

# XFINITY COMMUNITIES SERVICE AGREEMENT

## Service Order

### Customer Information

Customer Name:	The Marina at the Bluffs Condo Assoc.	Property Address 1:	1550 Marina Isle Way
Property Name:	Marina at the Bluffs	Address 2:	
Number of Units:	660	City, State, Zip:	Jupiter, FL 33477

### Agreement Term

This Agreement begins on 3/1/2023 ("Effective Date") and shall remain in effect for a term of 10 years and 2 months from 3/1/2023 (the "Initial Term"). This Agreement shall automatically renew for successive periods of **21** Years (each, a "Renewal Term"), unless either party provides the other with a minimum of 60 days' notice of its intention not to renew at the end of the then-current term. The Initial Term and each Renewal Term may be collectively referred to herein as the "Term."

### Wiring

Subject to the ability of individual residents to obtain similar services on a retail basis from other providers, or the ability to install a satellite dish pursuant to Federal OTARD rules, Company has exclusive use of the home run wiring and non-exclusive use of the home wiring.

### Common Area WiFi

Commencing no later than 90 days after execution of the Service Order, Company shall provide common area WiFi to 4 WiFi access points in common areas of the Property.

### Compensation

The Per Unit Compensation is \$200.00 for a total of \$132,000.00.

### Marketing

Customer's Marketing Support shall be as follows:

Service	Type of Marketing
TV	Exclusive Marketing
Internet	Exclusive Marketing
Voice	Exclusive Marketing
<u>Notwithstanding anything in the Terms and Conditions to the contrary, Company is not permitted to engage in door-to-door solicitation or to use door hangers for marketing or sales purposes.</u>	

### Bulk Services

The Bulk Services will commence on 3/1/2023 and terminate on 4/30/2033.

The Bulk Services are Upgradable.

If Equipment is listed below, it is the sole responsibility of the residents.

TV Bulk Service	# of Outlets per Unit	# of Units	Equipment Included	Upgradable or Non-upgradable
X1 Popular TV	3	3	HD Digital Converter	Upgradable
<a href="#">Level of Cloud DVR Service - Standard</a>	<a href="#">3</a>	<a href="#">3</a>	<a href="#">Not Applicable</a>	<a href="#">Upgradable</a>

The monthly service fees for TV Bulk Service are \$29.90 per unit, plus a broadcast TV fee equal to \$8.38 per unit, and all applicable taxes and fees. ~~The total of the monthly per unit service fee and broadcast TV fee may be increased by the Company u~~Upon 30 days prior written notice, ~~Company may increase (i) the TV Bulk Service fee,~~ provided such increase does not exceed 4.00% per ~~calendar~~ year ~~and/or (ii) the broadcast TV fee, provided such increase does not exceed the then-current residential broadcast TV fee increase.~~

Internet Bulk Service	# of Outlets/Unit	Total # of Units	Included Equipment
Connect More	1	660	Gateway

The monthly service fee for Internet Bulk Service is \$31.72 per unit, plus all applicable taxes and fees. Upon 30 days prior written notice, Company may increase the Internet Bulk Service fee, provided such increase does not exceed 4.00% per ~~calendar~~ year.

#### Courtesy Services

##### Common Area Courtesy TV Service

Courtesy TV Service	# of Outlets	Location	Courtesy TV Equipment	Upgradable
Popular TV	4	Residential Common Area	HD Digital Adapter	No

Commented [Becker1]: Where specifically are these going?

DRAFT

**Agreement**

This Xfinity Communities Service Agreement ("Agreement") sets forth the terms and conditions under which Comcast Cable Communications Management, LLC and its operating affiliates ("Company") will provide residential products and services (collectively, the "Services") to the customer named above ("Customer") at the property named above ("Property"). This Agreement consists of this fully executed Service Order ("Service Order"), the General Terms and Conditions ("General Terms"), any attachments included herewith ("Attachments") and any written amendments to this Agreement executed by both parties ("Amendments"). In the event of an inconsistency among these documents, precedence will be as follows: (1) Amendments, (2) Service Order, (3) Attachments, (4) General Terms. Customer and Company may be collectively referred to herein as the "Parties" or individually as a "Party." The parties, intending to be legally bound agree to be bound by the terms and conditions set forth in the Agreement. Capitalized terms used but not defined in this Service Order shall be given their meanings set forth in the General Terms and capitalized terms used but not defined in the General Terms shall be given their meaning set forth in this Service Order.

The parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**Customer: The Marina at the Bluffs Condo Assoc.**

**Company:** \_\_\_\_\_

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

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

**Name: Lewis Panzo**  
**Title: HOA President**

**Name: Amy Smith**  
**Title: Regional Senior Vice President, Florida Region**

**ADDRESSES FOR LEGAL NOTICES**

<b>To Customer:</b>	<b>To Company:</b>
The Marina at the Bluffs Condo Assoc. 2250 Marina Isle way Jupiter, FL 33477	Comcast Cable Communications Management, LLC 7201 North Federal Highway, Boca Raton, FL 33487, Attn: Xfinity Communities.
	<b>With a copy to:</b>
<a href="#">Becker</a> <a href="#">615 N. Flagler Drive</a> <a href="#">7<sup>th</sup> Floor</a> <a href="#">West Palm Beach, FL 33401</a> <a href="#">Attn: Mark D. Friedman, Esq.</a>	Comcast Cable Communications Management, LLC 1701 JFK Blvd Philadelphia, PA 19103 Attn: General Counsel – Cable Legal Operations

The parties may designate other addresses or recipients from time to time by sending notification, in writing, to the other party.

## GENERAL TERMS AND CONDITIONS

### 1. **Wiring.**

#### (a) Definitions.

- i. **“Demarcation Points”** means the point or points at which the Distribution System connects to the Home Run Wiring.
- ii. **“Distribution System”** consists of all facilities, equipment or devices that are installed by Company to transmit the Services from the public right of way to the Demarcation Points on the Property, and may include, but not be limited to, distribution cables, amplifiers, pedestals, lock boxes, passive and electronic devices and other equipment. It shall also include any other facilities, equipment or devices installed by Company, other than the Inside Wiring, and used by Company in the provision of Services.
- iii. **“Exclusive Wiring”** means the Distribution System and those portions of the Inside Wiring (if any) indicated as exclusive in the Service Order.
- iv. **“Home Wiring”** means the wiring within each unit from the first splitter or multimedia panel (as applicable) to wall plates.
- v. **“Home Run Wiring”** means the wiring from the Demarcation Points to the first splitter or multimedia panel (as applicable) within each unit.
- vi. **“Inside Wiring”** consists of Home Run Wiring and Home Wiring.
- vii. **“Non-Exclusive Wiring”** means those portions of the Inside Wiring that are not Exclusive Wiring.
- viii. **“System”** consists of the Distribution System and Inside Wiring.

(b) Scope of Work. If either Party is installing, upgrading or re-wiring any portion of the System, a Scope of Work will be attached setting forth the responsibility of the parties regarding such work. The Parties agree to comply with the Scope of Work.

(c) Company Obligations. Any work performed by Company on the Property shall be done in a good and workmanlike manner, in accordance with industry standards, local codes, applicable law, and, Federal Communications Commission (“FCC”) regulations. Company will be responsible for obtaining all necessary permits, licenses and approvals in connection with the Company’s operation and use of the wiring as set forth herein. Company shall keep the Property and every part thereof and all buildings and other improvements located within the Property free and clear of any and all construction and mechanics liens for or arising out of Company’s installation of the Distribution System and provision of the Services. Company shall indemnify and hold Association harmless against all such liens and any proceedings pertaining thereto, including reasonable attorney’s fees. Company shall bond over or discharge any liens within fifteen (15) days of notice of the existence thereof, failing which, Association may satisfy such lien (including by deducting amounts owed or to be owned to company) and take legal action to recover such amounts from Company, including all attorney’s fees and costs, including on appeal. Further, the Company shall be responsible for preparing and recording the Notice of Commencement and Notice of Termination, subject Customer’s approval and execution.

(d) Ownership of Wiring. Except as provided in paragraph 9, below, theThe Distribution System is and will remain the personal property of Company. The Home Run Wiring is and will remain the personal property of Customer.

The Home Wiring is and will remain the personal property of Customer or, where units and in-unit wiring are individual owned, the unit owner ("Resident Owned Wiring").

(e) Use and Maintenance of Wiring. Subject to the provisions of applicable law, as amended from time to time which permits Residents to obtain similar services on a retail basis and to install a satellite dish (OTARD guidelines) Customer grants Company the exclusive right to operate and use the Exclusive Wiring and the non-exclusive right to operate and use the Non-Exclusive Wiring. The Customer shall not, and shall not permit any third party to, tap into, use, or otherwise interfere with the Exclusive Wiring. At its expense, Company shall maintain, repair and replace the Exclusive Wiring as necessary to provide the Services. At its expense, Customer, or Unit Owner as applicable shall maintain, repair and replace the Non-Exclusive Wiring. If the Customer, or Unit Owner as applicable fails to maintain the Non-Exclusive Wiring in accordance with Company's technical specifications, Company shall notify Customer, or Unit Owner as applicable (which may be accomplished by notifying Customer's on-site personnel) and request the repairs. If the repairs are not made within 20 days after receipt of such notice, Company may (i) suspend delivery of the Services to the affected units until repairs are made by Customer, or Unit Owner as applicable or (ii) repair the Non-Exclusive Wiring and charge Customer, or Unit Owner as applicable the actual and reasonable costs expended by Company. Notwithstanding anything to the contrary contained in this section, if Customer cannot grant rights to Resident Owned Wiring, then the rights to operate, use and repair any Resident Owned Wiring will be governed by separate contracts between Company and the unit resident.

(f) Electrical Power. Customer shall provide electrical power, at Customer's expense, for the Distribution System or Inside Wiring as requested by Company in locations reasonably designated by Company. Company shall have the right (but not the obligation) to install optical network units (each, an "ONU"), modems or other required equipment in units where applicable and deemed necessary by Company. Such equipment shall remain owned by Company, unless otherwise agreed in writing with Customer or a resident. In addition, if requested by Company, Customer shall, at Customer's cost, provide one or more environmentally controlled spaces in mutually agreed upon locations on the Property for distribution facilities.

2. Delivery of Service. Customer grants to Company the non-exclusive right to deliver its Services to the Property.

3. Customer Obligations.

(a) Except for any existing service agreement, or renewal thereof, Customer shall not enter into a bulk agreement with another service provider to provide services similar to the Services during the Term, except in anticipation of non-renewal, regardless of the method used to deliver services to the Property. A "bulk agreement" means an agreement between Customer and a third party service provider whereby (i) services are paid for by the Customer and provided to the residents at no charge, on a reduced rate or discounted basis; (ii) services are automatically provided to the residents as an amenity of the Property or (iii) the purchase of services by residents is required as a condition of their occupancy of the Property. However, nothing in this Agreement shall prohibit service providers from providing service to the Property on a retail basis, provided that Customer does not permit a third party to access any facilities, equipment or wiring Company owns, or has exclusive rights to use.

(b) Customer shall reasonably cooperate with Company to prevent, but shall not be liable for, the unauthorized access to equipment or Services by residents of the Property.

(c) Customer shall supply unit numbers to Company at reasonable intervals upon Company request but not more frequently than once per year.

**Commented [Becker2]:** Has this been requested? It is important to clarify this point to ensure you have the physical space in the required locations.

4. **Fees and Charges for Services.** For Services provided to residents on a retail basis, the terms, conditions, charges and fees for those Services shall be contained in separate contracts between Company and individual residents. The Customer assumes no liability or responsibility for service charges contracted for by residents. For Services provided to Customer on a bulk basis (if any), additional terms, conditions, charges and fees for the bulk Services shall be contained in the Service Order and Attachments made a part of this Agreement.
5. **Access.**
  - (a) Customer grants Company personnel access to all common areas of the Property during Company's Operating Hours (as defined below) for the purpose of installing, disconnecting and auditing Service and exercising Company's right and obligations under this Agreement. ~~Rights of entry into the individual Units shall be addressed either in the Company's agreement with the Owner-Customer shall use reasonable efforts to grant Company access to parts of the Property it does not have direct control over for the same purposes.~~ "Operating Hours" means Monday through Sunday, 7:00am to 7:00pm or at any other time that (i) Customer's staff members at the Property give verbal consent for Company to access, (ii) a maintenance or repair emergency occurs, which includes service outages, or (iii) a resident grants Company personnel access in order to provide or repair services for the resident.
  - (b) Company, at its expense, agrees to repair any damage to the Property to the extent caused by Company, its employees or agents, normal wear and tear excepted. If Company fails to commence repairs to the Property within 45 days of notice, then Customer may undertake the repairs itself and bill the Company for the actual and reasonable costs thereof. Customer, at its expense, agrees to pay the reasonable and actual costs for Company to repair or replace any damage to the Distribution System or Exclusive Wiring to the extent caused by Customer, its employees or agents, normal wear and tear excepted.
6. **Indemnification.** Each Party (the "Indemnifying Party") shall indemnify, defend and hold harmless the other party, its officers, directors, personnel, ~~affiliates, lenders, agents~~ and representatives (collectively, the "Indemnified Parties") from and against any and all liability, loss, damage, claim or expense (including reasonable attorneys' fees and costs) (collectively, "Damages") incurred through a third party claim to the extent based on (i) the negligence or willful misconduct of the Indemnifying Party, (ii) the Indemnifying Party's noncompliance with applicable laws (iii) the breach or inaccuracy of any representation or warranty made hereunder by the Indemnifying Party or (iv) any injury (including death), damage or loss to persons or property caused by the Indemnifying Party. The Indemnified Parties agree to provide the Indemnifying Party with sufficient notice of any claim and to provide reasonable cooperation with the Indemnifying Party in the defense of the claim at Indemnifying Party's cost.
7. **Limitation of Liability.** ~~EXCEPT AS MAY BE PROVIDED BY A PARTY'S INSURANCE POLICIES,~~ NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING UNDER THEORY OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE.
8. **Termination.**
  - (a) **Default.** In the event either Party defaults in the performance of any of the material terms of this Agreement, the non-defaulting Party shall give the defaulting Party written notice specifying the nature of such default and identifying the specific provision in this Agreement which gives rise to the default. The defaulting Party shall have 60 days (~~time being of the essence~~) to either (i) cure the default or (ii) if such default is incapable of cure within such 60 day period, commence curing the default within such 60 day period and diligently pursue such

cure to completion which shall not exceed 90 days, time being of the essence. In the event the defaulting Party fails to do so within such 60 day (or 90 day) period, time being of the essence, the non-defaulting Party may terminate this Agreement upon 30 days' written notice which shall not preclude the recovery of damages or other appropriate relief, without further liability of either party.

(b) Permanent Loss of Authority. This Agreement shall terminate automatically without any further liability on the part of Company in the event Company lacks authority to continue to provide the Services to the Property due to loss of governmental authorization. This clause, however, shall not apply to periods of transition, such as franchises subject to review, transfer or reapplication, or where termination is the subject of dispute.

(c) Destruction of the Condominium Property. If the Condominium Property is destroyed or becomes uninhabitable and there are no plans to rebuild or make the property habitable, this Agreement may be terminated by the Customer by providing notice to Company.

~~(b)(d)~~ At the end of the Term or any Renewal Term upon providing 60 days' notice of non-renewal.

Commented [Becker3]: Think Surfside

#### 9. **Removal of Distribution System.**

- (a) Upon expiration or termination of this Agreement, Company shall have 3 months during which it may remove the Distribution System. Company shall promptly repair any damage to the Property caused by such removal. Any portion of the Distribution System remaining on the Property after the 3 month period shall be deemed abandoned by Company, and ownership shall vest in Customer "AS IS" and "WHERE IS" and Company shall have no further liability therefor. Customer may remove, use, reuse, or sell the portions of the Distribution System remaining without any liability to Company
- (b) Notwithstanding anything to the contrary contained in this Agreement, the removal period referenced in subsection (a) above shall be tolled for as long as Company has the right under applicable law to continue to provide any or all of the Services to any or all of the units on the Property after the termination or expiration of this Agreement, and is actually providing Services on a Retail basis, for valuable consideration, to at least one Unit at the Property, in which case Company shall have the exclusive right to continue to own and use the Distribution System and the non-exclusive right to interconnect with and use the Inside Wiring to provide the Services. This Section shall survive the termination of this Agreement.

10. **Dispute Resolution.** This Agreement shall be governed by the laws of the State of Florida without regard to its choice or conflicts of laws principles. In the event of any dispute arising under the agreement, venue shall be had in a court of appropriate jurisdiction, exclusively in Palm Beach County, Florida. Where federal jurisdiction is exclusively required, venue shall be in and for the Southern District of the United States District Court, sitting in Palm Beach County, Florida. In connection with any litigation arising out of this Agreement or the agreements executed in connection herewith, the prevailing party shall be entitled to recover from the other party said prevailing party's attorney's fees and costs, including attorney's fees and costs for any appellate proceedings. All disputes under this Agreement shall be submitted to and settled by arbitration in accordance with the rules of the American Arbitration Association. The parties shall appoint a mutually agreeable arbitrator reasonably familiar with broadband communications systems and services. In the event the parties are unable to agree to a single arbitrator, the dispute shall be submitted to a panel of 3 arbitrators, one of which shall be reasonably familiar with broadband communications systems and services. Each Party shall appoint an arbitrator and the 2 arbitrators so appointed shall then select a third arbitrator. The arbitrators shall apply applicable federal laws and regulations and the laws of the jurisdiction in which the Property is located, without regard to its choice of law principles. The decision of the

arbitrators shall be binding and conclusive on all parties involved, and judgment upon their decision may be entered in a court of competent jurisdiction.

11. **Customer Service.** (a) Company will maintain a local or toll-free telephone number, which will be available to its subscribers 24 hours a day, 7 days a week. Company representatives will be available to respond to customer telephone inquiries during normal business hours. Company will begin working on service interruptions promptly and in no event later than the next business day after notification of the service problem, excluding conditions beyond the control of Company. This Agreement shall be deemed to incorporate the provisions of Section 610.108, Florida Statutes (2022) and 47 C.F.R. 76.309(c), as each may be amended from time to time.

(b) Company shall assign a representative (the "Community Account Representative") to the Property. Company shall have the right to replace the Community Account Representative at Company's sole discretion. The Community Account Representative shall meet with Customer's on-site personnel at the Property on a regularly recurring basis. Customer shall provide indoor space at the Property for the Community Account Representative to meet with residents and Customer on-site personnel. Company agrees to provide Customer with contact information for the Community Account Representative for Company Customer personnel to use to escalate customer service issues. Customer agrees not to share the Community Account Representative's contact information with Property residents.

Commented [Becker4]: Do you have such an indoor space?

11. (c) Company shall use reasonable efforts to route calls to Company originating from the Property to Company representatives designated to provide assistance to residents receiving Services under a bulk billed agreement to the extent the Company maintains such representatives. Notwithstanding the foregoing, the Company shall have the right, in its reasonable discretion, to route calls to any location which it routes incoming calls from Jupiter, FL as the Company deems appropriate to comply with applicable law or its franchise agreement with the Franchise Authority.

12. **Marketing Support.** Customer grants Company the right to access the Property to market and sell its Services to residents of the Property. Customer shall (i) ~~present Company's Marketing Materials to new and prospective residents during the initial presentation of rental or for-sale units and at lease signings or closings~~ (ii) make the Marketing Materials available in the sales office or other administrative area to existing residents and (iii) at times and locations mutually agreed to by the parties, ~~not to exceed one time per calendar year~~, allow Company to hold marketing and sales events at the Property (collectively, "Marketing Support"). At Company's discretion, "Marketing Materials" may include, brochures, channel lineups, service descriptions, and information regarding prices and special offers. ~~Marketing materials may not include door hangers, or materials to be slipped under doors or provided on a door-to-door basis. Door-to-door solicitation is prohibited.~~ Marketing will be either exclusive or non-exclusive, as indicated in the Service Order. Marketing materials shall be provided by Company and delivered to the Property at Company's sole cost. For Services marketed on an exclusive basis, Customer agrees not to market or ~~allow~~ assist a third party to market on the Property any services similar to the exclusively marketed Services. ~~For Services marketed on a non-exclusive basis, Customer will market such Services on a materially comparable basis with any third party services (e.g., no favorable treatment in terms of on-site events or location of marketing materials) and Customer will not treat any competing services on a more favorable basis or take actions to position competing service as "preferred" service over Company's Services. All marketing by the Company shall comply with the Association's Governing Documents.~~

Commented [Becker5]: Customer cannot stop competitors from direct mail marketing of retail services. We just cannot assist. We can't prohibit.

Commented [Becker6]: There is no such marketing. Everything is labelled "exclusive"

13. **Website Link.** Company shall have the right in its sole discretion to approve any trademark/logo of Company used by Customer on Customer's website, its placement within its website, and the use of any statements or claims in connection with such trademark/logo or Company's products and services on its website. All uses of Company's trademark/logo made by Customer shall inure to the benefit of Company. Customer shall not copy or capture any



portion of Company's website or any of its content within frames on Customer's website, or otherwise present or display Company's website content or represent Company's website as Customer's in any manner. Customer shall ensure that the link from its website to Company's website connects the visitor to Company's website unencumbered in any manner.

14. **Interference.** If any device or facility on the Property does not comply with the technical specifications established by the FCC, including, but not limited to, signal leakage, which interferes with Company's delivery of the Services, Company reserves the right to discontinue the Services to the non-compliant unit ~~or, at Company's reasonable discretion, to the Property~~ until such non-conformance is cured by Company, Customer or resident, as the case may be. Company shall take reasonable measures to not discontinue Services to any portion of the Property that is in compliance with applicable technical specifications. Company will ensure that at all times, its equipment operates within FCC guidelines so as not to disrupt or cause interference with electronic household appliances used by residents (e.g. cellular phones, wireless phones, routers, televisions, etc.)
15. **Changes to Wiring Rights.** In the event applicable law, as amended from time to time, requires (i) Company to permit Customer or a third party to use all or a portion of the Distribution System or (ii) Customer to permit a third party to use all or a portion of the Exclusive Wiring, then such portions of the Distribution System and/or Exclusive Wiring shall be automatically deemed Non-Exclusive Wiring.
16. **Assignability; Binding Effect.** Either Party may assign the Agreement provided that the assignee agrees in writing to be bound by all the terms and conditions hereof. In the event Customer sells, assigns, transfers or otherwise conveys the Property to a third party, Customer shall assign this agreement and cause the new owner or controlling party to expressly assume this Agreement and agree to be bound by its terms. This Agreement shall be binding upon the parties and their respective successors and assigns. Following any assignment, the assigning party shall give prompt notice thereof to the other party and shall not be liable for obligations under this Agreement that accrue on or after the date of the assignment.

**Representations and Warranties.** Each Party represents and warrants to the other that (i) the person entering into this Agreement on its behalf has the legal right and authority to execute, enter into and bind such Party to the commitments and obligations set forth herein and (ii) it has the right to enter into this Agreement and to grant the rights granted hereunder. In the event this Agreement is terminated for a breach of these representations and warranties, Customer shall reimburse Company for the time and materials of all work performed at the Property, up to the termination date. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT THE SERVICES WILL PROVIDE UNINTERRUPTED USE, OPERATE WITHOUT DELAY OR ERROR, OR BE TRANSMITTED IN UNCORRUPTED FORM. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED UNLESS OTHERWISE PROHIBITED OR RESTRICTED BY APPLICABLE LAW. If a Bulk Service becomes, or in Company's opinion, is likely to become the subject of a claim of infringement, or a final injunction is obtained against Customer or an End User prohibiting usage of such Bulk Service by reason of such infringement, Company will, at its option: (a) procure for Customer and End User the right to continue using such Bulk Service as applicable (b) replace such Bulk Service with a non-infringing service substantially complying with the specifications of the applicable Bulk Service; or (c) modify such Bulk Service so it becomes non-infringing and performs in a substantially similar manner to the original service. The foregoing states the entire obligation of Company, and the exclusive remedies of Customer, with respect to infringement of proprietary rights. The foregoing is given to

Customer solely for its benefit and is in lieu of, and Company disclaims, all warranties of non-infringement with respect to the Company's Services.

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#### 18-17. Miscellaneous Provisions

- (a) Subcontractors. Company may hire or engage one or more subcontractors to perform any or all of its obligations under this Agreement; provided that Company shall in all cases remain responsible for all its obligations and liabilities under this Agreement. Under no circumstances shall Customer be responsible for making any payments directly to any subcontractor engaged by Company. Company shall ensure that no liens are placed on the Property by any subcontractor and if a lien is placed it will be handed as provided in paragraph 1(c), hereinabove.
- (b) Insurance. Company shall maintain workers' compensation insurance with Florida statutory limits and commercial general and automobile liability insurance for owned and non-owned vehicles. The limits of such liability insurance shall be no less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate, and automobile liability limits no less than One Million Dollars (\$1,000,000) per accident and in the aggregate. Upon request, Company will provide Customer with a certificate evidencing such insurance. Customer shall be named an additional insured on all such policies.
- (c) Force Majeure. Neither Party shall be liable for its performance delay or failure due to circumstances beyond its reasonable control, including but not limited to, failure of equipment or facilities not owned or controlled by a Party (for example, utility service), denial of access to facilities or rights-of-way essential to serving the Property, natural catastrophes, bank closures, and government order or regulation.
- (d) Applicable Law. This Agreement shall be governed and construed in accordance with applicable federal laws and regulations and by the laws of the State of Florida, jurisdiction in which the Property are located, without regard to its choice of law or conflicts of laws principles.
- (e) Invalidity. If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired.
- (f) Notices. All notices, demands, requests or other communications given under this Agreement shall be in writing and be given by personal delivery, registered or certified mail, return receipt requested, or nationally recognized overnight courier service to the other Party's address set forth in the Service Order or as may subsequently in writing be requested.
- (g) Confidentiality. Except as otherwise required by applicable law, as amended from time to time, each Party agrees to keep the terms and conditions of this Agreement in strict confidence and shall not divulge any specifics of the same to any third party except current and prospective lenders, purchasers, attorneys, accountants, financial advisors, partners and/or others with a need to know or legal right to know (such as residents of a homeowners Unit Owners of the Customer's condominium association and their authorized representatives) for Customer or Company to reasonably conduct its business. The Customer is not liable for what Unit owners or their authorized representatives do with the information received, once they are in possession of same.
- (e)(h) The Parties understand that Customer is a not-for-profit corporation and multicondominium association and is bound by the provisions of Chapters 718 and 617, Florida Statutes.

Rebuild.

1. \_\_\_\_\_

a) \_\_\_\_\_ The Company will rebuild the System to replace existing coaxial cables with fiber optic cables and associated equipment (the "Rebuild"). The Company shall commence the Rebuild no later than 90 days after execution of the agreement. The Customer shall reasonably cooperate with and assist the Company as requested by the Company in the Rebuild.

b) \_\_\_\_\_ The fiber optic cables which replace the coaxial cables prior to the multi-port service terminals shall be in conduit at a depth not less than twenty-four inches (24").

c) \_\_\_\_\_ The existing underground wiring after the Company's multi-port service terminals for each unit will be replaced as a part of the Rebuild and buried at a minimum of twelve inches (12") and in conduit unless access to a unit owner's private property is denied by the resident or unit owner.

d) \_\_\_\_\_ The Company shall provide to the Customer construction plans showing the locations of equipment to be installed as a part of the Rebuild (the "Rebuild Plans") for the Customer's approval. The Customer shall not unreasonably withhold, condition, or delay its approval of the Rebuild Plans. If the Customer fails to approve or disapprove the Rebuild Plans within 30 days after the receipt of the Rebuild Plans, the Rebuild Plans shall be deemed approved. If the Customer disapproves the Rebuild Plans, it shall provide the reason for such disapproval in writing and the parties shall work together in good faith to resolve the cause of such disapproval.

e) \_\_\_\_\_ Except for replacement of the existing wiring after the Company's tap, all underground construction by the Company will be performed by a bore method using a bore pit. The Company shall call Sunshine One Call to ensure utility providers are provided with an opportunity to mark public utility facilities on the Property prior to the Company commencing boring in a location. The Company shall use traffic warning devices and barricades in accordance with applicable Department of Transportation regulations.

f) \_\_\_\_\_ In the event of a disruption of the Services caused by damage to the System during the Rebuild, the Company shall use commercially reasonable efforts to promptly locate and repair such damage or to install temporary cable or equipment to restore the Services to the Property. The Company shall endeavor to provide service restoration accomplished in the same day, even if such restoration must be performed after the Company's normal business hours.

g) \_\_\_\_\_ Prior to completion of the Rebuild, the Company will work with the Customer to develop a deployment schedule for the equipment required for the Bulk Services post Rebuild and use direct mail, phone calls and other mutually agreed upon methods to notify residents of the deployment schedule.

h) \_\_\_\_\_ All work shall be done by the Company in a proper and workmanlike manner in accordance with FCC regulations, industry standards and all applicable laws and as set forth in the Agreement. The Company will obtain and maintain at its cost any licenses, permits, approvals and authorizations from applicable state and local government authorities as necessary to perform its obligations under the Agreement and shall, at Customer's request, provide copies of same.

## Bulk Services Attachment

### 1. Terms Applicable to the Bulk Services

- a. Company shall provide the Bulk Services listed in the Service Order (the "Bulk Service(s)") as set forth in this Bulk Services Attachment and in the Service Order. Company may change the name of its Bulk Services or adjust the Bulk Services to reflect changes to their features and technology from time to time, provided it does not materially diminish the Services offered.
- b. Customer shall pay Company the service fees for the Bulk Services set forth in the Service Order, plus all applicable taxes and fees, upon receipt of an invoice. Late and/or administrative fees may be due if Customer fails to pay within 15 calendar days of receipt of the invoice. Company may terminate this Bulk Services Attachment in the event any Bulk Service fees remain unpaid for a period of 60 days.
- c. If the Service Order indicates the Bulk Services are Upgradable, Company may, at any time during the term hereof, provide additional Services on a retail basis directly to residents under agreements between the Company and the residents and the applicable terms of the Agreement ("Upgradeable Services"). Customer assumes no liability or responsibility for service charges or equipment for Upgradeable Services contracted for by residents.
- ~~d. If equipment is included under the Service Order, Company shall provide each unit that does not already have it with the equipment described on the Service Order, plus a remote control for each wall outlet receiving the TV Bulk Service. The type of equipment shall be at the Company's discretion, provided it is compatible with the Bulk Services. The equipment is and will remain the personal property of the Company, unless otherwise agreed to by the parties. Customer shall not be responsible for keeping an inventory of equipment provided to individual residents End Users and shall not be responsible for lost, stolen, or damaged equipment. If Customer is responsible for the equipment, Customer shall keep an inventory report of the equipment issued to Customer listing the status of the equipment as in one of the following statuses: (1) in inventory; (2) installed in a unit listing the unit number; (3) missing, lost, stolen, damaged; or (4) exchanged, not damaged. Customer shall provide such inventory report to Company upon Company's request and shall provide reasonable access to Company to verify the accuracy of the inventory report. Customer shall return the equipment to Company within 10 days after the expiration or termination of the Bulk Services.~~
- ~~e-d.~~ The Company has no obligation to provide the Bulk Service to a unit unless and until an adult resident of the unit enters into Company's Agreement for Residential Services or other residential agreement designated by Company (as modified from time to time by Company, the "Residential Service Agreement") accepting responsibility for (i) any Company-provided equipment that is responsibility of the residents, (ii) any Services purchased by the residents of such unit beyond the Bulk

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Services and (iii) adherence to the terms, conditions and policies in the Residential Service Agreement. If a resident refuses to enter into such agreement or violates the agreement, Company shall have no obligation to provide any Bulk Services or equipment to the resident's unit and there will be no reduction in the monthly fees owed by Customer.

f.e. If equipment is not included on the Service Order, a resident must either (1) obtain such equipment from Company under Company's then-current standard terms and conditions or (2) use a resident-owned device compatible with the Bulk Service. Company will make the list of compatible resident-owned devices generally available to Customer and residents. The type of compatible resident-owned devices shall be at the Company's sole discretion. If a resident does not use a resident-owned compatible device or enter into a separate agreement with the Company accepting responsibility for equipment, Company shall have no obligation to provide any Bulk Services or equipment to the resident's unit and there will be no reduction in the monthly fees owed by Customer.

f. Customer may not sell, offer for sale or resell any of the services contemplated by this Bulk Services Attachment without the prior written consent of the Company. If this Bulk Services Attachment expires or is terminated by Company, Company shall have the right to continue to provide the Services to individual residents pursuant to contracts between Company and such residents in accordance with the Agreement.

g. On or after the fourth anniversary date of the Bulk Services, if requested by the Customer in writing, the parties shall negotiate in good faith an upgrade of the Bulk Services, including the equipment provided as part of such services. The Customer acknowledges any negotiated upgrades to the existing Bulk Services, including the equipment used with such services, may result in a change to the then current monthly per unit service fees paid by the Customer.

g-h. From March 1st to June 1st, 2023, the Company will provide personnel that if requested by the resident will install the equipment required to receive the Bulk Services subscribed to by such resident at no cost to the resident. The Customer acknowledges and agrees that such installation is limited to the installation of the equipment and the charges for any work requested by the resident in addition to the installation of the equipment may be billed to the resident at the Company's then current charges for such work.

## **2. Terms Applicable only if TV Bulk Services are Provided.**

Customer acknowledges and agrees that Company has the right, at any time, to preempt, without prior notice, specific programs and to determine what substitute programming, if any, is made available via the TV Bulk Service. The Company may, in its discretion, make additions, deletions or modifications to its channel line-up without liability to Customer or anyone claiming through Customer. A copy of the current TV Bulk service channel line-up is available at <https://www.xfinity.com/support/local-channel-lineup/>. The Company shall not be liable for failure to deliver any programming that is caused by the failure of the programmer to deliver or

make such programming available to the Company or any other reason beyond the reasonable control of the Company. Company agrees that the programming shall be substantially similar to the programming available to other residential subscribers in the franchise area where the Property is located.

Any hearing-impaired or legally blind unit owner who does not occupy the unit with a non-hearing-impaired or sighted person, or any unit owner receiving supplemental security income under Title XVI of the Social Security Act or food assistance as administered by the Department of Children and Families pursuant to s. 414.31, may discontinue the cable or video service without incurring disconnect fees, penalties, or subsequent service charges, and, as to such units, the owners are not required to pay any common expenses charge related to such service. Company shall not charge Customer for such unit(s) as may occur from time to time.

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### 3. Terms Applicable only if Internet Bulk Services are Provided.

- a. The Internet Bulk Service does not include network interface cards or any other customer premises equipment ("CPE"). Company recommends using CPE meeting Company's minimum system recommendations to connect to the Internet Bulk Service.
- b. Customer acknowledges that the Bulk Internet Service is provided in accordance with, and agrees to be bound by, the terms and conditions of the Company's Residential Services Agreement and the Company's acceptable use policy for Company's high-speed Internet services (as modified from time to time by the Company, the "AUP"). A copy of the current Customer Agreement and AUP is available at [www.comcast.com/Corporate/Customers/Policies/Policies.html](http://www.comcast.com/Corporate/Customers/Policies/Policies.html). The Company shall not be in breach of this Agreement for denying the Internet Bulk Service to Customer or a resident if Customer violates the Residential Services Agreement or AUP.

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## Compensation Attachment

1. Company agrees to pay Customer the Per Unit Compensation for the Number of Units listed on the Service Order.

2. ~~If the units are not fully constructed as of the Effective Date, Customer agrees to provide Company with copies of certificates of occupancy, or temporary certificates of occupancy if they permit Customer to begin selling/leasing units, for all units (collectively, "COs") promptly upon receipt by Customer.~~ Customer agrees to promptly provide to Company a completed and accurate W-9 or such other form containing similar information Company reasonably requests (collectively, "W-9"). Customer shall promptly provide Company an updated W-9 if the information contained therein changes. Company will not owe Customer the Per Unit Compensation during any time when Customer has failed to provide to Company an accurate W-9.

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3. Unless otherwise set forth in the Service Order, the Per Unit Compensation shall be payable by Company 90 days from the latter of (i) execution of the Service Order, or (ii) receipt by Company of a completed W-9 or such other form containing similar information that Customer provides to Company ~~(iii) where applicable, receipt by Company of the first CO.~~ Customer hereby acknowledges that Company has no obligation to pay the Per Unit Compensation unless and until Customer provides the W-9 and, where applicable, the COs. Once paid, Company has no obligation to pay any portion of the Per Unit Compensation to any third party, even if Customer transfers, sells or otherwise conveys the Property to a third party.

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4. The Indemnification section of the Agreement is hereby modified to include an additional indemnification obligation of Customer as follows: (v) the alleged right of any third party to the Per Unit Compensation.

5. In addition to any and all other remedies available to Company at law or in equity, in the event the Agreement is terminated for the uncured default of Customer, (i) this Compensation Attachment shall terminate immediately, (ii) Customer's right to receive the Per Unit Compensation shall terminate immediately and (iii) Customer shall refund to Company a portion of the Per Unit Compensation paid by Company up to the date of termination in an amount equal to (A) the total Per Unit Compensation paid prior to the date of termination, divided by (B) the number of years in the term of the Agreement, multiplied by (C) the number of full years remaining in the term of the Agreement as of termination date of this Compensation Attachment.

### Common Area Courtesy TV Service Attachment

[Commencing no later than 90 days after execution of the Service Order](#), Company shall provide to Customer, at no charge, the Common Area TV Courtesy Service and Courtesy TV Equipment listed on the Service Order (or an equivalent tier if Company discontinues the current tier) for use by Customer in residential common areas of the Property. Company may place a sticker or similar signage on or near the televisions that receive the Common Area TV Courtesy Services indicating the services are provided by Company. Customer acknowledges and agrees that it is prohibited by federal copyright law, and Company's agreement with its programming providers from ordering, purchasing, or exhibiting premium services or pay-per-view programming in the common areas of the Property. Customer hereby covenants and agrees that it will not order, purchase, receive or exhibit premium services or pay-per-view programming in the common areas of the Property, nor permit any other person to do so. In the event Customer engages, authorizes or permits any of the conduct described above, in addition to any other remedies available at equity or at law, Company may terminate the Common Area TV Courtesy Services. Customer shall return any Courtesy TV Equipment provided by Company within 10 days of the termination of the Common Area TV Courtesy Services. Customer shall notify Company of, and reimburse Company for Company's costs to replace, any Courtesy TV Equipment that is lost, stolen, missing or damaged within 30 days of receipt of an invoice from Company.



### Common Area WiFi Attachment

- 1. Provision of WiFi Hot Spot(s) and WiFi Service.** Company shall provide wireless Internet access (the "WiFi Service") to authorized end users ("WiFi End Users") at no cost to Customer using wireless access points and other equipment connected to Company's Internet service (the "WiFi Hot Spot(s)"). Company shall operate the WiFi Hot Spot(s) using the applicable IEEE 802.11 protocols. Company is not responsible for interference caused by third parties, including but not limited to non-Company provided or installed access points and/or any other third party devices that use IEEE 802.11 protocols. Company has the right to brand WiFi Service with Company's branding.
- 2. Operational Responsibility for WiFi Service.** Company shall acquire, install and maintain all equipment required to operate the WiFi Hot Spots (the "WiFi Equipment"). The WiFi Equipment does not include any WiFi End User equipment, including, but not limited to, network adapters, Internet access devices (computers, notebooks, mobile devices, tablets, etc).
- 3. WiFi Equipment.** The WiFi Equipment shall remain the personal property of Company. Customer shall reimburse Company for Company's costs to repair or replace, in Company's sole discretion, any WiFi Equipment that is lost, stolen, missing, modified or damaged within 30 days of receipt of an invoice from Company. Upon termination of the Agreement, Company shall have 6 months in which it shall be entitled, but not required to remove the WiFi Equipment.
- 4. Terms of Service.** The WiFi Service is provided in accordance with Company's Web Services Terms of Service (the "Web Services Terms"), which are located at [my.xfinity.com/terms/web](http://my.xfinity.com/terms/web) and may be updated by Company from time to time. All WiFi End Users, including Customer, shall be required to agree to the Web Services Terms prior to accessing the WiFi Services Company shall have the right to deny access to the WiFi Service to WiFi End Users, including Customer, who violate or have violated the Web Services Terms.
- 5. Disruption of Service.** Customer acknowledges that the WiFi Service is not fail-safe and is not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the WiFi Service could lead to severe injury to business, persons, property or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required. Company shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the WiFi Service, directly or indirectly caused by, or proximately resulting from, any circumstances, including, but not limited to, causes attributable to Customer or the Property; inability to obtain access to the Property; failure of any cable signal at the transmitter; failure of a communications satellite; loss of use of poles or other utility facilities; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightning, earthquake, wind, ice, extreme weather conditions or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the WiFi Service.
- 6. Security and Authentication.** Company shall deploy, manage, operate and upgrade (as appropriate) all security and authentication measures for use of the WiFi Service and the WiFi Hot Spot(s). Customer acknowledges that anonymous users will not be permitted to use the WiFi Service. Company may administer registration or other appropriate procedures sufficient to enable Company to identify the WiFi End Users as necessary to address service or abuse of service issues and to comply with applicable law. Customer shall reasonably cooperate with Company to address service or abuse of services issues on the Property or to identify WiFi End Users or others attempting to use the WiFi Service on the Property.

7. **Limitation on Resale/Redistribution.** Customer may not resell or otherwise make available the WiFi Service to any other Internet or wireless service provider or make it otherwise available on any wide area network or similar basis or on any other contiguous geographic basis. Customer shall not utilize the WiFi Service or the WiFi Hot Spot(s) for the purpose of deriving, creating or otherwise offering services or applications.
8. **Indemnification.** In addition to and not in lieu of the indemnification obligations set forth in the Agreement, Customer shall indemnify, defend and hold harmless Company and its directors, officers, employees, ~~agents, subsidiaries, affiliates,~~ successors and assigns from and against any and all claims (i) asserted by or on behalf of any WiFi End User of the WiFi Service; (ii) arising out of the use of the WiFi Service or WiFi Hot Spot(s).