

Agreement

Made this ____ day of _____, 2024

CITY OF BENNET, a municipal corporation organized and existing under the laws of the State of Nebraska, hereinafter referred to as "CITY"

- and -

ALLO COMMUNICATIONS LLC, a limited liability company organized and existing under the laws of the State of Nebraska, with its principal office in Lincoln, Nebraska, hereinafter referred to as "LICENSEE".

WITNESSETH:

In consideration of the terms and conditions hereinafter set forth, the parties hereto intending to be legally bound, hereby do mutually agree as follows:

1. DEFINITIONS. When used in this Agreement, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural):

a. "Agreement" or "Franchise" refers to this Franchise Agreement entered into by the parties.

b. "Broadcast Service." or "Basic Service" shall mean that level of service offered by the LICENSEE at the lowest monthly rate that includes the broadcast

channels that can reasonably be received by the citizens of the City of Bennet using the Cable Television System.

c. "Cable Television System" means a system composed of, without limitation, antenna, cables, fiber optic lines, fiber optic transmission/receiving equipment, wires, coaxial cable lines, towers, wave guides, satellite receiving dishes, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing any coaxial cable, radio, television or other electronic or electrical signals to and from persons, subscribers and locations in the franchise area.

d. "CATV" means a cable television system.

e. "City Council" means the governing body of the City.

f. "Franchise Area" means that area within the corporate limits of the City as now or hereafter constituted.

g. "Gross Revenues" means any and all revenues, (including cash, credits, or other consideration of any kind or nature not enumerated below, but which is "revenue" under generally accepted accounting principles) arising from, attributable to, or in any way derived directly or indirectly from the operation of a Cable Television System within the corporate limits of the CITY. Gross revenues include, by way of illustration and not by way of limitation, the following: (i) monthly fees charged subscribers for basic, optional, premium, per channel, pay-per-view, video on demand, or per program service; (ii) installation, disconnection, reconnection, and change in service fees; (iii) leased channel fees; (iv) remote control charges; (v) late fees; (vi) revenues from rentals or sales of converters or other equipment; (vii) revenues from program guides; (viii) additional outlet fees; (ix) interactive services to the extent they are a cable service.

Gross Revenues shall not include: (i) bad debt; provided, however, that all or part of any such bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected; (ii) taxes on service furnished by the provider that are imposed directly on any subscriber or user by the state or other governmental unit and which are collected by the provider on behalf of the governmental unit; (iii) money collected by the provider on behalf of the Federal Communications Commission in satisfaction of regulatory fees imposed upon the provider under 47 U.S.C. § 159; (iv) credits, refunds, or deposits paid to Subscribers; and (v) any other monies which are subject to an exclusion available under applicable federal, state, or local law.

h. "Person" shall mean any natural person, company, or entity of any kind.

1. "Street" means the surface of and the space above and below any public street, way, place, right of way, road, highway, freeway, bridge, tunnel, lane, path, bike path, alley, court, sidewalk, parkway, drive, communications or utility easement, by whatever name called, now or hereafter existing as such within the Franchise Area.

J. "Subscriber" means any person or entity receiving and paying for a service offered by LICENSEE. In the case of multiple family dwellings, multiple dwelling properties (such as mobile home parks, office buildings and other multiple occupant situations), each dwelling unit or office unit shall be treated as a separate subscriber, regardless of how services are shared.

2. CITY grants to LICENSEE a non-exclusive franchise co-extensive with the corporate limits of said CITY, to engage in the business of transmitting, retransmitting and distributing voice, video, and data signals to subscribers for hire by privilege to use and occupy the Streets and other property of the CITY for the purpose of installing, constructing,

maintaining and operating upon, through, along, under, over and across the Streets such wires, cable, crossarms, transmission/receiving equipment, guys and apparatus (hereinafter referred to as "Facilities") as may be reasonably necessary for LICENSEE to carry out its business, subject, nevertheless, to the terms and conditions set forth.

CITY reserves the right of reasonable regulation of the erection, construction, or installation of any facilities by the LICENSEE and to reasonably designate where such facilities are to be placed within the public ways and places. Facilities shall be so located as to not interfere with existing utilities or the rights of other franchisees.

LICENSEE shall, within ninety (90) days after receiving a written request therefor from the City, file with the CITY Clerk/Treasurer a proper map showing the exact location of all of LICENSEE'S underground cables and equipment, together with a statement showing the exact nature of the same.

While LICENSEE recognizes that this Franchise is non-exclusive, CITY agrees not to grant an additional franchise to another multi-channel video provider on terms or conditions more favorable or less burdensome than this Franchise. If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the CITY or by any other State or Federal governmental entity to provide such services using Facilities located wholly or partly in the Streets of the CITY, the CITY shall within thirty (30) days of a written request from LICENSEE, modify this Franchise to ensure that the obligations applicable to LICENSEE are no more burdensome than those imposed on the applicable provider. If the CITY fails to make modifications consistent with this requirement, LICENSEE's Franchise shall be deemed so modified thirty (30) days after the LICENSEE's initial written notice. As an alternative to the Franchise modification request, the LICENSEE shall have the right and may choose to have

this Franchise with the CITY be deemed expired thirty (30) days after written notice to the CITY. Nothing in this Franchise shall impair the right of the LICENSEE to terminate this Franchise and, at LICENSEE's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity.

3. The poles and posts used for LICENSEE'S Cable Television System shall be those erected by it and/or those erected and maintained by other persons, firms or corporations at the time maintaining poles or posts within CITY limits, when and where practicable, providing mutually satisfactory contractual arrangements can be entered into with said companies. CITY shall not be responsible for obtaining any pole line agreements with the various utility companies maintaining poles within CITY limits.

4. LICENSEE'S Facilities shall be located, erected, and maintained so that none of it shall endanger or interfere with the life or safety of any person or remove or obstruct the free use of the Streets, alleys, bridges or other public property.

Construction and maintenance of the Facilities, shall be in accordance with provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code, the National Board of Fire Underwriters and such reasonable generally applicable ordinances and regulations of CITY affecting electrical installations which may be presently in effect or may be enacted by CITY at the time such Facilities are constructed.

In any areas where electric and telephone utilities are now underground and in any new subdivisions or new additions where said utilities are underground, the LICENSEE will lay its cable underground.

CITY acknowledges and agrees no CITY permits or any other form of authorization

shall be required for LICENSEE'S drop work that is outside of right of way or drop work that does not involve the disturbance of hardscape infrastructure (e.g., concrete or asphalt).

5. In the maintenance and operation of its television transmission and distribution system in the Street and other public places, and in the course of any new construction or addition to its Facilities, LICENSEE shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the Streets or other public places made by LICENSEE in the course of its operation shall be guarded and protected at by the placement of adequate barriers, fences or boardings. Any opening made in the Streets, or any other public places shall be replaced promptly to same condition or better than existing at the time of said opening. LICENSEE shall, at its expense, protect, support, temporarily disconnect, relocate or remove any property of the LICENSEE located upon Streets of the CITY when required by the CITY because of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, and tracts of any other type or structure or improvement by the CITY. If LICENSEE fails to do so, the CITY may cause the necessary work to be completed and LICENSEE shall pay the CITY the cost thereof within ten (10) days after the receipt of an actual, documented, and itemized account of such costs.

LICENSEE, at the request of any person holding a permit issued by the CITY, shall temporarily remove, raise, or lower its wires or cables to permit the moving of buildings or equipment. The expense of such temporary removal, raising, or lowering, shall be paid by the person requesting the same, and the LICENSEE may require such payment in advance. LICENSEE shall be given not less than forty-eight (48) hours advance notice to arrange

for such temporary wire or cable change.

6. LICENSEE shall maintain its pole attachments in such a manner so as not to unreasonably interfere with any use of the poles by the CITY or utilities serving the CITY.

7. LICENSEE shall furnish, free of charge, outside connections and one outlet of Basic Service to all public and parochial schools and any municipal buildings located not less 125 feet from the Cable Television System.

8. Intentionally deleted.

9. Upon continuing and completing timely and satisfactory performance by LICENSEE of each and every term of the Agreement consistent with the requirements of the Cable Communications Policy Act of 1984 ("Cable Act") as implemented by the Federal Communications Commission, the permission herein granted shall continue for a term of fifteen (15) years, and at the expiration of said fifteen (15) years this permission may be renewed consistent with the renewal provisions of the Cable Act, 47 USC Section 546.

10. LICENSEE'S distribution system shall conform to the requirements of the Federal Communications Commission, particularly with respect to freedom from spurious radiation. In addition, LICENSEE will comply with all FCC regulations now or hereafter put in force including the filing of all compliance certificates. The provisions of Section 76.31 of the regulations of the FCC, and any amendments thereto that may be hereafter enacted, are

specifically incorporated by reference herein. LICENSEE shall abide by all rules and regulations of any State or Federal Regulatory Agency which has or may hereafter acquire jurisdiction pertaining to the services contemplated by this contract. In the event that control of the services herein provided is assumed by any State or Federal regulatory agency, LICENSEE shall be subject to such control. Any term of this Franchise in conflict with any regulation promulgated by such regulatory agency shall be deemed to be subordinate to and subject to the regulation of the Federal or State agency without impairment of any other term of this Franchise.

11. Licensee's Cable Television System shall be designed, constructed and operated so as to meet those technical standards adopted by the Federal Communications Commission relating to cable systems contained in part 76 of the Federal Communication Commission rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

LICENSEE shall continue to maintain a toll free telephone number and online portal where all Subscriber complaints regarding the quality of service, cable equipment, malfunctions, and similar matters pertaining to the Cable Television System will be resolved, without charge, within twenty-four (24) hours from receipt thereof, except that this shall not apply to customer-caused damages. LICENSEE shall repair service outages on weekends within 24 hours and all other service calls on the weekends will be made within 24 hours of the next business day. Repair of customer-caused damage shall be billed to the Subscriber. Service shall be prompt in the event of malfunctions under the control of LICENSEE, and emergency service will be provided for holidays and weekends.

LICENSEE shall, if economically feasible for LICENSEE (as determined in

LICENSEE's sole and absolute discretion), extend service upon reasonable request to any person located within the Franchise Area.

12. LICENSEE shall indemnify, protect, and save harmless CITY from and against any losses and physical damages to property and bodily injury or death to persons, including payments made under any Workmen's Compensation Law which may arise out of or be caused by the erection, maintenance, presence, use or removal of said attachments on poles or of LICENSEE's own poles within the CITY or by any act of the LICENSEE, its agents or employees. LICENSEE shall carry public liability insurance to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses, and liabilities which may arise or result directly or indirectly from or by reason of loss, injury, or damage. The amounts of such insurance against liability due to physical damages to property or bodily injury or death shall not be less than One Million Dollars (\$1,000,000.00) as to any one accident and not less than One Million Dollars (\$1,000,000.00) as to any one person. LICENSEE shall also carry such insurance as it deems necessary to protect it from all claims under Workmen's Compensation Laws in effect and that may be applicable to LICENSEE. A current certificate of the above listed insurance shall be provided to the Clerk of the CITY upon request, provided, however, that in all of said policies of insurance, the CITY shall be named insured therein and said policies of insurance shall be further subject to the approval of the CITY's attorney as to form, content, and sufficiency.

By its acceptance of this Franchise Agreement, LICENSEE specifically agrees that it will pay all damages and penalties which CITY may legally be required to pay as a result of damages arising out of the installation, operation, or maintenance of the cable system

authorized herein whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise, or which arise by virtue of LICENSEE's acts or omissions under this Agreement or which arise by virtue of this Agreement. However, nothing herein contained shall be construed to relieve CITY from any and all liability due to its own negligence.

By its acceptance of this Franchise Agreement, LICENSEE specifically agrees that it will pay all expenses incurred by CITY in defending itself or in asserting its rights under this Agreement, but if CITY is asserting its rights against LICENSEE, such expenses shall be paid only if the CITY is successful. These expenses shall include out-of-pocket expenses, such as reasonable attorney fees, and shall also include the reasonable value of any services rendered by CITY's Attorney or their assistants or any employees of CITY. In the event any such claim arises which is subject to the indemnification provisions herein, CITY shall tender the defense thereof to the LICENSEE; provided only CITY shall have the right to settle or compromise any claims arising hereunder, and the CITY shall cooperate fully herein. Notwithstanding the foregoing, the LICENSEE shall not be obligated to indemnify the CITY for any damages, liability or claims resulting from the willful misconduct or negligence of the CITY or the CITY's use of the Cable Television System.

13. As compensation for the franchise granted herein and in consideration of the permission to use the Streets and public ways of CITY for the construction, maintenance, and reconstruction and operation of a cable television system in the community, LICENSEE shall pay to CITY five percent (5%) of its annual Gross Revenues as defined in Section 1.g.

Payments of the annual franchise fees shall be made semi-annually, by March 31 and

September 30 of each year, and shall be accompanied by a financial report as to gross annual receipts which shall be used for the purpose of verifying the franchise fee payments. CITY, at its own expense upon fifteen (15) business days written notice, and not more than once per calendar year, may cause the books and records of the LICENSEE to be audited, for the purpose of determining the correctness of the annual payments to the CITY and shall have the right to have the books and records certified by a certified public accountant for said purposes. If a discrepancy is found in an amount to exceed ten percent (10%) of the annual fee due to the CITY, LICENSEE shall reimburse all auditing and related costs to the CITY.

14. LICENSEE shall, upon request by the Clerk of CITY provide a schedule of rates. It is understood and agreed that, in the event that the Cable Television System operated under this Agreement is not, now or in the future, subject to effective competition, then, and in that event, the CITY may exercise, at its option, authority to regulate rates pursuant to 47 USC § 543 (Cable Television Consumer Protection and Competition Act of 1992).

15. If LICENSEE shall fail to comply with any of the provisions of this Agreement or default in any of its obligations, except for causes brought about by acts of God, and shall fail to correct same within sixty (60) days after written notice from CITY, CITY shall have the right to revoke this license and all rights of LICENSEE hereunder. Provided, however, that in the event the correction cannot be made within sixty (60) days, this right of termination shall not be effective so long as LICENSEE is diligently and continuously proceeding with the corrective action.

Upon termination, LICENSEE shall promptly remove all of its posts, poles, television transmission and distribution system and other fixtures and attachments from the streets,

lanes, sidewalks, highways, alleys, bridges, and other public places in CITY and shall restore the said areas to their original condition, or, at LICENSEE's option, abandon its Facilities.

16. Except as provided in this Agreement, no assignment or sublease will be permitted without written consent of the other party (such consent not to be unreasonably withheld, conditioned, or delayed). No such consent shall be required for: (a) a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of this Agreement to secure indebtedness; or (b) an assignment or transfer to corporation, partnership, or other legal entity controlling, controlled by or under common control of the LICENSEE, or to any successor to the LICENSEE by purchase, merger, consolidation or reorganization. If LICENSEE assigns this agreement by purchase, merger, consolidation, or reorganization, LICENSEE shall give the City prior notice of such assignment.

17. In the performance of this Agreement, LICENSEE and all subcontractors agree not to discriminate against any employee, or applicant for employment, on the basis of race, color, religion, sex, disability, marital status, national origin, or age.

LICENSEE agrees to use the federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 13-24a known as the E-Verify Program or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

18. If any section, sentence, clause or phrase of this Agreement shall be held to be invalid or illegal, the invalidity or illegality thereof shall not affect the validity or legality of any other section, sentence, clause or phrase of this Agreement. This Franchise constitutes the entire agreement between CITY and the LICENSEE supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof. This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the CITY and LICENSEE. This Franchise shall be governed by the laws of the State of Nebraska without regard to conflicts of law rules.

19. This Agreement is made under and by virtue of an enabling ordinance of CITY, adopted at a public meeting thereof held on the ____ day of _____, 2024.

IN WITNESS WHEREOF, the parties hereto by their duly authorized
representatives have affixed their signatures and seals on this _____ day of _____,
2024.

City of Bennet

By: _____

Title: _____

Attest: _____
City Clerk/Treasurer

ALLO Communications LLC

By: _____

Title: _____

Attest: _____