

CABLE TELEVISION DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Application for a) **DECISION AND ORDER NO. 384**
Cable Franchise for the County of Hawai'i.)
)
HAWAIIAN TELCOM SERVICES)
COMPANY, INC.)
)
_____)

DECISION AND ORDER NO. 384

I. INTRODUCTION

Pursuant to Hawaii Revised Statutes section 440G-4, the Director of the Department of Commerce and Consumer Affairs (“**DCCA**”) hereby grants a non-exclusive cable franchise to Hawaiian Telcom Services Company, Inc. (“**HTSC**”), a Delaware corporation, subject to the following terms, conditions, and requirements of this Decision and Order.

A. Definitions

For purposes of this Decision and Order, the following words and terms, shall have the meanings specified below. Words not defined shall be given their common and ordinary meaning.

1. “**Access Channel**” or “**PEG Access Channel**” means any Channel on the Cable System made available for PEG use.
2. “**Access Facilities and Equipment**” or “**PEG Access Facilities and Equipment**” means (a) Channel capacity designated for PEG use; and (b) PEG access facilities, including but not limited to any leasehold or fee interests in real property (including community media centers or satellite offices) purchased with PEG Access Operating Fees and/or Capital Fund Payments; and (c) equipment related to the use of such Channel capacity or any PEG activity, and/or purchased with PEG Access Operating Fees and/or Capital Fund Payments.
3. “**Access Operating Fee**” or “**AOF**” means the annualized fee paid by HTSC to the Director or Director’s designee for PEG or other purposes specified by the Director.

4. **“Access Organization”** or **“PEG Access Organization”** means any nonprofit organization designated or selected by the Director to oversee the development, operation, supervision, management, production, or cablecasting/broadcasting of programs on any Access Channel(s); and which acquires and maintains Access Facilities and Equipment.
5. **“Affiliate”** means any Person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with HTSC, including HTSC's parent, sister, and subsidiary corporations/entities.
6. **“Annual Fee”** means the Annual Fee required to be paid by HTSC pursuant to HRS section 440G-15, HAR section 16-132-2, and applicable Decisions and Orders issued by DCCA, as may be amended from time to time.
7. **“Application”** means the Application for a Cable Franchise for the County of Hawai'i submitted by HTSC on December 1, 2023; along with supplemental materials filed thereafter by HTSC.
8. **“Basic Service Tier”** means the lowest cost tier of Cable Service offered by HTSC to all of its Subscribers, which includes, at a minimum, the retransmission of local television broadcast signals, Franchise Required Channels and PEG Access Channels.
9. **“Broadcast Television Stations”** means local commercial television stations as referenced under 47 United States Code (**“USC”**) §§ 534 and 535.
10. **“Cable Drop”** means the cable from the feeder line to the Subscriber's premises, or video signal drop.
11. **“Cable Franchise”** means the authority issued by DCCA through a Decision and Order or Franchise Order to operate a Cable System and provide Cable Service in a geographic region in the State.
12. **“Cable Service”** shall have the meaning set forth in HRS section 440G-3 and applicable Law and includes the video programming service provided by HTSC.
13. **“Cable System”** or **“System”** shall have the meaning set forth in HRS section 440G-3 and applicable Law, and includes the facilities owned and operated by HTSC Affiliate, HTI, to the extent that those facilities are used by HTSC to provide a Cable Service.

14. “**CAC**” means DCCA’s Cable Advisory Committee.
15. “**CATV**” means the Cable Television Division of DCCA.
16. “**Capital Fund Payments**” means capital contributions made by HTSC to the Director or the Director’s designee, to the extent permitted under applicable Law, for PEG Access Facilities and Equipment.
17. “**CBI**” means Cincinnati Bell Inc., an Ohio corporation headquartered in Cincinnati, Ohio, a provider of voice, broadband internet, video, and business services with networks and facilities located in Hawaii, Indiana, Kentucky, and Ohio.
18. “**Channel**” means a unit of Cable Service identified and selected by a channel number or similar designation, and includes without limitation PEG Access Channels and Franchise Required Channels.
19. “**Communications Act**” means the federal Communications Act of 1934, as amended (e.g., by the Cable Consumer Protection Act of 1984, the Cable Communications Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, etc.), and codified at 47 U.S.C. section 521, et seq.
20. “**DCCA**” or “**Department**” means the State of Hawaii Department of Commerce and Consumer Affairs.
21. “**Decision and Order**” or “**Franchise Order**” means a cable franchise order issued by the Director pursuant to HRS chapter 440G.
22. “**Director**” means the Director of DCCA.
23. “**Director of Civil Defense**” means the Director of the State of Hawaii Civil Defense.
24. “**DOE**” means the State of Hawaii Department of Education, and shall include representation of State chartered school interests (whose interests and access shall be no less than those afforded to any other State public school or collection of public schools).
25. “**EAS**” means Emergency Alert System, as required under section 624(g) of the Communications Act.

26. **“Educational Access Channel”** means any Channel of the Cable System that is made available by HTSC for use by educational authorities and agencies (e.g., currently, the University of Hawaii, State Department of Education, Hawaii Association of Independent Schools, etc.), and accredited educational institutions in Hawaii for noncommercial educational purposes.
27. **“Emergency Authorities”** means the Director of HIEMA; Deputy Director of HIEMA; Administrator of the Hawai‘i County Civil Defense Agency, County of Hawai‘i; Deputy Administrator of the Hawai‘i County Civil Defense Agency, County of Hawai‘i; and any other similar Person designated by the Director.
28. **“Emergency Override System”** means the emergency alert system specified in this Decision and Order.
29. **“Facility”** or **“Facilities”** includes real property, antenna, poles, supporting structures, wires, cables, conduits, amplifiers, instruments, appliances, fixtures, fiber, and other personal property used by a cable operator in providing service to its Subscribers.
30. **“FCC”** means the Federal Communications Commission.
31. **“Franchise Fee”** shall have the meaning set forth in section 542 of the Communications Act. At the time of this Decision and Order, this term includes the Access Operating Fee, HPTF Fee, and DCCA’s Annual Fee specified in HAR chapter 16-132.
32. **“Franchise Required Channels”** means the seven (7) Channels provided by HTSC pursuant to this Decision and Order for programming by governmental and educational entities.
33. **“Government Access”** programming means any programming developed or offered by governmental entities (i.e., city, county, State and federal governments; including departments or agencies thereof), for potential distribution on a PEG Access Channel.
34. **“Government Access Channel”** means any Channel on the Cable System made available for use by governmental entities (e.g., city, county, and State governments; including any departments or agencies thereof).
35. **“Gross Revenues”** includes, subject to applicable federal and State Law (as may be amended from time to time), for the purpose of calculating the Access Operating Fee and HPTF Fee, revenue

from charges billed to and collected from Subscribers for Cable Service. Such charges shall include Subscriber billings and collections for entertainment and non-entertainment services, installation, connection, reconnection and reinstallation of equipment necessary for the utilization of the Cable System. In addition, concurrent with the imposition of a corresponding modification to the definition of Gross Revenue on the incumbent cable franchisee in Hawaii, gross revenues shall also include all carriage revenues received from unaffiliated video programming providers and any advertising revenues received in connection with the Cable Service, including advertisements inserted into the video stream and advertising inserts in customer invoices for Cable Service. "Gross Revenues" shall exclude revenue from charges and collections for non-subscription or non-Subscriber related sources such as revenue from advertising sales, home shopping commissions¹ revenue from non-Cable Service sources, Franchise Fees passed through to Subscribers, and uncollected debt; provided that the subsequent collection of such debt shall be included as part of Gross Revenues. In the case of a video service that is packaged, bundled, or functionally integrated with other services, capabilities, or applications, HTSC shall not allocate discounts in a bundled package for the purpose of evading the Franchise Fee, and Gross Revenues for the purpose of computing the Franchise Fee shall be determined based on a pro rata allocation of the package discount, that is, the total price of the individual classes of service at rack rates compared to the package price, among all classes of service comprising the package. For purposes of determining Gross Revenues, HTSC shall use the same method of determining revenues under generally accepted accounting principles as that which HTSC uses in determining revenues for the purpose of reporting to federal and state regulatory agencies. Furthermore, HTSC shall provide on a confidential basis to DCCA, upon the request of the Director, sufficient documentation to demonstrate that each of the above requirements is being met.

36. **"HAIS"** means the Hawai'i Association of Independent Schools.
37. **"HAR"** means the Hawaii Administrative Rules.
38. **"HENC"** means the Hawai'i Educational Networking Consortium, which is a consortium comprised of representatives from accredited

¹ Upon the inclusion of revenues received from unaffiliated video programming providers, advertising, and home shopping commissions in the definition of Gross Revenue on the incumbent cable franchisee in Hawaii, the exclusion of these revenues no longer applies and shall be included as part of Gross Revenues.

educational institutions within the State of Hawaii, including public and private lower and higher education schools such as the UH, DOE, the East-West Center, and HAIS.

39. “**HD**” means high definition video programming.
40. “**HITS**” means the Hawaii Interactive Television System, a microwave system owned and operated by UH that provides an interisland video service utilized by UH, DOE, State agencies, and others.
41. “**Holdco**” means Hawaiian Telcom Holdco, Inc., a Delaware corporation.
42. “**HPTF**” means the Hawaii Public Television Foundation.
43. “**HPTF Fee**” means the fee HTSC pays to HPTF for HPTF-related services, as directed by the Director.
44. “**HPUC**” means the Hawaii Public Utilities Commission.
45. “**HRS**” means the Hawaii Revised Statutes.
46. “**HTCI**” means Hawaiian Telcom Communications, Inc., a Delaware corporation.
47. “**HTI**” means Hawaiian Telcom, Inc., a Hawaii corporation.
48. “**INET**” means the institutional network that is used by State and County government and educational authorities and agencies, and accredited educational institutions for broadband communications purposes.
49. “**INET Connection**” or “**INET connection**” means an INET connection to a specific site, or an INET related service (e.g., reconfiguration, upgrades, etc.).
50. “**IPTV**” means Internet protocol (“**IP**”) television.
51. “**Law**” means any federal or State law (including common law), constitution, statute, treaty, regulation, rule, ordinance, order, injunction, writ, decree or award of any court or administrative body, as amended.

52. “**LFA**” means the local franchising authority (i.e., the State of Hawaii through the DCCA).
53. “**Local Origination Programming**” means programming of local interest produced by HTSC employees or contractors or by other locally-based program producers, professional or amateur, but does not include PEG Access programming.
54. “**Nā Leo**” means Nā Leo o Hawai‘i, Inc., a non-profit organization that provides public access television services to the County of Hawai‘i.
55. “**PBS Hawai‘i**” means the public television station licensed to the HPTF.
56. “**PEG**” means public, educational, or governmental.
57. “**PEGNet**” means the infrastructure that is used by the PEG Access Organization, UH, DOE, and government agencies at the State Capitol and principal county government building to send video programming to the cable operator for cablecasting on PEG Access Channels.
58. “**Person**” means any individual, or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not for-profit; provided that this term does not include the Director or DCCA.
59. “**Public Access Channel**” means any Channel on the Cable System made available for use by individuals and organizations for noncommercial purposes.
60. “**Public Highways**” shall have the meaning set forth in HRS section 264-1.
61. “**Public Place**” includes any property, building, structure, or water to which the public has a right of access and use.
62. “**Service Area**” means those areas described in Section IV.B.
63. “**State**” means the State of Hawaii, including its political subdivisions.
64. “**Subscriber**” means any Person lawfully receiving any Cable Service.

65. “UH” means the University of Hawaii.

66. “VOD” mean video-on-demand.

II. BACKGROUND

A. Applicant HTSC

Hawaiian Telcom, Inc. was formed in 1883 and has operated in the State for more than one hundred and forty years. Its sister company, HTSC was formed in 2004 and provides the State high-speed Internet and long distance telecommunications service.

In 2011, pursuant to Decision & Order (“D&O”) No. 352, the DCCA granted HTSC a cable television franchise for the island of Oahu, allowing it to launch a competitive Cable Service.

In 2017, the DCCA approved the transfer of HTSC’s cable franchise for the island of Oahu from HTSC to Cincinnati Bell, Inc. See D&O No. 370.

In 2020, the DCCA approved the transfer of control of HTSC’s cable franchise for the island of Oahu from Cincinnati Bell, Inc. to Red Fiber Parent LLC. See D&O No. 377.

HTSC currently offers Cable Service on Oahu; High Speed Internet, long distance, advance communication network services, data center services including colocation and virtual private cloud, and cloud-based services statewide.

B. HTSC’s Proposed Cable Service

HTSC’s proposed Cable Service entails the delivery of its Cable Service over HTI’s fiber network infrastructure utilizing its new TiVo Android based IPTV video service application platform. HTSC’s design utilizes IPTV packet technology to deliver all-digital video services.

HTSC’s video platform expands the viewing experience by incorporating traditional video services with Android TV. This platform allows HTSC to combine linear TV with direct-to-consumer apps providing a best-in-class entertainment experience.

C. History of the Application for a Cable Franchise

On December 1, 2023, HTSC submitted a written Application for the County of Hawai'i and supporting documents, including confidential exhibits, along with its Application fee.

On December 29, 2023, DCCA sent its "First Request for Clarification/ Supplemental Information" and "First Request for Clarification/Supplemental Information" for confidential information (collectively, "**First Request**") to HTSC to obtain information deemed necessary for DCCA to process the Application and accept it for filing.

HTSC responded to DCCA's First Request on January 10, 2024 and submitted additional materials regarding its Application.

On February 2, 2024, DCCA accepted the Application for filing and pursuant to HAR section 16-133-16, the one hundred-twenty (120) day period to process the Application commenced.

DCCA held public hearings on the Application on February 27, 2024 at 5:00 p.m. at the Aupuni Center, Conference Room, Hilo, Hawaii, and at the West Hawai'i Civic Center, Community Meeting Hale, Kailua-Kona, Hawaii. Notice of the public hearings was published in the Hawaii Tribune Herald and West Hawaii Today on February 4 and 11, 2024. Copies of the Application were available for review during normal business hours at Regulated Industries Complaints Office (RICO) in Hilo, Hawaii; RICO in Kailua-Kona, Hawaii; and at CATV. The Application was also posted on DCCA's webpage. DCCA received written comments on the Application on or before March 6, 2024.

The Application was placed on the agenda for the CAC's March 25, 2024 meeting. The CAC discussed the Application and gave comments to the Director. The CAC members did not object to the granting of the Application.

On May 29, 2024, DCCA and HTSC agreed to extend the one hundred-twenty (120) day period from June 1, 2024 to June 26, 2024.

On June 25, 2024, DCCA and HTSC agreed to extend the one hundred-twenty (120) day period from June 26, 2024 to July 26, 2024.

III. DISCUSSION

The Director has carefully considered HTSC's representations in its Application and supporting materials in connection with the Application. The Director has also considered the public need for the proposed service and comments received from the public and community members. Based on the foregoing, the Director

has determined that: HTSC has the requisite financial, legal, and technical ability to maintain a Cable System; and HTSC's proposal as modified by this Decision and Order is reasonable to meet the future cable-related community needs and interests.

The Director hereby grants HTSC's Application for a non-exclusive Cable Franchise for the County of Hawai'i subject to the terms, conditions, and requirements specified in this Decision and Order.

A. Standard of Review

1. Federal Law

Federal cable franchise guidelines are generally set forth in the Communications Act. Section 541 of the Communications Act allows an LFA to award cable franchises within its jurisdiction and also sets forth provisions and requirements that the LFA may impose on an applicant.

2. State Law

The regulatory powers of the Director regarding Cable Franchises and cable operators are generally set forth in HRS chapter 440G (the Hawaii Cable Communications Systems Law) and HAR chapter 16-135 sets forth the administrative rules regarding new applications for a Cable Franchise.

HTSC is proposing to operate an IP-based video distribution technology using the existing infrastructure of its Affiliate, HTI. HTSC is therefore the operator of a Cable System and is a facilities-based provider of Cable Services pursuant to 47 U.S.C. Section 522, and accordingly, is subject to regulation under HRS Chapter 440G.

B. Financial Ability of HTSC

HTSC's Cable System and Service are being funded using cash on hand, cash flow from operations, and the revolving credit of HTSC's parent company, CBI. The revolving credit facility is guaranteed jointly and severally by HTSC and HTI, as well as most of CBI controlled subsidiaries.

The Director concludes that HTSC, with the backing and support of its parent company, has the financial capability and resources to initiate and maintain its Cable Service and, with its Affiliates, operate a Cable System;

provided that it complies with the terms and conditions that are contained in this Decision and Order.

C. Technical Ability of HTSC

The Director finds that HTSC has been able to successfully distribute and operate its Cable Service on Oahu, and it appears to have access to the physical network and technical capabilities to construct, maintain and operate a reliable Cable System in the County of Hawai'i.

D. Operational Ability of HTSC

Based upon the representations of HTSC, its history operating Cable Service on Oahu, existing presence, infrastructure and services currently provided in the County of Hawai'i by HTSC, and its relationship with HTI and other CBI companies, the Director finds that HTSC has the operational ability to provide safe, adequate, and reliable Cable Service in the County of Hawai'i.

Through its Affiliate Services Agreement with HTI, HTSC has provided assurances that it will be able to secure the resources and network capacity for the term of the Cable Franchise that are necessary to fulfill its Cable Franchise obligations. Accordingly, if there is any change in the provisions in the Affiliate Services Agreement and/or Amendment No. 1 pertaining to HTSC's use of HTI's network infrastructure and manpower resources, and/or relating to the cancellation and termination provisions of the Affiliate Services Agreement, HTSC shall notify the Director in writing within ten (10) calendar days of any such changes.

In the event HTI is sold, or there is a change in control as specified in this Decision and Order, or its network infrastructure assets are transferred to another entity, and HTI's successor fails to provide HTSC access to, or sufficient capacity on its network for HTSC to transport its Cable Service to Subscribers, HTSC shall immediately secure a new source of capacity. If HTSC fails to secure a new source of capacity within the timeframe set forth by the Director, then its Cable Franchise shall be automatically revoked pursuant to this Decision and Order.

E. Customer Service Support

HTSC is cognizant of its status as a new entrant in the competitive Cable Service business in the County of Hawai'i and emphasizes that unless it provides quality customer service, it will not succeed in the Cable Service marketplace. HTSC will utilize HTI's customer support structure, including its customer service centers, and customer service standards. This includes billing for its Cable Service to Subscribers on the same billing statement

used by HTI and HTSC for their other communications services, including Internet and phone service. Customer service personnel will be specifically trained and staffed to handle Cable Service sales and support calls.

Based upon the representations of HTSC and the requirements under this D&O, the Director finds that HTSC has the ability to provide adequate and reliable customer service for its Cable Service in the County of Hawai'i.

F. HTSC's Ability to Provide Safe, Adequate, and Reliable Cable Service at a Reasonable Cost

HTSC asserts that its Cable Service will not only provide public benefits in terms of content, value, customer service, and innovative products and services, but also promote competition and benefit consumers through competitive rates on its multichannel video service offering.

HTSC also states that bundled services would be more attractive to customers with the inclusion of the proposed video programming, and HTSC would be able to benefit from HTI's existing customer base to promote and sell its products.

Based upon the representations of HTSC, the Director finds that HTSC has the ability to provide safe, adequate, and reliable Cable Service to the public at a competitive cost.

G. The Public Need for Proposed Cable Service

HTSC asserts that the issuance of a Cable Franchise to HTSC is in the best interests of the County of Hawai'i and its residents and will provide needed competition and choice in the video services market long dominated by one cable operator. HTSC claims that the dominant status long enjoyed by the incumbent cable operator creates a significant barrier to entry for HTSC or any competitor, and HTSC is seeking a Cable Franchise with terms that appropriately reflect the unique competitive challenges facing it and that will allow it to be financially viable in the early years of the Cable Franchise.

Federal law favors competition in the provision of Cable Services to consumers and encourages robust competition that results in higher customer service quality, improved programming, and lower rates (e.g., 47 U.S.C. section 521(6) states that the purpose of the Communications Act is to promote competition in cable communications).

The State also favors the entry of competitors in the cable television industry in Hawaii and supports a competitive environment for communications services. The intent behind encouraging new cable

programming competition is to benefit County of Hawai'i consumers by helping to support greater customer choice for different services, to ensure diversity in programming content, to promote pricing options, to encourage high quality customer service, to encourage the development and deployment of innovative communications and broadband technology, and to provide innovative products and services. It is DCCA's hope that an additional Cable System operator in the County of Hawai'i will provide consumers with additional choices, new product offerings, and lower prices.

The State has required Cable System operators to extend Cable Service to rural areas and to adequately serve future community needs. Moreover, pursuant to federal law, in awarding a franchise, DCCA must assure that access to Cable Service is not denied to any group of potential residential Subscribers because of the income of the residents of the local area in which such group resides. See 47 U.S.C. section 541(a)(3).

HTSC states that it intends, over the term of the Cable Franchise, subject to technological, economic and competitive market factors, to make its Cable Service available to all, or nearly all, residents of the County of Hawai'i. HTSC intends to provide Cable Service to all census tract areas.²

DCCA concludes that it is in the public interest to have another competitor to provide Cable Service. DCCA is also cognizant that requiring a new entrant in the cable television market to build out to an entire Cable Franchise area too quickly may adversely affect its ability to provide competitive products at competitive prices. HTSC, however, will be using the existing fiber broadband network infrastructure of its affiliate, HTI. Therefore, the expense of providing Cable Service to areas of the County of Hawai'i already served by HTI's fiber internet access service should be minimal. Accordingly, DCCA expects HTSC to provide Cable Service to all locations in the County of Hawai'i that are served by HTI's fiber network in an expeditious manner. HTSC should also encourage HTI to continue to buildout its fiber network to additional areas of the County of Hawai'i. With these considerations in mind, DCCA concludes that HTSC's proposed Cable Service should have a positive effect on the marketplace for Cable Services in the County of Hawai'i.

H. Suitability of HTSC to Operate a Cable System

Although this Cable Franchise is being issued to HTSC, any Affiliate, joint venture, partner, or controlling entity of HTSC involved in the ownership or operation of the Cable System that would constitute a "cable operator" as defined in H.R.S. Section 440G-3 is also subject to, and shall comply with, the terms and conditions of this Decision and Order. HTSC shall be fully

² This would not include military bases, which require separate cable franchises.

liable for any act or omission of an Affiliate that controls HTSC or is responsible in any manner for the management of the Cable System or the provision of Facilities thereof that results in a breach of this Decision and Order, as if the act or omission was the act or omission of HTSC.

Based upon the representations of HTSC in its application, and subject to the discussion below of other relevant factors, there are no facts that have been presented to the Director that give rise to a rebuttable presumption that HTSC fails to meet the character criterion under HRS section 440G-8(b) and HAR section 16-133-15. Therefore, the Director concludes that HTSC satisfies the general suitability and character requirements for the issuance of a Cable Franchise under State law.

IV. TERMS AND CONDITIONS OF THE CABLE FRANCHISE

A. The Privilege of a Cable Franchise

The grant of a Cable Franchise gives the recipient a non-exclusive right to use and occupy certain limited and scarce Public Places, Public Highways, and easements for the construction, use, operation and maintenance of a Cable System for a fixed period. The Cable Franchise confers no right, title or interest in any public right-of-way beyond those expressly conferred herein. The privilege of a Cable Franchise also carries with it associated obligations, which HTSC has recognized and assumed. These include operating a Cable System that is reliable, responsive, and responsible to the public it serves, providing the widest possible diversity of information sources and services to its Subscribers at a reasonable cost, and enhancing communications capabilities for its communities by supporting interconnection of public facilities, public television, and PEG access (as requested by the Director).

By agreeing to the grant of this Cable Franchise, HTSC: (a) acknowledges and accepts the State's legal right to issue and enforce the terms, conditions, and requirements of this Decision and Order; (b) agrees that it shall not oppose intervention by the State in any proceeding affecting the enforcement of its rights under this Decision and Order; (c) accepts and agrees to each and every term, provision, condition, and requirement contained herein; and (d) agrees that the Cable Franchise was granted pursuant to processes and procedures consistent with applicable Law; and, agrees that it shall not raise any claim or defense to the contrary.

HTSC acknowledges that it shall be bound by the terms, conditions, and requirements of this Franchise Order and its officers and directors shall be responsible for conducting its operations.

B. Service Area

This Cable Franchise shall cover the County of Hawai'i, State of Hawaii.

HTSC's intent is to eventually make its Cable Service available to all, or nearly all, eligible households within the franchise service area within five (5) years of the Cable Franchise, subject to technological, economic and competitive market factors. In contrast, the incumbent Cable System operator in the County of Hawai'i maintains a line extension policy of providing service to all areas with residential density of at least twenty-five (25) homes per mile. In order to monitor HTSC's progress in extending service, HTSC will submit to the Director progress reports on its extension of service every six (6) months from the effective date of the franchise order for the first three (3) years of the franchise term and thereafter, on an annual basis, until the build is complete. HTSC can file a consolidated progress report for all of its franchise areas. If HTSC's actual build out differs materially from its projected service goals and timeframe, it shall explain the reasons for such difference. HTSC shall also include plans regarding buildouts to any new residential developments and unserved areas with eligible households within the franchise area. If HTSC does not plan to reach: (i) any new residential developments within one (1) year of their completion, or (ii) any remaining unserved areas with eligible households within five (5) years of the grant of this Cable Franchise, HTSC shall provide an explanation as to why building to these new residential developments/unserved areas is not feasible and any potential timeline(s) to when service may be provided.

HTSC shall not deny its Cable Service to any group of potential Cable Service Subscribers because of the income of the residents of the local area in which such group resides subject to the line extension policy and feasibility provisions set forth in this Decision and Order.

Notwithstanding these considerations, the Director reserves the right to issue further Decisions and Orders on HTSC's service availability and coverage during the term of this Cable Franchise.

C. Programming Tiers

1. Basic Service Tier

The programming in HTSC's Basic Service Tier shall be provided to all Subscribers. Subject to availability, HTSC shall carry programming on its Cable System in each of the following broad categories in its Basic Service Tier.

- a. Public access programming;

- b. Educational access programming;
- c. Governmental access programming;
- d. Public nonprofit stations with national programming; and
- e. Broadcast television stations as required by the FCC or applicable Law.

In addition to the above programming, HTSC may in its discretion include additional programming in its Basic Service Tier.

Notwithstanding any other provision to the contrary, HTSC shall comply with federal programming requirements, as may be amended from time to time, and shall provide thirty (30) calendar days' advance written notice to the Director and Subscribers of any proposed programming changes in its Basic Service Tier. HTSC shall have the right to petition the Director for modifications to the programming requirements for the Basic Service Tier as warranted by the development of technology or other factors during the term of the Cable Franchise.

2. Other Programming Service Tiers

In addition to the Basic Service Tier, HTSC shall have the discretion to offer other tiers of programming to Subscribers; provided that these other tiers shall, at a minimum, include the Basic Service Tier in the packages offered to Subscribers. Except as otherwise provided in this Decision and Order, HTSC shall provide at least thirty (30) calendar days' written notice to the Director and provide reasonable notice to Subscribers of any proposed programming changes to its other tiers of video programming. HTSC shall not be required to obtain the Director's prior written approval to change the programming in these other tiers. HTSC shall have the right to petition the Director for modifications to the requirement of the inclusion of the Basic Service Tier in all other tiers as warranted by the development of technology or other factors during the term of the Cable Franchise.

3. Leased Commercial Access

Consistent with the Communications Act, within thirty (30) days after the effective date of this Cable Franchise, HTSC shall file with the Director and implement a published schedule of terms, conditions, and charges for the leasing of the System Channels for commercial use.

D. Local Origination Programming

HTSC has indicated in its application that it continually evaluates local programming opportunities, including local sports broadcasting. HTSC has further indicated that the cost of production for local programming and limited access to local sports are the primary reasons HTSC does not plan to offer local programming at launch of its Cable Service in this franchise service area. HTSC states that is committed to continuing to evaluate local programming opportunities, weighing the cost of such programming and the benefit to the community. Local programming provides a tremendous benefit to the local community and can create strong customer loyalty through the production of programming that is attractive to local audiences and addresses community needs. DCCA therefore strongly encourages HTSC's endeavors to provide local programming so it can be competitive with other Cable System operators.

E. Franchise Required Channels

Pursuant to this Decision and Order, HTSC shall provide one (1) additional digital PEG Access Channel (described in F.2 below) and seven (7) digital Franchise Required Channels, for a total of twelve (12) Channels. The Director or Director's designee shall allocate the Franchise Required Channels, or portions thereof, provided that allocations made with respect to public access shall comply with applicable Law.

Upon request, HTSC shall make available the Franchise Required Channels to all its Subscribers across each of its franchise areas in the State. In addition, for each Franchise Required Channel, HTSC shall provide a direct connection to its headend from a designated site to be determined by the entity or entities to which the Channel is allocated for the transmission of video programming. HTSC shall be solely responsible for all connection costs and maintenance of each connection (i.e., the cost of any type of terminal equipment required to activate and use the connection). However, the cost for any Facilities and equipment to implement and operate each digital Channel at the designated site (i.e., the cost of any type of terminal equipment required to activate and use the connection at the entity/entities' designated site) shall be borne by the entity or entities to which the Franchise Required Channels are allocated as described in further detail below.

1. Franchise Required Channel for State Government

Within a reasonable time after receipt of a written Letter Order of the Director, HTSC shall make available to the Legislature (Senate and House of Representatives) and the Executive Branch (Governor's Office and Lieutenant Governor), collectively, one (1) digital Franchise Required Channel for governmental programming. HTSC shall provide a connection to its headend from the State

Capitol for the transmission of governmental programming on this Channel.

2. Franchise Required Channel for the County of Hawai'i

HTSC shall provide one (1) digital Franchise Required Channel on its County of Hawai'i Cable System to the Mayor of the County of Hawai'i and the Hawai'i County Council, collectively. This Channel shall be made available in all of HTSC's franchise areas statewide.

3. Franchise Required Channels in Other Counties of the State of Hawai'i

All Franchise Required Channels provided by HTSC to other counties in the State of Hawai'i shall also be made available on HTSC's Cable System statewide.

4. Franchise Required Channel for Educational Programming

Within a reasonable time after receipt of a written Letter Order of the Director, HTSC shall provide one (1) digital Franchise Required Channel to HENC, or its designee(s) for accredited educational programming. HTSC shall provide a connection to its headend from a designated site to be determined by HENC for the transmission of educational programming on this channel.

5. Franchise Required Channel for Video-on-Demand Educational Programming

In addition to the statewide educational Channel provided for in this Decision and Order above, HTSC shall provide Subscribers the ability to access VOD programming produced and hosted by HENC or its designee(s) via the Set Top Box to service all accredited educational institutions statewide. The VOD programming can be hosted by HENC, or its designee(s), on sites such as YouTube or a HENC or designee created and maintained online application. To access such hosted site, HTSC shall provide a connection to a hosted site to be determined by HENC, or its designee(s), for the transmission of accredited educational programming in a mutually acceptable format.

6. Additional Franchise Required Channels

Upon reasonable request and supported by sufficient justification, the Director may allocate additional Franchise Required Channels. After requesting and reviewing input from relevant stakeholders, the

Director shall have the sole discretion to determine whether to provide any additional Franchise Required Channels.

F. PEG Access Channels

DCCA supports PEG access in Hawaii as a means for Subscribers to receive programming that reflects the views of the communities in which they reside. The Director also values PEG access because it provides a forum where people can voice concerns to the community and encourage community dialog.

HTSC shall work cooperatively with the Director or the Director's designee regarding PEG access in the County of Hawai'i. For each PEG Access Channel, HTSC shall provide a direct connection to its headend from a designated site to be determined by the entity to which the Channel is allocated for the transmission of programming.

HTSC shall be solely responsible for all costs and maintenance of each connection. HTSC shall be responsible for providing equipment and software to maintain the connections so that there shall be no ongoing recurring costs to the County of Hawai'i PEG Access Organization(s), the DOE, the UH, or the Director or Director's designee. If at any time, a new PEG Access Organization is designated and selected to provide PEG access in the County of Hawai'i i Cable Franchise area, HTSC shall bear the reasonable cost of providing a connection to the Facilities of that PEG Access Organization. If a PEG Access Organization moves from a Facility that has been previously connected by HTSC, the PEG Access Organization shall be responsible for the cost of connecting its new Facility to HTSC's headend. The cost for any Facilities and equipment to implement each PEG Access Channel (i.e., the cost of any type of terminal equipment required to activate and use the connection) shall be borne by the entity or entities that are responsible for managing the PEG Access Channel(s).

HTSC shall provide connections and necessary equipment to enable the County of Hawai'i PEG Access Organization, the UH, the DOE or the Director's designee to monitor all PEG access channels simultaneously for quality assurance and troubleshooting at its main Facility with no ongoing recurring costs to the County of Hawai'i PEG Access Organization, UH, DOE, or the Director's designee.

1. Digital PEG Access Channels

HTSC shall designate and make available to the Director or the Director's designee at no cost to the State and/or DCCA the following:

- a. Three (3) Channels for PEG access programming by the County of Hawai'i PEG Access Organization(s).
- b. Three (3) Channels for accredited educational programming currently managed by UH and DOE/HAIS. The three (3) educational Channels shall be dedicated to accredited educational programming: two (2) for the UH/local community college, and one (1) for the DOE and HAIS. HTSC's obligations herein may be modified to be commensurate in number with those of the incumbent franchisee.

HTSC shall provide a direct connection to its headend from the County of Hawai'i PEG Access Organization's main Facility for the transmission of access programming via PEGNet. HTSC shall be solely responsible for all costs for the connection to the PEG Access Organization. However, the cost for any Facilities and equipment to implement this digital Channel (i.e., the cost of any type of terminal equipment required to activate and use the connection) shall be borne solely by the PEG Access Organization(s) on the County of Hawai'i.

2. Additional Digital PEG Access Channel

HTSC shall make available to the Director or the Director's designee one (1) additional digital Channel for public-related PEG Access programming to be programmed pursuant to the direction of the Director's designee on a first-come, first-served basis. HTSC shall make available the Channel to all its Subscribers across its Cable Franchise areas; provided that this Channel is included in the Cable Franchise(s) for other county(ies). HTSC and the designated contact for the PEG Access Organizations shall work together to develop the implementation and the activation date for this digital Channel. HTSC shall provide a direct connection to its headend from the PEG Access Organization's main Facility for the transmission of access programming. HTSC shall be solely responsible for all costs for the connection to the PEG Access Organization. The cost for any Facilities and equipment to implement this digital Channel shall be borne solely by the PEG Access Organizations that elect to utilize this Channel and share of this cost will be allocated as agreed to by these organizations.

3. Additional PEG Access Channels

Upon reasonable request and supported by sufficient justification, the County of Hawai'i PEG Access Organization(s) may request the Director to allocate additional PEG Access Channels. After requesting and reviewing input from relevant stakeholders, the Director shall have the sole discretion to determine whether to require HTSC to provide any additional PEG access Channels. HTSC shall provide connections and applicable equipment to enable the County of Hawai'i PEG Access Organization or the Director's designee to monitor any additional PEG Access Channels with no ongoing recurring costs to the County of Hawai'i PEG Access Organization or the Director's designee.

4. Two-way PEG Access Connectivity Capacity

HTSC and the County of Hawai'i PEG Access Organization(s) shall confer in the selection of two (2) sites for their connection to the County of Hawai'i PEG Access Organization(s) for the purposes of enabling video connectivity, such as video conferencing, between each site with the County of Hawai'i PEG Access Organization(s)' main facility. HTSC and the County of Hawai'i PEG Access Organization(s) shall determine the implementation methodology and HTSC shall implement and be responsible for the connection of the two (2) sites selected. However, all equipment costs to activate and utilize the connection (i.e., the cost of any type of terminal equipment required to activate and use the connection) shall be borne solely by the County of Hawai'i PEG Access Organization(s).

5. Designation or Selection of the County of Hawai'i PEG Access Organization(s)

The Director shall have the sole discretion to designate or select one (1) or more entities to manage and operate the PEG Access Facilities and Equipment and the Access Channels, and receive the Access Operating Fee and Capital Fund Payments in the County of Hawai'i.

G. Requirements for Franchise Required Channels and PEG Access Channels

1. Technical Quality

All Franchise Required Channels and PEG Access Channels, shall be cablecasted/disseminated on HTSC's Cable System in high definition ("HD") to the extent the programming provided from the source entities is transmitted to HTSC in HD.

In the event there are any changes/upgrades to HTSC's Cable System that increases the technical quality of the programming shown, all Franchise Required Channels and PEG Access Channels shall be made available by HTSC at quality levels that are at least equivalent to the technical and picture quality of the local broadcast television stations that are affiliates of major national broadcast networks and satisfy the requirements contained in applicable provisions in the HAR. Subject to FCC regulations, the Cable System shall be so constructed and operated that, to the extent within HTSC's control, there is no significant deterioration in the quality of Access Channel signals or leased access Channels signals resulting from the transportation of the video signal, either upstream or downstream, as compared with any other Channel on the Cable System. Deterioration refers to any signal problem, including but not limited to ghost images, sync or frame loss, signal dropouts, and other interference and distortions and delays.

2. Channel Placement

All PEG Access Channels, once made available, shall be used for PEG access and shall be transmitted to all Subscribers on HTSC's Basic Service Tier unless otherwise permitted by this Decision and Order or directed by the Director. HTSC agrees to assign each PEG Access Channel its own dedicated Channel number at the same channel location/placement currently used and branded by the PEG Access Organization. HTSC shall not move the location of PEG Access Channels without written approval by the Director unless as required by the FCC.

In the event of a change/move of channel placement of PEG Access Channels, HTSC shall work with the PEG Access Organization to ensure that subscribers are notified of the Channel movement through crawl screens and/or announcements. HTSC shall ensure that Subscribers can locate and view all PEG Access Channels in the same manner as other commercial Channels of video programming offered by HTSC, unless otherwise agreed to by the Director.

HTSC agrees to keep all Franchise Required Channels reasonably contiguous in the Channel lineup. HTSC also agrees to keep all current and any added PEG Access Channels reasonably contiguous in the Channel lineup. HTSC further agrees to keep all Franchise Required Channels reasonably contiguous with the PEG Access Channels in the Channel lineup, or, if it is impractical to make them reasonably contiguous, as close together in the Channel lineup as reasonably possible.

3. Promotional “Tune-in,” Public Service Announcements

HTSC shall cablecast on its cable Channels, without charge to the State or the Director's designees, at least 2,000 public service announcements (“PSAs”) per calendar year, each thirty (30) seconds in length. The beneficiaries of the public service announcements shall work collaboratively to maximize the use of the allocated spots. The airing of the PSAs shall be on any Channel that HTSC has ad insertion capabilities and is permitted to insert commercial or promotional segments and otherwise in a manner consistent with HTSC's public service announcement policy. HTSC shall have the sole discretion to determine on which Channel(s) to air the PSAs. The promotional PSAs shall be allocated as follows:

- a. The Director or Director’s designee(s) – 600 PSAs;
- b. Executive Branch – 200 PSAs (Governor’s Office) and 200 PSAs (Lieutenant Governor’s Office);
- c. Legislature – 200 PSAs (Senate) and 200 PSAs (House of Representatives);
- d. County of Hawai’i– 100 PSAs (Mayor’s Office) and 100 PSAs (Hawai’i County Council);
- e. DOE – 100 PSAs;
- f. UH – 100 PSAs; and
- g. County of Hawai’i PEG Access Organization – 200 PSAs.

HTSC shall be provided with the cablecast-ready public service announcements for airing by the applicable organizations in a format mutually acceptable to the parties.

4. Program Guides

HTSC shall include all Franchise Required Channels and PEG Access Channels in its on-screen TV guide and online program guide and channel lineup without charge to the State or the Director’s designees. HTSC shall also maintain a process whereby the operators of Franchise Required Channels and PEG Access Channels can populate HTSC’s on-screen TV guide and online program guide and channel lineup with information regarding program titles, contents and other information normally supplied in such guides.

H. **Developing Technologies**

Technology Upgrade Plans. The Department is cognizant of the increasing pace of change in the technology sector, and that the definition of “state of the art” is changing faster than ever before. Technological investment today must be made with an eye toward ensuring compatibility with what has yet to be developed, and a Cable Franchise cannot be the basis upon which services are frozen in time, but instead must encourage those services to evolve and remain current.

As such, the Director must be able to address the needs of County of Hawai'i Subscribers for upgrades relative to changes in network infrastructure design, video delivery technology, and advanced services such as enhanced digital programming and other related matters. In connection therewith, the Director may also review PEG access, INET requirements and/or point to point circuits, new technologies and services, and any other matter related to the Cable System and Cable Franchise area.

For every five (5) year period during the Cable Franchise term, HTSC shall submit a Technology Upgrade Plan for its Cable System statewide to DCCA. The first Technology Upgrade Plan is due on August 1, 2029 and thereafter August 1, 2034.³ Alternatively, HTSC can file consolidated reports for all of its franchise areas, in which case its first consolidated report should be submitted on August 1, 2026.

I. **Access Operating Fee**

1. **Payment of AOF to the Director or the Director's Designee**

During each year of the cable franchise term and subject to further Decision and Order by the Director, HTSC shall pay an AOF to be used for PEG access purposes and/or any other public purpose(s) as determined by the Director.

³ The Technology Upgrade Plan shall report on the technical performance of HTSC's existing infrastructure, and a summary of complaints received regarding same. The plan should also discuss new developments in video delivery technology and present an anticipated timetable for the incorporation of new developments into the HTSC's Cable System. In addition, the plan shall describe the effect and costs of new technological developments on community needs and interests and also on PEG access, and the effect and compatibility and costs of those technological changes on consumer electronic equipment. HTSC, to the extent such information is reasonably available, shall also describe how other cable companies have incorporated, or are planning to incorporate, new technological developments into their cable systems and the estimated timetable for doing so. HTSC shall also address in its plans, among other things, the following: impacts to PEG access and schools and libraries, Franchise Required Channels, INET requirements, broadband internet speeds, and other matters related to its Cable System and the Cable Franchise area. Nothing herein shall preclude HTSC from filing confidential, proprietary and/or competitively sensitive information under seal with the DCCA that pertain to these matters.

HTSC shall pay the AOF to the Director or the Director's designee pursuant to the payment schedule set forth below, or at such other time(s) as directed by the Director.

2. Calculation of AOF

HTSC has committed to supporting PEG access, including the provision of PEG Access Channels and to providing AOF payments on the same basis as the incumbent cable operator's access operating fee payments.

Until further ordered by the Director, in the Director's sole discretion, HTSC shall pay an AOF in an amount determined by the Director from HTSC's annual Gross Revenues to the Director or the Director's designee.

The AOF shall be paid to the Director or the Director's designee on a monthly basis. HTSC's Gross Revenues from its Cable Service collected during one (1) month shall be used to calculate the monthly AOF. HTSC shall pay to the Director or the Director's designee the monthly AOF after a lag period of two (2) months, except that the first payment of AOF shall be made on February 28, 2025 for amounts collected from Subscribers in 2024.

3. Access Operating Fee Reports

Commencing on January 31, 2025, and on January 31st of each year thereafter, HTSC shall submit to the Director copies of the AOF payments paid to the County of Hawai'i PEG Access Organization(s) during the prior calendar year, together with its Gross Revenues statement, and any other supporting information requested by the Director. HTSC shall provide a sworn statement as to the accuracy and completeness of these reports.

4. Director's Authority

Notwithstanding any other provision to the contrary, the Director may, at any time and in the Director's sole discretion, reconsider and modify, within the permitted Franchise Fee limit as set forth under applicable State and Federal laws, the amount of the AOF, the timing of the payments of the AOF to the Director or the Director's designee, and/or the use of AOF.

5. Obligation to Pay Upon Transfer

If the Director approves any subsequent transfer of the Cable System, HTSC shall be required to pay the Director or the Director's designee the outstanding AOF required to be provided in this Decision and Order before the effective date of the transfer.

J. Capital Fund Payments

Commencing on January 31, 2025 and on January 31st of each year thereafter, HTSC shall make annual Capital Fund Payments to the Director or the Director's designee, unless otherwise ordered by the Director. The Capital Fund Payments shall take into consideration the need to upgrade and replace the equipment of the PEG Access Organization in light of anticipated changes in technology.

1. Payments

HTSC's contributions of capital funds for PEG Access Facilities and Equipment are set at three dollars (\$3.00) annually per Subscriber as of December 31, 2024 and shall be prorated based upon the number of months HTSC operated its Cable Service on a commercial basis in 2024. The first Capital Fund Payment shall be made to the Director or the Director's designee on January 31, 2025. Thereafter, HTSC shall pay Capital Fund Payments of three dollars (\$3.00) annually per Subscriber on or about January 31st of each year based on the Subscriber count as of December 31st of the previous year.

The Director, in the Director's sole discretion, may modify the amount and schedule of Capital Fund Payments, and the timing of those payments by subsequent order(s) so long as the amount of the Capital Fund Payments does not exceed three dollars (\$3.00) annually per Subscriber.

2. Obligation to Pay Upon a Transfer

If the Director approves any subsequent transfer of the Cable System, HTSC shall be required to pay the Director or the Director's designee the outstanding Capital Fund Payments required to be provided in this Decision and Order before the effective date of the transfer.

3. Capital Fund Payment Uses

The Capital Fund Payments required to be provided by HTSC under this Decision and Order shall be deemed to be capital contributions to the extent permitted under section 542(g)(2)(C) of the Communications Act and shall not be used for any operating expenses of the Director's designee. Currently, Capital Fund Payments are used for the acquisition of PEG Access Facilities and Equipment.

4. Capital Fund Payment Reports

Commencing on January 31, 2025, and on January 31st of each year thereafter, HTSC shall submit to the Director copies of the Capital Fund Payments and any other supporting information requested by the Director. HTSC shall provide a sworn statement as to the accuracy and completeness of these reports.

K. Fee for New Cable Operator

HTSC shall pay a fee of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), which shall serve as the Annual Fee Payment to DCCA for 2024 pursuant to H.A.R. Section 16-132-3 and be due upon the issuance of this Decision and Order by the Director.

L. Annual Fee Payment to DCCA

HTSC shall pay to the Department an Annual Fee as specified in HRS chapter 440G and HAR chapter 16-132. Commencing in 2025, the Annual Fee shall be an amount determined by the Director. The Annual Fee shall be paid by HTSC commencing on January 31, 2025, and on January 31st of each year thereafter.

HTSC shall submit to the Director copies of the Annual Fee payments, together with its statement of income received from Subscribers, and any other supporting information requested by the Director. HTSC shall provide a sworn statement as to the accuracy and completeness of these reports.

M. Networks

1. Institutional Network

Currently, the State operates and utilizes an INET for broadband communications purposes for use by government and educational authorities, agencies, and institutions. INET contribution and support requirements are standard components of all Cable Franchises approved by DCCA.

The State enjoys a robust INET system that has been provided for and supported by the incumbent cable operator and by HTSC in its existing Franchises. The Director recognizes that the maintenance and continued expansion of the State's INET is a significant component of the State's strategy for its communications infrastructure and an important benefit to the public. Although it is not the intent of the Director to have HTSC duplicate the existing INET system, it may be crucial to public safety to have redundant connections or backup circuits in certain instances.

HTSC recognizes that it will be required to make additional contributions to the State's INET during the term of this Franchise as a condition to the grant of this Franchise. HTSC's additional INET contributions will be commensurate in scope with those of the incumbent franchisee taking into account their respective subscriber penetration rates in the Franchise service area. The Director recognizes, however, that HTSC's video programming service may require a period of growth before it achieves appreciable subscriber penetration. During this initial developmental period, the Director has agreed to delay the identification of specific INET contributions that will be required as a condition of this Franchise. Such contributions will be identified and made a part of this Franchise on such date as chosen by the Director employing the procedures and criteria mutually agreed upon with HTSC and then specified by State and federal law.

2. Emergency Override System

- a. Power Supply. HTSC's headend and COs shall have uninterruptible power supply systems and backup generators with sufficient fuel supply to operate the Emergency Alert System portions of the network for at least twenty-four (24) hours.
- b. Emergency Alert System. Pursuant to Section 624(g) to the Communications Act, Cable Systems must be capable of providing EAS alerts to their Subscribers. HTSC shall therefore purchase and maintain EAS receivers and all associated equipment necessary to participate in national, State, and county level EAS activations and emergency alerts to Subscribers, at no cost to the State, DCCA, or Subscribers.

- c. Override of System. HTSC shall configure and maintain the Cable System to permit Emergency Authorities to override, simultaneously by remote control, all audio and video signals on all Channels. The Emergency Authorities shall have the sole discretion to determine when to activate the Emergency Override System.

The Emergency Override System shall provide for activation from emergency operation centers for both voice and video messages.

The video display (a message crawl) during emergency voice messages may include State, Civil Defense, or other appropriate official emblems as designated by the Emergency Authorities.

- d. Cooperation with Emergency Authorities HTSC shall cooperate fully with the Emergency Authorities in the planning and implementation of the Emergency Override System, and shall at all times comply with all applicable Laws and regulations, including FCC requirements and standards.

N. Public Broadcasting

The HPTF, dba PBS Hawai'i,⁴ provides statewide non-commercial broadcasting of Public Broadcasting Service's educational, cultural, and historic programs as well as local programming that educates, informs, and entertains residents, businesses, and visitors.

Support for PBS Hawai'i or any successor broadcast television Channel(s) operated by the HPTF or its successor, shall be made at the Director's discretion.

O. Cable System Facilities and Equipment

System Functionality. As designed, maintained, and upgraded, all Facilities and equipment of the Cable System shall deliver high quality signals that meet federal law and FCC technical quality standards, regardless of the particular manner in which the signal is transmitted. If HTSC or DCCA receive significant numbers of complaints regarding the

⁴ PBS Hawai'i or any successor broadcast television Channel(s) operated by the HPTF or its successor, shall not be deemed Access Channel(s) and shall not be counted or included among the Access Channels described in Section IV.F.

quality and reliability of Cable Service signals, the Director reserves the right to initiate the Technology Upgrade Plan review process prior to the fifth (5th) year following the start of the initial term of this Cable Franchise.

P. Subscriber Service

1. Adequate and Reliable Service Required

Adequate and reliable service by a Cable System operator demands responsive and timely customer service.

Notwithstanding any other provision to the contrary, the Director reserves the right to take any action deemed necessary and appropriate regarding HTSC's customer service obligations under this franchise at any time (including but not limited to directing HTSC to remedy any deficiencies in its customer support services and/or back office services); provided that before any action is taken, the Director shall consult with HTSC about the action.

2. Federal Customer Service Standards

HTSC shall meet the federal cable television customer service standards set forth in applicable Law, including but not limited to 47 CFR sections 76.309, 76.1602 and 76.1603.

3. Customer Service Call Centers

- a. Customer Service Center. Call Centers with trained sales and service agents will operate twenty-four (24) hours a day, seven (7) days a week allowing Subscribers to contact HTSC at their convenience for new installation requests, billing inquiries, change/discontinuance of service requests and/or assistance on service-related issues on all Subscriber products.
- b. Telephone Response Time. HTSC shall comply with federal customer service standards when responding to telephone calls from Subscribers.
- c. Self-service. Self-service options such as chatting with customer service personnel, and online support articles and videos will be available for Subscribers. The self-service feature offers Subscribers the option to submit a service ticket without the need to contact the Customer Service Call Center.

4. Installation and Repair Service

- a. Installation Service Hours. HTSC shall provide installation services at least eight (8) hours each weekday and on Saturdays, except for legal holidays. The specific hours of service shall be determined by HTSC to be most convenient for its Subscribers.
- b. Repair Service Hours. HTSC shall provide repair service at least eight (8) hours each weekday and on Saturdays. At all other times, HTSC shall have, at a minimum, its twenty-four (24) hour call center available to take calls and a technician on call to respond to after hour emergencies.
- c. HTSC will utilize HTI's repair system to track trouble reports to identify trends for process improvement initiatives, especially critical with any new service roll out. The embedded systems and processes will assist in ensuring continuous improvements are realized throughout the development of the service.

5. Customer Service Office

Within 120 days of HTSC maintaining at least a thirty percent (30%) Cable Service Subscriber penetration⁵ in the franchise service area for a consecutive four (4)-month period, HTSC will submit to DCCA a feasibility study on the establishment of a physical customer service location within the franchise service area. The feasibility study will include an evaluation of the economics, customer benefits, and public interests of establishing a physical location for Cable Service Subscribers within the franchise service area. If a physical location is deemed unfeasible at the time, HTSC will continuously evaluate the conditions to determine if establishing a physical location within the franchise area is feasible under the updated conditions and submit a report on its assessment annually.

If not already established or in progress by HTSC, within six (6) months of HTSC reaching at least a forty percent (40%) Cable Service Subscriber penetration in the franchise service area, HTSC shall open a physical location for Cable Service Subscribers within the franchise area unless HTSC can show good cause, as determined by the Director, as to why the establishment of a physical location would not be reasonable.

⁵ This percentage is calculated by dividing the number of HTSC's television subscribers in the franchise service area by the number of HTI fiber enabled homes in the franchise service area.

6. Billing

- a. Billing Security. HTSC intends to bill its Subscribers in advance for the monthly service charge for its Cable Service. HTSC shall ensure that its billing is in compliance with applicable federal laws and regulations.
- b. Customer Satisfaction Guarantee. Within thirty (30) days of launching Cable Service, HTSC will establish a ninety (90) day satisfaction guarantee promotional offer for new Subscribers. If a Subscriber notifies the Company within the first ninety (90) days of subscribing to Cable Service that they are not satisfied, the Subscriber will be entitled to a ninety (90) day refund of monthly recurring charges or portion thereof, if their subscription lasted for less than ninety (90) days. The satisfaction guarantee will not apply to installation charges, video-on-demand, pay-per-view, taxes, or fees. Subscribers that acquire HTSC's Cable Service within the first thirty (30) days of the launch will also be eligible for this guarantee. HTSC may limit its guarantee to one refund per Subscriber account which will be distributed as a refund check. The satisfaction guarantee promotional offer period will be available for not less than two (2) years.
- c. Subscriber Bill Information. Subscriber bills shall be clear, concise, and understandable. Bills shall be fully itemized, with itemizations including but not limited to the Basic Service Tier and other programming tier charges (i.e., standard and premium Channels), equipment charges, and any other charges requested by the Director. The bills shall also clearly delineate all activity during the billing period (including optional charges, rebates, credits, and Franchise Fee itemizations) and any other information requested by the Director.
- d. Late fees. Late fees may not be imposed upon Subscribers for delinquent payments related to Cable Services until sixty (60) calendar days after the billing statement date. HTSC shall include a notice on subscriber's next bill if previous payment has not been received. Bill statement will indicate that the balance is past due and due immediately, and the assessed fees are presented under account activity detail.

- e. Billing Disputes. In the case of a billing dispute, HTSC shall respond to a complaint from a Subscriber within thirty (30) calendar days.
- f. Proration. Bills for cable television service shall be prorated upon establishment and termination/cancellation of service.
 - 1) Establishment of Service. The billing cycle for a subscriber shall commence on the day the subscriber installs/activates HTSC's television service. If the date a Subscriber activates service does not correspond with HTSC's applicable billing cycle(s), HTSC shall prorate the Subscriber's bill for that period on the next billing cycle.
 - 2) Termination/Cancellation of Service. HTSC shall discontinue billing a Subscriber for service no later than one (1) business day after HTSC receives notice from the subscriber to terminate service. HTSC shall grant a Subscriber a pro rata refund for the days of the monthly billing period after the subscriber requests termination of service which will be distributed as a refund.
- g. Refunds. Refund checks to Subscribers, if applicable, shall be issued promptly, but no later than either:
 - 1) The Subscriber's next billing cycle following resolution of the request or thirty (30) calendar days.
 - 2) The return of the equipment supplied by HTSC if service is terminated.
- h. Credits. Credits for service shall be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

7. Customer Satisfaction Survey

HTSC shall submit to the Director by December 31st of each year of this Cable Franchise term, the results of an annual customer satisfaction survey, conducted by an independent marketing company (at no cost to the State, DCCA, or Subscribers). HTSC shall submit its first customer satisfaction survey by the following December 31st after the first full year of commercial service to the public, or by December 31, 2025, whichever is sooner. The results

of the annual customer satisfaction survey shall be reported in a form acceptable to the Director. Prior to conducting the survey, HTSC shall submit the proposed questionnaire/survey form to the Director for review and approval.

8. Customer Complaints

HTSC shall provide a response to the DCCA/CATV within ten (10) business days after receiving notification of a customer complaint from the DCCA/CATV. HTSC shall endeavor to resolve complaints within thirty (30) calendar days. For complaints that are unresolved after ten (10) business days, HTSC shall continue to provide DCCA/CATV periodic updates until the complaint is resolved.

9. Compliance

- a. Review of Customer Service Operations. The Director may require HTSC to perform further analysis of its customer service operations and to make such information available to the Director. Based upon such review, the Director may require HTSC to improve its customer service operations.
- b. Notification of Violation. The Director, or the Director's designee, reserves the right to take any action deemed necessary and appropriate regarding HTSC's customer service franchise obligations at any time.⁶

Q. Reports and Audits

The Director has the discretion to modify the reporting requirements or to change the frequency of submission of the reports in this Section.

1. Financial Information Provided by HTSC

Information regarding the financial condition of HTSC, results of operations, and Franchise Fee payments shall be submitted to the Director and/or the Director's designee pursuant this Decision and Order and applicable Law. In order to provide a streamlined and consolidated approach to such financial reporting, the Director reserves the right to require financial information to be submitted by

⁶ The Director or the Director's designee shall consult with HTSC about the action. In the event of a violation, the Director or the Director's designee shall provide HTSC thirty (30) days' written notice of its intent to enforce these standards. In the event that HTSC repeatedly violates a customer service standard and does not cure the violation in a reasonable period of time, the Director or the Director's designee shall have the authority to impose fines and/or other sanctions in accordance with this Decision and Order.

HTSC to be in the form and schedule approved by the Director. HTSC shall work cooperatively with the Director and the Director's staff on this matter. The Director also reserves the right to require financial information to be submitted by HTSC concerning its Affiliate HTI, HTCI, and all principals and beneficial owners of HTSC.

2. Tariff

Within seven (7) calendar days of the initiation of its Cable Service to the public, HTSC shall provide DCCA its schedule of service rates and information as required under this Decision and Order and applicable Law. If HTSC amends its service rates and other information, HTSC shall amend its schedule of service rates and other information as required at least thirty (30) calendar days in advance of any changes. The terms and conditions of service shall be subject to approval by the Director, to the extent permitted by applicable Law.

3. Reporting of Violations

Upon acquiring knowledge of any event which has or is reasonably likely to lead to a violation of any term or condition of this Decision and Order, HTSC shall immediately notify the Director in writing specifying: (1) the nature of such violation, (2) an opinion as to when the violation is likely to occur or has occurred, and (3) the action that HTSC proposes to take regarding the probable violation.

By April 30th of each year, HTSC shall submit to the Director a statement to the effect that no violation of this Decision and Order has occurred and that HTSC has observed or performed every condition contained in this Decision and Order. In the event a violation has occurred and is continuing or if HTSC has not observed or performed all of the terms and conditions contained in this Decision and Order, it shall specify the nature and period of the violation and what action(s) HTSC has taken or proposes to take with respect to the violation(s).

4. Notification of Proceedings by Regulatory Agencies

HTSC shall report any disciplinary or corrective administrative proceedings by regulatory agencies (e.g., the FCC or the HPUC) to DCCA within ten (10) calendar days of notification.

5. Annual Audited Financial Statements

By April 30th of each calendar year, HTSC shall submit to the Director, audited consolidated and consolidating financial statements which such consolidating financial statements will disclose separate financial information for HTSC (i.e., Balance Sheet and Income Statement), for the preceding calendar year, required by the Director pursuant to HAR chapter 16-131 (including but not limited to HAR section 16-131-44). In the event the Department determines that the financial statements do not contain sufficient detail to allow the DCCA to analyze HTSC's financial condition on a stand-alone basis, then HTSC shall cooperate with the DCCA to provide supplemental financial information that will provide the DCCA with such sufficient detail. HTSC acknowledges its obligation to comply with HAR chapter 16-131 (including but not limited to HAR section 16-131-44).

The financial statements required to be furnished under this Decision and Order shall be accompanied by a statement showing the basis for computing and the amounts paid by HTSC, or any subsidiary of its parent company, Affiliates, subsidiaries, general partners, or any Person for management fees and fees in the nature of general and administrative allocations.

6. Feasibility of Cable Service to Unserved Communities

HTSC shall also provide the reports on the coverage of its Cable Service required by Section IV.B. above.

7. Other Reports

In addition to the reports required to be submitted under this Decision and Order, HTSC shall timely submit to the Director all other reports: (a) required by applicable Law or (b) reasonably requested by the Director.

8. Audit or Financial Review

The Director shall have the sole discretion to require HTSC to submit to an audit and/or other verification such as performance of agreed-upon procedures by the Director's accountant or auditor for purposes of, among other things, validating HTSC's annual Gross Revenues, the collection and payment of Franchise Fees (including but not limited to the Franchise Fee process), the cross-subsidization between Cable Service and non-Cable Service, and other matters deemed necessary by the Director.

The total cost of the audit or financial review shall be solely paid by HTSC, and HTSC shall cooperate fully with the conduct of the audit or financial review.

R. Director's Authority

The Director has the power and jurisdiction to supervise and regulate every cable operator within the State so far as may be necessary to carry out the purposes of applicable Law (including but not limited to HRS chapter 440G), and to do all things which are necessary and convenient in the exercise of this power and jurisdiction.⁷

V. TERM OF THE CABLE FRANCHISE

A. Initial Term

The initial term of this Cable Franchise shall be fifteen (15) years from the effective date of this Decision and Order, unless terminated or revoked earlier as provided in this Decision and Order or by applicable Law.

B. Renewals

⁷ The Director, from time to time, may adopt or issue such rules, Decisions and Orders, or other directives governing cable franchises as DCCA finds necessary or appropriate in the exercise of DCCA's police power; provided that any action taken by the Director shall comply with applicable Law. HTSC shall comply with all rules, Decisions and Orders, and other directives adopted or issued by the Director.

The Director, from time to time, may require that HTSC undergo a performance and/or compliance review or audit. HTSC shall timely comply with the recommendations of the compliance reviews or audits and remedy any deficiencies. The Director may also require HTSC to develop specific performance measures which if not met, would subject HTSC to fines and compliance in accordance with this Decision and Order, and in the event that HTSC fails to pay such fines or further comply, this Cable Franchise may be subject to the termination and revocation provisions in this Decision and Order.

The total cost of the compliance audit or review shall be solely paid by HTSC, and HTSC shall cooperate fully with the conduct of the audit or compliance review. The Director shall select the consultant to perform the franchise compliance review or audit.

In granting this Cable Franchise, DCCA has relied, in part, on the representations of both fact and intention on the part of HTSC. If, during the term of this Cable Franchise, these representations prove to be incorrect (as determined solely by DCCA), DCCA may, in its sole discretion, invoke the termination and revocation provisions in this Decision and Order.

In addition, the Director, at any time during the term of the Cable Franchise and in the Director's sole discretion, may commence formal or informal proceedings for the purpose of addressing developing technology, future PEG access, and cable-related community needs and interests, and the Director may take any action the Director deems necessary or appropriate consistent with this Decision and Order and applicable Law.

Prior to the expiration of the initial fifteen (15) year Cable Franchise term, HTSC may request that its Cable Franchise be extended. Under current applicable Law, the periods of renewal shall be not less than five (5) nor more than twenty (20) years each. Any such request to renew shall be in writing and in the format required by the Director. The Director shall require full disclosure from HTSC in its request to renew, including but not limited to HTSC's proposed plans and schedule of expenditures for or in support of the use of PEG Access Facilities and Equipment during the renewal period. The Director shall have the sole discretion to grant or deny the request to renew.

VI. TERMINATION AND REVOCATION

The termination and revocation provisions set forth in this Decision and Order shall be in addition to (and not in derogation of) any other rights or remedies the Director may have with respect to this Decision and Order.

A. Termination

1. If any court, agency, commission, legislative body, or other authority of competent jurisdiction: (1) declares any part of this Decision and Order invalid, or (2) requires or allows HTSC either to perform any act which is inconsistent with any provision of this Decision and Order, or cease performing any act required by any provision of this Decision and Order, then at the sole discretion of the Director, this cable franchise shall terminate six (6) months from the date of such event.
2. The provisions of this section may be suspended for such period of time as HTSC may elect to voluntarily perform its obligations under this Decision and Order; provided that HTSC provides prior written notice to the Director of such voluntary performance.
3. In the event that HTSC fails to timely comply with the recommendations of the periodic franchise compliance reviews or audits and remedy any deficiencies, the Director may terminate this Cable Franchise.

B. Revocation

If HTSC abandons its Cable Franchise or refuses to perform any of the terms, conditions, or requirements under this Decision and Order, the Director reserves the right to immediately revoke HTSC's Cable

Franchise.⁸

HTSC's Cable Franchise may also be revoked as provided in HRS chapter 440G.

C. New Cable Franchise Application Not Prevented

In the event that HTSC's Cable Franchise is terminated or revoked pursuant to this Decision and Order, nothing herein shall prevent HTSC from applying for a new Cable Franchise.

VII. FINES FOR FAILURE TO PERFORM

For each violation of this Decision and Order, the Director may fine HTSC an amount not less than FIFTY AND NO/100 DOLLARS (\$50.00) nor more than TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) per violation; provided that each day's continuation of a violation may be treated as a separate violation. In addition, a violation of any of the terms of this Decision and Order may permit the Director to invoke the modification provisions of this Decision and Order.

VIII. FRANCHISE FEES

A. Payment of Franchise Fees

1. In consideration of the award of the Cable Franchise granted herein which permits HTSC to operate a Cable System and use and occupy Public Places and Public Highways to operate a Cable System, HTSC shall pay all fees required by HRS chapter 440G, pay all monies and fees specified herein, and provide all Channels, facilities, equipment, technical assistance, and services specified herein.
2. Notwithstanding any other provision to the contrary, the State is entitled to Franchise Fees that in total do not exceed five percent (5%) of the Cable System's annual Gross Revenues paid in a calendar year, or the maximum amount permitted under applicable Law. Currently, the State has determined that PEG access is important and has required that the Cable System operator provide Channels and financial support for PEG access. Accordingly, the

⁸ HTSC shall be deemed to have abandoned its Cable Franchise if it willfully refuses to operate the Cable System as required under this Decision and Order, when there is no event beyond HTSC's control that prevents the operation of the Cable System, and where its operation would not endanger the health or safety of the public or property. The provisions of this section may be suspended for such period of time as HTSC may elect to voluntarily perform its obligations under this Decision and Order; provided that HTSC provides prior written notice to the Director of such voluntary performance.

State has determined that “Franchise Fees” include without limitation DCCA’s Annual Fee specified in HRS chapter 440G and HAR chapter 16-132, the Access Operating Fee, INET and the HPTF Fee; provided that this term does not include the Capital Fund Payments or capital contributions to the County of Hawai‘i PEG Access Organization(s) and/or the Director’s designee.

3. HTSC shall be responsible for ensuring accurate collection and payment of the Franchise Fees, and shall be responsible for any and all underpayments of Franchise Fees to the Director or the Director’s designee(s) during HTSC’s operation of the Cable System.
4. HTSC shall, pursuant to 47 U.S.C. section 542, pay Franchise Fees on the Gross Revenues from its Cable Services, irrespective of whether the Cable Services are received by Hawaii Subscribers using HTSC’s Hawaii-based infrastructure or through any other means.
5. HTSC shall implement a procedure that reflects Franchise Fee assessments as a percentage of a Subscriber’s monthly billing for Cable Service and other services, which shall be effective as of the first billing date for Subscribers.
6. HTSC plans to market its Cable Service with other non-video programming services such as wireline telephone service, long distance calling, and high-speed Internet service. Customers will be offered a choice as to the combination of services they subscribe to. Cable Service Customers must subscribe to HTSC’s internet service. Service charges and discounts will be applied to individual services and itemized on the Subscriber’s bill statement.

B. Discounts for Certain Customer Groups

Under 47 U.S.C. section 543(e)(1), Cable System operators may offer reasonable discounts for Cable Service to senior citizens or economically disadvantaged individuals. On Oahu, HTSC currently offers discounts through its Kupuna TV Discount program, which HTSC plans to offer to eligible Subscribers in its County of Hawai‘i franchise. HTSC is encouraged to continue to develop and implement discount programs for senior citizens and economically disadvantaged customers in its franchise areas.

C. Reconciliation by HTSC

1. Over/under Payment of Franchise Fees

If there is an overpayment of Franchise Fees to the Director or the Director's designee(s), HTSC either may request a repayment of the overpaid amounts from the Director or the Director's designee(s), or may credit the amount overpaid to subsequent payment(s) to the Director or the Director's designee(s), as authorized by the Director in writing. Credit(s) to subsequent payment(s) of the overpaid amount shall be made in a timely manner and fully disclosed to the Director or the Director's designee(s).

If there is an underpayment of Franchise Fees to the Director or the Director's designee(s), HTSC shall pay the Director or the Director's designee(s) the amount underpaid, as authorized by the Director in writing. Payment(s) of the underpaid amount shall be made in a timely manner and fully disclosed to the Director or the Director's designee.

2. Over/under Collection of Franchise Fees from Subscribers

If there is an over collection of Franchise Fees from Subscribers, HTSC shall credit Subscribers the amount over collected, as authorized by Director in writing. Refunds to Subscribers of over collected amounts, which may be in the form of a credit, shall be made in a timely manner with full disclosure to Subscribers on Subscribers' billing statements.

If there is an under collection of Franchise Fees from Subscribers, HTSC may charge Subscribers the amount under collected, as authorized by Director in writing. Additional charges to Subscribers of the under collected amount shall be made in a timely manner with full disclosure to Subscribers.

IX. OTHER PROVISIONS

A. Familiarity and Compliance with Applicable Law

HTSC, its officers, directors, agents, employees, and subcontractors shall be familiar with and comply with all applicable Laws that may, in any manner, affect the Cable System. If HTSC discovers that any provision in the applicable Laws is contrary to or inconsistent with any of the terms, conditions, or requirements of this Cable Franchise, HTSC shall promptly report it to the Director in writing.

B. Subcontracting and Assignment

Accepted as expressly provided in this Decision and Order, HTSC shall not subcontract or assign any of HTSC's duties, obligations, or interests under this Cable Franchise without the prior written approval of the Director.

C. Change in Ownership or Control

HRS chapter 440G states that no change of control of a Cable System may occur without the prior approval of the Director.

D. Successors and Assignees

All of the terms, conditions, and requirements of this Decision and Order that apply to HTSC shall also apply to its permitted successors and assignees.

E. Modification

1. Modification by the Director

If HTSC fails to comply with any of the terms, conditions, or requirements of this Franchise Order and fails to remedy such non-compliance within a reasonable time after receiving notice by the Director, the Director may, upon the Director's own initiative and in the Director's sole discretion, taking into consideration the best interests of the public, modify any of the terms, conditions, and requirements of this Decision and Order. If HTSC declines to accept the modification, the Director shall have the authority to terminate or shorten the term of the Cable Franchise, or take any other appropriate action consistent with the terms of this Decision and Order and applicable Law. In addition, a violation of any of the terms, conditions, or requirements of this Franchise Order, regardless of whether cured by HTSC, may permit the Director to invoke the enforcement provisions of this Decision and Order.

2. Requests to Modify by HTSC

HTSC may, at any time, request the Director to modify any of the terms, conditions, and requirements of this Decision and Order during the term of this Cable Franchise. The Director shall have the sole discretion to consider HTSC's request and issue a modification of this Decision and Order. The Director shall take into account any appropriate factor(s) provided under applicable Law as may be amended and ensure that the terms and conditions upon

which Cable Service is provided are fair to both the public and HTSC. In addition, nothing in this Cable Franchise shall restrict HTSC from exercising any rights or seeking any remedies that are or may become available to it under applicable Law.

F. Independent Contractor

In the provision of Cable Service and all other services under this Cable Franchise, HTSC shall be considered an independent contractor.

HTSC (and HTSC's employees, agents, subcontractor(s), and Affiliates) shall not, under any circumstance, be considered employees of the State, and shall not be entitled to claim or receive any benefits provided to State employees.

G. Indemnification and Defense

Notwithstanding any other provision to the contrary, HTSC shall defend, indemnify, and hold harmless the State and DCCA from and against all liability, loss, damage, cost, and expense (including all attorneys' fees and court costs) based upon or arising out of:

1. Any provision or requirement of this Cable Franchise;
2. Any acts or omissions to act that result from the negligence, bad faith, or willful misconduct of HTSC, its directors, its officers, its agents, and/or its employees; and/or
3. Any acts or omissions to act by HTSC's Affiliates or subcontractors under this Cable Franchise.

The provisions of this section shall remain in full force and effect notwithstanding the termination or revocation of this Cable Franchise.

H. Antitrust

This Decision and Order shall not be construed as exempting HTSC or any Affiliated or controlling entities from any antitrust law.

I. Headings

The headings or titles contained in this Decision and Order are for reference purposes only and shall not in any way affect the construction or interpretation of the terms, conditions, or requirements of this Decision and Order.

J. Waiver

The Director reserves the right to waive any term, condition, or requirement of this Decision and Order for good cause determined by the Director.

The waiver by the Director or the State of any breach of any term, condition, or requirement of this Decision and Order shall not be taken or held to be a waiver of any succeeding breach of such term, condition, or requirement, or as a waiver of the term, condition, or requirement itself.

The failure of the Director to insist upon the strict compliance with any term, condition, or requirement of this Cable Franchise shall not constitute or be deemed to constitute a waiver or relinquishment of the Director's right to enforce the same in accordance with this Cable Franchise.

K. Governing Law

Except as otherwise provided under federal law, the validity of this Cable Franchise and any of its terms, conditions, or requirements, as well as the rights and duties of the State, DCCA, and HTSC, shall be governed by the laws of the State of Hawaii.

Any action at law or in equity to enforce or interpret the provisions of this Cable Franchise shall be brought in a State court of competent jurisdiction, unless federal law requires the filing of a certain cause of action in another forum.

L. Notices

Any written notice required to be given to any party under this cable franchise shall, at a minimum, be delivered personally or sent by United States first class mail, postage prepaid.

Notice to the Director shall be sent to:

Cable Television Administrator
State of Hawaii
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 101
Honolulu, Hawaii 96813

Notice to HTSC shall be sent to:

Chief Legal Officer
1177 Bishop Street, Suite 17

Honolulu, Hawaii 96813

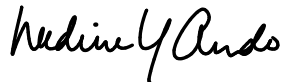
M. Severability

In the event any provision of this Cable Franchise is declared invalid or unenforceable by a court, the invalid or unenforceable provision shall be severed and the remaining provisions of this Cable Franchise shall remain in full force and effect.

N. Non-Exclusivity

During the term of this Decision and Order, in the event that any new cable operator receives a cable franchise to provide Cable Service or to operate a Cable System in HTSC's Service Area, the material terms, conditions, and requirements of such additional Cable Franchise shall be reasonably comparable to the terms and conditions of this Decision and Order, taking into account any applicable legal limitations on DCCA's authority; provided that this provision shall not require an identical Cable Franchise for the new Cable System operator as long as the regulatory and financial burdens on each Cable System operator are generally equivalent, taking into account any difference in the number of Subscribers served, the number of PEG Access Channels and aggregate support provided, the level of fees and taxes imposed, the term of the Cable Franchise, and all other circumstances affecting the Cable System operators' respective burdens.

Dated: Honolulu, Hawaii, July 26, 2024.



NADINE Y. ANDO
Director of Commerce and Consumer Affairs

Acknowledged and agreed to by:

Hawaiian Telcom Services Company, Inc.

Steven P Golden

Name: Steven P. Golden

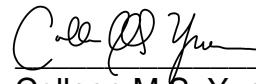
Title: Vice President, External Affairs

Date: July 26, 2024

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DECISION AND ORDER NO. 384** was served upon the following person at the address shown below by mail, postage prepaid, on this 26th day of July, 2024.

Steven P. Golden
Vice President, External Affairs
Hawaiian Telcom Services Company, Inc.
1177 Bishop Street, Suite 17
Honolulu, Hawaii 96813



Colleen M.S. Yuen
Administrative Assistant