

12133

Appendix C

LEASE AGREEMENT

BETWEEN

KING COUNTY, WASHINGTON,

AS LESSEE,

AND

TCI of Seattle, Inc.;

TCI of Auburn, Inc.;

TCI of Southwest Washington, Inc.;

TCI Cablevision of Washington, Inc.,

**[and as provided herein,
Tele-Vue Systems, Inc. d/b/a Viacom Cable]**

AS LESSOR

Dated as of _____, 1996

TABLE OF CONTENTS

	<u>PAGE</u>
<u>RECITALS</u>	1
<u>ARTICLE I. THE AGREEMENT AND THE AGREEMENT DOCUMENTS</u>	2
1.1 <u>The Agreement</u>	2
1.2 <u>The Agreement Documents.</u>	2
1.3 <u>Entire Agreement.</u>	3
1.4 <u>No Privity With Others.</u>	3
1.5 <u>Intent, Interpretation and Definitions.</u>	3
<u>ARTICLE II. LEASE TERM.</u>	6
2.1 <u>Term.</u>	6
<u>ARTICLE III. TITLE TO OPTICAL FIBERS AND OTHER FACILITIES.</u>	6
3.1 <u>Title.</u>	6
<u>ARTICLE IV. USE OF FACILITIES</u>	6
4.1 <u>Use of Facilities.</u>	6
4.2 <u>Connections to Leased Facilities.</u>	7
<u>ARTICLE V. THE WORK</u>	7
5.1 <u>Performance of Work.</u>	7
5.2 <u>Scope of Work.</u>	7
5.3 <u>Design and Execution</u>	8
<u>ARTICLE VI. AGREEMENT TIME</u>	12
6.1 <u>Time.</u>	12
6.2 <u>Substantial Completion.</u>	13
<u>ARTICLE VII. LEASE PAYMENT</u>	13
7.1 <u>The Lease Payments.</u>	13
7.2 <u>Cost of Lease.</u>	13
7.3 <u>Cost of Repair and Maintenance.</u>	16

ARTICLE VIII. PAYMENT OF LEASE PAYMENT 16

 8.1 Payment Procedure. 16

ARTICLE IX. THE LESSEE 18

 9.1 Information, Services and Things Required From Lessee. 18

 9.2 Permits and Fees. 18

 9.3 Obligations of Lessee. 18

ARTICLE X. THE LESSOR 19

 10.1 Limitation of Liability. 19

 10.2 Responsibility. 19

 10.3 Performance. 19

 10.4 Lessor Responsibility 19

 10.6 Permits, Fees and Licenses and Lawful Requirements. 20

 10.7 Supervision

 10.8 Maintenance of Records. 20

 10.9 Cleaning the Site and the Project. 20

 10.10 Access to Work. 20

 10.11 Indemnity. 20

ARTICLE XI. SUBCONTRACTORS 21

 11.1 Definition. 21

 11.2 Award of Subcontracts.

ARTICLE XII. CHANGES IN WORK 22

 12.1 Changes Permitted. 22

 12.2 Change Order Defined. 22

 12.3 Changes in the Lease Payment. 22

 12.4 Effect of Executed Change Order. 22

 12.5 Notice to Surety; Consent. 23

ARTICLE XIII. CORRECTING WORK 23

 13.1 Correcting Work. 23

ARTICLE XIV. AGREEMENT TERMINATION 23

 14.1 Termination by Lessor. 23

 14.2 Right to Stop Work or Termination by Lessee. 24

12133

ARTICLE XV. <u>INSURANCE</u>	24
15.1 <u>Insurance</u>	24
ARTICLE XVI. <u>MISCELLANEOUS</u>	25
16.1 <u>Governing Law</u>	25
16.2 <u>Successors and Assigns</u>	25
16.3 <u>Performance Bond</u>	25
16.4 <u>Dispute Resolution</u>	25
16.5 <u>Force Majeure</u>	25
16.6 <u>Excused Performance</u>	26

12133

LEASE AGREEMENT BETWEEN KING COUNTY,
WASHINGTON, AS LESSEE, AND TCI CABLEVISION OF WASHINGTON, INC.,
AS LESSOR

THIS AGREEMENT (the "Lease Agreement") is made as of _____, 1996 by and between King County, Washington, 700 Fifth Avenue, Suite 2300, Seattle, Washington 98104-5002 ("Lessee"), and TCI of Seattle, Inc.; TCI of Auburn, Inc.; and TCI of Southwest Washington, Inc., jointly and severally (collectively, "Franchisee") and their corporate parent, TCI Cablevision of Washington, Inc., 2233 1012th Ave. N.E., Bellevue, WA 98004 (collectively "Lessor"), for construction of the cable television Institutional Network ("I-Net") within King County, Washington, related to King County's cable television franchise granted to the Franchisee to use the County's public rights of way and compatible utility easements to construct, reconstruct, repair and maintain a Cable System and/or Institutional Network. TeleVue Systems, Inc., d/b/a Viacom Cable ("Viacom") shall become a party to this Lease Agreement, jointly and severally liable with the Franchisee and TCI Cablevision of Washington, Inc., and the term "Lessor" will apply to it: if and when Viacom signs this Lease Agreement, certain other conditions enumerated in a Settlement Agreement between Viacom and the County are satisfied, and this Lease Agreement supersedes a certain Construction Agreement described below. After Viacom becomes a Lessor, a reference to a "Franchise Agreement" includes the Viacom Franchise Agreement. After Viacom becomes a Lessor, a reference to "the" Cable System or "a" Cable System will include the Viacom Cable System and Franchisee's Cable System. However, the effective date of this Lease Agreement does not depend on Viacom signing this Lease Agreement.

The Lessee and the Lessor hereby recite and agree as follows:

RECITALS

WHEREAS, Lessee and Franchisee have entered into a written Franchise Agreement, dated _____, 1996, under which Franchisee will hold a cable franchise from the Lessee to use the Lessee's public rights of way and compatible utility easements to construct, reconstruct, repair and maintain a Cable System in a portion of unincorporated areas of King County, Washington and in other areas as authorized ("TCI Franchise Agreement").

WHEREAS, Lessee has a separate Construction Agreement with Viacom (the "Viacom Construction Agreement") pursuant to Viacom's Franchise Agreement issued pursuant to Ordinance No. 11680; and

12133

WHEREAS, a corporate parent of Franchisee and TCI Cablevision of Washington, Inc. has entered into an agreement to acquire a corporate parent of Viacom, Viacom and Lessee has entered into a Settlement Agreement with Viacom to conditionally approve that transfer of control (the "Transfer"); and

WHEREAS, this Agreement will be immediately effective as to Franchisee and TCI Cablevision of Washington, and subsequently as a condition to the consummation of the acquisition and transfer of Viacom, Viacom will execute this Agreement and accept certain amendments to the Viacom Franchise Agreement, and upon the effective date of the amendments to the Viacom Franchise Agreement, this Agreement will supersede and replace the Viacom Construction Agreement; and

WHEREAS, as part of the consideration due from Franchisee to Lessee under the TCI Franchise Agreement, Franchisee has agreed to provide certain capital grants and services for design, construction, lease of optical fibers and maintenance of an I-Net, and Viacom has similarly so agreed in the Viacom Franchise Agreement; and

WHEREAS, subject to the terms and conditions set forth in the Franchise Agreements and also below, the parties hereto desire to lease capacity over the System to Lessee, and Lessee desires to lease such facilities; and

WHEREAS, both Lessor and Lessee anticipate that Lessor will provide services for design, construction, lease of optical fibers and maintenance of the I-Net under the terms of this Lease Agreement at a cost to the Lessee below the cost achievable through an open bid for those same services; and

WHEREAS, in the TCI Franchise Agreement, Lessee and Franchisee have agreed to execute a Lease Agreement, subject to the terms of the TCI Franchise Agreement, evidencing the obligation of Franchisee to provide a capital grant for design, construction, lease of optical fibers and maintenance of designated parts of an I-Net in connection with the upgrade and reconstruction of a portion of Franchisee's Cable System; and

WHEREAS, in the TCI Franchise Agreement, Lessee and Franchisee have agreed that Lessor should serve as Lessee's lessor for the design, construction, lease of optical fibers and maintenance of designated parts of the I-Net, and that both parties will use best efforts to coordinate on the location of the Nodes to maximize the savings to Lessee while not increasing the cost or altering specifications of the rebuild construction to Lessor; and Viacom has agreed to similar conditions in the Viacom Franchise Agreement; and

WHEREAS, pursuant to the TCI Franchise Agreements, and the Viacom Franchise Agreement, should Viacom sign this Lease Agreement, Lessor will provide certain capital grants and construction credits to Lessee, against which Lessor will be

entitled to receive certain credits as described herein and in the Franchise Agreements for the Cost of the Work incurred by Lessor in constructing the I-Net.

ARTICLE I.

THE AGREEMENT AND THE AGREEMENT DOCUMENTS

1.1 The Agreement.

1.1.1 The Agreement between Lessee and Lessor, of which this Lease Agreement is a part, consists of the Agreement Documents. The Agreement shall be effective on the date this Agreement is executed by the last party to execute it, not including Viacom. The effectiveness of this Agreement will not be contingent in any way upon whether Viacom becomes a signatory hereto, or whether this Agreement supersedes the Construction Agreement.

1.2 The Agreement Documents.

1.2.1 The Agreement Documents consist of

- a. This Lease Agreement;
- b. Work Orders issued pursuant to Article II below;.
- c. Change Orders issued hereafter;
- d. Any other written¹ amendments hereto executed by the parties hereafter;
- e. The Maps described in Article II below; and
- f. The TCI Franchise Agreement as it relates to the design, construction, lease of optical fibers and maintenance of and payment for the I-Net.
- g. Upon the date this Lease Agreement becomes effective under the Settlement Agreement between Viacom and King County, the Viacom Franchise Agreement and the Settlement Agreement between Viacom and the County as they relate to the design, construction, lease of optical fibers and maintenance of and payment for the I-Net.

¹ Clarification

12133

Documents not enumerated in this Section 1.2.1 are not Agreement Documents and do not form part of this Agreement.

1.3 Entire Agreement.

1.3.1 The Agreement, together with Lessor's performance and Lessee's payment, constitute the entire and exclusive agreement between Lessee and Lessor with reference to Lessor's design, construction, lease of optical fibers and maintenance of the I-Net and Lessee's payment therefor. Specifically, without limitation, this Agreement supersedes all prior written or oral communications, representations and negotiations, if any, between Lessee and Lessor relating to the design, construction, lease of optical fibers and maintenance of the I-Net and payment therefor. While the primary agreement between the parties is the Franchise Agreement that applies to them, if there is a conflict between this Lease Agreement and a Franchise Agreement relating to the design, construction, lease of optical fibers and maintenance of the I-Net and payment therefor, then this Lease Agreement shall control.

1.4 No Privity With Others.

1.4.1 Nothing contained in the Agreement shall create, or be interpreted to create privity or any other contractual agreement between the Lessee and any person or entity other than the Lessor.

1.5 Intent, Interpretation and Definitions.

1.5.1 The intent of the Agreement is to require complete, correct and timely design, construction, lease of optical fibers and maintenance of designated parts of the I-Net and payment therefor. Any work that may be required by the Agreement Documents or any one or more of them as necessary to produce the intended results shall be provided by Lessor. Any payments to Lessor that may be required by the Agreement Documents or any one or more of them shall be made by Lessee.

1.5.2 The Agreement is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Agreement Document shall be considered as required by the Agreement.

1.5.3 When a word, term or phrase is used in the Agreement, it shall be interpreted or construed as follows: First, as defined in this Lease Agreement or in a Franchise Agreement; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

1.5.3.1 "Backbone Fiber Optic Network" means the network created by Fiber Optic Cables running from Headends to Nodes and between Nodes in a Cable System.

1.5.3.2 "Cable System" means that term as defined at 47 U.S.C. § 522(7), on the date of this Agreement.

1.5.3.3 "Capital Grant Allowance" means the annual capital grants due from Viacom to Lessee, pursuant to Section 17(b)(3) of the Viacom Franchise Agreement, in the form of construction work order credits for construction of the I-Net in the approximate amount of \$800,000/year, plus an inflation adjustment, due on the first and second anniversaries of the effective date of the Viacom Franchise Agreement.

1.5.3.4 "Capital Grant Cash Payments" means the annual and quarterly capital grants due from Viacom and from Franchisee to Lessee, pursuant to Sections 17(b)(2), (4), (5) and (6) of the Viacom Franchise Agreement, Ordinance No. 11680, as amended, and pursuant to Sections _____, of the TCI Franchise Agreement, Ordinance No. _____, as amended. As set forth in the Viacom Franchise Agreement, Viacom, its successors and assigns, will pay in the form of cash payments in the approximate amount of \$800,000/year, plus an inflation adjustment, due on the effective date of the Viacom Franchise Agreement and also on the third, fourth (for years 5-7) and seventh (for years 8-10) anniversaries of the Franchise Agreement. Pursuant to and in accordance with the TCI Franchise Agreement, Franchisee will provide Lessee \$250,000 in work credits, plus quarterly cash capital grants equal to \$1.00 per subscriber per month for subscribers served pursuant to the Franchise, plus, also pursuant to the Franchise, five annual payments of \$50,000.

1.5.3.5 "Fiber Optic Cable" means jacketed bundles of one or more optical fibers each of which is capable of transporting audio, video and data forms of communication.

1.5.3.6 "Franchise Area" means that portion of unincorporated areas of King County for which Franchisee and Viacom, pursuant to the Franchise Agreements, have the right to use Lessee's public rights of way and compatible utility easements to construct, reconstruct, repair and maintain a Cable System.

1.5.3.7 "Headend" means equipment that centrally receives and controls signals to be transmitted through a Cable System, usually including antennas, preamplifiers, frequency converters, demodulators, modulators and related equipment. Both the building and the equipment which receive the signals and process them before application to a Cable System are known as the Headend.

1.5.3.8 "Hub" means a Cable System control point located between a Headend and a Node which receives the signals from the Headend and reorganizes and redirects those signals to particular Nodes.

1.5.3.9 "Institutional Network" or "I-Net" means a communications network related to and physically joined with the Cable System which is to be constructed by Lessor and operated by Lessee and which is not generally available to residential subscribers of the Cable System in King County, Washington.

1.5.3.10 "Node" means a point in a Cable System which terminates fiber optic cables at a point remote from the Headends and Hubs and which bridges the signals from optical fibers to copper wires or to other optical fibers and from which distribution cables branch out to serve residential subscribers.

1.5.4 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of the Agreement shall not imply that any other nonspecified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Agreement.

1.5.5 Words or terms used as nouns in the Agreement shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

1.5.6 Neither the organization of any of the Agreement Documents nor the divisions, sections, paragraphs, articles (or other categories) shall control Lessor in dividing the Work or in establishing the extent or scope of the Work to be performed by subcontractors.

ARTICLE II.

LEASE TERM.

2.1 Term.

2.1.1 This Agreement, and Lessee's rights to use the dedicated optical fibers and fiber optic cables for the price defined in this Agreement, shall commence on the date the Franchise issued to Franchisee pursuant to Ord # _____ becomes effective and shall terminate on the earliest to occur of (i) the date that Franchisee's (or its successors' or assigns') legal ability to operate the Systems in the Service Area either terminates or is materially impaired or (ii) the date the County exercises its right to terminate this Agreement pursuant to Article XIV.

ARTICLE III.

TITLE TO OPTICAL FIBERS AND OTHER FACILITIES.

3.1 Title.

3.1.1 All right, title and interest in all the Leased Facilities (as hereinafter defined) provided by the Lessor hereunder shall at all times remain exclusively with Lessor. All right, title and interest in all facilities and associated equipment provided by Lessee shall at all times remain exclusively with Lessee.

ARTICLE IV.

USE OF FACILITIES.

4.1 Use of Facilities.

4.1.1 Lessee may use the leased optical fibers and related facilities (the "Leased Facilities") for the transmission of telecommunications and for any other lawful purpose, consistent with the Franchise Agreement, as amended. Lessee shall have exclusive use of the facilities, and shall exclusively control, without limitation, customer premise and nodal electronics, electronics maintenance and monitoring, and other equipment and devices which Lessee concludes it requires, and terms and conditions of third party use of the facilities, subject only to the limitations contained in the Franchise Agreement.

4.2 Connections to Leased Facilities.

4.2.1 In the event that Lessee does elect to own or construct its own fiber optic facilities, Lessee will be given access by Lessor to the Leased Facilities at the splice points nearest to Lessee's proposed facilities, including easements over Lessor's property, at which points Lessee may from time to time during the term of this Agreement splice its fiber optic cable into the Leased Facilities. Lessee shall retain sole and exclusive title to any cable installed by it from the point of splicing. Lessor shall also provide Lessee with 24 hour, 365 day access to each splice point for the purposes of maintaining Lessee's cable and splices. Lessee shall give Lessor a minimum of thirty (30) days written notice of any splicing activity, and Lessor shall be entitled to be present and to supervise Lessee and its contractors with respect to such splicing.

ARTICLE V.

THE WORK

5.1 Performance of Work.

5.1.1 Lessor shall perform all the Work required by the Agreement.

5.2 Scope of Work.

5.2.1 The term "Work" shall mean whatever is done by or required of Lessor to perform and complete its duties under the Agreement, including the following: design, construction, lease of optical fibers and maintenance of the designated parts of the I-Net; furnishing of any required surety bonds and insurance; and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required to fulfill Lessor's obligations under the Agreement. The Work to be performed by Lessor is described as follows:

5.2.2 As part of Lessor's planned upgrade in the Franchise Area of its Cable System pursuant to the Franchise Agreements, Lessor intends to replace in phases the coaxial cables between its Headends and Nodes in the Franchise Area with Fiber Optic Cables. It does not intend, except on a case-by-case basis and at its sole discretion, to replace the coaxial wire in the Franchise Area that runs from the Nodes to residential or other subscribers.

5.2.3 As Lessor, in phases, replaces coaxial cable with Fiber Optic Cable between the Headends and the Nodes and, on a case-by-case basis, replaces coaxial cable that runs from the Nodes to residential or other subscribers, Lessor will purchase and have installed within the fiber optic cable jacket or in a separate fiber optic cable jacket, as requested by Lessee, as many optical fibers as requested by Lessee in Work orders issued pursuant to Section 5.3.5 and dedicate them to the use by Lessee for the operation of the I-Net. Lessee shall decide whether to have the optical fibers jacketed with Lessor's optical fibers or whether to have the optical fibers jacketed separately after, in good faith, taking into account the recommendations of Lessor, which recommendations Lessee shall not unreasonably reject. However, this shall not obligate the Lessee to take any action it believes to be contrary to its interest.

5.2.4 Lessor shall install Fiber Optic Cable from the Nodes to the County site locations designated by Lessee in the Work Orders issued pursuant to Section 5.3.5, consistent with the number and location of sites attached to the Franchise Agreement.

5.2.5 Lessor shall install at each facility and at a location therein designated by the Lessee in the Work Orders issued pursuant to Section 5.3.5 termination block hardware including standard connectors to be designated by Lessee, so that Lessee can connect to the Fiber Optic Cable. Such connection shall be made by Lessor within a reasonable time but, if the requested connections are not in an area where Lessor is then currently working, the connection shall be made in a way so as not to interrupt Lessor's schedule for the rebuild of the Cable System.

5.2.6 Within King County, and consistent with the list of sites attached to the Franchise Agreements, I-Net construction by Lessor for Lessee's benefit may also occur outside the Franchise Area to the extent requested by Lessee, provided, Lessor shall have the obligation to build only in other jurisdictions in King County where Lessor has a franchise, permit, license or other right to serve.

5.3 Design and Execution. The design and execution of the Work is generally described as follows:

5.3.1 Within 90 days of the signing of this Agreement, and no later than nine months prior to commencement of construction of the rebuild, Lessor shall give Lessee a preliminary system level design map which shall include at a minimum the following: (a) the location of the Cable System headends, and the areas served by each headend; (b) the location of hubs, and the areas to be served by each hub; and (c) the location of the optical transfer nodes (OTN's) and the area served by each OTN.

5.3.2 On or about six (6) months before Lessor begins construction of a phase of the upgrade of its Cable System, Lessor shall give Lessee a map relating to that phase that shows Lessor's proposed location of Nodes for Lessor's subscriber system and the proposed location of the distribution system within King County relating to that phase of the upgrade.

5.3.3 On or about five (5) months before Lessor begins construction of a phase of the upgrade of its Cable System, Lessee shall give to Lessor the address of each County site location Lessee wishes connected during that phase by Fiber Optic Cable to the Cable System Nodes and the number of optical fibers Lessee wishes to have run to each location. The number and location of sites will be consistent with the list of sites attached to the Franchise Agreement, subject to reasonable changes in addresses for relocated or replaced facilities prior to Lessor's construction of the site. However in no case will the number of sites constructed under this Agreement exceed the number of sites attached to Franchise Agreement. Lessor and Lessee shall meet and use best efforts to coordinate the location of the Nodes that will be reconstructed as part of the upgrade in order to maximize the savings to the Lessee while not increasing the cost or altering the specifications of the

upgrade of the Cable System for Lessor. If Lessee wants a Node location that will increase the cost or alter the specifications of the upgrade of the Cable System for Lessor, Lessee can direct such a Node location if Lessee compensates Lessor for the increased cost or altered specifications.

5.3.4 On or about four (4) months before Lessor begins construction of a phase of the upgrade of its Cable System, the Lessor shall give Lessee:

- (a) A strand map showing Lessor's proposed route for the Backbone Fiber Optic Network, and its proposed location of Nodes and Lessor's proposed routing and number of optical fibers from Nodes or splice points to County site locations. The map shall be on a scale of one inch equal to one thousand feet and shall also be provided as an AUTOCAD computer file. The map shall include at least two reference marks corresponding to geological survey markers.
- (b) Lessor's estimate of the material cost of the Fiber Optic Cable on a per foot per optical fiber basis;
- (c) Lessor's estimate of the labor costs on a cost per foot basis from Nodes or breakout points to County site locations; and
- (d) Lessor's estimate of any other Direct Costs to be paid by Lessee.

5.3.5 On or about three (3) months before Lessor begins construction on a phase of the upgrade of its Cable System, Lessee shall give Lessor a written Work Order that details the Work requested by the Lessee during that phase of the Cable System upgrade. Such Work Order shall include the following information:

- (a) The specific number of optical fibers required by Lessee and whether they are to be jacketed with Lessor's optical fibers or jacketed separately;
- (b) The County site locations to which Lessee wants Lessor to run Fiber Optic Cable;
- (c) Identification of the equipment and hardware to be installed by Lessor at points of termination as specified in paragraph 5.2.5 of this Agreement; and

- (d) A design for splicing and termination of Fiber Optic Cable at each County site location.

If Lessee gives an untimely Work order to Lessor and the untimeliness is material, then Lessor shall have no obligation to construct the I-Net sites covered by that work order during that phase of Lessor's upgrade of its Cable System unless, by Change Order, Lessee extends the Contract Time sufficient to compensate Lessor for the untimeliness of the Work Order and increases the Lease payment sufficient to compensate Lessor for its costs and damages relating to the untimeliness of the Work Order.

5.3.6 On or about two (2) months before Lessor begins construction of a phase of an upgrade to its Cable System,

- (a) Lessor shall prepare and give to Lessee a Purchase Memorandum which shall itemize the types, quantities and prices of the Fiber Optic Cable, termination equipment and hardware as specified in paragraph 5.2.5 that Lessor intends to purchase to perform the work requested in the Work Order. The prices shall be Lessor's purchase prices or the fair market prices, whichever are lower. Lessee shall promptly reply to Lessor, in writing, stating any objections that Lessee may have that the prices are not Lessor's purchase prices or fair market prices.

- (b) Lessor shall prepare and give the Lessee a Subcontractor Memorandum which shall state the names of persons or entities proposed by Lessor to act as subcontractors on the phase and the price of the subcontractors on a cost per foot basis from Nodes or breakout points to County site locations. Lessee shall promptly reply to Lessor, in writing, stating any objections that Lessee may have to such proposed subcontractors and their subcontract payments relating to that portion of the I-Net where the Cable System and the I-Net are not co-located. In such event, the parties shall in good faith immediately try to resolve the objections.

- (c) Lessor shall prepare and give to Lessee a Memorandum of In-house Labor Charges, if any, which shall state the estimated price of labor to be performed by Lessor on a cost per foot basis.

12133

(d) Within fifteen (15) days of its receipt of the Purchase Memorandum, the Subcontractor Memorandum and the Memorandum of In-house Labor Charges, Lessee may amend or cancel its Work Order.

(e) If Lessee cancels its Work Order, then Lessor may proceed immediately with the construction of the phase of the upgrade of its Cable System. If Lessee amends its Work Order, then Lessor shall amend its Purchase Memorandum, its Subcontractor Memorandum and its Memorandum of In-House Labor Charges in response to Lessee's amended Work order. Within fifteen days of these amended Memoranda, Lessee may cancel its amended Work Order. Lessor shall be reimbursed for Direct Costs incurred by Lessor as a result of the amended or canceled Work Orders.

(f) If Lessee does not amend or cancel its Work Order or amended Work Order within the fifteen (15) day period, then Lessee will be deemed to have authorized Lessor to proceed with such Work Order, including the purchasing of materials the executing of subcontracts and the employing of in-house labor. As soon as available, Lessor shall give Lessee copies of the executed subcontracts.

5.3.7 On or about one (1) month before Lessor begins construction of a phase of the upgrade of its Cable System, Lessor shall give Lessee final design maps of the proposed construction phase. The maps shall depict:

(a) Lessor's plan for the Backbone Fiber Optic Network location and Fiber Optic Cable routing based on the location of Nodes;

(b) Routing of Fiber Optic Cable and number of optical fibers in each run of Fiber Optic Cable between Lessor's Headends, Hubs and Nodes; and

(c) Routing and number of optical fibers between Nodes and County site locations to provide the I-Net transmission paths.

These maps shall be on a scale of one inch equal to one thousand feet and shall also be provided as an AUTOCAD computer file. Lessor shall also provide Lessee with

copies of the manufacturer's written specifications for the Fiber Optic Cable and for any equipment used in connection with the I-Net.

5.3.8 Following commencement of construction of a phase of the I-Net, every three months until that phase of the I-Net is completed, Lessor shall provide detailed written reports to the Lessee on the Lessor's progress in constructing the I-Net and shall meet with the Lessee to discuss such progress.

ARTICLE VI.

AGREEMENT TIME

6.1 Time.

6.1.1 Lessor shall commence the Work pursuant to the terms of Section 5.3 above and shall achieve Substantial Completion of the Work, as defined under Section 6.2, no later than three years from the effective date of the TCI Franchise Agreement except, should Viacom be a Lessor, work performed in its Franchise Area must be completed within four (4) years of the effective date of the Viacom Franchise Agreement. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the "Agreement Time."

6.2 Substantial Completion.

6.2.1 "Substantial Completion" shall mean that stage when a Work Order is sufficiently complete such that the Work performed pursuant to the Work Order is ready for final inspection and is subjected to and passes a technical performance test in accordance with Section 8.1.2.

6.2.2 It is understood that the work shall be performed in phases and that "Substantial Completion" shall be measured on a phase by-phase basis.

ARTICLE VII.

LEASE PAYMENT

7.1 The Lease Payments.

7.1.1 Lessee shall pay Lessor payments for the Leased Facilities in the amounts set forth in this Article. After the payment of all lease payments in respect of any Leased Facilities, Lessee shall not be obligated to make any additional lease

12133

payments to Lessor in respect of such Leased Facilities, notwithstanding that this Agreement may continue in full force and effect thereafter, as consistent with the Article II Lease Term. Lessor and Lessee agree that all lease payments set forth in this Article will be calculated in accordance with the procedures set forth in this Article.

The amount of the lease payments set forth by this Agreement are based on Lessor's Direct and Indirect Costs as specified in this Agreement. No other payments are required for use of the dedicated optical fibers or associated electronic equipment or facilities provided by Lessor located between the site and the headend except for equipment or facilities requested by Lessee that would not otherwise have been provided by Lessor in the ordinary course of operation.

7.1.2 Lessee shall pay and Lessor shall accept, as full and complete payment for all lease of dedicated optical fibers, and other Work and benefits to Lessee required herein, consideration in the manner set forth in this Article.

7.2 Cost of Lease.

7.2.1 For construction and lease of dedicated optical fibers for the I-Net at any location where Lessor for its own account lays new or replacement Fiber Optic Cable or coaxial cable (i.e., where the I-Net and the Cable System are co-located), the Cost of lease shall be the Cost of Work which shall be only Lessor's direct material cost of the additional optical fibers installed for Lessee's account. The Cost of such Work shall be calculated on the basis of invoices received by the Lessor for the purchase of the Fiber Optic Cable. The Cost of Work shall not include the cost for construction, installation and testing of the Fiber Optic Cable. For example, if Lessor purchases Fiber Optic Cable with twenty-six (26) optical fibers per tube, twenty-four (24) of which Lessor will use in its Backbone Fiber Optic Network and two (2) of which Lessee will use for the I-Net, then the Cost of Work shall be the actual cost of the Fiber Optic Cable multiplied by $2/26$. As another example, if Lessor purchases Fiber Optic Cable with twenty-six (26) optical fibers per tube for its own use, and also purchases Fiber Optic Cable with twenty-six (26) optical fibers per tube for the account of Lessee, then the Cost of Work shall be the actual cost of the Fiber Optic Cable multiplied by $26/52$.

7.2.2 For the construction and lease of dedicated optical fibers for the I-Net at all other locations, the cost of lease shall be the Cost of Work which shall be the "Direct Cost" of labor and material Lessor actually incurs in the construction, installation and testing of the Fiber Optic Cable, equipment and hardware solely in connection with the I-Net. The Cost of Work shall not include any "Indirect Cost."

7.2.3 "Direct Cost" shall include:

- (a) Costs of necessary materials (including the Fiber Optic Cable, equipment and hardware requested in the Work Order pursuant to Article V), equipment, tools, supplies, fuel, rentals, freight charges and services;
- (b) Payments made by Lessor to subcontractors in accordance with the requirements of the subcontracts;
- (c) Wages and salaries of Lessor's employees performing Work on the relevant portion of the I-Net, including those employees involved in designing and mapping the I-Net to the extent such designing and mapping is a Direct Cost that is over and above any Direct Cost that Lessor would incur in designing and mapping its Cable System, and also including their welfare, unemployment compensation, social security and other benefits, for such part of their time as is employed on this Work;
- (d) Payroll taxes and insurance and contributions applicable to wages and salaries of Lessor's employees performing Work on the relevant portion of the I-Net, and sales, excise, business and occupation, and other taxes paid by Lessor on materials, equipment, supplies and services chargeable to the relevant portion of the I-Net;
- (e) Any labor force travel expenses directly chargeable to the Work on the relevant portion of the I-Net;
- (f) Costs of necessary licenses and permit fees, including Right-of-Construction Permit fees and inspection fees, if any, related to the relevant portion of the I-Net;
- (g) Reasonable rental costs for necessary temporary facilities, machinery, equipment and hand tools used in the Work on the relevant portion of the I-Net;
- (h) That portion directly attributable to this Agreement of premiums for insurance and bonds related to the design, construction, lease of optical fibers and maintenance of the I-Net;
- (i) Losses, expenses, and cost of reconstructing any Work destroyed or damaged, not compensated by insurance or otherwise, sustained by Lessor in connection with the

12133

Work, provided they have resulted from causes other than the fault or negligence of Lessor;

(j) Costs of removal of debris on the relevant portion of the I-Net;

(k) Costs incurred on the relevant portion of the I-Net in taking action to prevent threatened damage, injury, loss in case of an emergency affecting the safety of persons and property; and

(l) Other costs incurred on the relevant portion of the I-Net in the performance of the Work if and to the extent approved in advance in writing by Lessee.

7.2.4 "Indirect cost" shall include:

(a) Salaries and other compensation of Lessor's employees stationed at Lessor's principal office or offices other than the Work site, except as provided in Section 7.2.3;

(b) Overhead and general expenses, except as may be expressly included in Section 7.2.3;

(c) Lessor's capital expenses, including interest on Lessor's capital, employed for the Work;

(d) Costs due to the fault or negligence of Lessor, subcontractors, anyone directly or indirectly employed by any of them, or for those whose acts any of them may be liable, including, but not limited to, costs for the correction of damage, defective or nonconforming work, disposal and replacement of materials and equipment incorrectly ordered or supplied, in making good damage to property not forming a part of the Work.

7.3 Cost of Repair and Maintenance.

7.3.1 After Substantial Completion, if any repair and maintenance is required for the optical fibers of the I-Net where Lessor's Cable System and Lessee's I-Net are co-located, then the Cost of Repair and Maintenance shall be borne by Lessor, unless the repair and maintenance arises from damage or defect caused by Lessee, in which case Lessee shall bear the Cost of Repair and Maintenance.

7.3.2 After Substantial Completion, for any repairs and maintenance to the dedicated optical fibers or associated electronic equipment or facilities provided by Lessor located between the site and the headend of the I-Net, and specifically excluding any peripheral equipment, the Cost of Repair and Maintenance shall be the Direct Cost of labor and material Lessor incurs in such repair and maintenance. Such Cost of Repair and Maintenance shall not include any Indirect Costs.

7.3.3 It is agreed that only Lessor, or persons operating under Lessor's direction and authority, shall have the authority to repair and maintain the I-Net optical fibers where Lessor's Cable System and Lessee's I-Net are co-located. At all other I-Net locations, Lessee may employ other persons for purposes of repair and maintenance.

ARTICLE VIII.

PAYMENT OF LEASE PAYMENT

8.1 Payment Procedure.

8.1.1 Lessee shall make payments to Lessor for Work under the Agreement in accordance with Section 17(b) of the Franchise Agreement. However, the payment procedure set forth in this Lease Agreement shall control in case of conflict between this Lease Agreement and the Franchise Agreement.

8.1.2 When the Work is completed under a Work Order and the Lessor is ready for a final inspection, the Lessor shall notify the Lessee in writing and propose a date for Lessee's inspection. On the inspection date, the Lessor shall conduct a technical performance test in Lessee's presence to demonstrate the Work done is in full compliance with the Agreement, including compliance with the manufacturer's specifications for the equipment and hardware specified in Section 5.2.5. If the Work passes the technical performance test to the reasonable satisfaction of the Lessee, then the Work for that phase of the I-Net shall be deemed to have reached "Substantial Completion." If the Work fails to pass the test, the Lessor shall correct the problem promptly and propose a date for a second inspection.

8.1.3 When the Work for a phase of the I-Net is deemed to have reached "Substantial Completion", or when Work related to any repair and maintenance is completed to the reasonable satisfaction of the Lessee, then Lessor shall submit to Lessee an invoice for the Cost of the Work related to that phase or repair and maintenance. The invoice shall give a listing of the labor and materials used in connection with the I-Net and the costs thereof, as calculated in accordance with Article VII. Invoices shall be paid immediately by offsetting the amount due from Lessee to Lessor as stated on the invoice against the Capital Grant Allowance until such time as the Capital Grant Allowance is exhausted. Thereafter, those invoices

issued before the third anniversary of the effective date of the Franchise Agreement shall be paid immediately by offsetting the amount due from Lessee to Lessor as stated on the invoice against the Capital Grant Cash Payment due on the third anniversary of the effective date of the Viacom Franchise Agreement until such Capital Grant Cash Payment is exhausted. If the Capital Grant Allowance or the Capital Grant Cash Payment are not exhausted by the third anniversary of the effective date of the Viacom Franchise Agreement, then any balances remaining on the Capital Grant Allowance or such Capital Grant Cash Payment shall be paid by Lessor to the Lessee in accordance with the Viacom Franchise Agreement. Thereafter, invoices shall be paid by direct money payment from Lessee to Lessor in the ordinary course of Lessee's business or financial affairs and according to Lessee's ordinary business terms with its other Lessors and vendors.

8.1.4 Lessor shall maintain and provide Lessee monthly with a running Statement of Account setting forth the date and amount of each invoice, each payment thereon, and the balance of the Capital Grant Allowance remaining, if any.

8.1.5 Lessee shall have the right for a period of two (2) years after payment of such invoice to protest to Lessor in writing that the invoice is not in compliance with this Agreement. Lessor shall keep full and detailed records and accounts and exercise such controls as may be necessary for proper financial management under the Agreement. Lessor shall afford Lessee's authorized personnel and independent auditors, if any, full access to all of Lessor's books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to the Work under this Agreement. Lessor shall preserve all such records relating to each invoice issued under Section 8.1.3 for two (2) years after payment of such invoice.

ARTICLE IX.

THE LESSEE

9.1 Information, Services and Things Required From Lessee.

9.1.1 Lessee shall furnish Lessor all information required to be provided under this Agreement and the Franchise Agreements.

9.2 Permits and Fees.

9.2.1 Lessee shall ensure that the necessary County permits for construction of the upgrade to Lessor's Cable System and the I-Net are issued to Lessor in a timely and nondiscriminatory manner.

9.2.2 Lessee shall waive County Right of Construction Permit fees in accordance with and pursuant to Section 18(d) of the Franchise Agreements.

9.3 Obligations of Lessee.

9.3.1 In addition to the obligations of Lessee set forth elsewhere in this Agreement, Lessee shall:

(a) have full and complete control, responsibility and liability for the signals distributed over the fiber optic components of the System by Lessee or for its benefit; and

(b) have full and complete control, responsibility and liability for the purchase, installation, construction and maintenance of the terminals and all peripheral equipment connected to the fiber optic components of the System leased by Lessee, as consistent with the Franchise Agreements.

ARTICLE X.

THE LESSOR

10.1 Limitation of Liability.

10.1.1 In no event shall Lessor be liable for special, consequential, exemplary, or punitive damages as a result of its performance or non-performance in the transmission of any service, information, data, voice or any other transmission provided under this Agreement.

10.2 Responsibility.

10.2.1 If Lessor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Agreement Documents without such notice to and approval of Lessee, Lessor shall bear responsibility for such performance and shall bear the cost of correction.

10.3 Performance.

10.3.1 Lessor shall perform the Work strictly in accordance with this contract.

10.4 Lessor Responsibility.

10.4.1 Lessor shall be responsible to Lessee for any and all acts or omissions of the Lessor, its employees and others engaged in the Work on behalf of Lessor.

10.5 Warranty.

10.5.1 Lessor warrants to Lessee that all labor furnished to progress the Work under the Agreement will be competent to perform the tasks undertaken, that the product of such labor will be free from defects not inherent in the quality required or permitted, that the Work will conform with requirements of the Agreement Documents, that the materials and equipment furnished under the Agreement will be of good quality and new unless otherwise required or permitted by the Agreement Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Lessor's warranty excludes remedy for damage or defect caused by Lessee, modifications or maintenance or abuse not executed by Lessor or its authorized agents, improper operation by Lessee, or normal wear and tear under normal usage.

10.6 Permits, Fees and Licenses and Lawful Requirements.

10.6.1 Lessor shall obey and pay for all permits, fees and licenses necessary and ordinary for the Work except as provided in Articles II and VI above. Lessor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

10.7 Supervision.

10.7.1 Lessor shall supervise and direct the Work, using the Lessor's best skill and attention. Lessor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the contract, unless Agreement Documents give other specific instructions concerning these matters.

10.8 Maintenance of Records.

10.8.1 Lessor shall continuously maintain at its local office for the benefit of Lessee one record of the Agreement marked to record on a current basis changes, selections and modifications made during construction. Additionally, Lessor shall maintain at its local office for the Lessee the maps and specifications and other required submittals.

10.9 Cleaning the Site and the Project.

10.9.1 Lessor shall keep the site reasonably clean during performance of the Work. Upon final completion of Work, Lessor shall clean the site and move all waste, together with all of Lessor's property therefrom.

10.10 Access to Work.

10.10.1 Lessee shall have access to the Work at all times from commencement of the Work through Substantial Completion. Lessor shall take whatever steps are necessary to provide access when requested. Such access shall not unreasonably impede efforts of Lessor.

10.11 Indemnity.

10.11.1 To the fullest extent permitted by law, Lessor shall protect, defend, indemnify and hold harmless Lessee from and against liability, claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from performance of the Work, provided that such liability, claims, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury or to destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or part by negligent acts or omissions of Lessor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such liability, claim, damage, loss or expense is caused in part by a party indemnified hereunder. Notwithstanding anything herein to the contrary, if (and only if) the provisions of RCW 4.20.4.115 apply to the Work and any such injuries to persons or property arising out of the performance of this Agreement are caused by or result from the concurrent negligence of Lessor or its agents or employees, and of the Lessee and its agents or employees, Lessor's indemnification obligations, if any, apply only to the extent of the negligence of Lessor, its agents or employees.

10.11.2 Lessor's obligation under this section shall include indemnification for claims made by the Lessor's own employees or agents. For this purpose, Lessor, by mutual negotiation, hereby waives, with respect to Lessee only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event Lessee incurs any judgment, award and/or cost arising therefrom including attorneys' fees to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from Lessor.

10.11.3 In claims against any person or entity indemnified hereunder by an employee of the Lessor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation hereunder shall not be limited by a limitation on any amount or type of damages, compensation or benefits payable by or for the Lessor or a subcontractor under its Workers Compensation Acts, Disability Benefit Acts and other employee benefits acts.

ARTICLE XI.

SUBCONTRACTORS

11.1 Definition.

11.1.1 A subcontractor is an entity which has a direct contract with the Lessor to perform a portion of the Work.

11.2 Award of Subcontracts.

11.2.1 Lessor shall not enter into a subcontract with a proposed subcontractor with reference to whom Lessee has made timely and reasonable objection pursuant to Section 5.3.6(b). Lessor shall not be required to subcontract with any party to whom Lessor has objection.

11.2.2 All subcontracts shall afford Lessor's rights against the subcontractor which correspond to those rights afforded to Lessee against the Lessor herein.

ARTICLE XII.

CHANGES IN WORK

12.1 Changes Permitted.

12.1.1 Changes in the Work within the general scope of this contract, consisting of additions, deletions, revisions or any combination thereof, may be ordered without invalidating this contract, by Change Order.

12.1.2 Changes in the Work pursuant to Change Orders shall be performed under applicable provisions of this Agreement and the Lessor shall proceed promptly with such changes.

12.2 Change Order Defined.

12.2.1 "Change Order" shall mean a written order to Lessor executed by Lessee and issued after execution of this Agreement that authorizes and directs a change in the Work, an adjustment in the Lease payment or the Agreement Time, or a combination thereof, to which Lessor agrees.

12.3 Changes in the Lease Payment.

12.3.1 Any change in the Lease payment resulting from a Change Order shall be determined as follows:

- (a) By mutual agreement between Lessee and Lessor as evidenced by (1) the change in the Lease payment being set forth in the Change Order, (2) such change in the Lease payment, together with any conditions or requirements related thereto being initialed by both parties and (3) the Lessor's execution of the Change Order.

12.4 Effect of Executed Change Order.

12.4.1 Execution of a Change Order by Lessor shall constitute conclusive evidence of Lessor's agreement to the ordered changes in the Work, and that this Agreement is thus amended.

12.5 Notice to Surety; Consent.

12.5.1 Lessor shall notify and obtain the consent and approval of Lessor's surety with reference to all Change Orders for which such notice, consent or approval are required by Lessor surety or by law. Lessor's execution of the Change Order shall constitute Lessor's warranty to Lessee that surety has been notified of and consents to such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE XIII.

CORRECTING WORK

13.1 Correcting Work.

13.1.1 If within one (1) year after Substantial Completion of a Work Order as evidenced by the Work having passed the performance test and a payment having been made by Lessee in favor of Lessor, whether by offset or direct money payment, any Work is found to be defective or not in accordance with this Agreement, then Lessor shall correct it promptly upon receipt of written notice from Lessee. Lessor shall pay all costs and expenses associated with correcting such work, including additional testing and inspections.

13.1.2 Nothing contained herein shall establish any period of limitation with respect to other obligations which Lessor has under this contract. Establishment of the one-year time period herein relates only to the duty of Lessor to specifically correct the Work.

ARTICLE XIV.

AGREEMENT TERMINATION

14.1 Termination by Lessor.

14.1.1 If Lessee shall persistently or repeatedly fail to perform any material obligation to Lessor, and if such failure shall continue unremedied for a period of thirty (30) days after written notice from Lessor of Lessor's intent to terminate performance, then Lessor may terminate performance under this Agreement. In such event, Lessor shall be entitled to recover from Lessee as though Lessee had terminated the Lessor's performance under this Agreement for convenience pursuant to Section 14.2.

14.2 Right to Stop Work or Termination by Lessee.

14.2.1 If Lessor persistently fails or refuses to perform the Work related to the portion of the I-Net where Lessor's Cable System is not co-located with Lessee's I-Net, then Lessee may order Lessor to stop work on such portion of the I-Net until the cause of stoppage has been corrected, no longer exists, or Lessee orders that work be resumed.

14.2.2 Lessee may for any reason whatsoever terminate performance under this Agreement by Lessor. Lessee shall give a thirty (30) day written notice of such termination to Lessor specifying when termination becomes effective and whether the termination relates to all Work contemplated by this Agreement or only to Work related to a specific phase of Lessor's upgrade of its Cable System.

14.2.3 Lessor shall incur no further obligations in connection with the Work and the Lessor shall stop work on Lessee's account, but not work for Lessor's account, when such termination becomes effective. Lessor shall also terminate outstanding orders and subcontracts. Lessor shall settle the liabilities and claims arising out of termination of such subcontracts and orders.

14.2.4 If Lessor persistently or repeatedly refuses or fails to do the Work in a timely manner, supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a

substantial violation of a material provision of this Agreement, that the Lessee may, by a thirty (30) day written notice to Lessor, without prejudice to any other right or remedy, terminate the employment of the Lessor.

ARTICLE XV.

INSURANCE

15.1 Insurance.

15.1.1 During the term of the Agreement, Lessor shall provide Lessee with proof of insurance and comply with all the insurance provisions as required in the Franchise Agreements.

ARTICLE XVI.

MISCELLANEOUS

16.1 Governing Law.

16.1.1 The Agreement shall be governed by the law of the State of Washington.

16.2 Successors and Assigns.

16.2.1 Lessee and Lessor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this contract. Neither Lessor nor Lessee shall assign this Agreement without the written consent of the other party which consent shall not unreasonably be withheld. However, this shall not obligate the Lessee to take any action it believes to be contrary to its interest.

16.3 Performance Bond.

16.3.1 Lessor shall furnish a performance bond to Lessee as required in the Franchise Agreements.

16.4 Dispute Resolution.

12133

16.4.1 If a dispute arises out of or relates to the Agreement, or a breach thereof, and if the dispute cannot be settled through negotiation, Lessee and Lessor agree first to try to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association before resorting to litigation in the King County Superior Court, King County, Washington.

16.5 Force Majeure.

16.5.1 If Lessor shall be delayed or interrupted in the performance or completion of the Work hereunder by an embargo, war, fire, flood, earthquake, epidemic or other calamity, act of God or of the public enemy, or by any strike or labor dispute, or by the inability to secure governmental licenses, permits or priorities, or by the unavailability of sources of supply to Lessor, or by any other outside cause which is beyond the control of Lessor and without its fault or negligence, then it shall be excused from any delay or failure to perform under the Agreement.

16.6 Excused Performance.

16.6.1 If Lessor shall be delayed or interrupted in the performance or completion of the Work hereunder by any neglect or default of Lessee, then it shall be excused from any delay or failure to perform under the Agreement caused by such neglect or default of Lessee.

THIS AGREEMENT is entered into as of the day and year first above written.

KING COUNTY, WASHINGTON

By:
Its:
Dated:

TCI of Seattle, Inc.;
TCI of Auburn, Inc.;
TCI of Southwest Washington, Inc.; and
TCI Cablevision of Washington, Inc.

12133

By:
Its:
Dated:

TELE-VUE SYSTEMS, INC. D/B/A
VIACOM CABLE

By:
Its:
Dated: