

1 STATE OF GEORGIA  
2 COUNTY OF DEKALB  
3 CITY OF STONECREST

ORDINANCE 2017- 11-23

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6 **AN ORDINANCE TO ADOPT ARTICLE IV – CABLE TELEVISION FRANCHISES, IN**  
7 **CHAPTER 8 – FRANCHISES, GRANTING TO COMCAST OF GEORGIA I, LLC AND**  
8 **COMCAST CABLE COMMUNICATIONS, LLC, AND THEIR SUCCESSORS AND**  
9 **ASSIGNS, A NONEXCLUSIVE FRANCHISE TO OCCUPY AND USE THE STREETS**  
10 **WITHIN THE FRANCHISE AREA IN ORDER TO CONSTRUCT OPERATE,**  
11 **MAINTAIN, UPGRADE, REPAIR, AND REMOVE THE CABLE SYSTEM, AND**  
12 **PROVIDE CABLE SERVICES THROUGH THE CABLE SYSTEM; TO FIX THE**  
13 **TERMS AND CONDITIONS OF SUCH GRANT; TO PROVIDE AN EFFECTIVE**  
14 **DATE; AND FOR OTHER PURPOSES**  
15

16 **WHEREAS**, Pursuant to subsection (31) of Section 1.03 of the Charter of the City of  
17 Stonecrest, Georgia (the “City”), the City has been vested with the power to “grant franchises or  
18 make contracts for, or impose taxes on, public utilities, cable companies and public service  
19 companies; and to prescribe the rates, fares, regulations, and standards and conditions of service  
20 applicable to the service to be provided by the franchise grantee or contractor, insofar as not in  
21 conflict with valid regulations of the Public Service Commission”; and  
22

23 **WHEREAS**, the City has the power to define, regulate, license and prohibit any act,  
24 practice, conduct or use of property which is detrimental to health, sanitation, cleanliness,  
25 welfare and safety of the inhabitants of the City, and to provide for the enforcement of such  
26 standards; and  
27

28 **WHEREAS**, the Mayor and City Council find it desirable and in the interest of the  
29 health, safety and welfare of the citizens of the City to grant to Comcast of Georgia I, LLC and  
30 Comcast Cable Communications, LLC a non-exclusive franchise to provide cable service  
31 through the cable system in the City.  
32

33 **BE IT ORDAINED** by the Mayor and Council of the City of Stonecrest, Georgia, and it  
34 is hereby ordained by authority of same, Article IV – *Cable Television Franchises* in Chapter 8 –  
35 *Franchises* is hereby adopted as follows:  
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37 **“ARTICLE IV. – CABLE TELEVISION FRANCHISES**  

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38 **Sec. 8-4-1. – Agreement.**

39 This **AGREEMENT** is effective as of the 1st day of July, 2017 (the “Effective Date”), and is  
40 between the City of Stonecrest, Georgia, an incorporated Georgia city (the “Franchising  
41 Authority” or the “City”), and Comcast of Georgia I, LLC (together, the “Company”). For  
42 purposes of this Agreement, unless otherwise defined in this Agreement, the capitalized terms,  
43 phrases, words, and their derivations, shall have the meanings set forth in Section 8-4-2.

The Franchising Authority, having determined that the financial, legal, and technical ability of the Company is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the current and future cable-related needs of the community and that, as of the Effective Date, the Company is in material compliance with the terms and conditions of the cable franchise preceding this Agreement, desires to enter into this Agreement with the Company for the construction, operation, and maintenance of a Cable System on the terms and conditions set forth herein. In consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

**Sec. 8-4-2. – Definitions.**

For purposes of this Article, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.

“**Agreement**” means the franchise agreement between Comcast of Georgia, I, LLC and Comcast Cable Communications, LLC.

“**Basic Service**” means any service tier that includes the retransmission of local television broadcast Signals and any equipment or installation used in connection with Basic Service.

“**Cable Act**” means Title VI of the Communications Act of 1934 as amended, 47 U.S.C. § 521, *et seq.*

“**Cable Service**” means the one-way transmission to Subscribers of Video Programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. “Cable Service” does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. §332(d).

“**Cable Service Provider**” or “**CSP**” means any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

“**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 Subscribers within a community, but “Cable System” does not include:

(A) a facility that serves only to retransmit the television Signals of one (1) or more television broadcast stations;

(B) a facility that serves Subscribers without using any public right-of-way as defined herein;

(C) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201–276, 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.

**“Channel”** means a “cable channel” or “channel” as defined in 47 U.S.C. § 522(4).

**“Company”** means Comcast of Georgia I, LLC and Comcast Cable Communications, LLC, a limited liability company validly existing under the laws of the State of Georgia and Delaware, or lawful successor, transferee, designee, or assignee thereof.

**“FCC”** means the Federal Communications Commission, its designee, or any successor thereto.

**“Franchise Area”** means the incorporated areas of the City of Stonecrest, Georgia, including any areas annexed by the Franchising Authority during the term of the Franchise.

**“Franchising Authority”** means the City of Stonecrest, Georgia, or lawful successor, transferee, designee, or assignee thereof.

**“Gross Revenues”** means all revenues received from Subscribers for the provision of Cable Service or Video Service, including franchise fees for Cable Service Providers and Video Service Providers and advertising and home shopping services, and shall be determined in accordance with Generally Accepted Accounting Principles (“GAAP”). Gross Revenues shall not include:

(A) amounts billed and collected as a line item on the Subscriber’s bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefore; provided, however, that for purposes of this definition of “Gross Revenue,” such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services to the extent such charges are passed through as a separate line item on Subscriber’s bills;

(B) any revenue not actually received, even if billed, such as bad debt;

(C) any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide Cable or Video Programming;

119 (D) any amounts attributable to refunds, rebates, or discounts;

120 (E) any revenue from services provided over the network that are associated with  
121 or classified as non-Cable or non-Video Services under federal law, including  
122 without limitation revenues received from telecommunications services,  
123 information services other than Cable or Video Services, Internet access services,  
124 directory or Internet advertising revenue including without limitation yellow  
125 pages, white pages, banner advertisements, and electronic publishing advertising.  
126 Where the sale of any such non-Cable or non-Video Service is bundled with the  
127 sale of one or more Cable or Video Services and sold for a single non-itemized  
128 price, the term "Gross Revenues" shall include only those revenues that are  
129 attributable to Cable or Video Services based on the provider's books and records,  
130 such revenues to be allocated in a manner consistent with generally accepted  
131 accounting principles;

132 (F) any revenue from late fees not initially booked as revenues, returned check  
133 fees or interest;

134 (G) any revenue from sales or rental of property, except such property as the  
135 Subscriber is required to buy or rent exclusively from the Cable or Video Service  
136 Provider to receive Cable or Video Service;

137 (H) any revenue received from providing or maintaining inside wiring;

138 (I) any revenue from sales for resale with respect to which the purchaser is  
139 required to pay a franchise fee, provided the purchaser certifies in writing that it  
140 will resell the service and pay a franchise fee with respect thereto; or

141 (J) any amounts attributable to a reimbursement of costs including but not limited  
142 to the reimbursements by programmers of marketing costs incurred for the  
143 promotion or introduction of Video Programming.

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

147 **"Signal"** means any transmission of radio frequency energy or of optical information.

148 **"Streets"** means the surface of, and the space above and below, any and all streets,  
149 avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks,  
150 parkways, waterways, docks, bulkheads, wharves, piers, public grounds, and public  
151 places or waters within and belonging to the Franchising Authority and any other  
152 property within the Franchise Area to the extent to which there exist public easements or  
153 public rights-of-way.

154 **"Subscriber"** means any Person lawfully receiving Video Service from a Video Service  
155 Provider or Cable Service from a Cable Service Provider.

“**Video Programming**” means programming provided by or generally considered comparable to programming provided by a television broadcast station, as set forth in 47 U.S.C. § 522(20).

“**Video Service**” means the provision of Video Programming through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d) or Video Programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

“**Video Service Provider**” or “**VSP**” means an entity providing Video Service as defined herein, but does not include a Cable Service Provider.

### **Sec. 8-4-3. – Grant of Authority.**

1.1 Grant of Franchise. The Franchising Authority hereby grants under the Cable Act a nonexclusive franchise (the “Franchise”) to occupy and use the Streets within the Franchise Area in order to construct, operate, maintain, upgrade, repair, and remove the Cable System, and provide Cable Services through the Cable System, subject to the terms and conditions of this Agreement. This Franchise authorizes Cable Service, and it does not grant or prohibit the right(s) of the Company to provide other services.

1.2 Term of Franchise. This Franchise shall be in effect for a period of ten (10) years commencing on the Effective Date, unless renewed or lawfully terminated in accordance with this Agreement and the Cable Act.

1.3 Renewal. Subject to Section 626 of the Cable Act (47 U.S.C. § 546) and such terms and conditions as may lawfully be established by the Franchising Authority, the Franchising Authority reserves the right to grant or deny renewal of the Franchise.

1.4 Reservation of Authority. Nothing in this Agreement shall (i) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority’s right to require the Company or any Person utilizing the Cable System to secure the appropriate permits or authorizations for its use, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to the Streets. Notwithstanding the above, in the event of any conflict between this Agreement and any code or ordinance adopted by the Franchising Authority, the terms and conditions of this Agreement shall prevail.

### 1.5 Competitive Equity and Subsequent Action Provisions.

1.5.1 Purposes. The Company and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers, and others; new technologies are emerging that enable the provision of new and advanced services to City residents; and changes in the scope and application of the traditional regulatory

framework governing the provision of Video Services are being considered in a variety of federal, state, and local venues. To foster an environment where all Cable Service Providers and Video Service Providers using the Streets can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to City residents; promote local communications infrastructure investments and economic opportunities in the City; and provide flexibility in the event of subsequent changes in the law, the Company and the Franchising Authority have agreed to the provisions in this Section 1.5, and these provisions should be interpreted and applied with these purposes in mind. The parties agree that the Franchising Authority shall not be required to execute a franchise agreement or authorization with a competitive CSP or VSP that is identical, word-for-word, with this Agreement to avoid triggering the provisions of this Section 1.5, so long as the regulatory and financial burdens on and benefits to each CSP or VSP are materially equivalent to the burdens on and benefits to the Company. "Materially equivalent" provisions include but are not limited to: franchise fees and the definition of Gross Revenues; system build-out requirements; security instruments; public, education and government access channels and support; customer service standards; and audits.

1.5.2 Fair Terms for All Providers. Notwithstanding any other provision of this Agreement or any other provision of law,

(a) If any VSP or CSP enters into any agreement with the Franchising Authority to provide Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority and the Company, upon written request of the Company, will use best efforts in good faith to negotiate the Company's proposed Franchise modifications, and such negotiation will proceed and conclude within sixty (60) days, unless that period is reduced or extended by mutual agreement of the parties. If the Franchising Authority and the Company agree to Franchise modifications pursuant to such negotiations, then the Franchising Authority shall amend this Agreement to include the modifications.

If there is no written agreement or other authorization between the new VSP or CSP and the Franchising Authority, the Company and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (to the extent the Company determines an agreement or authorization is necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Company and other VSPs or CSPs, taking into account the terms and conditions under which the new VSP or CSP is allowed to provide Video Services or Cable Services to Subscribers in the Franchise Area.

(b) Following the Franchise modification negotiations provided for in Section 1.5.2(a), if the Franchising Authority and the Company fail to reach agreement in such negotiations, the Company may, at its option, elect to replace this Agreement by opting in to the same franchise agreement or other lawful authorization that the Franchising Authority has granted to the new VSP or CSP. If the Company so

elects, the Franchising Authority shall adopt the Company's replacement agreement at the next regularly scheduled city council meeting.

(c) The Franchising Authority shall at all times enforce the state and federal ban on providing Cable Service without a franchise. The Franchising Authority's enforcement efforts shall be continuous and diligent throughout the term of this Agreement. Should the Franchising Authority not commence enforcement efforts within sixty (60) days of becoming aware of a VSP or CSP providing Video Service or Cable Service within the Franchise Area, the Company shall have the right to petition the Franchising Authority for the relief provided in Section 1.5.2 above.

(d) This Section 1.5.2 shall not apply for VSPs or CSPs providing Video Service or Cable Service in the Franchise Area under the authorization of the Georgia Consumer Choice for Television Act (O.C.G.A. § 36-76-1, *et seq.*).

1.5.3 Subsequent Change in Law. If there is a change in federal, state, or local law that provides for a new or alternative form of authorization, subsequent to the Effective Date, for a VSP or CSP utilizing the Streets to provide Video Services or Cable Services to Subscribers in the Franchise Area, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP or CSP providing Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority agrees that, notwithstanding any other provision of law, upon the written request and at the option of the Company, the Franchising Authority shall: (i) permit the Company to provide Video Services or Cable Services to Subscribers in the Franchise Area on substantially the same terms and conditions as are applicable to a VSP or CSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Company and other VSPs or CSPs, taking into account the conditions under which other VSPs or CSPs are permitted to provide Video Services or Cable Services to Subscribers in the Franchise Area. The Franchising Authority and the Company shall implement the provisions of this Section 1.5.3 within sixty (60) days after the Company submits a written request to the Franchising Authority. Should the Franchising Authority fail to implement these provisions within the time specified, this Agreement shall, at the Company's option and upon written notice to the Franchising Authority, be deemed amended as initially requested by the Company under this Section 1.5.3. Notwithstanding any provision of law that imposes a time or other limitation on the Company's ability to take advantage of the changed law's provisions, the Company may exercise its rights under this Section 1.5.3 at any time, but not sooner than thirty (30) days after the changed law goes into effect.

1.5.4 Effect on This Agreement. Any agreement, authorization, right, or determination to provide Cable Services or Video Services to Subscribers in the Franchise Area under this Section 1.5 shall supersede this Agreement.

278 **Sec. 8-4-4. – The Cable System.**

279 2.1 The System and Its Operations.

280 2.1.1 Service Area. As of the Effective Date, the Company operates a Cable System  
281 within the Franchise Area.

282 2.1.2 System. As of the Effective Date, the Company maintains and operates a Cable  
283 System capable of providing over 250 Channels of Video Programming, which Channels  
284 may be delivered by analog, digital, or other transmission technologies, at the sole  
285 discretion of the Company.

286 2.1.3 System Technical Standards. Throughout the term of this Agreement, the Cable  
287 System shall be designed, maintained, and operated such that quality and reliability of  
288 System Signal will be in compliance with all applicable consumer electronics equipment  
289 compatibility standards, including but not limited to Section 624A of the Cable Act (47  
290 U.S.C. § 544a) and 47 C.F.R. § 76.630, as may be amended from time to time.

291 2.1.4 Testing Procedures; Technical Performance. Throughout the term of this  
292 Agreement, the Company shall operate and maintain the Cable System in accordance  
293 with the testing procedures and the technical performance standards of the FCC.

294 2.2 Requirements with Respect to Work on the System.

295 2.2.1 General Requirements. The Company shall comply with ordinances, rules, and  
296 regulations established by the Franchising Authority pursuant to the lawful exercise of its  
297 police powers and generally applicable to all users of the Streets. To the extent that local  
298 ordinances, rules, or regulations clearly conflict with the terms and conditions of this  
299 Agreement, the terms and conditions of this Agreement shall prevail, except where such  
300 conflict arises from the Franchising Authority's lawful exercise of its police powers.

301 2.2.2 Protection of Underground Utilities. Both the Company and the Franchising  
302 Authority shall comply with the Georgia Utility Facility Protection Act (O.C.G.A. § 25-  
303 9-1, *et seq.*), relating to notification prior to excavation near underground utilities, as may  
304 be amended from time to time.

305 2.3 Permits and General Obligations.

306 2.3.1 The Company shall be responsible for obtaining all permits, licenses, or other  
307 forms of approval or authorization necessary to construct, operate, maintain, or repair the  
308 Cable System, or any part thereof, prior to the commencement of any such activity. The  
309 Franchising Authority shall not charge the Company, and the Company shall not be  
310 required to pay, any fee or charge for the issuance of permits, licenses, or other  
311 approvals, as such payments are included in the franchise fees described in Section 8.4.6  
312 below. The Franchising Authority shall make all reasonable efforts to issue permits,  
313 licenses, or other approvals within ten (10) business days. The Company shall be solely  
314 responsible, either through its employees or its authorized contractors, for constructing,  
315 installing, and maintaining the Cable System in a safe, thorough, and reliable manner in



accordance with all applicable standards and using materials of good and durable quality. The Company shall assure that any person installing, maintaining, or removing its facilities is fully qualified and familiar with all applicable standards. No third party shall tamper with, relocate, or otherwise interfere with the Company's facilities in the rights-of-way without the Company's approval and supervision; provided, however, that the Company shall make all reasonable efforts to coordinate with other users of the Streets to facilitate the execution of projects and minimize disruption in the public rights-of-way. All transmission and distribution structures, poles, other lines, and equipment installed by the Company for use in the Cable System in accordance with this Agreement shall be located so as to minimize interference with the proper use of the Streets and the rights and reasonable convenience of property owners who own property adjoining the Streets.

2.3.2 Code Compliance. The Company shall comply with all applicable building, safety, and construction codes. The parties agree that at present, Cable Systems are not subject to the low voltage regulations of the National Electric Code, National Electrical Safety Code, or other such codes or regulations. In the event that the applicable codes are revised such that Cable Systems become subject to low voltage regulations without being grandfathered or otherwise exempted, the Company will thereafter be required to comply with those regulations.

#### 2.4 Conditions on Street Occupancy.

2.4.1 New Grades or Lines. If the grades or lines of any Street within the Franchise Area are lawfully changed at any time during the term of this Agreement, then the Company shall, upon at least ninety (90) days' advance 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 the new grades or lines. If public funds are available to any Person using the Street for the purpose of defraying the cost of any of the foregoing work, the Franchising Authority shall make application for such funds on behalf of the Company. The Company shall be entitled to reimbursement of its costs should any other utility be so compensated as a result of a required protection, alteration, or relocation of its facilities. Notwithstanding the above, the Company shall not be liable for the cost of protecting, altering, or relocating facilities, aerial or underground, where such work is required to accommodate a streetscape, sidewalk, or private development project.

2.4.2 Relocation at Request of Third Party. The Company 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 Company 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 Company agrees to arrange for such temporary relocation to be accomplished as soon as reasonably practicable, not to exceed ninety (90) days without the prior agreement of the Franchising Authority.

2.4.3 Restoration of Streets. If in connection with construction, operation, maintenance, or repair of the Cable System, the Company disturbs, alters, or damages any Street, the

Company agrees that it shall at its own cost and expense restore the Street according to the standards set forth in the Georgia Department of Transportation's Utility Accommodation Policy and Standards Manual. If the Franchising Authority reasonably believes that the Company has not restored the Street appropriately, then the Franchising Authority, after providing ten (10) business days' advance written notice and a reasonable opportunity to cure, may have the Street restored and bill the Company for the cost of restoration.

2.4.4 Trimming of Trees and Shrubbery. The Company 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 Company's wires, cables, or other equipment, the cost of which trimming shall not be borne by the Franchising Authority.

2.4.5 Aerial and Underground Construction. If at the time of Cable System construction all of the transmission and distribution facilities of all of the respective public or municipal utilities in the construction area are underground, the Company shall place its Cable System's transmission and distribution facilities underground. At the time of Cable System construction, in any place within the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Company shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground; however, at such time as all existing aerial facilities of the respective public or municipal utilities are placed underground, the Company shall likewise place its facilities underground, subject to the provisions of Section 2.4.1. Company facilities placed underground at the property owner's request in any area where any of the transmission or distribution facilities of the respective public or municipal utilities are aerial shall be installed with the additional expense paid by the property owner. Nothing in this Section 2.4.5 shall be construed to require the Company 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.

2.4.6 New Developments. The Franchising Authority shall provide the Company with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer to give the Company access to open trenches for deployment of cable facilities and at least thirty (30) days' written notice of the date of availability of open trenches. Notwithstanding the foregoing, the Company shall not be required to utilize any open trench.

2.4.7 Use of Existing Poles. Where possible, the Company shall attach its facilities to existing utility poles and shall use all reasonable efforts to enter into a pole attachment agreement with the owners of such existing utility poles.

2.5 Change in Franchise Area. In the event that the borders of the Franchise Area change, through annexation or otherwise, the Franchising Authority shall provide to the Company written notice of such change, including an updated map and an electronic list of all addresses in the

Franchise Area. Franchise fees on gross revenues earned from Subscribers in annexed areas shall not be payable to the Franchising Authority until sixty (60) days after the Company's receipt of such updated map and electronic list of addresses, and shall not be remitted to the Franchising Authority until the next regularly scheduled quarterly franchise fee payment as provided in Section 4.1.2 below.

**Sec. 8-4-5. – Customer Service.**

Customer Service. The Company shall comply in all respects with the 47 C.F.R. §76-309, pages 561-63. Individual violations of those requirements do not constitute a breach of this Agreement.

**Sec. 8-4-6. – Compensation and Other Payments.**

4.1 Compensation to the Franchising Authority. As compensation for the Franchise, the Company shall pay or cause to be paid to the Franchising Authority the amounts set forth in this Section 4.1.

4.1.1 Franchise Fees—Amount. The Company shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of Gross Revenues derived from the operation of the Cable System to provide Cable Services in the Franchise Area.

4.1.2 Franchise Fees—Payment. Payments of franchise fees shall be made on a quarterly basis and shall be remitted not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement.

4.1.2.1 Disputed Fees. The Company represents and acknowledges that it paid to DeKalb County Franchise Fees (hereinafter "Disputed Fees") for the area within the city limits/jurisdiction of the Franchising Authority from May 8, 2017 until June 30, 2017, which Disputed Fees the Franchising Authority alleges should be payable to it. The Franchising Authority agrees to waive any claim against the Company for the period of time in which the Company paid DeKalb County such Disputed Fees; and in consideration of such waiver, the Company assigns to the Franchising Authority any rights that the Company has or will have to such Disputed Fees. Further, the Company agrees to use its best efforts to assist the Franchising Authority in recovery of such Disputed Fees.

4.1.3 Company to Submit Franchise Fee Report. The Company shall submit to the Franchising Authority, not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement, a report setting forth the basis for the computation of Gross Revenues on which the quarterly payment of franchise fees is being made, which report shall enumerate, at a minimum, the following revenue categories: limited and expanded basic video service, digital video service, premium video service, pay-per-view and video-on-demand, equipment, installation and activation, franchise fees, guide, late fees, ad sales, home shopping commissions, and bad debt.

4.1.4 Franchise Fee Payments Subject to Audit; Remedy for Underpayment. No acceptance of any franchise fee payment by the Franchising Authority shall be construed

as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that the Franchising Authority may have for further or additional sums payable under this Agreement. The Franchising Authority may conduct an audit no more than once annually to ensure payments in accordance with this Agreement. The audit of the Company's records shall take place at a location, in the State of Georgia, determined by the Company. The Franchising Authority is prohibited from removing any records, files, spreadsheets, or any other documents from the site of the audit. In the event that the Franchising Authority takes notes of any documents, records, or files of the Company for use in the preparation of an audit report, all notes shall be returned to the Company upon completion of the audit. The audit period shall be limited to three (3) years preceding the end of the quarter of the most recent payment. Once the Company has provided information for an audit with respect to any period, regardless of whether the audit was completed, that period shall not again be the subject of any audit.

If, as a result of an audit or any other review, the Franchising Authority determines that the Company has underpaid franchise fees in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, the Company shall reimburse the Franchising Authority for all of the reasonable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants, and other consultants. The Franchising Authority shall provide the Company with a written notice of audit results and a copy of the final report presented to the Franchising Authority. The Company shall remit any undisputed amounts owed to the Franchising Authority as the result of the audit within forty-five (45) days, or other mutually acceptable timeframe, after the date of an executed settlement and release agreement.

4.2 Payments Not to Be Set Off Against Taxes or Vice Versa. The parties agree that the compensation and other payments to be made pursuant to this Section 8-4-6 are not a tax and are not in the nature of a tax. The Company and the Franchising Authority further agree that the provisions of O.C.G.A. § 36-76-6(h) apply to this Agreement. The Franchising Authority and the Company further agree that no additional business license fees, occupational license fees, or permit fees shall be assessed on the Company related to the provision of services or the operation of the Cable System, nor shall the Franchising Authority levy any other tax, license, fee, or assessment on the Company or its Subscribers that is not generally imposed and applicable to a majority of all other businesses.

4.3 Interest on Late Payments. If any payment required by this Agreement is not actually received by the Franchising Authority on or before the applicable date fixed in this Agreement, the Company shall pay interest thereon, from the due date to the date paid, at a rate of one percent (1%) per month.

4.4 Service to Governmental and Institutional Facilities.

4.4.1 Complimentary Installation and Service. The Company shall, within thirty (30) days of receipt of a written request by the Franchising Authority, provide complimentary standard installation and complimentary Basic Service on one outlet for each public primary or secondary school and public library located within the Franchise Area no

more than one hundred twenty-five (125) feet from the nearest point of connection to the distribution plant. If a public primary or secondary school or public library within the Franchise Area is located more than one hundred twenty-five (125) feet from the nearest point of connection to the distribution plant, the Company shall, within thirty (30) days of receipt of a written request from the Franchising Authority, provide a written estimate for the cost of extending the distribution plant to the school or library, as well as any necessary interior wiring costs.

4.4.2 Government Discounts. The Company may provide a government discount rate if the Franchising Authority requests additional outlets at a public school or public library or requests Cable Service to any other government facility within the Franchise Area.

#### **Sec. 8-4-7. – Compliance Reports.**

5.1 Compliance. The Franchising Authority hereby acknowledges that as of the Effective Date, the Company is in material compliance with the terms and conditions of the cable franchise preceding this Agreement and all material laws, rules, and ordinances of the Franchising Authority.

5.2 Reports. Upon written request by the Franchising Authority and subject to Section 631 of the Cable Act, the Company shall promptly submit to the Franchising Authority such information as may be necessary to reasonably demonstrate the Company's compliance with any term or condition of this Agreement.

5.3 File for Public Inspection. Throughout the term of this Agreement, the Company shall maintain and make available to the public those documents required pursuant to the FCC's rules and regulations.

5.4 Treatment of Proprietary Information. The Franchising Authority agrees to treat as confidential, to the maximum extent allowed under the Georgia Open Records Act (O.C.G.A. § 50-18-70, *et seq.*) or other applicable law, any requested documents submitted by the Company to the Franchising Authority that are labeled as "Confidential" or "Trade Secret" prior to submission. In the event that any documents submitted by the Company to the Franchising Authority are subject to a request for inspection or production, including but not limited to a request under the Georgia Open Records Act, the Franchising Authority shall notify the Company of the request as soon as practicable and in any case prior to the release of such information, by email or facsimile to the addresses provided in Section 9.6 of this Agreement, so that the Company may take appropriate steps to protect its interests in the requested records, including seeking an injunction against the release of the requested records. Upon receipt of said notice, the Company may review the requested records in the Franchising Authority's possession and designate as "Confidential" or "Trade Secret" any additional portions of the requested records that contain confidential or proprietary information.

5.5 Emergency Alert System. Company shall install and maintain an Emergency Alert System in the Franchise Area only as required under applicable federal and state laws. Additionally, the Franchising Authority shall permit only those Persons appropriately trained and authorized in accordance with applicable law to operate the Emergency Alert System equipment

and shall take reasonable precautions to prevent any use of the Company's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Company and its employees, officers, and assigns harmless from any claims arising out of use of the Emergency Alert System, including but not limited to reasonable attorneys' fees and costs.

**Sec. 8-4-8. – Enforcement.**

6.1 Notice of Violation. If the Franchising Authority believes that the Company has not complied with the terms of this Agreement, the Franchising Authority shall first informally discuss the matter with the Company. If discussions do not lead to a resolution of the problem, the Franchising Authority shall notify the Company in writing of the nature of the alleged noncompliance ("Violation Notice").

6.2 Company's Right to Cure or Respond. The Company shall have thirty (30) days from the receipt of the Violation Notice, or any longer period specified by the Franchising Authority, to respond; cure the alleged noncompliance; or, if the alleged noncompliance, by its nature, cannot be cured within thirty (30) days, initiate reasonable steps to remedy the matter and provide the Franchising Authority a projected resolution date in writing.

6.3 Hearing. If the Company fails to respond to the Violation Notice received from the Franchising Authority, or the alleged noncompliance is not remedied within the cure period set forth above, the Franchising Authority's governing body shall schedule a hearing if it intends to continue its investigation into the matter. The Franchising Authority shall provide the Company at least thirty (30) days' prior written notice of the hearing, specifying the time, place, and purpose of the hearing. The Company shall have the right to present evidence and to question witnesses. The Franchising Authority shall determine if the Company has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Company may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

6.4 Enforcement. Subject to applicable federal and state law, if after the hearing provided for in Section 6.3, the Franchising Authority determines that the Company is in default of the provisions addressed in the Violation Notice, the Franchising Authority may

(a) seek specific performance;

(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 this Agreement, seek to revoke the Franchise in accordance with subsection 6.5 below.

6.5 Revocation.

6.5.1 After the hearing and determination provided for in Section 6.3 and prior to the revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Company of its intent to revoke the Franchise on the basis of an alleged substantial default of a material provision of this Agreement. The notice shall set forth

the exact nature of the alleged default. The Company shall have thirty (30) days from receipt of such notice to submit its written objection to the Franchising Authority or to cure the alleged default. If the Franchising Authority is not satisfied with the Company's response, the Franchising Authority may seek to revoke the Franchise at a public hearing. The Company shall be given at least thirty (30) days' prior written notice of the public hearing, specifying the time and place of the hearing and stating the Franchising Authority's intent to revoke the Franchise.

6.5.2 At the public hearing, the Company shall be permitted to state its position on the matter, present evidence, and question witnesses, after which the Franchising Authority's governing board shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Company within ten (10) business days. The decision of the Franchising Authority's governing board shall be made in writing and shall be delivered to the Company. The Company may appeal such decision to an appropriate court, which shall have the power to review the decision of the Franchising Authority's governing board. The Company may continue to operate the Cable System until all legal appeals procedures have been exhausted.

6.5.3 Notwithstanding the provisions of this Section 8-4-8, the Company does not waive any of its rights under federal law or regulation.

6.6 Technical Violations. The parties hereby agree that it is not the Franchising Authority's intention to subject the Company to penalties, fines, forfeiture, or revocation of the Agreement for so-called "technical" breach(es) or violation(s) of the Agreement, where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area or where strict performance would result in practical difficulties and hardship to the Company which outweigh the benefit to be derived by the Franchising Authority or Subscribers.

#### **Sec. 8-4-9. – Assignments and Other Transfers.**

The Franchise shall be fully transferable to any successor in interest to the Company. A notice of transfer shall be filed by the Company to the Franchising Authority within forty-five (45) days of such transfer. The transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains the following:

(a) an affirmative declaration that the transferee shall comply with the terms and conditions of this Agreement, all applicable federal, state, and local laws, regulations, and ordinances regarding the placement and maintenance of facilities in any public right-of-way that are generally applicable to users of the public right-of-way and specifically including the Georgia Utility Facility Protection Act (O.C.G.A. § 25-9-1, *et seq.*);

(b) a description of the transferee's service area; and

(c) the location of the transferee's principal place of business and the name or names of the principal executive officer or officers of the transferee.

No affidavit shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Company in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

**Sec. 8-4-10. – Insurance and Indemnity.**

**8.1     Insurance.**

8.1.1 Liability Insurance. Throughout the term of this Agreement, the Company shall, at its sole expense, maintain comprehensive general liability insurance, issued by a company licensed to do business in the State of Georgia with a rating of not less than “A minus,” and provide the Franchising Authority certificates of insurance demonstrating that the Company has obtained the insurance required in this Section 8.1.1. This liability insurance policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death of any one person, One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. The policy or policies shall not be canceled except upon thirty (30) days’ prior written notice of cancellation to the Franchising Authority.

8.1.2 Workers’ Compensation. The Company shall ensure its compliance with the Georgia Workers’ Compensation Act.

8.2 Indemnification. The Company shall indemnify, defend, and hold harmless the Franchising Authority, its officers, employees, and agents acting in their official capacities from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Company’s construction, operation, maintenance, or removal of the Cable System, including but not limited to reasonable attorneys’ fees and costs, provided that the Franchising Authority shall give the Company written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section 8.2. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority. Notwithstanding the foregoing, the Company shall not be obligated to indemnify the Franchising Authority for any damages, liability, or claims resulting from the willful misconduct or gross negligence of the Franchising Authority or for the Franchising Authority’s use of the Cable System.

8.3 Liability and Indemnity. In accordance with Section 635A of the Cable Act, the Franchising Authority, its officials, employees, members, or agents shall have no liability to the Company arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Franchise. Any relief, to the extent such relief is required by any other provision of federal, state, or local law, shall be limited to injunctive relief and declaratory relief.



639 **Sec. 8-4-11. – Miscellaneous.**

640  
641 9.1 Controlling Authorities. This Agreement is made with the understanding that its  
642 provisions are controlled by the Cable Act, other federal laws, state laws, and all applicable local  
643 laws, ordinances, and regulations. To the extent such local laws, ordinances, or regulations  
644 clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this  
645 Agreement shall prevail, except where such conflict arises from the Franchising Authority's  
646 lawful exercise of its police powers.

647 9.2 Appendices. The Appendices to this Agreement and all portions thereof are, except as  
648 otherwise specified in this Agreement, incorporated by reference in and expressly made a part of  
649 this Agreement.

650 9.3 Enforceability of Agreement; No Opposition. By execution of this Agreement, the  
651 Company and the Franchising Authority acknowledge the validity of the terms and conditions of  
652 this Agreement under applicable law in existence on the Effective Date and pledge that they will  
653 not assert in any manner at any time or in any forum that this Agreement, the Franchise, or the  
654 processes and procedures pursuant to which this Agreement was entered into and the Franchise  
655 was granted are not consistent with the applicable law in existence on the Effective Date.

656 9.4 Governmental Powers. The Franchising Authority expressly reserves the right to exercise  
657 the full scope of its powers, including both its police power and contracting authority, to promote  
658 the public interest and to protect the health, safety, and welfare of the citizens of the City of  
659 Stonecrest, Georgia.

660 9.5 Entire Agreement. This Agreement, including all Appendices, embodies the entire  
661 understanding and agreement of the Franchising Authority and the Company with respect to the  
662 subject matter hereof and merges and supersedes all prior representations, agreements, and  
663 understandings, whether oral or written, between the Franchising Authority and the Company  
664 with respect to the subject matter hereof, including without limitation all prior drafts of this  
665 Agreement and any Appendix to this Agreement, and any and all written or oral statements or  
666 representations by any official, employee, agent, attorney, consultant, or independent contractor  
667 of the Franchising Authority or the Company. All ordinances or parts of ordinances or other  
668 agreements between the Company and the Franchising Authority that are in conflict with the  
669 provisions of this Agreement are hereby declared invalid and superseded.

670 9.6 Notices. All notices shall be in writing and shall be sufficiently given and served upon the  
671 other party by first class mail, registered or certified, return receipt requested, postage prepaid;  
672 by third-party commercial carrier; or via facsimile (with confirmation of transmission) and  
673 addressed as follows:

674 THE FRANCHISING AUTHORITY:  
675 City of Stonecrest  
676 Attn: City Manager  
677 3120 Stonecrest Boulevard  
678 Lithonia, Georgia  
679

COMPANY:  
Comcast of Georgia I, LLC  
Attn: Vice President, External Affairs  
6200 The Corners Parkway, Suite 200  
Norcross, Georgia 30092

With a copy to: Comcast Cable Communications, LLC  
Attn: Vice President, Government Affairs  
600 Galleria Parkway, Suite 1100  
Atlanta, Georgia 30339

And: Comcast Cable Communications, LLC  
Attn: Legal Dept.  
One Comcast Center  
Philadelphia, Pennsylvania 19103

9.7 Additional Representations and Warranties. In addition to the representations, warranties, and covenants of the Company to the Franchising Authority set forth elsewhere in this Agreement, the Company represents and warrants to the Franchising Authority and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the Franchising Authority) that, as of the Effective Date:

9.7.1 Organization, Standing, and Authorization. The Company is a limited liability company validly existing and in good standing under the laws of the State of Georgia and Delaware, respectively, and is duly authorized to do business in the State of Georgia and in the Franchise Area.

9.7.2 Compliance with Law. The Company, to the best of its knowledge, has obtained all government licenses, permits, and authorizations necessary for the operation and maintenance of the Cable System.

9.8 Maintenance of System in Good Working Order. Until the termination of this Agreement and the satisfaction in full by the Company of its obligations under this Agreement, in consideration of the Franchise, the Company agrees that it will maintain all of the material properties, assets, and equipment of the Cable System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this Agreement.

9.9 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted transferees, and assigns. All of the provisions of this Agreement apply to the Company, its successors, and assigns.

9.10 No Waiver; Cumulative Remedies. No failure on the part of the Franchising Authority or the Company to exercise, and no delay in exercising, any right or remedy hereunder including without limitation the rights and remedies set forth in this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other

right or remedy, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided in this Agreement including without limitation the rights and remedies set forth in Section 8.4.8 of this Agreement, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights or remedies of the Franchising Authority or Company under applicable law, subject in each case to the terms and conditions of this Agreement.

9.11 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this 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 of this Agreement, which shall continue in full force and effect.

9.12 No Agency. The Company shall conduct the work to be performed pursuant to this Agreement as an independent entity and not as an agent of the Franchising Authority.

9.13 Governing Law. This Agreement shall be deemed to be executed in the City of Stonecrest, Georgia, and shall be governed in all respects, including validity, interpretation, and effect, by and construed in accordance with the laws of the State of Georgia, as applicable to contracts entered into and to be performed entirely within that state.

9.14 Claims Under Agreement. The Franchising Authority and the Company, agree that, except to the extent inconsistent with Section 635 of the Cable Act (47 U.S.C. § 555), any and all claims asserted by or against the Franchising Authority arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in Georgia ("Federal Court") or in a court of the State of Georgia of appropriate jurisdiction ("Georgia State Court"). To effectuate this Agreement and intent, the Company agrees that if the Franchising Authority initiates any action against the Company in Federal Court or in Georgia State Court, service of process may be made on the Company either in person or by registered mail addressed to the Company at its offices as defined in Section 9.6, or to such other address as the Company may provide to the Franchising Authority in writing.

9.15 Modification. The Company and Franchising Authority may at any time during the term of this Agreement seek a modification, amendment, or waiver of any term or condition of this Agreement. No provision of this Agreement nor any Appendix to this 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 Company, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution, letter of agreement, or order by the Franchising Authority, as required by applicable law.

9.16 Delays and Failures Beyond Control of Company. Notwithstanding any other provision of this Agreement, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, technical failure, sabotage, or other events, where the Company has exercised all due care in the prevention thereof, to the extent that such

causes or other events are beyond the control of the Company and such causes or events are without the fault or negligence of the Company. In the event that any such delay in performance or failure to perform affects only part of the Company's capacity to perform, the Company shall perform to the maximum extent it is able to do so and shall take all steps within its power to correct such cause(s). The Company agrees that in correcting such cause(s), it shall take all reasonable steps to do so in as expeditious a manner as possible. The Company shall promptly notify the Franchising Authority in writing of the occurrence of an event covered by this Section 9.16.

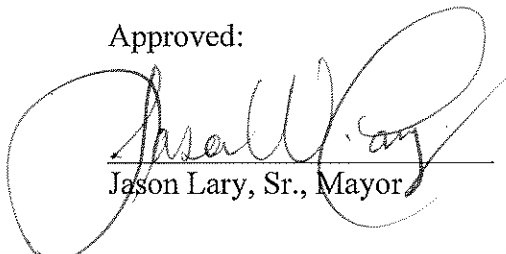
9.17 Duty to Act Reasonably and in Good Faith. The Company and the Franchising Authority shall fulfill their obligations and exercise their rights under this Agreement in a reasonable manner and in good faith. Notwithstanding the omission of the words "reasonable," "good faith," or similar terms in the provisions of this Agreement, every provision of this Agreement is subject to this section.

9.18 Contractual Rights Retained. Nothing in this Agreement is intended to impair the contractual rights of the Franchising Authority or the Company under this Agreement.

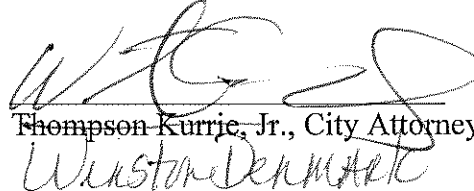
9.19 No Third-Party Beneficiaries. Nothing in this Agreement, or any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise."

SO ORDAINED AND EFFECTIVE this the 20 day of Nov, 2017.


Approved:

  
Jason Lary, Sr., Mayor

As to form:

  
Thompson Kurrie, Jr., City Attorney

Attest:

  
Brenda James, City Clerk

Accepted by  
Comcast Cable Communications, LLC

804  
805  
806  
807 By: \_\_\_\_\_  
808 Name: \_\_\_\_\_  
809 Title: \_\_\_\_\_  
810  
811 Attest: \_\_\_\_\_  
812  
813 Date: \_\_\_\_\_