

SETTLEMENT AGREEMENT

This Settlement Agreement (this “**Agreement**”) is made by and between Charter Communications, Inc. (“**Charter**”), on the one hand, and the New York State Department of Public Service (the “**Department**”) and the New York State Public Service Commission (the “**Commission**”), on the other hand (Charter, the Department, and the Commission, collectively, the “**Parties**”). This Agreement shall be dated, and shall be fully effective as to Charter and the Department, as of the date on which it has been executed by Charter and the Department, that is, the 19th day of April, 2019 (the “**Effective Date**”); and this Agreement shall be effective as to the Commission on the Modification Date, as that term is defined in Paragraph 2 below. Certain portions of this Agreement shall be effective as to the Commission as of the Effective Date as set forth in Paragraph 22 below.

RECITALS

WHEREAS, by Joint Petition of Charter and Time Warner Cable Inc. (“**TWC**”) for Approval of a Transfer of Control of Subsidiaries and Franchises, Pro Forma Reorganization, and Certain Financing Arrangements (the “**Joint Petition**”) filed on July 2, 2015, TWC and Charter commenced Case 15-M-0388 before the Commission, in which TWC and Charter sought, among other things, Commission approval to transfer control over TWC’s New York operations to Charter (the “**Merger Proceeding**”);

WHEREAS, on January 8, 2016, the Commission issued the Order Granting Joint Petition Subject to Conditions (the “**Merger Approval Order**”), conditionally approving the Joint Petition;

WHEREAS, the Merger Approval Order included, among other things, a (“**Network Expansion Condition**”);

WHEREAS, the Network Expansion Condition required Charter to “pass” 145,000 homes and businesses within four years (*i.e.* by May 18, 2020);

WHEREAS, thereafter, the Parties agreed to a modification of the Network Expansion Condition (the “**Modified Network Expansion Condition**”) (in an agreement filed on June 19, 2017 (the “**2017 Settlement Agreement**”), which agreement the Commission confirmed in the Merger Proceeding by Order Adopting Revised Build-Out Targets and Additional Terms of a Settlement Agreement, issued on September 14, 2017 (the “**Network Expansion Settlement Order**”);

WHEREAS, the Parties have disagreed regarding the interpretation and enforceability of, and Charter’s compliance with, the requirements of the Network Expansion Condition and the Modified Network Expansion Condition (the “**Disputes**”), resulting in the Commission’s issuance of certain additional orders and the Parties’ initiation of litigation in the Supreme Court of the State of New York; and

WHEREAS, the Parties now wish to resolve the Disputes, without any admissions or findings of liability, on the terms and conditions specified herein;

NOW THEREFORE, in consideration of the agreements, promises, and representations set forth in this Agreement, the receipt and sufficiency of which are hereby agreed to and acknowledged, the Parties, intending to be bound, agree as follows:

TERMS

- (1) **Further Modification of Network Expansion Condition.** Exhibit A hereto, which is incorporated by reference herein, sets forth the terms and conditions of a proposed further modification of the Network Expansion Condition and modification of the Modified Network Expansion Condition (collectively, the “**Proposed Modified Buildout Terms**”). Charter and the Department shall propose to the Commission that it confirm this Agreement through an order adopting this Agreement, including, without limitation, the Proposed Modified Buildout Terms as set out in Exhibit A (the “**Modified Buildout Order**”).

- (2) **Effectiveness of Modified Buildout Order or Alternative Modified Buildout Order.**
 - a. In the event that the Commission (i) responds to the proposal by Charter and the Department by issuing the Modified Buildout Order and (ii) takes action relating to the previous commission orders listed in Paragraph 4 (the “**Previous Commission Orders**”), which action is to Charter’s reasonable satisfaction, then the Modified Buildout Order, and all of its terms and conditions, shall become effective upon Charter’s filing with the Commission, within seven (7) days of the issuance of the Modified Buildout Order, of written notification in which Charter confirms that it has no objection to the Commission action with regard to the Previous Commission Orders (the “**Modification Date**”).

 - b. In the event that the Commission (i) responds to the proposal by Charter and the Department by issuing an order, in lieu of the Modified Buildout Order, or takes related actions that contain terms and conditions that differ from the terms and conditions contained in this Agreement, including without limitation the Proposed Modified Buildout Terms (an “**Alternative Modified Buildout Order**”), or (ii) issues an order or takes related action relating to the Previous Commission Orders that is not to Charter’s reasonable satisfaction, then Charter will have a period of seven (7) days from the issuance of the Alternative Modified Buildout Order within which Charter must file with the Commission, in writing, its decision unconditionally to accept or not to accept that Alternative Modified Buildout Order without further modification. If Charter unconditionally accepts the Alternative Modified Buildout Order, the date of Charter’s acceptance shall be the Modification Date, and the Alternative Modified Buildout Order, and all of its terms and conditions, shall become effective on that date.

- (3) **Termination.** The Parties acknowledge that the expected adoption of the Proposed Modified Buildout Terms through a Modified Buildout Order or (as the case may be)

an Alternative Modified Buildout Order (each, a “**2019 Settlement Order**”) is a material and integral part of this Agreement, absent which Charter would not have entered into this Agreement. Accordingly, if the Commission (a) declines unconditionally to issue a Modified Buildout Order, or (b) issues an Alternative Modified Buildout Order, and Charter rejects such Alternative Modified Buildout Order pursuant to Paragraph 2(b) hereof, then, on the date of such rejection (the “**Termination Date**”), this Agreement shall terminate, no Modification Date shall occur, no provision of this Agreement tied to the Modification Date shall be triggered, this Agreement and all negotiations and proceedings related thereto will be without prejudice to the rights of any Party, the Department’s and the Commission’s rights to seek payments, penalties, fines, or any other relief from Charter shall be revived in full except as set forth in Paragraph 8(b), and all Parties will be restored to their respective positions as of the day before the Effective Date; *except that* the provisions of Paragraphs 8(b) and 10 of this Agreement shall survive the Termination Date. In addition, no Party shall offer the fact that a Party has executed this Agreement, or exercised any right under this Agreement, in any judicial proceeding that may resume or proceed following the Termination Date, as evidence of an admission of liability or waiver of any rights by that Party.

- (4) **Previous Commission Orders.** In the event the Commission adopts the Proposed Modified Buildout Terms contained herein, or issues an Alternative Modified Buildout Order, the Department Staff will propose that the Commission take action to moot or otherwise reexamine:
- a. The following Orders in the Merger Proceeding:
 - i. Order Denying Charter Communications, Inc.’s Response to Order to Show Cause and Denying Good Cause Justifications (June 14, 2018);
 - ii. Order on Compliance (June 14, 2018) (only with regard to the Network Expansion Condition);
 - iii. Order Confirming Missed June 2018 Compliance Obligations and Denying Good Cause Justification (July 27, 2018); and
 - iv. Order Denying Petitions for Rehearing and Reconsideration and Revoking Approval (July 27, 2018); and
 - b. Case 18-M-0178, Proceeding to Investigate Whether Charter Communications, Inc. and its Subsidiaries Providing Service Under the Trade Name “Spectrum” Have Materially Breached Their New York City Franchises, Order to Show Cause (Mar. 19, 2018).

(5) **Stay of Judicial Proceedings.**

- a. Within three (3) business days of the Effective Date, the Parties jointly shall seek a stay or adjournment, which stay or adjournment shall continue until five (5) business days after the Modification Date or the Termination Date, of:
 - i. The enforcement proceeding by the Commission against Charter in the Supreme Court of the State of New York, Albany County, filed on July 27, 2018, under the caption *State of N.Y. Pub. Serv. Comm'n v. Charter Commc'ns, Inc.*, Index No. 4819-18 (the "**Enforcement Proceeding**")(; and
 - ii. The special proceeding initiated by Charter against the Commission and its commissioners in their official capacities in the Supreme Court of the State of New York, Albany County, on November 26, 2018, under the caption *Charter Commc'ns, Inc. v. N.Y. Pub. Serv. Comm'n*, Index No. 907147-18 (the "**Article 78 Proceeding**").
- b. The joint requests to stay or to adjourn the Enforcement Proceeding and the Article 78 Proceeding pursuant to this Paragraph shall include stipulations extending the time for Charter to file an answer or to respond by motion in the Enforcement Proceeding, and the time for Charter to amend its Petition/Complaint in the Article 78 Proceeding. The Parties shall work together in good faith to enter into the stipulations necessary to effect such extensions. If the time for Charter to file any motion or pleading described in this subparagraph arises earlier than the date three (3) business days after the Effective Date, then subparagraph (a) of this Paragraph will be modified to require the Parties to work to seek an extension of such deadline(s) before the expiration of that three (3) day period; that is, either on the Effective Date or immediately thereafter.

(6) **Dismissal of Judicial Proceedings.** Within three (3) business days of the Modification Date, the Chair of the Commission, on behalf of the Commission, shall direct Counsel to the Commission to promptly discontinue the Enforcement Proceeding voluntarily with prejudice and without costs, and Charter shall discontinue the Article 78 Proceeding voluntarily with prejudice and without costs, both pursuant to NY CPLR Rule 3217(a)(1).

(7) **Release of Department, Commission and State.** Effective on the Modification Date, Charter shall release and forever discharge the Department, the Commission, and the State of New York, and each of their respective current and former officers, executives, directors, employees, commissioners, staff members, fiduciaries, agents, representatives, attorneys, and assigns, from any and all claims, obligations, liabilities, damages, contribution, losses, costs, expenses, attorneys' fees, injunctive, declaratory or equitable relief, actions, charges, suits, demands or other claims of any nature whatsoever)"**Claims**"(, whether known or unknown, based on any legal or equitable theory of recovery, direct or indirect, fixed or contingent, determined or

determinable, that Charter has as of the Effective Date, that arise out of (i) the Network Expansion Condition and the enforcement thereof, (ii) the Modified Network Expansion Condition and the enforcement thereof, (iii) the Enforcement Proceeding, (iv) the Article 78 Proceeding, and (v) public statements pertaining to Charter's network expansion in New York State; *except that* this release does not apply to any right, claim, defense, obligation or duty created by or arising out of, or any right to enforce the terms and conditions of, this Agreement and the 2019 Settlement Order.

(8) **Release of Charter.**

- a. Effective on the Modification Date, the Department and the Commission shall release and forever discharge Charter and its parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and each of their respective current and former officers, executives, directors, shareholders, partners, members, employees, fiduciaries, agents, representatives, attorneys, insurers, and assigns, from any and all Claims, whether known or unknown, based on any legal or equitable theory of recovery, direct or indirect, fixed or contingent, determined or determinable, that the Department and the Commission have as of the Effective Date, that arise out of (i) the Network Expansion Condition, the enforcement thereof, and Charter's actions in connection therewith, (ii) the Modified Network Expansion Condition, the enforcement thereof, and Charter's actions in connection therewith, (iii) the Enforcement Proceeding, (iv) the Article 78 Proceeding, and (v) Charter's public statements and advertising pertaining to Charter's broadband network expansion in New York State; *except that* this release does not apply to any right, claim, defense, obligation or duty created by or arising out of, or any right to enforce the terms and conditions of, this Agreement and the 2019 Settlement Order. This release includes a release of the Department's and the Commission's rights to seek from Charter any payment, penalty, forfeiture, or fine that has accrued in connection with the Network Expansion Condition or the Modified Network Expansion Condition as of the Effective Date and that continued to accrue through the Modification Date.
- b. Alternatively, in the event of termination of this Agreement pursuant to Paragraph 3 hereof, the Department and the Commission shall release all of their rights to seek from Charter any payment, penalty, forfeiture, or fine that has accrued in connection with the Network Expansion Condition or the Modified Network Expansion Condition during the period commencing on the Effective Date and concluding on the date seven (7) calendar days after the Termination Date.

(9) **No Admission of Liability; Public Statements.**

- a. Nothing in this Agreement shall be construed or deemed to be an admission of liability or lack of liability by or of any of the Parties. Each of the Parties expressly denies any liability to any other Party. This Agreement is not, and should in no way be construed or represented as, a Commission finding or an

admission by Charter of a violation or breach of any law, regulation, franchise, or order. Any payments made by Charter pursuant to any 2019 Settlement Order are not and should not be construed or represented as a penalty or forfeiture as those terms are used in the Public Service Law.

- b. Charter and the Department may prepare a joint cover letter to accompany the submission of this Agreement to the Commission. The Parties may refer to such joint cover letter and its contents in public statements.
- c. The Department and the Commission agree that no notice (such as a notice seeking public comment) on a proposal to adopt the Proposed Modified Buildout Terms shall contain any statement that is inconsistent with subparagraph (a) of this Paragraph.
- d. After the Effective Date and before the Commission has acted to adopt a 2019 Settlement Order, should any Party be asked, by any member of the press, the media, or the public, any question concerning the Disputes, the settlement of the Disputes, or this Agreement, and should that Party wish to respond in some way to the inquiry, that Party will answer, in words or in substance:

“The New York Public Service Commission issued an Order conditionally approving the merger of Charter Communications, Inc. and Time Warner Cable, Inc. A dispute subsequently arose between Charter, and the Department of Public Service and the Public Service Commission, concerning the network expansion conditions imposed by the Commission on that approval. Through an agreement, Charter and the New York State Department of Public Service propose to resolve that dispute. The agreement is under review by the Commission.”

- e. After the Modification Date, neither Charter nor the Department shall make any public statement regarding the Disputes, the settlement of the Disputes, or this Agreement; *provided, however, that* Charter and the Department may make such public statements if they (i) limit those statements to descriptions of the chronology of the events relating to and the procedural history of the Merger Proceeding, and/or the terms of this Agreement, and (ii) make no statement that is inconsistent with subparagraph (a) of this Paragraph.
- f. Nothing in this Paragraph 9 shall prohibit any Party from making those disclosures that are permitted under Paragraph 10 hereof.
- g. Notwithstanding the other provisions of this Paragraph 9, but only if and to the extent that Charter reasonably believes necessary in connection with its compliance with securities law and regulations and applicable accounting principles, Charter may disclose the impact on, and any risk to, Charter arising from the terms of this Agreement and of the 2019 Settlement Order.

- (10) **Non-Disclosure/Confidentiality.** All settlement negotiations leading to this Agreement and subject to a written non-disclosure agreement, and each non-final draft of this Agreement and the exhibits thereto (collectively, the “**Settlement Matters**”), are and remain confidential. Each of the Parties agrees that, from and after the Effective Date, neither it, nor its attorneys or agents, shall divulge the Settlement Matters to any person or entity, except as set forth in this Paragraph. Each of the Parties further agrees that the Settlement Matters shall not be admissible as evidence in any proceeding, including, but not limited to, uses as evidence prohibited by Fed. R. Evid. 408 and CPLR 4547, except as set forth in this Paragraph.
- a. Notwithstanding the foregoing, nothing herein shall prohibit any Party from making disclosures of Settlement Matters (i) to that Party’s attorneys, auditors, accountants, lenders or putative lenders (and their respective advisors), tax advisors, or insurers, or such other persons as are mutually agreed, provided such persons agree to keep said information confidential and not to disclose it to others except as required by law or regulatory inquiry; (ii) as may be necessary for purposes of tax, securities or other disclosure required by law, regulation or stock exchange rule, or regulatory disclosures to any government agency; (iii) in response to a court order, administrative order, subpoena or other formal legal process (subject to the provisions of subparagraph (b) of this Paragraph); (iv) in connection with any dispute concerning, or any action or proceeding to enforce, this Agreement or the 2019 Settlement Order; and/or (v) with the written permission of Charter (for the Department and the Commission) or of the Department and the Commission (for Charter).
 - b. In the event that a Party concludes that it must disclose Settlement Matters pursuant to subparagraph (a)(iii) of this Paragraph, then, except as prohibited by law, that Party shall, as soon as reasonably practicable after reaching that conclusion, and with sufficient time to allow the other Parties to seek judicial or administrative measures to prevent such disclosure, provide written notification to the other Parties that such disclosure will be made. In the event a Party seeks relief from such disclosure, whether from a Court, administrative agency, or otherwise, each Party shall cooperate promptly to assist such request.
 - c. Charter has submitted or will be submitting to the Department and the Commission certain information related to its past and future network expansion efforts in the State of New York, which information Charter deems to be trade secret and/or otherwise confidential, to be included in the Exhibits to be annexed to this Agreement. Charter may seek confidential treatment of such information pursuant to the Public Officers Law.
- (11) **Authorization.** The execution, delivery and performance of this Agreement by each Party is within its corporate or statutory powers, as applicable, has been duly authorized by all necessary corporate or statutory action, and does not and will not (a) require any additional consent or approval except the entry and effectiveness of the

2019 Settlement Order, (b) contravene its organizational documents or enabling legislation, or (c) violate applicable law.

- (12) **Entire Agreement and Amendment to this Agreement.** This Agreement and its exhibits (including such exhibits as are to be finalized after the Effective Date) constitute the entire understanding of the Parties with respect to the resolution of all outstanding issues relating to the Network Expansion Condition, the Modified Network Expansion Condition, and the Disputes. This Agreement may be amended only by a written amendment that refers to this Agreement and is executed by all of the Parties, *except that* the Commission may issue an order modifying the terms of this Agreement and the Proposed Modified Buildout Terms pursuant and subject to the terms and conditions in Paragraph 2(b) of this Agreement.
- (13) **Disputes Arising Under this Agreement.** The Parties agree to work cooperatively to resolve any future dispute arising under or in connection with this Agreement, the Proposed Modified Buildout Terms, and the 2019 Settlement Order, including, without limitation, any dispute concerning any missed “Interim Milestone,” any “Interim Milestone Payment,” and any “extreme weather event,” as those terms are used and defined in the Proposed Modified Buildout Terms and 2019 Settlement Order, or any equivalent terms, *provided, however, that* nothing in this Paragraph shall supersede or in any way limit or create any exception to the remedy enforcement provisions described in Paragraph 12 of Exhibit A hereto. During such time as the Parties work under this Paragraph to resolve any dispute, any Party statement regarding the dispute shall be considered non-final and any statute of limitations for bringing such dispute to a court for resolution pursuant to Article 78 of the CPLR or otherwise shall not accrue, provided, however, that any Party may notify the other Parties in writing that it has elected to terminate the tolling of such statute of limitations regarding such dispute for any reason as of a date specified in such writing, which shall not be earlier than two (2) business days following the delivery of such writing.
- (14) **Assistance of Counsel.** The Parties acknowledge that each of them is represented by competent counsel in connection with the negotiation of this Agreement, and that they enter into this Agreement with knowledge of its contents and of their own free will. The Parties acknowledge that they have had ample opportunity to confer with counsel prior to the execution hereof and sufficient time to review this Agreement. Each Party acknowledges, represents, and warrants to the others that no promises, commitments, or agreements except as expressly set forth in this Agreement have been made to induce such Party to sign this Agreement.
- (15) **Rights and Duties of the Commission and the Department.** Neither any provision contained herein, nor the Commission’s adoption of this Agreement, shall be deemed in any way to abrogate or to limit the Commission’s statutory authority under the New York Public Service Law. With the exception of the resolution of the Disputes via this Agreement (and any rights, responsibilities, and/or obligations created hereunder), the Parties recognize that any Commission adoption of the terms of this

Agreement does not waive the Commission's ongoing rights and responsibilities to enforce its orders and to effectuate the goals expressed therein, nor the rights and responsibilities of the Department to conduct investigations or to take other actions in furtherance of its duties and responsibilities.

- (16) **Scope of Charter's Agreement Hereunder.** Neither Charter's entry into this Agreement, nor its confirmation pursuant to Paragraph 2(a) of this Agreement or its acceptance pursuant to Paragraph 2(b) of this Agreement, is intended to, does, or shall be deemed, in any manner, to waive, limit, impair, or restrict its ability to protect and preserve its rights, remedies, defenses, and interests, so long as such actions are not inconsistent with its obligations set forth in this Agreement including without limitation the obligations to dismiss the Article 78 proceeding and to release Claims as set forth in, respectively, Paragraphs 6 and 7 of this Agreement. No Party shall use (expressly, by inference, or otherwise) Charter's acknowledgment of the enforceability of the terms of this Agreement to affect Charter's other rights or any previous reservation of rights by Charter in this proceeding regarding matters not covered by the terms of this Agreement.
- (17) **Construction of Agreement.** The Parties acknowledge that this Agreement is the product of negotiation by their respective counsel and that the language of this Agreement shall not be presumptively construed either in favor of or against any of the Parties.
- (18) **Headings.** The headings contained in this Agreement are for convenience of reference only and do not form a part of this Agreement and/or limit or affect the meaning hereof.
- (19) **Governing Law and Jurisdiction.** This Agreement and the rights and obligations of the Parties shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.
- (20) **Illegality or Unenforceability of Provisions.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held in whole or in part to be invalid, illegal, or unenforceable in any respect, (a) the Parties shall negotiate in good faith to replace such invalid, illegal, or unenforceable term with a valid, legal and/or enforceable term reflecting to the maximum extent achievable the mutual intentions of the Parties, and, (b) if no such agreement is reached, the Parties agree that a court in any action to enforce this Agreement may substitute a term reflecting to the maximum extent achievable the mutual intentions of the Parties at the time of this Agreement.
- (21) **Notices.** Unless a Party provides otherwise in writing, all notices required or desired to be given pursuant to this Agreement shall be given by Federal Express (or other similar overnight delivery service) and also by electronic mail, addressed as follows:

- a. To Charter:
Attn: Adam E. Falk
Senior Vice President, State Government Affairs
Charter Communications, Inc.
601 Massachusetts Ave, N.W.
Suite 400W
Washington, DC 20001-4412
Email: adam.falk@charter.com

Copy to:
Luke C. Platzer
Jenner & Block LLP
1099 New York Avenue, N.W.
Suite 900, Washington, DC 20001-4412
Email: LPlatzer@jenner.com

- b. To the Commission:
Attn: John Sipos
Acting General Counsel
Office of General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, NY 12223-1350
Email: john.sipos@dps.ny.gov

Copy to:
D. Scott Bassinson
Solicitor
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, NY 12223-1350
Email: scott.bassinson@dps.ny.gov

- c. To the Department:
Attn: John Sipos
Office of General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, NY 12223-1350
Email: john.sipos@dps.ny.gov

Copy to:
D. Scott Bassinson
Solicitor
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, NY 12223-1350
Email: scott.bassinson@dps.ny.gov

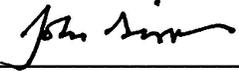
- (22) **Approval of the Commission.** This Agreement is subject to approval by the Commission as set forth in Paragraph 2 of this Agreement, and the Parties recognize that provisions of this Agreement pertaining to the Proposed Modified Buildout Terms contained in Exhibit A hereto will not become effective as to or binding upon the Commission until the occurrence of the Modification Date *provided, however, that* notwithstanding anything else in this Paragraph or in Paragraph 2 of this Agreement, the Chair of the Commission, on behalf of the Commission, will be bound by the terms and conditions of Paragraphs 3, 5, 8(b), and 10 of this Agreement as of the Effective Date.
- (23) **Agreement Execution.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument. This Agreement may be executed by original or electronic signature, each of which shall be equally binding.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement.

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

By: 
Name: Debra LaBelle
Title: Director, Office of Telecommunications
Date: April 19, 2019

NEW YORK STATE PUBLIC SERVICE COMMISSION

By: 
Name: John J. Sipos
Title: Acting General Counsel
Date: April 19, 2019

CHARTER COMMUNICATIONS, INC.

By: Thomas E. Adams

Name: Thomas E. Adams

Title: EVP of Field Operations

Date: April 19, 2019

Exhibit A
Proposed Modified Buildout Terms

- (1) **Total Passings.** The buildout requirements set forth in Ordering Clause 5 of the Network Expansion Settlement Order¹ are modified to commit Charter to extend its network to pass **145,000** eligible “unserved” (download speeds of 0-24.9 Mbps) or “underserved” (download speeds of 25-99.9 Mbps) residential housing units and/or businesses within its statewide territory (the “**Total Passings**”(between January 8, 2016 and September 30, 2021 (the “**Completion Deadline**”)(, subject to the terms and conditions set forth in this Exhibit.

- (2) **Exclusion of All New York City Addresses.** No passing by Charter of any address within the boundaries of the City of New York (i) qualifies as a passing under, complies with, or may be applied toward fulfilling Charter’s obligations under, the requirements of the Settlement Agreement, the Proposed Modified Buildout Terms, or a 2019 Settlement Order; (ii) may be applied toward fulfilling Charter’s obligation to complete the Total Passings; or (iii) may be included among the “Eligible Completed Passings” as that term is defined in Paragraph 4 of this Exhibit.

- (3) **Passings Eligible to Count toward Total Passings.**
 - a. **Eligible Passings.** A residential housing unit or business is eligible to count as one of the required Total Passings if it is located outside of the boundaries of the City of New York and is not passed, served, or capable of being served (by either a standard or non-standard installation), by pre-existing network from Charter or any other provider capable of delivering broadband speeds of 100 Mbps or higher. Cable upgrades or network modifications made at any address already passed by a pre-existing Charter network are not eligible to count among the Total Passings. If a residential housing unit or business falls within one of the identified categories of addresses set forth in subparagraphs (b) through (d) of this Paragraph, it must further satisfy the additional criteria set forth in the applicable subparagraph in order to be eligible to count among the Total Passings. Except as expressly permitted and specified in this Exhibit (including in Paragraphs 3(c), 3(d), 4(b), and 11(e) hereof), no address required to be passed (or eligible for a wireless or satellite service) pursuant to a grant awarded by the Broadband Program Office)“**BPO**”(to any provider other than Charter shall be eligible to be counted by Charter toward the Total Passings.

 - b. **Passings in Upstate Cities.** In counting the Total Passings, Charter may include up to, but no more than, 9,500 addresses located within the boundaries of Charter’s municipal cable franchises in Albany, Buffalo, Mt. Vernon, Rochester, Schenectady, and Syracuse (collectively, the “**Upstate Cities**”)(, which number

¹ Defined terms used, but not defined, in this Exhibit A shall have the same meanings ascribed to them in the Settlement Agreement to which this Exhibit is annexed (herein, the “**Settlement Agreement**”)(.

shall include the Upstate Cities passings already completed and defined as “Eligible Completed Passings” as set forth in Paragraph 4 of this Exhibit.

- c. **Passings in BPO Wireline Grant Areas.** In counting the Total Passings, Charter may include up to, but no more than, 9,400 addresses required to be passed pursuant to a grant awarded through the New NY Broadband Program to a wireline service provider other than Charter (each, a “**BPO Wireline Overlap Passing**”)(prior to the Commission issuing a 2019 Settlement Order. The 9,400 BPO Wireline Overlap Passings shall be identified in the Plan of Record, as defined in Paragraph 5 of this Exhibit, and shall include the BPO Wireline Overlap Passings already completed and defined as “Eligible Completed Passings” in Paragraph 4 of this Exhibit.

- d. **Passings in BPO Wireless/Satellite Grant Areas.** In counting the Total Passings, Charter shall include up to, but no more than, 30,000 addresses in upstate New York that are both (A) identified in the Plan of Record, as defined in Paragraph 5 of this Exhibit, and (B) awarded by the Broadband Program Office through the New NY Broadband Program by a grant to a wireless/satellite service provider other than Charter. Any passing of an address so awarded by the New NY Broadband Program is a “**BPO Wireless Overlap Passing.**” Charter’s eligible 30,000 BPO Wireless Overlap Passings shall include those BPO Wireless Overlap Passings it already has completed and which are defined as “Eligible Completed Passings” in Paragraph 4 of this Exhibit. Notwithstanding anything in this Paragraph, Charter shall not be precluded from counting additional BPO Wireless Overlap Passings towards the Total Passings beyond the 30,000 permitted by this Paragraph 3(d) if such additional passings are BPO Wireless Overlap Passings to (i) new construction within Charter’s franchise areas, which construction commenced after the award of the pertinent BPO grant; or (ii) residential housing units or businesses to which Charter extends its network upon request by the consumer (“**Additional BPO Wireless Overlap Passings**”).
 - i. Charter shall be deemed to have complied substantially with its BPO Wireless Overlap Passing requirement upon completion of 28,500 – *i.e.*, 95% of the 30,000 – BPO Wireless Overlap Passings identified in the Plan of Record.

 - ii. In the event of such substantial compliance, Charter’s failure to complete the remaining BPO Wireless Overlap Passings identified in its Plan of Record shall not be deemed to be a breach of the Settlement Agreement or the 2019 Settlement Order and shall not trigger any of the Commission’s and/or the Department’s rights under the Settlement Agreement or under the 2019 Settlement Order; *provided, however, that* (A) Charter shall not be excused from its obligation, and shall remain required, to complete the Total Passings; and (B) in counting the Total Passings, Charter may not include more than 30,000 BPO Wireless Overlap Passings in total, excluding any Additional BPO

Wireless Overlap Passings. For clarity, in the event of substantial compliance pursuant to subparagraph (d)(i) of this Paragraph, Charter may count toward the Total Passings BPO Wireless Overlap Passings that are not identified in its initial Plan of Record filed under this Agreement, so long as the total of all BPO Wireless Overlap Passings counted toward the Total Passings, exclusive of any Additional BPO Wireless Overlap Passings, does not exceed 30,000.

- (4) **Eligible Completed Passings.** Upon the Modification Date, Charter shall be deemed successfully to have completed 64,827 passings qualifying towards the Total Passings requirements of the Settlement Agreement and the 2019 Settlement Order, as of December 16, 2018 (the “**Eligible Completed Passings**”). The Eligible Completed Passings are a subset of the addresses contained in Exhibit B to the network expansion update report filed confidentially by Charter on January 7, 2019 (the “**January 2019 Buildout Report**”), a modified version of which may be filed by Charter confidentially with the Commission within thirty (30) days of the Effective Date of the Settlement Agreement, and may be annexed confidentially to, and incorporated by reference as Exhibit C into, the Settlement Agreement upon such confidential filing.
- a. The Eligible Completed Passings shall be deemed to count toward the Total Passings and will not be subject to further challenge or audit by the Department or the Commission.
 - b. The Eligible Completed Passings shall include, from Exhibit C: (i) 5,993 passings located within the Upstate Cities; (ii) 4,388 BPO Wireline Overlap Passings; and (iii) 9,397 BPO Wireless Overlap Passings.
 - c. The Eligible Completed Passings also shall include certain additional passings reported by Charter in its January 2019 Buildout Report, which (i) are included among the passings listed in Exhibit D annexed to and incorporated by reference into the Settlement Agreement, and (ii) had been audited or were subject to an audit by the Department as of the Effective Date (the “**Audited Passings**”), to wit, the 1,350 passings that are identified by Charter on Exhibit D as having been audited by the Department and completed prior to Charter receiving complete audit findings from the Department (the “**Allowed Passings**”). The remaining 1,364 Audited Passings listed in Exhibit D (the “**Removed Passings**”) are hereby removed from Charter’s reports, and do not qualify as Eligible Completed Passings, shall not be counted toward the Total Passings, and shall not be reported by Charter in the future as qualifying or potentially qualifying passings. For the avoidance of ambiguity, the Allowed Passings listed on Exhibit D also will be included among the Eligible Completed Passings identified in Exhibit C, and the Removed Passings listed on Exhibit D will be excluded from the Eligible Completed Passings identified in Exhibit C.

- (5) **Plan of Record.** Charter shall file a revised buildout plan confidentially with the Commission within thirty (30) days of the Effective Date, a copy of which shall be annexed confidentially to, and incorporated by reference as Exhibit B into, the Settlement Agreement upon such confidential filing (the “**Plan of Record**”). The Plan of Record shall set forth the following categories of passings: Eligible Completed Passings; the passings in permitted categories (as defined in Paragraph 3 of this Exhibit) that Charter has completed subsequent to December 16, 2018; and the remaining passings Charter plans to complete (in permitted categories as defined in Paragraph 3 of this Exhibit) to reach the Total Passings. All Plan of Record passings must be clearly identified by their respective categories as listed in this Paragraph. A BPO Wireline Overlap Passing or BPO Wireless Overlap Passing may be counted towards the Total Passings only to the extent that such passing is listed on, and identified as falling within one of these categories (*i.e.*, BPO Wireline Overlap Passings or BPO Wireless Overlap Passings) in the Plan of Record. Charter shall file with the Commission an updated Plan of Record once every four months at the time it submits its Interim Milestone Reports pursuant to and as defined in Paragraph 8 of this Exhibit, and each update shall be consistent with the terms, conditions and requirements of this Exhibit. Charter’s updates to the Plan of Record may not change the number of Total Passings required, and may not, collectively, change the addresses proposed to be passed in achieving the Total Passings by more than 10% from the Plan of Record submitted by Charter thirty (30) days from the Effective Date, *provided, however, that* no change shall be counted toward the 10% if it relates to an address:
- a. subject to technical corrections that modify the reference to a residential unit or business without removing it;
 - b. in the Upstate Cities that was designated by means of a placeholder in the initial Plan of Record filed under this Agreement;
 - c. removed as mistaken, duplicative, or otherwise non-verifiable;
 - d. removed based on a Department audit; or
 - e. determined by Charter already to be passed by a competing provider.
- (6) **Monthly Reporting.** By the 15th of every month, starting with the first full month following the Modification Date, Charter shall submit to the Department a report of progress toward the Total Passings for the relevant monthly period (that is, the month preceding the date of the progress report), setting forth (a) the number and addresses of passings completed and (b) the number and addresses of passings remaining to be completed, if any, for the pertinent four-month “Interim Milestone Reporting Period,” as defined in Paragraph 8 of this Exhibit.
- (7) **Verification of Further Reports.** The Department may in its discretion make efforts to verify passings reported by Charter in its monthly or other reporting during the period covered by the 2019 Settlement Order and commencing on the Modification

Date, beginning on the date of Charter’s first “Interim Milestone Report” as defined in Paragraph 8 of this Exhibit. In the event the Department questions the eligibility to count toward the Total Passings of an address reported as passed by Charter, the passing of an address by a competitor at the time of the Department’s review shall not in and of itself be dispositive evidence that such competitor already had passed the address at the time Charter completed the passing. The Department shall complete any verification of Charter’s reports within one (1) year from the date on which Charter reports completion of the Total Passings.

- (8) **Four-Month Requirements.** Charter shall meet the following four-month progress milestones (the “**Interim Milestones**”), each of which represents a number of passings eligible to count toward the Total Passings that must be completed by Charter by the specified deadline. Charter shall file with the Commission, within thirty (30) days of each of the Interim Milestone dates, a report setting forth Charter’s compliance with the preceding Interim Milestone (an “**Interim Milestone Report**”), which Interim Milestone Report shall include, but need not be limited to, a complete list of eligible addresses that Charter claims to have passed during the preceding four-month Interim Milestone period (an “**Interim Milestone Reporting Period**”), and verification that each of those addresses complies with the requirements of Paragraph 3 of this Exhibit.

<u>Date</u>	<u>Interim Milestones</u>
September 30, 2019	76,521
January 31, 2020	87,934
May 31, 2020	99,347
September 30, 2020	110,760
January 31, 2021	122,173
May 31, 2021	133,586
September 30, 2021 (the Completion Deadline)	145,000

- (9) **Interim Milestone Payments.** If Charter’s progress as reported in any Interim Milestone Report falls short of the Interim Milestone for that Interim Milestone Reporting Period, Charter shall, within seven (7) days of submitting such Interim Milestone Report, or within seven (7) days of receipt of a Department verification pursuant to Paragraph 7 that causes Charter to fall short of the Interim Milestone for that Interim Milestone Reporting Period, make a payment to an escrow fund to be identified by the Department or the Commission (an “**Interim Milestone Payment**”) in the amount of \$2,800.00 for each individual missed eligible passing below the applicable Interim Milestone. The Interim Milestone Payments shall be held in escrow pending the Completion Date, the resolution of any objection pursuant to Paragraph 9(c) of this Exhibit, and the Commission’s agreement that Charter has completed the Total Passings.

- a. In the event Charter does not remit payment, the Department or the Commission will provide written notice to Charter that an Interim Milestone Payment is due. Charter shall have 30 days after receipt of such written notice from the Department or the Commission to remit the Interim Milestone Payment.
- b. Charter may file with the Commission, with an Interim Milestone Payment, an objection to the notice that the Interim Milestone Payment is required, in whole or in part, on the ground of the particular circumstances prevailing during the applicable Interim Milestone Reporting Period, as specified below. No objection will excuse Charter's obligation to make any Interim Milestone Payment, timely and in full. Any objection must be accompanied by supporting documentation demonstrating the material impact on Charter's staffing levels or construction process and/or the number of days that construction was impacted by the circumstances involved, and must be based on (and only on) the following grounds:
 - i. Extreme weather events (*i.e.*, unusual and severe storms occurring within New York State that directly or indirectly limited Charter's ability to proceed with construction, which limitation was substantially in excess of the limitations that normally would be expected within New York State based upon normal seasonal conditions for the specific Interim Milestone Reporting Period in question); or
 - ii. Delays caused by the actions or omissions of third parties outside of Charter's control, including delays in obtaining necessary pole licenses as set forth in Appendix A to the 2017 Settlement Agreement adopted by the Commission in its Network Expansion Settlement Order; or
 - iii. If the objection relates to an Interim Milestone deemed missed due to the Department's verification of Charter's Interim Milestone Report pursuant to Paragraph 7 of this Exhibit, Charter shall submit documentation to support the objection for the Commission's consideration.
- c. The Commission shall rule on any objection that was timely filed by Charter pursuant to subparagraph (b) of this Paragraph no later than the later of 90 days after the Completion Date or the date of filing of Charter's last objection. The Commission, in its discretion, may rule on any such objection at any time before that date, but it is not obligated to do so. No such early ruling will obligate the Commission to make further early rulings. To the extent the Commission rules in Charter's favor on any objection(s), the Commission shall authorize the refund of the corresponding \$2,800.00 (plus any interest earned while in escrow) per applicable address to Charter, to be paid within 30 days of such ruling. To the extent the Commission does not rule in Charter's favor on any objection(s), Charter must make up the missed passings and achieve the Total Passings in accordance with Paragraph 12(d) of this Exhibit.

- d. Any funds remaining in the escrow fund after Charter completes the Total Passings and following the resolution of any objections pursuant to Paragraph 9(c) of this Exhibit shall be added to the Incremental Build Commitment as defined in and pursuant to Paragraph 10 of this Exhibit.
- (10) **Incremental Build Commitment.** Within sixty (60) days of the Modification Date, Charter shall make a one-time deposit of six million dollars (\$6,000,000) into an escrow fund to be identified by the Department or the Commission, and dedicated to the construction of additional broadband passings as set forth below (together with any funds added pursuant to Paragraphs 9(d) and 11(b)(iii) of this Exhibit, the “**Incremental Build Commitment**”(, which deposit shall be held in escrow pending fulfillment by Charter of all of its obligations under this Exhibit.
- a. Charter, having fulfilled its obligations under this Exhibit, including, but not limited to, its obligation to complete the Total Passings, shall then become eligible to use the Incremental Build Commitment funds to finance all costs relating to materials, construction, labor, licenses, and permitting to complete additional (*i.e.*, in addition to the Total Passings) incremental broadband expansion projects in Charter’s franchise areas within New York State, as directed by the Department in accordance with the procedure set forth in this Paragraph.
 - b. Following Charter’s completion of the Total Passings, the Department may from time to time direct Charter to complete additional passings within Charter’s franchise areas within New York State, at locations to be identified by the Department at the time of such direction (each such passing, an “**Incremental Build Commitment Passing**”(.
 - i. The Department shall confer with the BPO and with Charter prior to the selection of any Incremental Build Commitment Passing, and Charter shall share with the Department such information in its possession as is reasonably necessary to allow the Department to assess the technical and legal feasibility, and cost, of that Incremental Build Commitment Passing.
 - ii. Charter shall not be required to construct any Incremental Build Commitment Passing as to which it has demonstrated, to the reasonable satisfaction of the Department, that extension of its network to complete that Incremental Build Commitment Passing is not technically or legally feasible.
 - iii. If the Department concludes that an Incremental Build Commitment Passing must be completed, then Charter shall construct the Incremental Build Commitment Passing as directed by the Department, subject only to the limitations set forth in subparagraphs (b)(iv) and (d) of this Paragraph.
 - iv. If Charter has demonstrated, to the reasonable satisfaction of the Department, that the estimated aggregate cost of completion of any

Incremental Build Commitment Passing would exceed \$10,000, then Charter may elect not to construct such Incremental Build Commitment Passing and, in such event, Charter shall notify the Department of such election within 30 days of receiving a Department direction to complete that Incremental Build Commitment Passing; *provided, however, that* if the Department reasonably concludes that no Incremental Build Commitment project remains for which completion of the Incremental Build Commitment Passing would cost \$10,000 or less, the Department shall so inform Charter, and Charter then shall continue to complete all Incremental Build Commitment Passings as directed by the Department, subject only to the limitation set forth in subparagraph (d) of this Paragraph.

- c. Charter shall maintain records of its expenditures incurred in furtherance of the Incremental Build Commitment Passings (including expenditures for materials, labor, construction, licensing, and permitting). Charter shall provide the Department with quarterly reports identifying these expenditures, and may, at the time of each such report, request disbursement of Incremental Build Commitment funds to reimburse, or to pay, such expenditures. Charter shall provide its expenditure records to the Department in connection with, and at the time of, each such request by Charter for disbursement. Within forty-five (45) business days of a properly documented request by Charter for such payment, the Department shall approve the release of Incremental Build Commitment funds from the Incremental Build Commitment escrow account (whether to Charter directly or for the payment of invoices to third parties working for or on behalf of Charter), consistent with this Paragraph. Reimbursement is to be based upon Charter's actual expenses and is not to be limited or capped per Incremental Build Commitment Passing, provided such expenses are properly documented.
- d. Charter shall continue to complete the Incremental Build Commitment Passings at the direction of the Department until the funds set aside via the Incremental Build Commitment have been exhausted.

(11) **Incremental Broadband Fund.** Within sixty (60) days of the Modification Date, Charter shall make a one-time deposit of six million dollars (\$6,000,000) into a fund, to be identified by the Department or the Commission, and dedicated to the construction of additional broadband passings as set forth below (the “**Incremental Broadband Fund**”).

- a. The Incremental Broadband Fund shall be dedicated to financing incremental broadband expansion projects selected by the BPO through the solicitation of public bids from broadband providers capable of delivering broadband speeds of 100 Mbps or higher including, but not limited to, Charter, subject to the terms and conditions set forth in this Paragraph (the “**Incremental BPO Projects**”). The BPO will not initiate the bidding for the Incremental BPO Projects on or before September 30, 2021, unless it is in areas identified by subparagraph 11(a)(ii) of

this Exhibit. The addresses to be serviced through the Incremental Broadband Fund shall be in (i) municipalities of New York State in which Charter holds a cable franchise, or (ii) areas for which Charter does not hold a franchise that are mutually agreed to by Charter and the Department in consultation with the BPO. In the event that the BPO has determined that no wireline provider has submitted a cost effective bid (which determination may include an analysis of the total cost per passing) for a particular Incremental BPO Project, wireless providers capable of delivering speeds of at least 25 Mbps shall be eligible for awards for that Incremental BPO Project. For purposes of this Paragraph, a cost effective bid shall be any bid that provides for at least 20% of private funds to be invested toward the total cost per passing. The Incremental Broadband Fund is to be administered by the BPO in accordance with the requirements of this Paragraph and in consultation with the Department, with a preference for wireline expansion projects.

- b. To the extent that the BPO engages in the selection of bidders in its administration of the Incremental Broadband Fund:
 - i. The BPO may use its auction procedures in effect as of Phase 2 of the New NY Broadband Program (or any subset of such procedures) in connection with such selection of bidders, or an alternative competitive bidding mechanism, but only insofar as such procedures are consistent with the terms of this Paragraph and are no more stringent or restrictive than the procedures in effect as of Phase 2 of the New NY Broadband Program.
 - ii. Charter will not be ineligible pursuant to, treated less favorably due to, or otherwise be disadvantaged by, requirements that: (A) are unnecessary by virtue of Charter being a publicly-traded company (*i.e.*, demonstration of fiscal standing, security agreements, pro forma statements, and background checks); (B) allow bidders to utilize federal funds for which Charter does not apply; (C) require bids to serve entire census blocks; (D) allow the BPO to modify awards; or (E) establish pricing restrictions that are inconsistent with Charter's uniform national pricing policy.
 - iii. If any requirement arising under statute, regulation, or executive order regarding, or restricting, eligible bidders for BPO-administered projects or recipients of state funds is enacted or implemented subsequent to the Effective Date, the effect of which requirement or restriction would be to render Charter ineligible to bid for Incremental BPO Projects or to receive state funds, or is otherwise not consistent with the terms of this Paragraph (a "**Change in Law**"), that Change in Law shall have no force in connection with the Incremental BPO Projects. In the event that a Change in Law occurs that would render Charter ineligible to bid for or to receive funds disbursed by the Incremental Broadband Fund notwithstanding the provisions of this subparagraph, the BPO shall remit any remaining funds

in the Incremental Broadband Fund to the Department-administered escrow account used to fund the Incremental Build Commitment, and such remaining funds shall instead be disbursed consistent with Paragraph 10 of this Exhibit.

- c. Prior to soliciting bids to construct any Incremental BPO Project, the BPO shall provide Charter with 30 days' notice of that Incremental BPO Project. During this 30 day period, Charter may elect to construct the Incremental BPO Project itself (the "**Right of First Refusal**") (by submitting a bid to the Incremental Broadband Fund. Such bid shall be accepted without regard to any BPO auction procedures, provided that the bid complies with subparagraph (c)(i) of this Paragraph.
 - i. In the event Charter exercises its Right of First Refusal, Charter's bid for funds from the Incremental Broadband Fund may not exceed \$2,500 per passing.
 - ii. In the event Charter does not exercise its Right of First Refusal, Charter may participate in any subsequent public bidding process without regard to the \$2,500 per passing limitation identified in subparagraph (c)(i) of this Paragraph, and its bid shall not be evaluated less favorably on account of Charter's decision not to exercise its Right of First Refusal.
- d. If Charter constructs any passings in connection with an Incremental BPO Project, such passings shall not be counted towards the Total Passings except as set forth in subparagraph (e) of this Paragraph.
- e. If (i) the BPO includes any address within an Incremental BPO Project that also is included on Charter's Plan of Record in effect as of the date that the BPO provides notice to Charter of the Incremental BPO Project including that address, and (ii) Charter has completed or subsequently completes a passing for that address, then Charter shall not be precluded from counting that address towards the Total Passings provided that it does not use monies from the BPO, including the Incremental Broadband Fund, to complete the passing to that address.

(12) **Enforcement.**

- a. Subject to the provisions of subparagraph (d) of this Paragraph, the network buildout volume and timing requirements set forth in this Exhibit and in the 2019 Settlement Order shall be enforced solely through the Interim Milestone Payments described in Paragraph 9 of this Exhibit, and the Interim Milestone Payments shall be the exclusive remedy for any failure by Charter to satisfy any Interim Milestone, including, but not limited to, the Completion Deadline, except as set forth in Paragraphs 12(b) and 12(c) of this Exhibit below.

- b. In the event that Charter falls short of the Interim Milestones by more than 15% in each of two successive four-month Interim Milestone Reporting Periods, then the Interim Milestone Payments shall not be a sole or exclusive remedy for any Interim Milestone shortfalls, and the Department and the Commission shall have the absolute right to pursue and to utilize all of the rights and remedies available to them as redress for any Interim Milestone shortfall, including, but not limited to, the right to seek judicial remedies in connection with any provision of the 2019 Settlement Order.
- c. In the event that Charter falls short, to any extent, of the final, September 30, 2021, Interim Milestone, then, in addition to the Interim Milestone Payments described in Paragraph 9 of this Exhibit, the Department and the Commission shall have the right to seek judicial remedies in connection with any provision of the 2019 Settlement Order.
- d. After the Commission has ruled, pursuant to Paragraph 9(c) of this Agreement, on all objections made by Charter, then, for each address as to which the Commission has not ruled in Charter's favor, Charter must complete a passing of a replacement address in consultation with the Department within a time established pursuant to such consultation.
- e. Nothing in this Paragraph relieves Charter at any time from any obligation set forth in the 2019 Settlement Order, including without limitation its obligations to submit on a timely basis all required reporting and to pay, timely and in full, all Interim Milestone Payments, the Incremental Build Commitment payment, and the Incremental Broadband Fund payment.
- f. The exclusive remedy set forth in subparagraph (a) of this Paragraph applies only to the network buildout volume and timing requirements set forth in this Exhibit and in the 2019 Settlement Order; that is, nothing in this Paragraph in any way limits or restricts the enforcement rights and remedies of the Department and the Commission in connection with requirements under the 2019 Settlement Order, the Merger Approval Order or otherwise that do not relate to network build out volume and timing.

(13) **Modification of Prior Buildout Conditions.**

Effective on the Modification Date, the Network Expansion Condition and the Modified Network Expansion Condition (except Paragraphs 17, 18(b), (c), (d), (f), (g), and (h) of the 2017 Settlement Agreement updated to reflect the Completion Deadline as stated herein) shall be deemed to have been modified consistent with, and to the extent expressly set forth in, this Exhibit.

Confidential Settlement Proposal
Subject to FRE 408 and CPLR 4547

NON-FINAL DRAFT of 4.16.2019 1030PM
Subject to Further Review & Change

Exhibit B
(Confidential)
Plan of Record

Exhibit C
(Confidential)
Eligible Completed Passings

Exhibit D
(Confidential)
Allowed Passings and Removed Passings