shall be given to Company at least
12 thirty (30) days in advance.

13
14 **12.4.1** Special evaluation sessions may be held at any time during the term of a
15 Franchise Agreement at the request of Municipality or Company, and upon forty-five
16 (45) days written notice.

17
18 **12.4.2** All evaluation sessions shall be open to the public and shall be advertised in
19 a newspaper of general circulation within Municipality at least ten (10) days prior to
20 each session.

21
22 **12.4.3** Topics which may be discussed at any scheduled or special evaluation
23 session may include, but not be limited to, service rate structures; Franchise fee,
24 liquidated damages; free or discounted services; application of new technologies;
25 system performance; services provided; programming offered; customer complaints;
26 privacy; amendments to this Agreement; judicial and FCC rulings; line extension
27 policies; and Municipal or Company rules.
28

29 **13 TRANSFERS, OWNERSHIP AND CONTROL**

30

31 **13.1 Operation of Cable System:** Only Company and its Affiliates shall own, operate,
32 manage and maintain the Cable System and the provision of Cable Services by use of the
33 Cable System. Company shall not otherwise directly or indirectly assign, in whole or in part,
34 the ownership, operation, management or maintenance of the Cable System or the provision
35 of Cable Services by use of the Cable System.

36
37 **13.1.1** This section shall not apply to Company's employment contracts and other
38 personnel decisions, nor shall it prohibit Company from contracting for or
39 subcontracting, in whole or in part, any operational, management or maintenance
40 functions in connection with the Cable System, so long as Company does not
41 relinquish its decision making authority over or its responsibilities hereunder for any
42 particular function.
43

1 **13.2 Franchise Transfers:** This Franchise Agreement, the Cable System or any
2 portion thereof shall not be transferred without the prior written consent of Municipality.

3
4 **13.2.1** For the purpose of this Section 13.2 “transfer” and “transferred” shall not
5 include a transfer solely for security purposes (such as the grant of a mortgage or
6 security interest), but shall include any realization on the security by the recipient, such
7 as a foreclosure on a mortgage or security interest.

8
9 **13.2.2 Exception:** Company may, without additional approval by Municipality,
10 assign this Franchise to an Affiliate, so long as the Affiliate (1) has the same ultimate
11 parent as Company and (2) agrees to assume all of the Company’s obligations and
12 liabilities hereunder and otherwise comply with all provisions of this Franchise
13 Agreement. Company and the Affiliate shall notify the Municipality of any such
14 assignment within 30 days of its consummation. The notice shall contain a
15 description of the assignment sufficient to establish compliance with subsections (1)
16 and (2) above.

17
18 **13.3 Change of Ownership or Control:** There shall be no change or acquisition of
19 Control of Company or of any entity, at any tier or level, which directly or indirectly Controls
20 Company without the prior written consent of Municipality.

21
22 **13.3.1** Company shall promptly notify Municipality in writing of any proposed change
23 in, transfer of, or acquisition by, any entity of five (5%) percent or more of Company.
24 A rebuttable presumption that a change of ownership or Control will exist with the
25 acquisition of twenty (20%) percent or more of Company or any entity, at any tier or
26 level, which directly or indirectly Controls Company. Every change, transfer or
27 acquisition of Control of Company shall make this Franchise subject to cancellation
28 unless Municipality consents in writing. Said consent shall be granted or denied
29 based upon the legal, technical and financial ability of the proposed acquirer or
30 transferee to comply with the terms of this Agreement. The consent of Municipality
31 shall not be required for an acquisition or transfer of Control between wholly owned
32 subsidiaries of the same entity. Nor shall a transfer or acquisition of less than Control
33 of Company or of any entity, at any tier or level, which directly or indirectly Controls
34 Company, require such consent of Municipality.

35
36 **13.4 Applications for Consent/Procedure/Restrictions:** If Company seeks to obtain
37 the consent of Municipality for any transfers described above, Company shall submit an
38 application for such consent to Municipality and shall submit or cause to be submitted to
39 Municipality such additional documents and information as Municipality may request.

40
41 **13.4.1** Municipality shall have 120 days from the date of submission of an application
42 (such as an FCC Form 394) to act upon any such application for consent. If
43 Municipality fails to act upon such application for consent within 120 days, such

1 application shall be deemed consented to unless the Municipality and Company
2 otherwise agree to an extension of time.

3
4 **13.4.2** Company shall reimburse Municipality for all costs reasonably incurred by
5 Municipality due to any proposed transfer up to a maximum of \$4000. Said costs
6 shall not be set off against the franchise fee.
7

8 **14 DEFAULTS**

9

10 **14.1 Event of Default:** The occurrence, at any time during the term of the Franchise
11 Agreement, of any one or more of the following events, shall constitute an Event of Default by
12 the Company under this Franchise Agreement.
13

14 **14.1.1** The failure of Company to pay the Franchise Agreement fee, PEG support
15 fees or liquidated damages assessed on or before the due dates specified herein.
16

17 **14.1.2** Company's breach or violation of any of the terms, covenants, representations
18 or warranties contained herein or Company's failure to perform any obligation
19 contained herein. A single violation of a term covenant, representation of warranty
20 of this Agreement for which liquidated damage may be assessed shall not be
21 deemed an Event of Default. However, multiple violations of the same term,
22 covenant, representation or warranty for which liquidated damages may be assessed
23 may be considered an Event of Default.
24

25 **14.1.3** Company's violation of any term or condition of Municipal Code.
26

27 **14.1.4** Company's failure to pay or cause to be paid any governmentally imposed
28 taxes of any kind whatsoever, including but not limited to real estate taxes, income
29 taxes and personal property taxes on or before the due date for same; provided,
30 however, Company shall not be in default hereunder with respect to the non-payment
31 of taxes which are being disputed in good faith in accordance with applicable law.
32

33 **14.1.5** The entry of any judgment against Company in excess of One Hundred Fifty
34 Thousand (\$150,000) Dollars, which remains unpaid and is not stayed pending
35 rehearing or appeal, for forty-five (45) or more days following entry thereof.
36

37 **14.1.6** The dissolution or termination, as a matter of law, of Company without the
38 prior approval of Municipality, which shall not unreasonably be withheld.
39

40 **14.1.7** If Company files a voluntary petition in bankruptcy; is adjudicated insolvent;
41 obtains an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C.
42 §301); files any petition or fails to contest any petition filed against it seeking any
43 reorganization, arrangement, composition, readjustment, liquidation, dissolution or

1 similar relief for itself under any laws relating to bankruptcy, insolvency or other relief
2 for debtors; seeks or consents to or acquiesces in the appointment of any bankruptcy
3 trustee, receiver, master, custodian or liquidator of Company, or any of Company's
4 property and/or Franchise Agreement and/or of any and all of the revenues, issues,
5 earnings, profits or income thereof; makes an assignment for the benefit of creditors;
6 or fails to pay Company's debts generally as they become due.
7

8 **14.2 Uncured Events of Default:** Upon the occurrence of an Event of Default which
9 can be cured by the immediate payment of money to Municipality or a third party, Company
10 shall have thirty (30) days from written notice from Municipality of such Event of Default to cure
11 before Municipality may exercise any of its rights or remedies provided for herein. Upon the
12 occurrence of an Event of Default which cannot be cured by the immediate payment of money
13 to Municipality or a third party, Company shall have ninety (90) days from written notice from
14 Municipality to cure such Event of Default or demonstrate why such Event of Default cannot be
15 cured within the required period of time and present to Municipality an plan, acceptable to
16 Municipality, for curing the Event of Default before Municipality may exercise any of its rights
17 or remedies provided for herein.
18

19 **14.2.1** If any Event of Default is not cured within the time period allowed for curing the
20 Event of Default, as provided for herein, such Event of Default shall, without additional
21 notice, become an Uncured Event of Default, which shall entitle Municipality to
22 exercise the remedies provided for herein.
23

24 **15 REMEDIES**

25

26 **15.1 Remedies:** Upon the occurrence of any Uncured Event of Default, Municipality shall
27 be entitled to exercise any and all of the following cumulative remedies:
28

29 **15.1.1** The commencement of an action against Company at law for monetary
30 damages.
31

32 **15.1.2** The commencement of an action in equity seeking injunctive relief or the
33 specific performance of any of the provisions which, as a matter of equity, are
34 specifically enforceable.
35

36 **15.1.3** For a violation of a material provision of this Franchise Agreement,
37 Municipality shall have the right to forfeit and terminate the Franchise Agreement and
38 upon the forfeiture and termination thereof this Franchise Agreement shall be
39 automatically deemed null and void and have no force or effect, Company shall
40 remove the Cable System from Municipality as and when requested by Municipality
41 and Municipality shall retain any portion of the Franchise Agreement Fee and other
42 fees or payments paid to it, or which are due and payable to it, to the date of the
43 forfeiture and termination. Municipality's right to forfeit and terminate the grant of the

1 Franchise Agreement pursuant to this section is not a limitation on Municipality's right
2 of revocation. Notwithstanding the above, prior to any forfeiture or termination of the
3 Franchise Agreement, Municipality shall notify Company in writing at least 15 days
4 in advance of the Village Board meeting at which the question of forfeiture or
5 termination shall be considered and Company shall have the right to appear before
6 the Village Board in person or by counsel and raise any objections or defenses
7 Company may have that are relevant to the proposed forfeiture or termination.
8

9 **15.2 Security Fund:**

10
11 **15.2.1** Company shall deposit with Municipality, no later than thirty (30) days after the
12 Effective Date, as security for the faithful performance by Company of the provisions
13 of this Franchise Agreement and compliance with all orders, permits, and directions
14 of any agency of Municipality and the payment of all claims, liens, fees, penalties and
15 taxes to Municipality, an unconditional and irrevocable letter of credit issued by a
16 bank having its principal office in Chicago, Illinois, in the amount of One Hundred
17 Thousand Dollars (\$100,000). Failure to deposit said letter of credit in a timely
18 fashion, or the failure to maintain said letter of credit, in the full amount required
19 hereby, in effect during the entire term of this Franchise Agreement or extension, and
20 shall constitute a material breach of this Franchise Agreement.
21

22 **15.2.2** If Company fails to make timely payment to Municipality or its designee of any
23 amount due as a result of this Franchise Agreement, or of other agreements between
24 Company and Municipality; or fails to make timely payment to Municipality of any
25 taxes due; or fails to repay Municipality for damages and costs; or fails to comply with
26 any provision of this Franchise Agreement which Municipality reasonably determines
27 can be remedied by an expenditure of monies Municipality may draw upon the letter
28 of credit an amount sufficient to repay Municipality with interest and any penalties.
29

30
31 **15.2.3** Within three (3) days of a drawing upon the letter of credit, Municipality shall
32 send written notification of the amount, date and purpose of such drawing to
33 Company.
34

35 **15.2.4** If at the time of a drawing by Municipality, the aggregate amount realized from
36 the letter of credit is insufficient to provide the total payment toward which the drawing
37 is directed, the balance of such payment shall constitute an obligation of Company
38 to Municipality until paid, at judgment rate.
39

40 **15.2.5** No later than thirty (30) days after mailing of notification to Company of a
41 drawing on the letter of credit, Company shall cause the letter of credit to be restored
42 to the full amount required. Failure to timely restore the letter of credit shall constitute
43 a material breach of this Agreement.

1
2 **15.2.6** The rights reserved to Municipality with respect to this letter of credit are in
3 addition to all other rights of Municipality, whether reserved by this Franchise
4 Agreement or authorized by law, and no action, proceeding or exercise of a right with
5 respect to such letter of credit shall affect any other rights Municipality may have.
6

7 **15.3 Remedies Not Exclusive:** The rights and remedies of Municipality set forth in this
8 Franchise Agreement shall be in addition to and not in limitation of, any other rights and
9 remedies provided by law or in equity. Municipality and Company understand and intend that
10 such remedies shall be cumulative to the maximum extent permitted by law and the exercise
11 by Municipality of any one or more of such remedies. shall not preclude the exercise by
12 Municipality, at the same or different times, of any other such remedies for the same Uncured
13 Event Of Default. However, notwithstanding this Section 15.3 or any other provision of this
14 Franchise Agreement, Municipality shall not recover both liquidated damages and actual
15 damages for the same violation, breach, non-compliance, or Uncured Event of Default.
16

17 **15.4 Liquidated Damages - Customer Service:** Company acknowledges that
18 noncompliance with the customer service standards set forth herein will harm subscribers and
19 Municipality and the amounts of actual damages will be difficult or impossible to ascertain.
20 Municipality may therefore assess liquidated damages against Company for noncompliance
21 with those customer service standards. Company acknowledges that the liquidated damages
22 set forth below are a reasonable approximation of actual damages and that this section is
23 intended to provide compensation to Municipality and its subscribers and is not a penalty.
24

25 **15.4.1** First noncompliance with a given standard -\$750.

26
27 **15.4.2** Second noncompliance with a given standard within four consecutive
28 calendar quarters -\$1,500.

29
30 **15.4.3** Third and subsequent noncompliances with a given standard within six
31 consecutive calendar quarters -\$3,000.
32

33 **15.5 Liquidated Damages - General:** In addition to the remedies provided for in
34 Sections above, liquidated damages in the amounts set forth below may be awarded
35 Municipality (individually and on behalf of subscribers) from Company for violations of the
36 terms of this Agreement. Company acknowledges that the amounts of actual damages for the
37 violations and Uncured Events of Default set forth below will be difficult or impossible to
38 ascertain; that the liquidated damages set forth below are a reasonable approximation of
39 actual damages; that the actual damages are often incurred by Municipality and subscribers
40 and, while cumulatively large, are too small to be worth while for individual subscribers to
41 pursue; and that this section is intended to provide compensation to Municipality and its
42 subscribers and is not a penalty. The amount of the liquidated damages are as follows:
43

1 **15.5.1** For violations of Part 13 hereof, liquidated damages not to exceed \$5,000
2 per day.

3
4 **15.5.2** For violations of Parts 8 and 9 hereof, liquidated damages not to exceed
5 \$2,000 per day.

6
7 **15.5.3** For violations of Parts 4 and 5 hereof, liquidated damages not to exceed
8 \$500 for each day that the Uncured Event of Default continues.

9
10 **15.6 Liquidated Damages Procedure:** Liquidated damages may be awarded in
11 accordance with the following procedure.

12
13 **15.6.1** Following notice from the Village Manager, which notice, at Village Manager's
14 election, may be combined with the noticed described in Section 15.6.2, Company
15 shall meet with Village Manager to attempt to resolve the issue of what liquidated
16 damages may be awarded. If there is no resolution of such issue within 20 days of
17 the mailing of the notice described in the first sentence then the Village Board may
18 assess liquidated damages as described below.

19
20 **15.6.2** Company shall be given notice of Municipality's intent to assess liquidated
21 damages at least twenty (20) days in advance of the Village Board meeting at which
22 such damages are assessed.

23
24 **15.6.3** Company may appear at the Village Board meeting at which such damages
25 are assessed either in person, by agent, or by letter (or other writing) to submit its
26 views with respect to the proposed assessment.

27
28 **15.6.4** The Village Board may then assess liquidated damages in amounts not
29 exceeding those set forth above.

30
31 **15.6.5** Such assessment by Municipality shall be a monetary obligation of Company
32 to Municipality in the amount determined by the Village Board; and shall be paid in
33 full by Company within fifteen (15) business days of the date of assessment by
34 Village Board, unless otherwise stayed by a court of competent jurisdiction.

35 36 **16 PROVISION OF INFORMATION**

37
38 **16.1 Filings:** Upon reasonable request, Company shall provide Municipality or its
39 attorneys with copies of (a) all documents which Company or its Affiliates who participate in
40 the provision of cable service to Municipality send to the FCC or Illinois Commerce
41 Commission (or successor agencies having jurisdiction over Company), (b) all records
42 required by Company to be maintained under § 76 of the FCC regulations (47 CFR §76) or
43 successor sections, and (c) all pleadings submitted by Company or said Affiliates in any

1 lawsuit regarding the validity of statutes or regulations, whether Federal or Illinois, (d) all
2 pleadings submitted by Company in any lawsuit with program suppliers regarding
3 programming provided in Municipality, and (e) all pleadings to which Company or said
4 Affiliates are a party from judicial proceedings involving disputes with other cities, townships
5 or villages in Illinois.
6

7 **16.2 Books and Records:** The Municipality may review such of Company's books and
8 records, during normal business hours and on a non-disruptive basis, as are reasonably
9 necessary to monitor compliance with the terms hereof. Such records shall include, but shall
10 not be limited to, records required to be kept by the Company pursuant to the rules and
11 regulations of the FCC, and financial information underlying the written report accompanying
12 the Franchise Agreement fee. Notwithstanding anything to the contrary set forth herein,
13 Company is not required to disclose personally identifiable subscriber information without the
14 subscriber's consent in violation of Section 631 of the Cable Act, 47 U.S.C. Section 551,
15 regarding the protection of subscriber privacy. To the extent permitted by law, the Municipality
16 agrees to treat on a confidential basis any information disclosed by the Company to it under
17 this Section. In so according confidential treatment, disclosure of Company's records by the
18 Municipality shall be limited to only those of its employees, representatives and agents that
19 have a need to know, and that are in a confidential relationship with the Municipality.
20

21 **16.3 Reports:** Company shall provide the Village Manager with the FCC annual
22 cumulative signal leakage report (currently FCC Form 320, or subsequent report with
23 comparable information), the twice yearly FCC signal quality proof of performance reports and
24 copies of any technical reports which Company files with the FCC. In addition Company shall
25 provide Municipality quarterly reports and data of which in substance and format as may be
26 from time to time specified by Municipality to monitor Company's compliance with any
27 provision of this Agreement.
28

29 **17 GENERAL**

30
31 **17.1 Entire Agreement:** This Franchise Agreement, including the Exhibits attached
32 hereto, contain the entire agreement between the parties and all prior negotiations and
33 agreements are merged herein and hereby superseded.
34

35 **17.2 Taxes:** Nothing contained herein shall be construed to except Company from any
36 tax, liability or assessment that may be authorized by law.
37

38 **17.3 System Upgrades:** Company's Cable System shall be regularly upgraded so as
39 to be physically capable of providing all of the Cable Services offered by Company to all
40 communities served by the same headend.
41

42 **17.4 Acknowledgment of Validity:** Company, for itself, Affiliates and its successors,
43 acknowledges and agrees that as of the Effective Date:

1 5127 Oakton Street
2 Skokie, IL 60077

3
4 Corporation Counsel
5 Village of Skokie
6 5127 Oakton Street
7 Skokie, IL 60077

8
9 If to Company:

10 TCI of Illinois, Inc.
11 P.O. Box 7606
12 Mt. Prospect, IL 60056
13 Attention: Franchising Director

14
15 With a copy to:

16 TCI of Illinois, Inc.
17 111 Pfingsten Road, Suite 400
18 Deerfield, IL 60015
19 Attention: Legal Department
20
21

22 Either party to this Franchise Agreement may change its address or personnel for the receipt
23 of Notices at any time by giving notice thereof to the other as provided in this Section. An
24 authorized representative of the party giving notice must sign the notice.
25

26 **17.7.1** Notices may be transmitted in any of the following four ways:
27

28 **17.7.1.1** By personal delivery, in which case they are deemed given when
29 delivered.

30 **17.7.1.2** By delivery to Federal Express or other nationally recognized overnight
31 courier service, in which case they shall be deemed given when delivered to
32 such service.

33 **17.7.1.3** By being deposited in the U.S. Mail, by registered or certified mail,
34 return receipt requested, postage prepaid, in which case notice shall be
35 deemed given when so deposited in the U.S. Mail.

36 **17.7.1.4** By facsimile transmission where the sender's transmittal log shows
37 successful transmission to all the recipients (with any replacement transmission
38 as a recipient shall request) and with a hard copy on the same date mailed to
39 all by first class mail, postage prepaid, in which case notice shall be deemed
40 given on the date of facsimile transmission.
41

42 **17.8 Conferences:** The parties hereby agree to meet at reasonable times to discuss
43 any aspect of this Franchise Agreement or the services or facilities of Company. At all

1 meetings Company shall make available personnel qualified for the issues to be discussed
2 and such meetings shall be at Municipality's offices unless otherwise agreed.
3

4 **17.9 Governing Law:** This Franchise Renewal Agreement shall be construed pursuant
5 to the laws of the State of Illinois except where superseded by Federal law.
6

7 **17.10 No Inducement:** Company, by accepting this Agreement, acknowledges that it
8 has not been induced to accept the Agreement by any promise, oral or written, by or on behalf
9 of Municipality or by any third person regarding any term or condition of this Agreement not
10 expressed herein. Company further pledges that no promise or inducement, oral or written,
11 has been made to any Municipal employee or official regarding receipt of this Franchise
12 Renewal Agreement.
13

14 **17.11 Non-Discrimination:** Company agrees not to discriminate against any employee
15 or applicant for employment with respect to his or her hire, tenure, terms, conditions or
16 privileges of employment, or any matter directly or indirectly related to employment, because
17 of his or her race, color, religion, national origin, age, sex, height, weight, marital status or a
18 handicap that is unrelated to that individual's ability to perform the duties of a particular job or
19 position.
20

21 **17.12 Franchise Renewal Agreement Accepted:** Company further acknowledges by
22 acceptance of this Agreement that it has carefully read the terms and conditions of the
23 Agreement and accepts the obligations imposed by the terms and conditions herein
24 regardless of whether their obligations are contained in the Franchise Agreement or Municipal
25 Code.
26

27 **17.13 Waiver Filings:** Concurrent with any filing by Company or its Affiliates for any
28 waivers, exceptions or declaratory rulings or other rulings with the same effect from the
29 Federal Communications or any other Federal or state regulatory agency which may affect
30 Municipality or its residents, Company or its Affiliates shall provide Municipality with copies
31 of such filings.
32

33 **17.14 Guarantee of Parent:** This Agreement and its effectiveness is expressly
34 conditioned upon the execution and delivery to Municipality by the ultimate parent of Company
35 of an unconditional guarantee of the timely performance of all obligations of Company
36 hereunder, said guaranty to be in a form acceptable to Municipality.
37

38 **17.15 No Liability:** Nothing in this Agreement or in Section 635A of the
39 Communications Act of 1934, as amended, shall be construed as creating or authorizing
40 liability of any kind by Municipality or any official, member, employee, attorney or agent of such
41 entity, under any law, for any action or failure to act relating to Cable Services,
42 Telecommunications Services, a Cable System a Telecommunications System, the Cable
43 Television Business or the granting of a franchise renewal.

1 **17.16 Waiver of Compliance:** No failure by either party to insist upon the strict
2 performance of any covenant, agreement, term or condition of this Agreement, or to exercise
3 any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach
4 or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter
5 this Agreement, but each and every covenant, agreement, term or condition of this Agreement
6 shall continue in full force and effect with respect to any other then existing or subsequent
7 breach thereof.

8
9 **17.16.1** Municipality may waive any provision of this Agreement, in whole or in part,
10 at any time. Such waivers include but are not limited to instances of a claim or
11 showing by Company that the costs associated with the provision being waived
12 would increase the rates Company is legally allowed to charge subscribers, such as
13 a claim that such costs are an “external cost” which allow Company to increase its
14 cable rates under the FCC rules.

15
16 **17.17 Diligent Prosecution:** Company agrees to use its best efforts, at its expense,
17 to actively and diligently conduct the prosecution of all applications to the FCC or other
18 governmental regulatory bodies necessary to permit construction and operation of its Cable
19 System in accordance with the Franchise Agreement and Municipal Code.

20
21 **17.18 Severability:** If any section, sentence, paragraph, term or provision of this
22 Agreement is finally determined to be illegal, invalid, or unconstitutional, by an court of
23 competent jurisdiction or by any state or federal regulatory authority having jurisdiction, such
24 determination shall have no effect on the validity of any other section, sentence, paragraph,
25 term or provision of this Agreement all of which shall remain in full force and effect for the term
26 of the Franchise, or any renewal or renewals thereof.

27
28 **17.19 Specific Rights Reserved by Municipality:** In addition to the rights specifically
29 reserved to the Municipality elsewhere in this Agreement, this Agreement is subject to the right
30 of Municipality:

31
32 **17.19.1** To revoke the Franchise Agreement for misuse, non-use, or the failure to
33 comply with the material provisions of the Municipal Code or any other material local,
34 State or Federal laws or regulations subject to the procedures set forth herein.

35 **17.19.2** To establish reasonable standards of Cable Service and quality of products,
36 and to prevent unjust discrimination in Cable Service or rates.

37 **17.19.3** To require continuous and uninterrupted service to the public in accordance
38 with the terms of the Agreement throughout the entire period thereof.

39 **17.19.4** To control and regulate the use of its bridges, Public Ways, and public
40 places and other Municipal property and the space above and beneath them.

41
42 **17.19.5** To install and maintain without charge, its own equipment upon the
43 Company’s poles and in Company’s conduit upon the condition that said equipment

1 does not unreasonably interfere with the operations of the Company and is not used
2 by Municipality to provide services in competition with Company.

3 **17.19.6** Through its appropriately designated representatives, to inspect all
4 construction or installation work performed subject to the provisions of this Franchise
5 Agreement or Municipal Code and make such inspections and audits as it shall find
6 necessary to insure compliance with the terms of the Franchise Agreement,
7 Municipal Code and other pertinent provisions of law.

8 **17.19.7** At the expiration of the term for which this Agreement is granted, and absent
9 a renewal of it, or upon the revocation of the Agreement, to require the Company to
10 remove at its own expense any and all aerial portions of the Cable System from the
11 Public Ways within Municipality.

12
13 **17.20 General Reserved Rights:** In addition to all rights provided in this Agreement,
14 Municipality reserves all rights and powers conferred by Federal law, the Illinois Constitution,
15 Illinois statutes and decisions, the Municipal Charter, Municipal Code, and Municipal
16 ordinances which Municipality is allowed to exercise.

17
18 **17.20.1** Company recognizes the right of Municipality to make reasonable
19 amendments to the Municipal Code and any applicable ordinances; except that
20 Municipality shall not make amendments materially adversely affecting Company
21 except under a proper exercise of Municipality's police powers, with notice to
22 Company and an opportunity to be heard. It further recognizes and agrees that
23 Municipality shall in no way be bound to renew the Franchise, subject to Federal law
24 as it may from time to time apply.

25
26
27 **17.20.2** Company also recognizes Municipality's right to impose such other
28 regulations of general applicability as shall be determined by Municipality to be
29 conducive to the safety, welfare, and accommodation of the public.

30
31 **17.21 Misleading Statements:** If Company or any of its Affiliates provides information
32 to Municipality in connection with any matters under this Agreement which contains an untrue
33 statement of a material fact or omits a material fact necessary to make the information not
34 misleading, it shall constitute a violation of this Agreement and shall be subject to the
35 remedies provided herein. Each day that Company or an Affiliate fails to correct an untrue
36 statement of a material fact or the omission of a material fact necessary to make the
37 information not misleading shall constitute a separate violation of this Agreement.

38
39 **17.22 Conduct of Hearings:** The following procedures shall apply to any hearing held
40 in connection with action taken by the Village Board in connection with this Agreement:

41 **17.22.1** Company shall receive 30 days notice of the hearing. The Village Board
42 may conduct the hearing or, in its sole discretion, may by resolution appoint a
43 committee or subcommittee of the Commission or a hearing officer to conduct the

1 hearing and submit a proposal for decision to it, pursuant to procedures established
2 by resolution.

3 **17.22.2** The hearing shall be conducted in such a manner as to afford Company
4 appropriate due process. The Village Board may by resolution establish other
5 procedural matters in connection with the hearing.
6

7 **17.23 Force Majeure:** Any delay, preemption, or other failure to perform, including, but
8 not limited to, system reconstruction, caused by factors beyond the parties' reasonable control,
9 such as an act of God, labor dispute, non-delivery by suppliers, war, riot, or government,
10 administrative or judicial order or regulation, shall not result in a default of this Agreement.
11 Each party shall exercise its reasonable efforts to cure any such delays
12 and the cause of such delays, and performance under the terms of this Agreement shall be
13 excused for the period of time during which such factor continues.
14

15 **17.24 Execution/Copies:** This Agreement is executed in duplicate, each of which shall
16 constitute an original instrument. Company shall have 30 days from the Effective Date to
17 execute this Agreement. Company shall provide Municipality with three (3) 8½" by 11"
18 unbound copies of this Agreement.
19

20 **17.25 Authority:** Company represents, and agrees to warrant and defend, that it has
21 the corporate authority to enter into this Agreement and that the persons signing on its behalf
22 have received all necessary authorizations and approvals to execute this Agreement on behalf
23 of Company. Municipality represents that this Agreement was approved by its legislative body
24 on _____, 1998 and that the persons executing this Agreement have been duly
25 authorized to execute it on behalf of Municipality.

26 **Effective Date:** This Franchise Agreement shall be effective on
27 _____, 1999.
28
29
30
31

32 VILLAGE OF SKOKIE,
33 a municipal corporation:
34
35
36

TCI OF ILLINOIS, INC:

37 By: _____
38 its Mayor
39

By: _____
its _____

40 ATTESTED

ATTESTED

41
42 By: _____
43 its VILLAGE CLERK

BY: _____
its _____