

**1. DEFINITIONS.**

When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words “shall” and “will” are mandatory, and “may” is permissive. Unless otherwise expressly stated, words not defined herein or in the Communications Ordinance shall be given the meaning set forth in Va. Code § 15.2-2108 or, if not in conflict, Title 47 of the United States Code, as amended, and if not defined therein, their common and ordinary meaning.

(a) *Affiliate*: Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Grantee.

(b) *Basic Cable Service*: The HSN service tier which includes the following: at least (i) all domestic television broadcast signals carried in fulfillment of the requirements of 47 U.S.C. §§ 534 and 535 (except any signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the Grantee’s Cable System); (ii) any public, educational, and governmental access programming required by the Franchise Agreement to be provided to Subscribers as basic service; and (iii) any additional video programming signals or service added to basic service by the Grantee.

(c) *Board*: The Board of Supervisors of the County of Fairfax, Virginia.

(d) *Cable Act*: Title VI of the Communications Act of 1934 (47 U.S.C. § 521, et seq.) and any amendments thereto.

(e) *Communications Ordinance*: Chapter 9.1 of the Code of the County of Fairfax.

(f) *Cable Service*: (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(g) *Cable System*: A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with 47 U.S.C. § 573; or (E) any facilities of any electric utility used solely for operating its electric utility system.

(h) *Communications Administrator*: The present or succeeding employee of Fairfax County designated as the Cable Television Administrator or as the Communications Administrator who shall have the duties prescribed in the Communications Ordinance and as otherwise prescribed by the Board.

(i) *Channel*: A portion of the electromagnetic frequency spectrum that is used in Grantee's Cable System and that is capable of delivering a television channel as that term is defined in 47 U.S.C. § 522 as of the Effective Date of this Agreement.

(j) *County*: The County of Fairfax, Virginia.

(k) *Demarcation Point:* For purposes of the HSN, a Demarcation Point shall be as defined in 47 C.F.R. § 76.5(mm) as of the Effective Date or as subsequently amended. For purposes of the I-Net, a Demarcation Point shall have the meaning given that term in Appendix 2. For purposes of PEG upstream feeds, a Demarcation Point shall be the point at which the equipment owned by the PEG origination site operator interconnects with Grantee's wiring and electronics.

(l) *Educational Access Channel or Educational Channel:* Any Channel required by this Franchise Agreement to be designated by the Grantee for use by the County on the HSN for educational purposes.

(m) *Equitable Price:* Fair Market Value adjusted downward for the harm to the County or Subscribers, if any, resulting from the Grantee's breach of this Agreement or violation of the Communications Ordinance which resulted in the revocation of the Franchise, and as further adjusted to account for any other equitable factors that may be considered consistent with 47 U.S.C. § 547.

(n) *Fair Market Value:* The price which property will bring when it is offered for sale by one who desires, but is not obligated, to sell it, and is bought by one who is under no necessity of having it.

(o) *Federal Communications Commission or FCC:* That Federal agency as presently constituted by the Communications Act of 1934, as amended, its designee, or any successor agency.

(p) *Franchise:* The franchise granted pursuant to this Agreement.

(q) *Franchise Agreement or Agreement:* This contract and any amendments, exhibits or appendices hereto.

(r) *Franchise Area:* The Reston Franchise area, as defined in Section 9.1-7-1 of the Communications Ordinance, and any area added thereto during the term of the Franchise that is served by the Grantee as of the Effective Date of this Agreement or which the Grantee agrees to serve.

(s) *Franchise Fee:* This term shall have the meaning given to it in Section 8(a) herein.

(t) *Governmental Access Channel or Governmental Channel:* Any Channel required by this Franchise Agreement to be designated by the Grantee for use by the County on the HSN for governmental purposes.

(u) *Grantee:* Comcast of Virginia, Inc., a Colorado corporation, and its lawful and authorized successors, assigns, and transferees.

(v) *Grantee's Cable System:* The Cable System of the Grantee in the County, which shall be subject to either the Prior Franchise or the Franchise, as the context requires.

(w) *Gross Revenues:* Any and all cash, credits, property or consideration of any kind or nature that constitute revenue in accordance with Generally Accepted Accounting Principles derived directly or indirectly from the operation of the Grantee's Cable System to provide Cable Services in the Franchise Area. Consistent with the foregoing, the following, without limitation, shall be included in Gross Revenues to the extent derived from the operation of the Grantee's Cable System to provide Cable Services in the Franchise Area: monthly fees collected from Subscribers for any basic, optional, premium, per-channel, per-program service, or cable programming service; installation, disconnection, reconnection, and change-in-service fees; revenues from rentals or sales of converters or other equipment; studio rental, production equipment rental, and personnel fees; fees from third party unaffiliated programmers for leased

access programming; advertising revenues after deducting agency commissions; revenues from the sale or carriage of other Cable Services; and revenues from home shopping channels. Gross revenues shall not include any taxes on services furnished by Grantee which are imposed directly on any Subscriber or User by the Commonwealth of Virginia, the County, or other governmental unit and which are collected by the Grantee on behalf of said governmental unit. A Franchise fee is not such a tax. Gross Revenues shall not include (i) any consideration paid by the County to the Grantee for the Institutional Network as set forth in Appendix 2 hereto, or any expense reimbursement paid by the County or its agents, or by PEG users, to the Grantee; (ii) any compensation awarded to Grantee based on the County's condemnation of property of Grantee; (iii) any uncollected receipts (i.e., "bad debt"), provided, however, that all or any part of any such actual bad debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected.

(x) *Home Subscriber Network or HSN:* The broadband communications network of Grantee's Cable System serving residential Subscribers in the Franchise Area. The HSN shall include all facilities and equipment provided by Grantee that are designed to provide Cable Service to residential Subscribers, including, but not limited to, converters and other terminal equipment.

(y) *Institutional Network or I-Net:* An institutional network constructed for the County's use which is not generally available to Subscribers and which is more specifically described in Section 7 herein.

(z) *Leased Access Channel or Commercial Access Channel:* Any Channel on the Grantee's Cable System designated or dedicated for use by a Person unaffiliated with the Grantee pursuant to 47 U.S.C. § 532.

(aa) *Normal Operating Conditions:* Those conditions that are within the control of the Grantee. Conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, weather or traffic conditions impairing construction or normal operation activities, vandalism, accidents for which Grantee is not primarily responsible, sabotage, and the action or inaction of any governmental unit. Consistent with the foregoing, conditions that are within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular or reasonably anticipatable peak or seasonal demand periods, and maintenance or upgrade of Grantee's Cable System.

(bb) *Department of Cable Communications and Consumer Protection:* The Fairfax County Department of Cable Communications and Consumer Protection or any successor agency that is designated by the Board to perform the functions of that Department.

(cc) *PEG:* Public, educational, and governmental.

(dd) *Person:* An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto or transferee thereof, but such term does not include the County.

(ee) *Public Access Channel:* Any Channel required by this Franchise Agreement to be designated by the Grantee on the HSN for use by the general public who are residents of the County, including groups and individuals, and which is available for such use on a non-discriminatory basis for public access purposes.

(ff) *Prior Franchise:* The cable television franchise dated May 16, 1988 for the Reston Franchise area, as defined in the Communications Ordinance and accepted by Warner Cable Communications of Reston, Inc.

(gg) *Public Rights-of-Way*: The surface, the air space above the surface, and area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, concourse, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public water or public easements, or other public way within the County, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System.

(hh) *Rate Regulated Services*: All services, including related equipment and installation fees, subject to rate regulation by the County pursuant to applicable federal and Virginia law.

(ii) *Service Tier*: A category of Cable Service or other services provided by the Grantee's Cable System consisting of one or more video programming services that are offered as a package and for which a separate rate is charged by the Grantee.

(jj) *Subscriber*: Any member of the general public who contracts with Grantee to receive or otherwise lawfully receives (except for resale) Grantee's Basic Service and/or any one or more of such other Cable Services as may be provided on the HSN.

(kk) *User*: A Person or organization using a PEG Channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

(ll) *Video Programming*: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.