

## **TOWN OF WINDSOR**

### **CABLE TELEVISION FRANCHISE RENEWAL AGREEMENT**

This Agreement made this 13<sup>th</sup> day of April, 2022, between the TOWN OF WINDSOR (hereinafter referred to as Town), a municipal corporation organized and existing under the laws of the State of New York with its offices and principal place of business at Windsor Town Hall, 124 Main Street, Windsor, NY 13865, and ADAMS CATV, INC. (hereinafter referred to as Franchisee), a Pennsylvania business corporation having its principal office at 19 North Main Street, Carbondale, PA 18407.

WHEREAS, Franchisee currently provides cable television service within the Town under authority of a franchise which expired prior hereto; and

WHEREAS, the Town and Franchisee desire to renew the aforesaid franchise and amendments thereto, and to restate the terms and conditions of Franchisee's franchise to provide cable television service within the Town of Windsor; and

WHEREAS, the technical ability, financial condition, and character of Franchisee were considered and approved by the Town Board (hereinafter referred to as Town Board) of the Town at such hearing; and

WHEREAS, the application of Franchisee for the rebuild, upgrade and operation of the Cable System (as defined hereinafter) was found by the Town Board to be adequate and feasible subject to the terms and conditions set forth herein; and

WHEREAS, the parties hereto agree that this proposed franchise agreement complies with the franchise standards required by the New York State Public Service Commission (the "Commission"), the Federal Communications Commission (hereinafter referred to as FCC), and Federal Cable Communications Policy Act (hereinafter referred to as Federal Act); and

WHEREAS, the franchise granted is non-exclusive; and

WHEREAS, by resolution of the Town Board dated the 13th day of April, 2022, the Town Board authorized the Supervisor of the Town to sign this franchise agreement; and

NOW, THEREFORE, the Town Board and Franchisee, in consideration of the premises and mutual covenants contained herein, do hereby mutually agree as follows:

#### **Section 1. Definitions**

For the purpose of this Agreement the following terms, phrases, words, abbreviations and their derivations shall have the meanings given herein. When not inconsistent with the context,

words used in the present tense include the future; words in the plural number include the singular number; and vice versa. The word "shall" is always mandatory and not merely directory.

A. "Cable System" shall mean 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.

B. "Franchise" shall mean the non-exclusive right and privilege to erect, place in the Town and to construct, maintain and operate in, over and under the present and future Towns streets, Town roads, Town highways, Town sidewalks, Town alleys, Town public land and Town public places in or of the Town, the Cable System including towers, poles, lines, cables, necessary wiring and the other apparatus for the purpose of transmitting, receiving, amplifying and distributing telephone, telegraph, television signals, radio signals, internet access services within the Town and to the inhabitants thereof.

C. "Franchise area" shall mean the Town of Windsor in the County of Broome, State of New York.

D. "Gross Revenues" means all revenue, without deduction, received by Franchisee directly or indirectly from the provision of cable television service to the Town of Windsor. Gross Revenues include, but is not limited to, all eligible subscriber and non-subscriber revenue. This includes, but is not limited to, all revenue from basic, standard, digital and premium tiers of cable service, installation, disconnection and/or reconnection charges, late or delinquent fee charges, video on demand and pay-per-view service, program guides, additional outlets, franchise fees, equipment charges; as well as all non-subscriber revenue including, but not limited to, revenue from advertising and home shopping. Gross Revenues shall, be adjusted for bad debt written off by the Franchisee in the normal course of business, provided that bad debt recoveries shall be included in Gross Revenue during the period collected.

## Section 2. Grant

The Town hereby grants to Franchisee the non-exclusive right and privilege to erect, place in the Town and to construct, maintain and operate in, over and under the present and future Town streets, Town roads, Town highways, Town sidewalks, Town alleys, Town public land and Town public places in or of the Town, the Cable System including towers, poles, lines, cables, necessary

wiring and the other apparatus for the purpose of transmitting, receiving, amplifying and distributing telephone, telegraph, television signals, radio signals, internet access services, other video and aural programming services, and other communications services within the Town and to the inhabitants thereof. While this franchise remains in effect, the Town reserves the right to award subsequent franchises to other parties.

Franchisee shall operate and maintain the Cable System so as not to interfere with other uses of Streets. Franchisee shall participate and cooperate in any ‘one-call’ or similar system for the exchange of information on the utility location or work to be conducted.

Franchisee must agree to repair Streets or provide reimbursement for repair to streets, where they cause damage by act or omission. As not all Street are owned by the Town, Franchisee may need to obtain private rights of way. It is Franchisee’s obligation to determine what, if anything, it needs for each use. The Town makes no representation as to rights for use of Streets or Rights of ways.

### Section 3. Term

The term of this agreement shall be for a period (five (5) years (cannot be longer than 15 years) commencing on upon the date of approval by the New York State Public Service Commission (Commission), unless canceled sooner as herein provided. Application for Commission certification must be filed by Franchisee within sixty (60) days of renewal.

### Section 4. Line Extension Policy

Franchisee shall comply with the line extension rules set forth in Commission Rule Section 895.5

### Section 5. Franchise Area and Provision of Cable Service

The franchise rights and obligations set forth in this Agreement shall be applicable to the Franchise Area.

Franchisee shall construct plant and make its cable service available consistent with the provisions of Section 895.5 of the regulations of the NYPSC.

### Section 6. Rates

Attachment A attached hereto sets forth Franchisee's current rates and charges for cable television service. Franchisee shall promptly file a new Attachment A with the Town upon any change in such rates and charges. The Town shall be entitled to regulate rates for the provision of

"basic cable service" as permitted by, and as that term is defined in, the Federal Act and applicable FCC regulations. In accordance with the provisions of 9 NYCRR Part 595.1(e), the rates and charges imposed by the Franchisee for cable service shall be subject to the approval of the Town and the Commission to the extent consistent with applicable state and federal law.

Subscription to the service herein authorized shall be wholly voluntary and optional to the residents of the Town.

Franchisee shall not make or grant preference or advantage to any person, nor subject any person to prejudice or disadvantage with the same classifications of service as to rates, charges, services, facilities, rules, regulations or in any other respect; provided, however, this shall not be deemed to prohibit the establishment of a graduated scale of charges and rate classifications for residential and commercial services to which any customer coming within such' classification shall be entitled.

#### Section 7. Customer Service

(a) Franchisee shall maintain an office and toll free number for the purpose of receiving and responding to cable television subscriber complaints. In addition, a maintenance service staff will be available at that office. Franchisee shall use its best efforts to maintain a payment center reasonably accessible to the residents of the Town. Franchisee currently maintains an office in Carbondale, Pennsylvania. Upon notice, Franchisee shall expeditiously investigate and resolve complaints regarding the quality of service, equipment malfunctions and similar matters. The Franchisee's office shall be open at least 8:30 AM to 4:30 PM, Monday through Friday, and Franchisee shall have a listed local or otherwise toll free telephone number so operated that complaints and requests for repairs or adjustments may be received twenty-four (24) hours a day. All customer complaints must be handled promptly by Franchisee. Franchisee shall provide written notice to each subscriber upon installation and at intervals of no more than one year of the procedure for reporting and resolving subscriber complaints.

(b) All subscriber complaints or trouble calls shall receive investigative action by Franchisee on the same day such complaint or call is received at the local office, if possible, but in no case later than the following business day. Franchisee shall give credit for any service outage in excess of four (4) continuous hours. Subscriber complaints and trouble calls shall be processed in compliance with the standards set forth, and in compliance with, the Rules and Regulations of the Commission.

(c) Franchisee shall provide notice to its subscribers of its billing practices, subscriber information, availability of parental control devices, the procedure for reporting and resolving subscriber billing and technical complaints, and equipment compatibility. Such notice may be written or by such other means as the FCC or Commission may from time to time approve. Such notice shall be given in writing to each subscriber at the time of initial subscription, reconnection, semi-annually or annually, and as required by the Rules and Regulations of the Commission. Franchisee shall also provide subscriber Privacy Notices in accordance with applicable FCC Regulations or FCC Policy.

(d) Cable television service will be provided by Franchisee to any subscriber who demands service and who is located within 200 feet of an aerial feeder cable, and the current charge for the installation charge specified in Attachment A.

(e) All structures and all lines, equipment and connections in, over, under and upon streets, roads, highways, sidewalks, alleys and public ways and public places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition and in good order and repair.

(f) The signal of any audio or video service carried on the Cable System shall be carried without material degradation in quality within the limits imposed by the technical state of the art, and as set forth by the FCC. The Cable System shall be operated in accordance with the rules and regulations of the FCC and the Commission.

(g) All complaints against Franchisee relating to its performance under this Agreement, including but not limited to those concerning quality of service, equipment malfunctions and billing disputes, shall be received at the aforesaid office of Franchisee by duly authorized employees of Franchisee.

(h) A subscriber's service shall not be terminated because of non-payment of a bill until delinquent in the amount equal to two (2) months service and the subscriber has been given five (5) days written notice of intent to terminate.

(i) Franchisee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonable necessary to enable Franchisee to exercise its rights and perform its obligations under this Franchise and to ensure an uninterrupted service to each and all of the subscribers to its Cable System, so long as such rules,

regulations, terms and conditions do not conflict with this Agreement or any statute or rule or regulation of the Commission or FCC.

(j) Franchisee shall at all times comply with the customer service protection standards of Commission Rules Parts 890 and 896.

#### Section 8. Construction

(a) Franchisee shall construct, continue to operate and maintain acceptable Cable System service in a safe and reliable manner. The minimum number of channels available on the proposed Cable System shall at all times not be less than 50 channels. The Cable System shall at all times not be operated on less than 750 MHZ.

(b) Franchisee shall construct the Cable System using materials of good and durable quality, and all work involved in construction, installation, maintenance and repair of the Cable System shall be performed in a safe, thorough and reliable manner.

(c) Franchisee agrees that all installation of cable and wires shall be erected in accordance with the approval of the utility companies owning the relevant poles or underground ducts and also in accordance with the approval of the Town building and Code Inspector, the Town Engineer or other designated engineer of the Town. All installations shall be made pursuant to and in accordance with the terms and conditions of any and all applicable local laws, ordinances, resolutions, rules or regulations of the Town which are now or hereafter may be adopted by the Town relating to the electrical wires, telephone wires, internet wires and television wires and cables. In addition, Franchisee agrees to install and maintain the Cable System in a manner which does not interfere with television reception already in existence in the Town. Franchisee further agrees to comply with all orders, regulations and rules issued by the Town and agrees that the Cable System shall be subject to inspection by the Town Building and Code Inspector, Town Engineer or other designated engineer of the Town at any and all times. Franchisee agrees to procure, prior to the commencement of the services hereunder, such licenses, permits, and approvals, as may be required by applicable law, if any, from Federal and State regulatory bodies. All of the work done by Franchisee in connection with the installation, construction, reconstruction, maintenance, service or repair of the Cable System shall be subject to, and governed by, all local laws, ordinances, resolutions, laws, rules and regulations of the Town now in force or that may be hereafter passed and adopted for the government and regulation thereof and not inconsistent herewith. Further, the installation, construction, maintenance and operation

of the Cable System shall be subject to all lawful police powers and regulations by the Town. The Town shall have the power at any time to order and require Franchisee to repair, abate or cease using any pole, tower, wire, cable, electronic conductor or other structure, facility, or portion of the Cable System that is dangerous to life or property upon reasonable demonstration thereof and the giving of appropriate written notice. In the event Franchisee, after written notice, fails or refuses to act in response to such a notice, the Town shall have the right and power to repair, remove or abate the same at the same at the expense of Franchisee, all without compensation or liability for damages to Franchisee. Franchisee will remove any equipment no longer in use.

(d) All construction and maintenance of the Cable System shall be carried out in accordance with applicable requirements of the National Electrical Safety Code of the National Board of the Fire Underwriters, the New York State Uniform Fire Prevention and Building Code, the applicable rules and regulations of the FCC, the applicable rules and regulations of the Commission, and such other United States, New York State and local statutes, local laws, ordinances, resolutions, code, rules and regulations as may be applicable.

(e) The Town shall have the right to adopt, in addition to the provisions contained in this agreement and existing applicable ordinances and local laws, such additional regulations as it shall find necessary from time to time in the exercise of its police power.

(f) Town agrees that, subject to the approval of the Town Building and Code Inspector, Town Engineer or other designated engineer of the Town, Franchisee may erect a pole or line of poles where existing poles are not available or suitable to its operation.

(g) The Town may, to the extent authorized by law, use its best efforts to assist Franchisee, whenever possible in obtaining from the utility companies permission for Franchisee to jointly use the poles and pole line facilities of the utility companies, provided that such use does not interfere with the utility companies' normal operations, so that the number of new and additional poles constructed within the boundaries of the Town may be minimized.

(h) Franchisee agrees that, wherever required by law to do so or at its own election, it will erect portions of its Cable System by extension of cable through underground facilities; that any underground cables laid in or crossing streets, roads or highways in the Town shall be in compliance with such reasonable requirements as may be prescribed by the Town; and that the expenses of repairing any such streets, roads, or highways as a result of its installation of underground facilities shall be borne by Franchisee.

(i) Franchisee further agrees that the Cable System and the location of its poles, cables, and other facilities shall not be or become an easement, right of way or a vested interest but shall be removed by Franchisee at its expense whenever the same restrict or obstruct the operation, location or relocation of any future or existing streets, roads, highways, alleys, or public places.

(j) Any work which requires damage to the surface of any street or which will interfere with traffic shall not be undertaken without prior written permission and approval of the manner of doing the work by the appropriate Town official designated by the Town.

(k) No poles or other Wire holding structure shall be erected by Franchisee without the prior written approval of the appropriate Town official designated by the Town through established permit procedures to the extent that same now or hereafter may exist, with regard to the location, height, type and any other pertinent aspect of such wire holding facilities. However, such approval may not unreasonably be withheld or delayed.

(1) All structures, lines and equipment erected by Franchisee within the Town shall be so located as to cause minimum interference with the proper use of streets, roads, highways, alleys, easements and other public ways and public places, and as to cause minimum interference with the rights or reasonable convenience of property owners whose property adjoins any of the said streets, highways, alleys or other public ways and places. Nothing in this Agreement shall be construed to prevent the Town from constructing, maintaining, repairing or relocating any sewer; grading, paving, maintain, repairing, relocating and/or altering any street; constructing, laying down, repairing, maintain or relocating any water main; or constructing, maintaining, relocating or repairing any sidewalk or other public work. Existing poles, posts and other such structures of the electric power company or any telephone company or any other public utility which may be available to Franchisee shall be used to the extent practicable in the order to minimize interference with travel. Where both power and telephone utilities are placed underground, Franchisee's cables shall also be placed underground in any lawfully approved subdivisions and, to the extent reasonably practicable, in any locations.

(m) Franchisee shall have the right and authority to trim, cut or keep clear trees and bushes upon and overhanging any part of the Cable System (so as to keep trees clear of its poles, wires, cables, conduits and fixtures) without the consent of Town. Before commencing any tree or bush rimming, cutting or clearing on private property, Franchisee shall first obtain the written permission of the property owner.



(n) In the case of any disturbance of pavement, sidewalk, driveway or other surfacing, Franchisee shall, at its own cost and expense in a manner approved by the appropriate Town official designated by the Town, replace and restore all paving, sidewalk, driveway or surfacing so disturbed in as good condition as before work was commenced.

(o) If at any time during the term of this Agreement the Town shall lawfully elect to alter or change any street, road, alley, highway, easement or other public way requiring the relocation of the facilities or Cable System of Franchisee, then in such event Franchisee, upon at least forty-five (45) days written notice by the Town, shall remove, relay and relocate the same at the expense of Franchisee.

(p) Franchisee shall, upon the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wire shall be paid by the person requesting the same, and Franchisee shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.

(q) Franchisee acknowledges that not all of property within the Franchise Area where the Cable System is to be located is owned by the Town. Franchisee may need to obtain private rights of way or easements. It is Franchisee's obligation to determine and secure what is needed for each use. The Town makes no representation as to rights for use, rights of way or easements on private property. Franchisee agrees to defend, indemnify and hold Town harmless from and against all liabilities whatsoever arising from Franchisee's use of private rights of way and easements or any of its actions on private property.

#### Section 9. System Description

(a) Attached hereto as Attachment B is a system description, which Franchisee represents is accurate and complies with Commission Rule Section 895.1(b), and which summarizes the system design and operation. Franchisee shall comply fully with the provisions of 9 NYCRR Part 895.5 (Requirements for Construction of Cable Television Plant and Provision of Cable Television Services).

(b) Franchisee shall extend its cable system beyond areas served from time to time in accordance with the Commission's line extension regulations.

(c) All work involved in the construction, installation, reconstruction, upgrading, maintenance and the repair of the Cable System shall be performed in a safe, thorough and reliable manner.

(d) All technical specifications and the operation of the Cable System shall at all times conform to the specifications established by the FCC and Commission.

(e) Franchisee shall:

(1) Use facilities capable of distributing color television signals;

(2) Produce a picture of good quality that is undistorted, free from ghost images and accompanied by proper sound on typical TV receivers in good repair, all as good as the state of the art from time to time allows;

(3) Transmit signals of adequate strength to produce good pictures and sound at all outlets without cross-modulation in the cables and without interfering with other electrical or electronic systems;

(4) Render efficient service, making repairs promptly, and interrupt service only for good cause and for the briefest possible period, preceded if possible by notice and to occur, if possible, during periods of minimum system use.

#### Section 10. Prohibition of Abandonment

Franchisee shall not abandon any service area provided under this Agreement nor shall it abandon any portion of such service area without the prior written consent of the Town Board.

#### Section 11. Indemnification — Insurance — Security

(a) Franchisee shall defend, indemnify and save the Town and its officers, employees, agents, engineers, and attorneys harmless from all damages and losses sustained by, and expenses, including reasonable attorney's fees, incurred by, the Town or any of its officers, employees, agents, engineers or attorneys on account of any suit, judgment, action, cause of action, execution, claim, damage, injury or demand whatsoever occasioned by or arising out of the installation, construction, erection, maintenance, repair, removal, or operation of the Cable System or the exercise by Franchisee of the franchise rights granted herein. Nothing herein shall be deemed to require Franchisee to defend, indemnify or hold harmless the Town in the event of any claim or demand arising solely from the negligent acts or omissions of the Town.

Franchisee shall obtain and carry a general comprehensive liability insurance policy written with good and solvent companies (naming the Town and its officers, employees, agents, engineers

and attorneys as additional insureds), and also written by an insurance company or companies qualified to do business in the State of New York. The amounts of such insurance shall not be less than \$1,000,000.00 for liability due to damage to property, not less than \$2,000,000.00 for liability due to bodily injury or death of any person, and not less than \$3,000,000.00 for liability due to any one occurrence. The Town shall notify Franchisee within thirty (30) days after the presentation of any claim or demand either by suit or otherwise made against the Town on account of any negligence other conduct or omission on the part of Franchisee. Franchisee shall pay all costs and expenses by the Town to defend itself in regard to all damages, losses, and expenses mentioned in this section. These expenses shall include out-of-pocket expense such as reasonable attorney's fees, costs and disbursements.

(b) A certificate evidencing the insurance coverage required by paragraph (a) above shall be delivered by Franchisee to the Town Clerk of the Town within sixty (60) days of the date of this Agreement. Such Certificate shall state that the Town be given at least thirty (30) days prior written notice of any cancellation or material change in coverage. The Town shall be named as an additional insured on all insurance policies.

#### Section 12. Repair of Property

Any real property or personal property of the Town damaged or destroyed by reason of any activity undertaken by Franchisee or its employees, agents, contractors or subcontractors pursuant to this franchise agreement shall be promptly repaired or replaced by Franchisee, at Franchisee's expense, and restored to serviceable condition.

#### Section 13. Municipal Approval of Sale or Transfer

Franchisee shall not assign, sell, convey, or transfer this Agreement without the express prior approval by resolution of the Town Board of the Town, which consent shall not unreasonably be withheld or delayed. After receiving written consent from the Town, Franchisee may pledge this Agreement as security for its financing arrangements provided that any such financing arrangements require that any assignee of this franchise agreement (following a loan default) shall assume the obligations of Franchisee hereunder and shall be bound by all of the terms and conditions hereunder.

#### Section 14. Equal Employment

As required by law, Franchise shall not refuse to hire or employ nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions, privileges or employment because of age, race, creed, color, national origin, sex, or disability.

Franchisee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of age, race, creed color, national origin, sex or disability. Franchisee shall comply at all times with all applicable federal and state laws relating to non-discrimination.

#### Section 15, Responsible Municipal Officer

The Supervisor of the Town or other designee of the Town Board of the Town of Windsor shall be responsible for the continuing administration of this franchise.

#### Section 16. Powers Reserved to the Town

The Town reserves to itself the right and privilege to use and have the use of Franchisee's poles for municipal purposes, upon payment of reasonable rental rates.

The Town reserves the right to adopt in addition to the provision contained herein and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police powers; provided, however, that such regulations are reasonable and consistent with all federal and state laws, rules, regulations and orders.

#### Section 17. Severability

If any section, subsection, clause, phrase or portion of this franchise agreement is for any reason held invalid or unconstitutional by any Court or regulatory agency of competent jurisdiction, such section, subsection, clause, phrase or portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining sections, subsections, clauses, phrases, or portions hereof.

#### Section 18. Approval and Amendment of Provisions

(a) The terms and provisions of this Agreement are subject to the approval of the Commission to the extent provided by law.

(b) Franchisee shall conform to all applicable federal and state statutes, codes, rules and regulations. Any amendments of federal or state franchise standards, rules or regulations will, to the extent applicable, be considered as part of this Agreement.

(c) In the event that the FCC or the Commission makes such amendments of the provisions of its rules and regulations that would require the amendment of this agreement, all such amendments shall be incorporated into this franchise agreement within one (1) year following the date of adoption of such amendment, and after the approval of the amendments by the Commission.

#### Section 19. Municipal Inspection: Regulatory Officer

The Town shall have the right to inspect all pertinent books, records, maps, plans, financial statements, and other like material of Franchisee pertaining to this Agreement upon reasonable notice and during normal business hours.

#### Section 20. Access to, and Easements in, New Subdivisions

(a) Franchisee shall locate its facilities underground in areas of the Town where all electric and telephones utilities are so located. In the event that it is not feasible for Franchisee to locate its facilities underground, it may petition the Town for permission to locate such facilities above ground.

(b) For the purpose of providing for the future growth and development of cable television service, the Town planning Board shall be encouraged to request, to the extent legally permissible under applicable laws, that all future subdividers grant Franchisee access to, and necessary easements in, new subdivisions for the purpose of installing cable television lines. Such access and easements shall be similar to those granted public utilities such as telephone and, power companies.

#### Section 21. Free Service Drops

(a) Upon written request Franchisee shall, at its expense, install and provide one free outlet of basic and expanded basic cable service situated in areas served by the Cable System service at no charge to outlets installed in each of the following buildings situated in areas served by the Cable System: (a) any school (public, private or parochial) located in the Town, (b) the Town of Windsor Town Hall, (c) Windsor Public Library, (d) any fire stations located in the Town, (e) any structure housing an ambulance located in the Town, (f) any other governmental office buildings of the Town, (g) a common room of the Senior Center in the Town, and (h) a room in the Head Start building in the Town. Franchisee shall, at its expense, install and provide one free standard level of internet service to the Windsor High School and Public Library.

## Section 22. Previous Franchise Agreements

All previous franchise agreements between Town and Franchisee shall no longer be of any force and effect as of the effective date of this franchise as set forth in Section 3 above. However, any obligations of Franchisee to insure or defend, indemnify and hold harmless the Town or any of its officers, employees, agents, engineers and attorneys shall survive any termination of such previous franchise agreements, and any liability of franchise to the town under previous agreements for acts, omissions or other violations thereof by franchise shall survive.

## Section 23. Payment of Franchise Fees

(a) Franchisee shall pay to Town an annual franchise fee of five percent (5%) of Gross Revenues.

(b) The foregoing payments to the Town shall be made by Franchisee on a quarterly basis, by the 30th day of the months of May, August, November and February.

(c) No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the Town may have for further or additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to audit and recomputation by the Town. In the event of an underpayment of franchise fees, the Franchisee will remit the underpayment within thirty (30) days of notification. The Franchisee will pay interest on the underpaid amount at a rate equal to the prime rate plus 3% compounded monthly from the date the underpayment occurred through the date payment of the underpaid amount is issued. Said interest will not be passed through to the subscribers.

(d) The amount of franchise fee and the method of calculation shall be competitively neutral when compared to the amount or method of calculation of the franchise fee in any other cable franchise granted by Town.

## Section 24. Termination

(a) Franchisee shall not be deemed nor declared to be in default under any of the conditions, provisions, requirements or limitations of this Agreement in any case in which the performance of such condition, provision, requirement or limitation is prevented by reason of strikes, injunctions or other causes beyond control of Franchisee, provided that Franchisee shall not have instigated such strike, or shall not have been responsible for suits or injunctions or other causes of delay.

(b) Franchisee shall not be declared in default of any provision contained herein unless Franchisee shall have been notified by the Town, in writing, of the condition or act for which a violation is alleged, Franchisee shall have a period of thirty (30) days in which to remedy or to take reasonable steps to remedy such condition or act. Thereafter a default shall be declared only by resolution of the Town Board after publication of public notice and the giving of written notice to Franchisee and the granting to Franchisee of an opportunity to be heard at a public hearing.

(c) Upon termination of the period of this Agreement by passage of time or otherwise, Franchisee shall (unless a new franchise agreement has been signed by Town and Franchisee), at its cost and expense, remove its supporting structures, poles, transmission and distribution systems, Cable System and other appurtenances from the streets, roads, highways, ways, lanes, alleys, parkways, bridges, and other public places in, over, under or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within six (6) months of such termination, the Town may deem the property not removed as having been abandoned and may remove such facilities at Franchisee's cost and expense.

#### Section 25. Cancellation of the Franchise

The Town shall have to right to cancel this Agreement for any of the following reasons:

- (a) For failure by Franchisee to pay the Town the franchise fee for a period in excess of ninety (90) days from its due date.
- (b) For knowingly submitting false records or reports to the Town.
- (c) For the perjured sworn testimony with respect to this Agreement of any officer of Franchisee,
- (d) For violation of any applicable law or regulation
- (e) For violation of this Agreement.

#### Section 26. Abandonment of Service

Franchisee is expressly prohibited from abandoning any service undertaken under this Agreement or any portion thereof without the express prior written consent of the Town. In the event Franchisee files for bankruptcy, such written consent shall not be unreasonably withheld by Town.

#### Section 27. Approval of the State Commission

The terms of this Agreement and any subsequent amendments hereto, are subject to applicable federal, state and local laws, the Rules and Regulations of the FCC, the Rules and

Regulations of the Commission and any other applicable regulatory body with appropriate jurisdiction. Further, the terms of this Agreement and any subsequent amendments, are subject to the approval of the Commission and the FCC.

#### Section 28. Notices and Payments

Any notice and payments required hereunder shall be mailed or delivered to the parties hereto at the addresses set forth on page 1 hereof, or at such other address as shall be specified by written notice sent by one party to the part hereto.

#### Section 29. Construction of. Agreement

This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of New York. The Franchisee consents to exclusive venue in any action by or against the Town of Windsor regarding this Franchise Agreement or any events occurring hereunder to be in Broome County, New York.

#### Section 30. Complete Agreement

This Agreement represents the complete agreement and understanding of the parties with respect to the subject matter hereof, and cannot be amended orally. The officers of applicant certify that all facts contained in this application are true and accurate.

#### Section 31. Miscellaneous provisions

(a) Emergency Alert System. Franchisee shall comply with the Emergency Alert System regulations of the FCC. The emergency alert system shall meet all Federal and State requirements.

(b) PEG Access Channels. Franchisee shall make available, free of charge, PEG access and comply with the standards set for PEG as required by the regulations of the Commission. Any PEG channel shall be shared with other franchising authorities served by Franchisee's cable system.

(c) Access to cable service will not be denied to any group of potential residential subscribers because of the income of the residents to the local area in which such group resides.

(e) Compliance with Laws. Town and Franchisee shall conform to all applicable state and federal laws and rules regarding cable television as they become effective. Franchisee shall also conform with all generally applicable Town ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise. In the event



of a conflict between Town ordinances, resolutions, rules or regulations and the provisions of this Agreement, the provisions of this Agreement shall govern.

(f) Controlling Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

(g) No Third Party Beneficiaries. This Agreement is not intended to, and does not create any rights or benefits on behalf of any person other than the parties to this Agreement.

(h) Captions. The paragraph captions and headings in this Agreement are for convenience and reference purpose only and shall not affect in any way the meaning of interpretation of this Agreement.

(i) Calculation of Time. Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period, or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

(j) Franchise shall provide, without charge, outlet standard cable service, high speed internet to all municipally owned building, all public and private schools in the franchise area and the fire departments/districts within the service area.

Section 32. Certification

IN WITNESS WHEREOF, the parties have executed this agreement this 13<sup>th</sup> day of April, 2022.

**FRANCHISEE:**

**TOWN:**

**ADAMS CATV, INC.**

**TOWN OF WINDSOR**

By: \_\_\_\_\_  
**General Manager**

By: \_\_\_\_\_  
**Supervisor**