

AGREEMENT

for a

CABLE TELEVISION

FRANCHISE

City of Muncie, Indiana

FRANCHISE AGREEMENT

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FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the City of Muncie, Indiana (hereinafter, "Franchising Authority") and Comcast of Muncie (hereinafter, the "Grantee").

The City of Muncie, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction and operation of a cable system on the terms and conditions set forth herein.

SECTION I Definition of Terms

1.1 Terms. For the purpose of this Franchise Agreement, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. Any term not defined herein shall have the meaning assigned to such term in the Cable Act.

"Basic Service Tier" means the tier of service which includes the retransmission of local television broadcast signals in the Indianapolis, Indiana television market, "PEG Channels," and home shopping channels, as defined by the Federal Communications Commission in Section 623(b)(7) of the Communications Act.

"Broadband Service" refers to a two-way high bandwidth cable infrastructure, such as hybrid fiber coax (HFC), capable of handling a minimum bandpass of 750 MHz, and allowing for integrated services such as video, and data traffic.

"Cable Act" means Title VI of the Communications Act of 1934 as amended from time to time, 47 U.S.C. Sections 521 et seq.

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

"Cable System" means 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 Customers 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 Customers 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 Cable Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621 (c)) to the extent such facility is used in the transmission of video programming directly to Customers, unless the extent of such use is solely to provide interactive on-demand service; (D) an open video system that complies with Section 653 of the Cable Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

"Customer" means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee's expressed permission.

"Effective Date" means March 1, 2002.

"Expanded Basic Tier," means the tier of service which is composed of those channels, other than the "Basic Service Tier," which are offered as a group at a flat, monthly service rate.

"FCC" means the Federal Communications Commission or successor governmental entity thereto.

"Franchise" means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes construction and operation of the Cable System.

"Franchise Agreement" or "Agreement" shall have the meaning set forth in the preamble hereof.

"Franchise Area" means the legal boundaries of the City of Muncie as of the Effective Date, and shall also include any subsequent additions thereto, by annexation or other legal mean.

"Franchising Authority," means the City of Muncie or the lawful successor, transferee, designee, or assignee thereof.

"Grantee" shall have the meaning set forth in the preamble hereof.

"Gross Revenue" means any and all gross receipts actually received from the provision of Cable Service over the Cable System within the Franchise Area. "Gross Revenue" shall include monthly basic, premium and pay-per-view service fees, installation fees, and converter rental fees. It shall not include bad debt or any taxes imposed and/or assessed by law on Customers that the Grantee collects and pays in full to the applicable authority.

"Internet Access" refers to broadband service of a capacity, speed and quality no less than that provided to subscribers to Comcast's residential Internet access service.

"Migrated Product" means any program source which has been previously designated a "Premium" channel or "New Product" channel and has its status changed, for example, to that of a "Basic Tier" or "Expanded Basic Tier," or vice-versa.

"Muncie Cable Television Commission" is the duly appointed administrative body representing the interests of the City of Muncie, Indiana.

"New Product " means any program source which has not been previously carried by the Muncie system but which has been added to the Grantee's offerings.

"PEG Channels" refers to the Public, Educational and Governmental access channels as defined by the FCC.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

"Premium Tier" is that group of program sources for which a "per channel" or "per program" fee is added to a subscriber's monthly bill as defined by the FCC.

"Promote" shall mean the insertion of short announcements (of one minute or less duration) into natural breaks in the programming of all PEG channels. These promotional announcements shall be limited to promoting future programming on a PEG channel and/or to promoting future civic and educational meetings and activities. The production and delivery of said announcements to the Grantee shall be the responsibility of the entity desirous of the promotion. The Grantee shall endeavor to insert the promotional announcements in a pattern, and with the frequency, which emulates contemporary commercial broadcasting practices.

"Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way,

lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

SECTION 2 Grant of Authority

2.1. Grant of Franchise. The Franchising Authority hereby grants to the Grantee under the Cable Act a nonexclusive Franchise, which authorizes the Grantee to construct, and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, state or local law.

2.2. Term of Franchise. The term of the Franchise granted hereunder shall be for an initial term of ten (10) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended.

2.4. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority's right to require the Grantee or any Person utilizing the Cable System to secure the appropriate permits or authorizations for such use, or (C) be construed as a waiver or release of the rights of the Franchising Authority in and to the Public Ways.

SECTION 3
The System

3.1. Permits and General Obligations. The Grantee shall be responsible for diligently obtaining, at its own cost and expense, all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2. Conditions on Street Occupancy.

- 3.2.1. New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable written notice from the Franchising Authority and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall upon written request of the Grantee make application for such funds on behalf of the Grantee.
- 3.2.2. Relocation at request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.
- 3.2.3. Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that it shall, at its own cost and expense, and in a manner reasonably approved by the City of Muncie, replace and restore any such Public Way to a condition reasonably comparable in the judgment of the Franchising Authority to the condition of the Public Way existing immediately prior to the disturbance.
- 3.2.4. Safety Requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System

shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

- 3.2.5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming initiated by Grantee shall be done at the Grantee's sole cost and expense. The Grantee shall inform the affected property owners not less than three days, or more than three weeks, in advance of the work. The Grantee shall reasonably compensate the Franchising Authority and property owner for any damage caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs so damaged. Such replacement shall satisfy any obligations the Grantee may have to the Franchising Authority pursuant to the terms of this Section 3.2.5.
- 3.2.6. Aerial and Underground Construction. If the transmission and distribution facilities of electric and/or telephone utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities underground in that area. Nothing in this Section 3.2.6 shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section 3.2.6, in the event that all of the transmission or distribution facilities of all of the respective public or municipal utilities are required to be placed underground after the Effective Date of this Franchise Agreement, the Grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public and municipal utilities' facilities at the time that such are placed underground.

SECTION 4 Service Obligations

4.1 General Service Obligation. The Grantee shall offer to provide Cable Service to every residential dwelling unit within the Franchise Area where the minimum density is at least fifteen (15) dwelling units per mile. Subject to the density requirement above, Grantee shall offer Cable Service to all new homes or previously unserved homes located within 200 feet of the Grantee's distribution cable. The grantee may elect to provide Cable Service to areas not meeting the above density standards provided, however, that dwelling units located more than 200 feet from distribution cable may be charged for additional installation at rates in excess of its regular installation charge - published in advance and fully disclosed to prospective customers. Any such additional

charge shall be computed on a time plus materials basis to be calculated on that portion of the installation which exceeds the 200 foot standard set forth above.

4.2. No Discrimination. Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to continuously receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied.

4.3. New Developments. The Franchising Authority shall provide the Grantee with written notice of the issuance of building permits and development permits for planned developments within the Franchise Area requiring the placement of cable facilities underground. The Franchising Authority agrees to require, as a condition of issuing the permit, the developer to give the Grantee access to open trenches for deployment of cable facilities and written notice of the date of availability of trenches. Such notice must be received by the Grantee at least ten (10) business days prior to the availability of such trenches.

4.4 Provision for Service Technicians. Service technicians shall be on call and available to answer customer complaints and make repairs in response to telephone calls. These individuals shall have the knowledge and tools at their immediate disposal to address problems with both cable and broadband service.

4.5 Emergency Alert Service. The Franchisee must participate in any Emergency Alert Service (EAS - as required by Part 11 of the FCC's Rules) that is currently, or shall subsequently be put, in force in Muncie and/or Delaware County.

4.5.1 The Franchisee shall provide appropriate equipment and software at its headend to implement EAS warnings and to initiate local emergency warnings which shall be capable of being transmitted over all of the system's channels simultaneously.

4.5.2 The Franchisee shall provide an override for local emergency warnings capable of being transmitted over all of the system's channels simultaneously. The location of the override shall be in the Muncie City Hall.

4.5.3 The local emergency warnings may be activated on a day-to-day basis in response to such emergencies as tornadoes, severe storms, flash floods, widespread fires, discharge of toxic chemicals or gases, industrial explosions, widespread power failures, civil disturbances or any other occurrence which poses an immediate threat to health, life, or safety of property of the population.

4.5.4 The Franchisee shall provide training to appropriate employees and City officials in the use of the equipment and software.

SECTION 5 Access Channels

Programming. The Grantee shall offer to all Customers in its Service Area a diversity of video programming services, to include the provision of public, educational, and governmental (PEG) access channels within the Basic Service Tier, as described below.

5.2. Educational Access Channels The Grantee shall make available one Government and Public Access channel, and three Educational access channels. An additional channel shall be reserved for Governmental and/or Educational use, and can be offered on the Grantee's Digital Cable tier. The reserved channel shall be activated upon such time as one of the four analog access channels is "substantially full". For purposes of this section, the term "substantially full" shall mean more than 150 hours per month of non-duplicative, non-character generated, commercial-free, locally produced programming. The City shall retain the right to determine the entities entitled to use of the Educational Access channels. Each of these entities shall abide by the terms contained in Appendix A of this franchise agreement. Grantee shall continue to provide and to maintain a dedicated line to any entity that currently has such a line, provided that the entity continues to produce programming for an unshared access channel.

In order to effectively monitor the appropriate and effective use of the Educational Access channels, and to determine whether an entity deserves to continue its privileges with respect to such channel, an Educational Access Channel Policy (Appendix A) shall be promulgated by the Franchising Authority, which policy may not be amended during the term of this Agreement without the consent of both the Franchising Authority and the Grantee. The number of analog PEG channels shall be reduced to four no later than July 1, 2002.

Coordination of Access Channels. The Grantee shall coordinate, schedule, promote, maintain and operate the PEG channels as follows:

- 5.3.1 Public Access Channels. Coordinate, schedule, maintain and promote the availability of and access to the Public Access channels in consultation with City representatives.
- 5.3.2 Educational Access Channels. Schedule schools programming in consultation with an individual from each school corporation, to make suggestions regarding available programming content both locally and from outside sources, and to assist the schools in optimal utilization of their channel capacity.
- 5.3.3 Governmental Access Channels. Assist municipal leaders through consultation, training, scheduling and promotion with the goal of providing optimal utilization of their channel capacity.
- 5.3.4 Training. The Franchisee shall provide training to appropriate employees and City officials in the use of the equipment and software used in support of the Government Access Channel.

SECTION 6 Fees and Charges to Customers

Rates, Fees, Charges. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC rate regulations. Before any new or modified rate, fee, charge, deposit or associated term or condition may be imposed, the Grantee must follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law. Except to the extent otherwise expressly permitted by applicable law, the Grantee shall offer to provide Cable Service to each resident in the Franchise Area in accordance with a uniform rate structure throughout the Franchise Area, except where special installation costs are involved, as in Section 4.1. The preceding requirement shall not prevent the Grantee from using bulk, commercial, promotional and other rates consistent with applicable law.

6.2 Franchise Fees. To the extent that FCC Rules and Regulations or federal laws permit cable system operators such as the Grantee to pass-through franchise fees imposed upon advertising or other non-subscriber receipts to subscribers, the Grantee shall pay to the Franchising authority franchise fees in an amount equal to three percent (3%) of annual Gross Revenue as defined by the current interpretation of the FCC of Section 622(b), excluding non-subscriber revenue. For purposes of calculating the amount of the franchise fees to be paid on subscriber revenue, such revenue shall be calculated for each individual subscriber and the franchise fee charged shall total three percent of the total revenue generated for the services provided to that subscriber, including programming and installation charges. The franchise fee shall not be assessed on late fees or fines collected. In the event FCC rules and regulations or federal law change to prohibit cable system operators from passing through to subscribers any franchise fees imposed upon advertising or other non-subscriber revenues, the Franchising Authority reserves the right to impose a franchise fee upon the Grantee's advertising revenues in the amount of three percent (3%) of the Grantee's gross non-subscriber revenue after providing 30 days notice to the Grantee that such fee will be imposed. Advertising revenue shall include, without limitation, revenues from advertising earned by the Grantee as a result of its operations within the Franchise Area.

Service Area. The Franchise Fees set forth in Section 6.2 above shall be imposed on only those subscribers in the Service Area regulated by the Muncie Cable Television Commission.

6.4 Quarterly Payments. The payment of franchise fees to the Franchising Authority shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. That is, quarterly payments shall be due on February 15th, May 15th, August 15th, and November 15th for the preceding quarter's revenues. Payments to the City shall begin upon acceptance of this franchise agreement. Each franchise fee payment shall be accompanied by a certified report from a representative of the Grantee, which shows the basis for the computation of all Gross Revenue actually received from the operation of the Cable System for the provision of Cable Service in the Franchise Area during the period for which such franchise fee payment is made. If the franchise fee payment is not actually received by the Franchising Authority on or before the applicable due date set forth in this Section 6.5, penalties, shall accrue on the

outstanding amount at the Prime Rate, as posted by First Merchants Bank of Muncie, Indiana (or its successor) on the due date, plus two percent per month for the period of delinquency.

6.5 Franchise Fees Subject to Audit. Upon reasonable prior written notice, during normal business hours, the Cable Television Commission shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees, and the right to audit and to recompute any amounts determined to be payable under this Section 6; provided, however, that any such audit shall take place twelve (12) months following the close of each calendar quarter. Any additional amounts due to the Franchising Authority as a result of such audit shall be paid to the Cable Television Commission by the Grantee within thirty (30) days following written notice to the Grantee by the Cable Television Commission, of such final audit. Notice to the Grantee shall include a copy of the audit report. In addition, Grantee shall provide an audited copy annually of their corporate financial statement for the Muncie franchise. The City shall bear the expense of any inspection or audit of the Grantee's books and records.

6.6 Grants shall not be repaid. "Gifts," "Grants," or "Donations" from the Grantee to entities within the service area shall not be repaid, passed through, or used as justification for subsequent service rate increases.

SECTION 7 Customer Service Standards; Customer Bills; and Privacy Protection

7.1 Customer Service Standards. The Franchising Authority hereby adopts the customer service standards and rules set forth in Part 76, §76.309 of the FCC's rules and regulations. The Grantee shall comply in all respects with the customer service requirements established by the FCC pursuant to §632 (b) of the Cable Act and any corresponding regulations, thereto.

7.2 Business Office. Grantee shall maintain a business office within the Muncie Franchise Area. The business office shall be open for walk-in business, Monday through Friday, during normal business hours, except on legal holidays.

7.3 Customer Bills. Customer bills shall be clear, concise and understandable. The Grantee may itemize costs on Customer bills to the extent permitted by the Cable Act and the FCC's rules thereunder.

7.4 Privacy Protection. The Grantee shall comply with Section 631 of the Cable Act and regulations adopted pursuant thereto regarding subscriber privacy.

7.5 Complaint Records. The Grantee must maintain a complete record of service complaints received and action taken. These records must be open for inspection by the Franchising Authority during normal business hours. Such records must be retained by the Grantee for not less than one (1) year. Quarterly, a copy of these service complaints shall be transmitted to the Muncie Cable Television Commission and maintained by the Commission in accordance with Indiana law.

SECTION 8
Oversight and Regulation by Franchising Authority

8.1. Oversight of Franchise. The Franchising Authority shall have the right to oversee, regulate and, on reasonable prior written notice, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area, and all parts thereof, in accordance with the provisions of this Franchise Agreement and applicable law, including the Franchising Authority's police power.

8.2. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Grantee shall comply with such alterations, modifications or amendments within a reasonable period after their adoption by the FCC. Upon request, the Grantee shall confirm to the Franchising Authority that it is in compliance with FCC technical standards by providing to the Franchising Authority copies of tests and records required to be performed pursuant to the FCC's rules.

Maintenance of Books, Records, and Files.

8.3.1. Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority, upon reasonable prior written notice to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure the Grantee's compliance with the terms and conditions of this Franchise. Such books and records shall include, without limitation, any records required to be kept in a public file by the Grantee pursuant to the rules and regulations of the FCC. All such documents pertaining to financial matters, which may be the subject of an audit by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.

8.3.2. File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

8.3.3. Proprietary Information. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents of the Franchising Authority that have a need to know, or in order to enforce this Franchise Agreement.

8.3.4. Transfer or Change of Control of Franchise. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise or any of the Grantee's rights or obligations in or regarding the Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld. No such consent shall be required however, for (I) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, indebtedness, or (II) a transfer to an entity controlled by Comcast. No change of Control of the

Grantee, the Cable System or the Franchise shall occur after the Effective Date, by act of the Grantee or any affiliated Person, by act of any Person holding Control of the Grantee, the System or the Franchise, by operation of law or otherwise, without the prior written consent of the Franchising Authority. Such consent shall not be unreasonably withheld. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications for the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent to the transfer shall be deemed given. For purposes of this Section 8.4. "Control" means the legal or practical ability to exert actual working control over the affairs of the Grantee, directly or indirectly.

8.3.5 Notwithstanding the requirements of this Agreement, City agrees that no consent will be required for any merger involving Grantee or its parent which is currently pending, including the announced merger between AT&T Broadband and Comcast Corporation.

SECTION 9 Insurance and Indemnity

9.1 Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and Auto Liability insurance. Grantee shall provide the Franchising Authority, certificates of insurance designating the Franchising Authority as an additional insured and demonstrating that the Grantee has obtained the insurance required in this Section 9. Such policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) combined Single Limit per occurrence for Bodily Injury and Property Damage. The Grantee also shall at its own cost and expense maintain Excess Liability (Umbrella) coverage in an amount not less than Five Million Dollars (\$5,000,000.00) and shall provide the Franchising Authority a certificate of insurance for such Excess Liability coverage that designates the Franchising authority as an additional insured on such. All certificates/policies shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall provide and maintain workers compensation coverage in accordance with applicable law. These certificates and Policies, and renewal notices of same, shall be filed in the Muncie, Indiana City Clerk's Office.

9.2 Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, agents and representatives from and against any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

SECTION 10
System Description and Service

Total Channel Capacity. During the term of this Agreement, Grantee shall provide a Cable System capable of delivering a minimum of seventy-five (75) channels of video programming including PEG channels.

10.2 Service to Libraries and School Buildings. The Grantee shall provide "Basic", "Expanded Basic" and any "New Product" or "Migrated Product" tier Cable Service, and "Internet access" without charge, including installation of one outlet to each public and private school and public library located in the Franchise Area within 200 feet of the Grantee's distribution cable. Said outlet shall be positioned at a location designated by the School Corporation in consultation with Grantee's engineers.

10.3 Service to Governmental Facilities. The Grantee shall provide "Basic" and "Expanded Basic" and any "New Product" or "Migrated Product" tier Cable Service without charge, including installation of one outlet to each municipal building located in the Franchise Area within 200 feet of the Grantee's distribution cable. In addition, said service shall be provided to the Muncie City Street Department Garage (currently at 5790 West Kilgore Avenue in Muncie). Said outlets are to be positioned at a location designated by the Municipality in consultation with Grantee's engineers. Further, "Internet access" including installation shall be provided and maintained for the duration of the franchise without charge at Muncie City Hall and Fire Department locations. Within 90 days of the signing of this agreement, video equipment identified in Attachment A of this franchise shall be purchased by the Grantee and installed in the City Hall Auditorium. Said equipment shall be maintained for the duration of the franchise at Grantee's expense and shall be considered a gift to the City.

SECTION 11
Enforcement and Termination of Franchise

11.1 Notice of Violation or Default. In the event the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing with specific details on the exact nature of the alleged noncompliance or default.

11.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the Franchising Authority's notice described in Section 11.1, above: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance or default, or (B) to cure such default, or (C) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

11.3. Public Hearings. In the event the Grantee fails to respond to the Franchising Authority's notice described in Section 11.1, above, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 11.2, above, or if the response does not satisfy the Muncie Cable Television

Commission, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority or at a special meeting convened for that purpose. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

11.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

A. seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

B. commence an action at law for monetary damages or seek other equitable relief, or

C. in the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public meeting. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request termination of the Franchise.

(ii) At the designated meeting, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court within Delaware County. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

(iii) The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce its rights under the Franchise in lieu of revocation.

11.5. Liquidated Damages.

Because the Franchisee's failure to comply with provisions of the Franchise and this Franchise Agreement will result in injury to the City of Muncie, and because it will be difficult to estimate the extent of such injury, the Grantee and the Franchisee agree to the following liquidated damages for the following violations of the Franchise and of this

Agreement, which represent both parties' best estimate of the damages resulting from the specified violation. To maintain that estimate, the parties agree that the liquidated damage amounts are in 2002 dollars and shall be increased each year by the increase in the U.S. City Average of the Consumer Price Index.

For failure to submit any required plans indicating expected dates of installation of various parts of the System: \$40/day for each violation for each day the violation continues;

For failure to commence operations in accordance with the requirements of this Agreement: \$1,000/day for each violation for each day the violation continues;

For failure to substantially complete construction in accordance with this Agreement: \$2,000/day for each violation for each day the violation continues;

For a Transfer without approval: \$200/day for each violation for each day the violation continues;

For failure to comply with requirements for public, educational and governmental use of the System: \$100/day for each violation for each day the violation continues, in addition to any monetary payment due under this Agreement;

For failure to supply information, reports, or filings lawfully required under the Franchise Agreement or applicable law or by the City of Muncie, Indiana \$25/day for each violation for each day the violation continues;

For violation of customer service standards: \$25 per violation;

For failure, unless such failure is beyond the Franchisee's control, of the system to perform in the event of a public emergency or vital information situation: \$250 per occurrence;

For failure to render payment for reimbursement of any Franchise expenses, or failure to pay Franchise fees or liquidated damages: \$100 per day, in addition to any monetary payment due under this Agreement or the Cable Ordinance;

For failure to restore damaged property: \$50 per day, in addition to the cost of the restoration as required elsewhere herein or in a Franchise Agreement;

For violation of technical standards established by the FCC: \$100 per day;

For any other violations for which actual damages may not be ascertainable: \$50 per day for each violation for each day the violation continues.

Non-material Violations.

The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "non-material" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

- (1) In instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no, or minimal, negative impact on the Customers within the Franchise Area; or
- (2) Where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

SECTION 12 Miscellaneous Provisions

12.1 Force Majeure The Franchisee shall not be deemed in default of provisions of the Agreement or the Cable Ordinance where performance was rendered impossible by war or riots, labor strikes or civil disturbances, floods, or other causes beyond the Franchisee's control, and the Franchise shall not be revoked or the Franchisee penalized for such noncompliance, provided that the Franchisee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with the Franchise without unduly endangering the health, safety, and integrity of the Franchisee's employees or property, or the health, safety, and integrity of the public, Public Rights-of-Way, public property, or private property.

12.2 Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by facsimile with confirmed transmission and addressed as follows:

The Franchising Authority: City of Muncie, Indiana
Attn: City Controller
300 North High Street
Muncie, IN 47308
Facsimile: (765) 747-4721

The Grantee: Comcast of Muncie
General Manager
333 E. Main Street
Muncie, IN 47305
Facsimile: (765) 284-9536

With a copy to: Comcast Cablevision, Midwest Division
Vice President of Government Affairs
29777 Telegraph Road, Suite 4400-B
Southfield, MI 48037-5155

12.3. Entire Agreement. This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof. All ordinances or parts of ordinances or other agreements between the Grantee and the Franchising Authority that are in conflict with the provisions of this Franchise Agreement are hereby declared invalid and superseded.

12.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

12.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the City of Muncie, County of Delaware, State of Indiana, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Indiana as applicable to contracts entered into and performed entirely within the State.

12.6. Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

RECOMMENDED TO THE CITY OF MUNCIE by the Cable Television Commission:

James Hendershot, Cable Commission

Steven D. Murphy, Cable Commission

John K. Parker, Cable Commission

Marla K. Templeton, Cable Commission

Alan R. Richardson, Chairperson
Cable Commission

THE RECOMMENDED FRANCHISE AGREEMENT IS HEREBY APPROVED by the Mayor of Muncie.

Dan C. Canan, Mayor

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of this _____ day of _____, 2002.

Charles K. Bebout, Board of Public Works

Sally Kirk, Board of Public Works

Elizabeth A. DeVoe, Chairperson
Board of Public Works

Comcast Cablevision of Muncie, L.P.

By: Comcast Cablevision of Muncie, LLC, its general partner

By Comcast Cablevision Corporation of California, LLC, its sole member

By: Comcast Cable Communications, Inc., its sole member

Attest:

Witness

By: _____
David A. Scott
President, Midwest Division

APPENDIX A

EDUCATIONAL ACCESS CHANNEL POLICY

1. The City of Muncie (City) will retain Four (4) PEG channels to be used at the City's discretion. Further, one additional channel shall be held in reserve for Educational or Governmental use. The reserved channel shall be activated per the terms of the franchise agreement.

2. If the City determines that the channel held in reserve is needed for an educational or governmental access channel, it shall give the Grantee ninety days written notice.

3. In order to continue to receive the privilege of utilizing an educational access channel, the City and the Commission hereby establish a procedure to enforce such standards:

- a. Each entity which has a discrete, dedicated channel shall provide to the City, to the Commission and to the Grantee a written plan for the utilization of the channel, such plan to be submitted prior to June 1, 2002.
- b. The Commission shall review all plans submitted, and shall either approve the plan, or return the plan for modification. Each entity must have an approved plan in place prior to November 1, 2002.
- c. Each entity shall have until September 1, 2003 to implement its plan.
- d. If an entity does not submit a plan by June 1, 2002, or if it does not have an approved plan in place prior to November 1, 2002, or if it does not successfully implement its plan prior to September 1, 2003, the City or the Grantee may inform the Commission that the entity's privileges with respect to the channel may be revoked or that the entity be required to share its channel. The Commission may schedule a hearing at this time on the issues raised by the City or the Grantee. The written request must specify any alleged deficiencies. In the event of such request, the entity shall receive written notice of the alleged deficiencies and shall be given sixty (60) days to cure the alleged deficiencies. After sixty (60) days, if the requesting party believes that the deficiencies have not been corrected, it shall so notify the Commission in writing, and the Commission shall schedule a hearing to determine whether the Commission should recommend to the City that the privileges should be continued, or that the privileges should be modified or revoked. After the Commission makes its recommendation, the Mayor of the City may change an entity's privileges by revoking the channel, or by requiring that an entity share a channel. If a channel is revoked, the Mayor may return the channel to Comcast or may reallocate the channel to other entities which can meet the standards.

- e. Any school corporation which does not have privileges and wishes to be granted time on a channel may submit a Plan to the Commission for its review. The Plan will set forth how and when the entity will meet the standards set forth below.
- f. The following are the minimum standards necessary for a school corporation to continue or be granted its privileges with respect to a channel:
 - 1. These standards shall apply only on days when school is in regular session, and excluding summer vacation.
 - 2. During the times from 8:00 a.m. until 5:00 p.m., Monday through Friday on days when school is in session, channel programming shall contain some locally produced programs, such as news, sporting events, interviews, dramatic presentations, class projects, continuing education, and other programming which either benefits the Community or provides education to the students. During the times from 5:00 p.m. until 10:00 p.m., Monday through Friday on days when school is in session, channel programming shall contain a significant amount of locally produced programs, such as those listed above.
 - 3. Beginning with the 2002-03 school year, each entity which has a channel or shares a channel shall submit to the Commission on a monthly basis, on or before the 15th day of the following month, a log or a summary of its programming. The Commission shall meet in public on or about the 15th day of October, December, February and April, to review the logs or summaries and to hear from the public and from each entity regarding its programming, with the goal to increase the quality and quantity of locally produced programming.
 - 4. The Commission will entertain grant applications from Muncie Community Schools and Muncie Burriss School for funding of specific needs directly related to the operation of their channels. All grant requests approved by the commission will be sent on to the Mayor for final approval.

ATTACHMENT A

PEG Access Equipment to be Purchased by the Grantee

Panasonic DV Pro-Line 3 CCD mini-DV camcorder

Panasonic Lithium-ion Batteries (2)

Panasonic DV Pro-Line editing VTR

BM Intellistation Mid Tower MPRO 6849-30U

NEC 19IN Totally Flat Screen-Black NMS

ALTEC Lansing ACS33 Power Cube Three Piece Speaker System Ingram

Sennheiser Shotgun Microphone System (phantom or battery power)

Lavalier microphone w/4' attached cable

Vinten 2 Stage ENG Tripod

Avid System setup

Draper Silhouette/Series E Projection Screen

Draper Low Voltage Control Module

1. Draper Wireless Transmitter/Receiver (RF Type)