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**COOPERATIVE LICENSE AGREEMENT
LOUISVILLE GAS AND ELECTRIC COMPANY
AND
TCI/TKR OF JEFFERSON COUNTY, INC.**

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AND IS FILED UNDER SEAL PURSUANT TO

A REQUEST UNDER 807 KAR 5:001, SECTION 7

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COOPERATIVE LXCENSE AGREEMENT

by and among

LOUISVILLE GAS AND ELECTRIC COMPANY

and

TCI/TKR OF JEFFERSON COUNTY, INC.

May **25, 1995**

INDEX
TO
COOPERATIVE LICENSE AGREEMENT

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<u>Section</u>	<u>Page</u>
1. <u>Grant of License and Other Rights to TKR</u>	2
(a) <u>Conduit License</u>	2
(b) <u>Above Ground License</u>	3
(c) <u>Limitations</u>	6
(d) <u>System and Extended System Defined</u>	8
(e) <u>Interconnection of Facilities</u>	9
(f) <u>Construction and Installation</u>	11
2. <u>Term</u>	15
3. <u>Grant of Licenses and Other Rights to LG&E</u>	15
(a) <u>License of Fiber Strands</u>	15
(b) <u>Lateral Cable Facilities Defined</u>	17
(c) <u>Interconnection of the Fiber Strands and Coaxial Cable</u>	17
(d) <u>Extension of Licensed Fiber</u>	18
(e) <u>[Intentionally Omitted]</u>	21
(f) <u>TKR's Limited Use of the Fiber Strands Licensed to LG&E</u>	21
(g) <u>License of Bandwidth</u>	22
(h) <u>Restrictions on Use</u>	25
(i) <u>Security Interest</u>	26
(j) <u>Ownership of Extended System: Affiliate and Third-Party Commitments</u>	27

<u>Section</u>	<u>Page</u>
(k) <u>Access</u>	27
(1) <u>Exclusion for Certain Acquired and Existing Assets</u>	28
4. <u>Additional Services Provided by TKR</u>	31
(a) <u>Classified Advertising</u>	31
(b) <u>Digital Messaging</u>	31
(c) <u>Video on Demand</u>	32
(d) <u>Additional Coaxial Cable Drops</u>	32
(e) <u>Supervisory Assistance</u>	33
(f) <u>Local Programming Credit</u>	33
(g) <u>Crawl Messaging</u>	35
(h) <u>Portion of Extended System Utilized to Provide Additional Services</u>	36
(i) <u>Placement of LG&E Equipment at TKR Hub Sites</u>	36
(j) <u>Access to TKR Extended System Data</u>	37
5. <u>Additional Services Provided by LG&E</u>	37
(a) <u>Metropolitan Area Development</u>	38
(b) <u>Equipment Siting and Facility Access</u>	38
(c) <u>Equipment Siting on Electric Distribution System</u>	39
(d) <u>Transfer of Sales Leads</u>	39
6. <u>Termination: Purchase Options</u>	43
(a) <u>Preliminary Statements and Commitments</u>	43
(b) <u>Suspension and Termination for Regulatory Reasons</u>	46

<u>Section</u>	<u>Page</u>
(c) <u>Material Breach or Default</u>	50
(d) <u>Option to Purchase Certain Assets Upon Abandonment</u>	52
(e) <u>Additional Options to Purchase the Option Assets</u>	54
(f) <u>License to Use TKR Communications Capabilities</u>	58
(g) <u>Removal of Equipment and Facilities: Ownership</u>	58
(h) <u>Limited Use</u>	63
7. <u>Relocation</u>	63
(a) <u>Forced Relocation of LG&E Structures</u>	63
(b) <u>Relocation for Convenience: Assignment of Innerducts</u>	63
(c) <u>Relocation for Disruption</u>	64
(d) <u>Cooperation</u>	64
8. <u>Maintenance and Use</u>	65
(a) <u>Maintenance Generally</u>	65
(b) <u>Restoration of Service</u>	65
(c) <u>Reasonable Access</u>	65
(d) <u>Access to Monitoring Capabilities</u>	66
9. <u>Taxes</u>	66
10. <u>Safety, Compliance with Laws</u>	66
11. <u>Additional LG&E Inspection Rights</u>	67
12. <u>Rights-of-Way, Etc.. of TKR</u>	67
13. <u>Representations and Warranties of LG&E</u>	68

<u>Section</u>	<u>Page</u>
14. <u>Reuresentations and Warranties of TKR</u>	69
15. <u>Force Maieure</u>	69
16. <u>Indemnification</u>	69
17. <u>Insurance</u>	70
(a) <u>Maintenance Generally</u>	70
(b) <u>Certificates; Notice of Cancellation</u>	71
(c) <u>No Limit on Liability</u>	71
18. Liens	71
19. <u>Relationship of Parties and Independent Contractor Status</u>	71
20. <u>Confidentiality and Publicity</u>	71
21. Notices	72
22. <u>Successors and Assigns</u>	73
23. <u>Condemnation</u>	73
24. Costs	74
25. <u>Entire Agreement</u>	74
26. <u>Amendments. Etc.</u>	74
27. <u>Severability</u>	74
28. <u>Applicable Law</u>	74
29. <u>Headings: Number and Gender</u>	74
30. <u>Drafting</u>	74
31. <u>Survival of Indemnities. Etc.</u>	74

<u>Section</u>	<u>Page</u>
32. <u>No Waivers</u>	74
33. <u>Counterparts</u>	75
34. <u>Affiliates and Subsidiaries</u>	75
35. <u>Further Assurances</u>	75
36. <u>Authority</u>	75
37. <u>Remedies Cumulative</u>	75
38. <u>Injunctive Relief</u>	75
39. <u>Documentation of Decisions</u>	75
40. <u>Dispute Resolution</u>	76
(a) <u>General</u>	76
(b) <u>Negotiation Between Executives</u>	76
(c) <u>Non-Bindinn Mediation</u>	76
(d) <u>Binding Arbitration</u>	77
(e) <u>Clauses to Protect Rights</u>	77
(f) <u>Limited Scope</u>	78

GLOSSARY OF TERMS USED IN THE
COOPERATIVE LICENSE AGREEMENT

May 25, 1995

<u>Term</u>	<u>Section</u>
"AAA"	40(c)
"Abandonment Option Payment"	6(d)(ii)
"Above Ground License"	1(b)(i)
"Acquired System"	3(l)(i)
"Additional Option Price"	6(e)(ii)
"Additional Rings"	3(a)(i)
"Affiliate"	34
"Agreement"	Opening Paragraph
"Backbone of the Extended System"	3(a)(i)
"Bandwidth Licensed to LG&E"	3(g)(i)
"Cable Television Tariff"	1(b)(ii)
"Coaxial Cables"	1(a)
"City Cable Assets"	3(i)(ii)
"Collateral"	3(i)(i)
"Communications Space"	1(b)(ii)
"Communications System"	1(a)
"Conduit License"	1(a)
"Conduit Structures"	1(a)
"Constrained Poles"	6(g)(v)

“Conroi”	34
“Credit”	4(f)(i)
“Damages”	16
“Exciuded Systems”	3(l)(ii)
“Existing Agreement”	1(b)(ii)
“Extended System”	1(d)
“Fiber Cables”	1(a)
“Fiber Strands”	3(a)(i)
“Fiber Strands Licensed to LG&E”	3(a)
“FOG Wire”	1(b)(i)
“Index”	4(f)(ii)
“Initial Rings”	3(a)(i)
“In-Person Customen”	5(d)(i)
“Interconnected Fiber Cables”	3(a)(i)
“Lateral Cable Facilities”	3(b)
“Letter Agreement”	1(a)
“LG&E”	Opening Paragraph
“LG&E Structures”	1(d)
“Material Breach or Default”	6(c)
“Minimum Height”	1(b)(ii)
“NEC”	1(a)
“NESC”	1(a)
“Nine County Area”	1(d)

“Ton-Suspending Party”	6(b)(i)
“Notice to Proceed”	1(f)(ii)
“Option Assets”	6(d)(i)
“Option Cables”	6(g)(v)
“Repair Request”	6(d)(i)
“Representatives”	16
“Safety Policies”	1(f)(iii)
“Service Territory”	1(a)
“Spillover Bandwidth”	3(g)(i)
“Subsidiary”	34
“Suspending Party”	6(b)(i)
“Suspension Period”	6(b)(ii)
“System”	1(d)
Telephone Customers”	5(d)(ii)
Term”	2
“Third-Party Facilities	3(f)(iii)
“Time Slots”	4(a)
“TKR”	Opening Paragraph
“TKR Customers”	3(g)(i)
“Useable Bandwidth”	3(g)(i)
“Utility Poles”	1(b)(i)
“Video on Demand Capability”	4(c)
“Work Plans”	1(f)(ii)

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COOPERATIVE LICENSE AGREEMENT

THIS COOPERATIVE LICENSE AGREEMENT ("Agreement") is made and entered into as of this 25th day of May, 1995, by and between LOUISVILLE GAS AND ELECTRIC COMPANY, a Kentucky corporation ("LG&E"), and TCI/TKR OF JEFFERSON COUNTY, INC., a Kentucky corporation doing business as TKR Cable of Greater Louisville ("TKR").

RECITALS:

..

A. **LG&E** is a gas and electric utility company with electric utility structures in place throughout portions of the counties in **Kentucky** identified on Exhibit A attached hereto and incorporated herein by reference, including **LG&E's** metropolitan **Louisville**, Kentucky service territory.

B. **TKR** is a corporation engaged in, among other activities, the business of providing communication services to certain residents of the **metropolitan Louisville** area, and to businesses located in that area.

C. **TKR** intends to develop, construct, **install**, own and operate a fiber optic and **coaxial** communications system in the metropolitan **Louisville** area, and desires to utilize certain **electric** utility structures of **LG&E** in furtherance of the same.

D. **LG&E** desires to permit **TKR** to utilize certain of its electric utility structures in consideration of the covenants and agreements of **TKR** set forth in this Agreement, and upon and subject to the terms and conditions provided for herein.

E. **TKR** desires to permit **LG&E** to utilize certain of **TKR's** communications **assets**, equipment and capabilities in the metropolitan **Louisville** area in consideration of the covenants and agreements of **LG&E** set forth in this Agreement, upon and subject to the terms and conditions provided for herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and their mutual covenants set forth **in** this Agreement, and for other **valuable** consideration, the receipt of which is hereby acknowledged, the parties hereto each agree as follows, effective as of the date first above **written:**

Grant of Licenses and Other Rights to TKR

(a) Conduit License. Upon and subject to the terms and conditions set forth in this Agreement, throughout the "Term" (as defined in Section 2), LG&E hereby grants to TKR a non-exclusive, royalty-free right and license (the "Conduit License") to, and TKR hereby agrees to, install, construct, monitor, repair, maintain, own and operate, fiber optic communications cables ("Fiber Cables"), electrical conducting communications cables, including without limitation, coaxial communications cables (all such electrical conducting and coaxial communications cables being collectively referred to in this Agreement as "Coaxial Cables"), and related spikes, terminations and innerducts owned by TKR, within electrical conduit and adjacent manholes owned by LG&E (the "Conduit Structures") in the "Service Territory" (as defined below), for the sole purpose of constructing, owning, operating and maintaining a Fiber Cable and Coaxial Cable communications system along certain paths (and at certain locations within the Conduit Structures) to be agreed upon by LG&E and TKR in accordance with Section 1(f). For purposes of this Agreement (including without limitation, this Section 1(a) and Section 1(b), below): (i) the "Service Territory" shall mean that portion of the Kentucky counties identified on Exhibit A attached hereto within which LG&E has the right to conduct its retail electric utility services pursuant to a grant of authority under that certain Order of the Kentucky Public Service Commission dated April 25, 1973, issued in the matter of The Establishment of Certified Territories for Retail Electric Suppliers (Administrative Case No. 163), as that territory has been or may hereafter be expanded or otherwise modified by the filing by LG&E or other public utility companies of boundary maps or revised boundary maps with the Kentucky Public Service Commission, or by Order of the Kentucky Public Service Commission; and (ii) the Fiber Cable, Coaxial Cable and "FOG Wire" (as defined in Section 1(b)(i)) communications systems to be constructed, used, owned, operated and/or maintained by TKR along certain paths and at certain locations in the Service Territory to be agreed upon in accordance with Section 1(f), are hereinafter collectively referred to as the "Communications System". To the extent that TKR has installed Fiber Cable, Coaxial Cable or related spikes, terminations or innerducts in any Conduit Structures prior to the execution of this Agreement, the same shall hereafter be governed exclusively by the provisions of this Agreement; provided, that, to the extent any of the provisions of the letter agreement, dated as of March 13, 1995, by and between TKR and LG&E, as amended by the letter amendment dated March 31, 1995 (collectively, the "Letter Agreement"), expressly provided for their survival of the execution of this Agreement, such provisions shall continue to be binding on the parties, notwithstanding the execution hereof. Subject to the limitations set forth in Subsection (c), below, that portion of the Communications System installed or placed in the Conduit Structures shall consist of Fiber Cables or Coaxial Cables (or any combination of Fiber Cables and Coaxial Cables) and associated innerducts at any location which, if considered together as a parallel bundled group, would be no greater in diameter than the maximum number of such cables and innerducts that could be installed in one standard four (4) inch electrical duct in compliance with the National Electrical Safety Code ("NESC") and the National Electrical Code ("NEC"), each as amended. TKR may, from time-to-time, request permission from LG&E to install Fiber Cables, Coaxial Cable and/or associated innerducts within a particular Conduit Structure which deviates from the dimensional restriction set forth above.

Any such request by TKR shall be in writing, and shall identify the particular Conduit Structures in question and their location within the Service Territory. LG&E agrees to consider any such request(s) by TKR in good faith in LG&E's discretion. Permission granted by LG&E hereunder shall be effective only if in writing, and TKR's authority to deviate from the above-described dimensional restrictions shall apply only to the specific Conduit Structures identified in TKR's written request, and then only to the extent not further limited in LG&E's written permission to proceed. LG&E and TKR each acknowledge that there are certain operational and administrative efficiencies that may be gained by them through the placement of TKR's Fiber Cables, Coaxial Cables and associated splices and innerducts in the fewest possible ducts at any location in the Conduit Structures, and agree that they shall endeavor to take advantage of such efficiencies where practicable; provided, that LG&E retains the right, in its discretion, to determine whether the placement of all or any portion of TKR's equipment and facilities within a particular Conduit Structure, or at a particular location within that Conduit Structure, is appropriate under the circumstances. Except for the Fiber Cables, Coaxial Cables and related splices, terminations and innerducts provided for above, TKR shall not be permitted to install any other equipment or facilities within the Conduit Structures without the prior written consent of LG&E.

(b) Above Ground License.

(i) Upon and subject to the terms and conditions set forth in this Agreement (including without limitation, Section 1(b)(ii), below), throughout the Term, LG&E hereby grants to TKR a non-exclusive, royalty-free right and license (the "Above Ground License") to install, construct, monitor, repair, maintain, own and operate Fiber Cables, Coaxial Cables, fiber optic ground wires ("FOG Wire") and related splices and terminations owned by TKR, on above-ground wood poles, metal poles, and/or high-voltage transmission towers owned by LG&E in the Service Territory (collectively "Utility Poles"), at such places and heights on those Utility Poles as LG&E shall designate, for the sole purpose of constructing, owning, operating and maintaining the Communications System. In the event TKR avails itself of the Above Ground License provided for herein, TKR shall install, construct, monitor, repair, maintain, own and operate the Fiber Cables, Coaxial Cables, FOG Wire and related splices and terminations in strict compliance with the provisions of this Agreement, including without limitation, this Section 1(b). To the extent that TKR has installed Fiber Cable, Coaxial Cable, FOG Wire or related splices and terminations on any Utility Poles prior to the execution of this Agreement (other than Fiber Cable or Coaxial Cable installed pursuant to the "Existing Agreement" and/or the "Cable Television Tariff" provided for in Subsection (b)(ii), below), the same shall hereafter be governed exclusively by the provisions of this Agreement.

(ii) Notwithstanding anything contained in this Agreement to the contrary, but subject to the provisions of applicable law and of the "Existing Agreement" and the "Cable Television Tariff" described below, at no time shall TKR be permitted to install Fiber Cables, Coaxial Cables, FOG Wire or related splices or terminations (A) within that portion of the space on any Utility Pole of LG&E (collectively, the "Communications Space"): (y) beginning at the point which is prescribed or recommended by the NESC as being the minimum clearance for

installed cable (whether conducting or otherwise) below the electrical conductors or grounded equipment (whichever is lowest) on that Utility Pole, and (z) ending below that point at the point **which** is prescribed or recommended by the NESC as being the minimum clearance above grade for such installed cable, or which is 15 feet above grade, whichever is higher (the "Minimum Height"); or (B) at any location on any Utility Poles of LG&E which is below the Minimum Height, unless reasonably necessary in order to interconnect TKR's cables or wires installed above the Minimum Height with its equipment installed on the Utility Poles below the Minimum Height, or unless reasonably necessary in order to interconnect such cables or wires installed above the Minimum Height with adjacent underground cables of TKR. The parties hereto acknowledge and agree **that** TKR's use or installation of Fiber Cables and Coaxial Cables (and related splices and terminations) within the Communications Space, whether installed **prior** to or following the date hereof **shall** be governed solely by reference to, and **shall** be subject to the limitations of (y) that certain Agreement, dated as of March 7, 1980, by and between LG&E and TKR (as successor in interest to Storer Communications of Jefferson County, Inc.) (the "Existing Agreement"); and (z) that certain **tariff** for Cable Television Attachment Charges of LG&E issued on January 15, 1991 and effective as of January 1, 1991, pursuant to an order of the Kentucky Public Service Commission in Case No. 90-158, dated December 21, 1990 (the "Cable Television Tariff"); or to any successor agreement or **tariff** thereof. The parties **further** acknowledge and agree that TKR's use or installation of any Fiber Cable or Coaxial Cable outside of the Communications Space, whether installed prior to or **following** the date hereof, shall be governed solely by reference to, and shall be subject to the limitations of, this Agreement. Neither the Existing Agreement nor the Cable Television Tariff shall at any time apply to any Fiber Cable, FOG **Wire** or Coaxial Cable now or **hereafter installed** pursuant to the Conduit License, or to **any** FOG Wire now or hereafter installed on any "LG&E Structures" (as defined in Section 1(d)), it being expressly understood and agreed that the same shall be governed solely by reference to this Agreement. The Existing Agreement and the Cable Television **Tariff shall** survive the execution **of** this Agreement and the consummation of the transactions **contemplated** hereby, and **shall** continue to be binding on **TKR** and **LG&E** for the remaining term thereof, independent of this Agreement. Nothing contained **in** this Agreement shall be deemed to change the existing relationship between the Existing Agreement and the **Cable** Television Tariff; or the fact that one may amend, **modify** or supersede the other in any respect. **TKR** acknowledges that the provisions of the Existing Agreement and the Cable Television **Tariff shall** not be deemed to supplement the provisions of this Agreement or to **affect**, amend or modify the rights or obligations of the parties hereunder, except to the extent specifically provided for in this Agreement.

(iii) Subject to Subsection (c), below, Fiber Cables or Coaxial Cables installed on or attached to any Utility Pole of **LG&E** pursuant to the Above Ground License **shall consist** of not more than one (1) cable, which **shall** be no greater in diameter than two (2) inches. **TKR** may, **from** time-to-time, request permission **from LG&E** to install more than one Fiber **Cable** or Coaxial Cable on **particular** Utility Poles. Any such request by **TKR** shall be in writing, and **shall identify** the **particular** Utility Poles in question and their location within the Service Territory. **LG&E** agrees to consider any such request(s) by **TKR**, but shall have no obligation to grant such request(s). **Permission** granted by **LG&E** hereunder shall be effective **only** if in writing, and

TKR's authority to install more than one cable shall apply only to the specific Utility Poles identified in TKR's written request, and then only to the extent not further limited in LG&E's written permission to proceed.

(iv) Subject to the limitations provided for below and to the provisions of Subsection (1)(c), in the event TKR elects to install FOG Wire in lieu of Fiber Cable or Coaxial Cable, only one (1) FOG Wire shall be installed on or attached to any Utility Pole of LG&E, and such FOG Wire shall consist of not less than 12 nor more than 144 fiber optic strands. Notwithstanding anything contained in this Agreement to the contrary, TKR acknowledges that LG&E may be subject to certain constraints under an existing third-party agreement with respect to the use of FOG Wire in connection with Utility Poles now or hereafter erected on that portion of the right-of-way of LG&E described on Exhibit B-attached hereto (and any extensions hereafter made by LG&E to the same), and acknowledges that LG&E shall be entitled to determine, in its discretion, whether FOG Wire may be used by TKR on those Utility Poles. LG&E shall be entitled, in its discretion, to determine whether and where any FOG Wire proposed to be installed by TKR on the Utility Poles shall serve as the static wire or overhead ground wire for those Utility Poles. In addition TKR acknowledges that LG&E has granted to other parties various licenses, pole attachment rights and other similar rights to attach FOG Wire to LG&E's Utility Poles in the Service Territory, and acknowledges that, to the extent LG&E determines, in good faith and in the exercise of its reasonable business judgment, that the use of multiple FOG Wires on particular LG&E Structures would not be possible without physical modification to those structures, would adversely affect those LG&E Structures or LG&E's electric utility facilities or services generally, or would violate any applicable statute, law, rule, regulation or ordinance, then LG&E shall be entitled, in its sole discretion, to limit the use or installation of such FOG Wire on a "first come-first served" basis, based upon the order of LG&E's receipt of written request for such use or installation, specifying in detail the particular Utility Poles to be utilized. LG&E shall use its reasonable best efforts to notify TKR at the earliest practicable time in the event any other person shall request permission to install FOG Wire on the Utility Poles, but only to the extent such notice would not violate any non-disclosure covenants of LG&E set forth in an agreement with that other person. TKR's written request for the use or installation of FOG Wire shall be deemed to be withdrawn to the extent the FOG Wire identified therein is not installed within six (6) months after LG&E's approval of such request (unless that six (6) month deadline is extended by LG&E in writing, in its discretion).

(v) Notwithstanding anything contained in this Agreement to the contrary, TKR shall be permitted to attach only one (1) Fiber Cable, one (1) Coaxial Cable or one (1) FOG Wire on each Utility Pole, which shall be subject to the dimensional limitations provided for in this Subsection (b). Except for the Fiber Cables, Coaxial Cables, FOG Wire and related splices and terminations provided for in this Subsection (b), and except as otherwise provided in the Existing Agreement or the Cable Television Tariff, TKR shall not be permitted to install any other equipment or facilities on the Utility Poles without the prior written consent of LG&E.

(c) Limitations. Notwithstanding anything to the contrary contained in Subsections (a) and (b), above, the parties hereto acknowledge and agree that:

(i) Subject to the provisions of Section 1(c)(v), below, **LG&E shall** be obligated to make only its existing Conduit Structures and Utility Poles in the Service Territory available for use by **TKR** under this Agreement, together with any additional Conduit Structures or Utility Poles that may be constructed or installed by **LG&E** in the Service Territory following the date of this Agreement in the ordinary course of its business, which use by **TKR** shall be subject and subordinate to **LG&E's** prior placement of its own cables and other facilities within or on the Conduit Structures and Utility Poles. **LG&E** makes no representations or warranties to **TKR**, whether expressed or implied, regarding the suitability or fitness of **LG&E's** existing or future Conduit Structures or Utility Poles for **TKR's** actual or intended uses, or regarding the condition of those structures or poles. **LG&E** undertakes no obligation to **TKR** to inspect any portion of the Conduit Structures or Utility Poles utilized by **TKR** pursuant to this Agreement. **LG&E** shall endeavor to give **TKR** notice of **LG&E's** construction or installation of new Conduit Structures or Utility Poles (exclusive of replacement structures or poles which are not then being utilized by **TKR** hereunder) 90 days prior to **LG&E's** commencement of construction (or such shorter period as **LG&E** shall deem reasonably necessary under the circumstances), in order that **TKR** shall have an opportunity to assess for itself the suitability and condition of such facilities and to request modifications to **LG&E's** construction plans. In the event **LG&E** shall determine, in its discretion, that any of its Conduit Structures or Utility Poles are not suitable or in the appropriate condition for **TKR's** proposed use of the same, and in the event such structures or poles can, in **LG&E's** reasonable business judgment, be modified, enhanced or replaced to so accommodate **TKR's** proposed use without imposing an unreasonable burden on **LG&E**, its customers, or any other parties having the right to utilize the same, then **LG&E** shall, at **TKR's** sole cost and expense and upon its written request, undertake to so modify, enhance or replace such Conduit Structures or Utility Poles. In the event **LG&E** shall propose to construct or install new Conduit Structures or Utility Poles for its own purposes, and **TKR** shall request a modification, enhancement or substitution of such structures or poles to accommodate a reasonable need of **TKR** pursuant to this Agreement (and so long as the same would not result in an unreasonable burden of the type described above), **LG&E** shall endeavor to accommodate **TKR's** request; provided, that **TKR** shall be solely responsible for, and shall promptly pay to **LG&E**, all incremental costs and expenses of any nature incurred by **LG&E** as a result of such accommodation. Except as otherwise provided in this Subsection (c)(i), or in Subsection (c)(vi), below, **LG&E** shall have no obligation to construct or install new or replacement Conduit Structures or Utility Poles, or to repair, expand or otherwise modify its existing Conduit Structures or Utility Poles (or any attachments thereon), in order to accommodate the needs or requests of **TKR**. In addition, **LG&E** shall have no obligation to cause other parties whose equipment or facilities now or hereafter occupy the Conduit Structures or Utility Poles, to move their equipment or facilities to accommodate the needs or requests of **TKR**.

(ii) **TKR** shall not be entitled to use any conduit or other facilities of **LG&E** used in or necessary for the operation of its gas utility business.

(iii) TKR shall not be entitled to install Fiber Cables, FOG Wire, Coaxial Cables or associated splices, terminations or innerducts in a particular Conduit Structure or Utility Pole (or group of Conduit Structures or Utility Poles), or at a particular location within or on such Conduit Structures or Utility Poles, nor shall TKR be entitled to install a particular type or amount of Fiber Cable, FOG Wire, Coaxial Cable or associated facilities within or on such Conduit Structures or Utility Poles. In each case to the extent LG&E shall at any time determine, in good faith and in the exercise of its reasonable business judgment, that: (A) such use by TKR would adversely affect LG&E's ability to provide efficient, safe and reliable electric utility services to any of its present or future customers, in the quantities requested by those customers; (B) such use by TKR would interfere with LG&E's or its Affiliate's own intended use of such facilities to expand their business of providing energy services within or outside the Service Territory, to provide services complementary to such business, or to enhance or improve their existing facilities, equipment or services; or (C) such use by TKR, when combined with all other uses of those Conduit Structures or Utility Poles by LG&E and other parties having the right to use the same as of the date of this Agreement, would (y) result in a violation of any applicable statute, law, rule, regulation or ordinance of any governmental authority or regulatory body, or any provision of the NESC or the NEC, in each case as then in effect, or (z) would exceed the physical capacity of such Conduit Structure(s) or Utility Pole(s).

(iv) TKR shall not use, or permit the use of, any portion of the System installed in or on LG&E's Conduit Structures or Utility Poles in any manner that would compete with, or that would directly facilitate competition with, LG&E's or its Affiliates' businesses of providing electric and gas utility services to residential, commercial and industrial customers located within the Service Territory, or with any services then provided by LG&E which are incidental to or in furtherance of its electric or gas utility services; provided, that the foregoing restriction shall not apply to (A) the transmission by TKR of advertisements by competitors of LG&E to residents, businesses and other customers located in the Service Territory generally, in the ordinary course of TKR's business, or (B) the provision by TKR to such competitors of normal communications products or services which are provided by TKR to its customers in the Service Territory generally, and which do not constitute products or services that are specially developed or implemented for the specific benefit of those competitors.

(v) Notwithstanding anything contained in this Section 1 to the contrary, and consistent with Section 3(l), below, the Conduit License and the Above Ground License shall not apply to any "Acquired Systems" or "Excluded Systems" (each as defined in Section 3(l)).

(vi) TKR shall take reasonable steps to ensure that all Conduit Structures to be utilized by TKR pursuant to the Conduit License are suitable for its intended uses; provided, that TKR shall have no obligation to expend funds to ensure such suitability. Consistent with the foregoing, and consistent with the provisions of Section 1(c)(i), above, in the event at any time following TKR's initial installation of Fiber Cables or Coaxial Cables in a particular Conduit Structure, that Conduit Structure fails for any reason other than the negligence

or willful misconduct of TKR or its agents, contractors or employees, and such failure results in damage to TKR's Fiber Cables or Coaxial Cables, or deprives those cables of the protections reasonably expected from sound Conduit Structures. LG&E shall, in its discretion, at its expense and upon the written request of TKR, either (A) promptly commence to repair or replace the Conduit Structure(s) that failed, and carry such repair work through to completion at the earliest practicable time (and in a manner that is designed to be as least disruptive of the operations of TKR as is reasonably possible), or (B) promptly provide TKR with an alternate Conduit Structure or other reasonable route for such Fiber Cables or Coaxial Cables, affording TKR reasonable access to the same buildings and residences as were being serviced by TKR through its damaged cables. LG&E shall have no obligation or liability to TKR or any other person or entity for the consequences of any failure of or defect in the Conduit Structures not occasioned by the negligence or willful misconduct of LG&E or its agents or employees, including without Limitation, any resulting disruption in the use or enjoyment of TKR's Fiber Cables, Coaxial Cables or other equipment or services, and in no event shall LG&E be liable to TKR, its Affiliates or any other person for any consequential, incidental or special damages resulting from any failure of or defect in the Conduit Structures or Utility Poles occurring for any reason other than the willful misconduct of LG&E, including without limitation, lost profits. TKR, at its expense, will be responsible for the repair and/or replacement of all Fiber Cables, Coaxial Cables and other equipment or facilities damaged by any failure of or defect in the Conduit Structures (unless occasioned by the negligence or willful misconduct of LG&E or its agents or employees), or required in order for TKR to utilize the alternate Conduit Structure or other reasonable route made available by LG&E as contemplated above. Notwithstanding the foregoing, LG&E shall reimburse TKR for its actual cost to clean all alternate Conduit Structures made available by LG&E as contemplated above, thereby rendering the same useable by TKR, and for TKR's actual materials costs for any Fiber Cables, Coaxial Cables and associated innerducts required to be installed by TKR by reason of any relocation directed by LG&E as contemplated in Subsection (B), above, but only to the extent (y) of that portion of such cables and innerducts in excess of the portion (measured in linear feet) that TKR was required to abandon by reason of the relocation, and (z) the replacement cables and innerducts are comparable in size and character to that which was abandoned. TKR acknowledges that the existing Conduit Structures consist primarily of assets of relatively old age, many of which may have deteriorated over time, and substantially all of which are situated in encased locations which are difficult, if not impossible, to access for maintenance purposes (other than for purposes of clearing debris which may have accumulated in those structures). For this reason, TKR acknowledges that LG&E shall not be deemed to have been negligent in any respect, or to have breached any provision of this Agreement, in the event any Conduit Structures shall fail due to their deterioration or degradation under normal use.

(d) System and Extended System Defined. Subject to the provisions of Section 3(l), LG&E and TKR each acknowledge and agree that (i) all Fiber Cables, Coaxial Cables, FOG Wue, and related splices, terminations and innerducts now or hereafter installed on or in, or attached to, the Conduit Structures or the Utility Poles of LG&E (collectively, the "LG&E Structures") by or for TKR, together with any replacements thereof (but exclusive of any equipment or facilities installed pursuant to and in accordance with the Existing Agreement

or the Cable Television Tariff), are collectively referred to in this Agreement as the "System": and (ii) the System, together with the Communications System and all other Fiber Cables, Coaxial Cables, FOG Wire, related splices, terminations and innerducts and other related equipment installed or to be installed by or for TKR or any of its Affiliates, or used by TKR or such Affiliates, or owned in whole or in part by TKR or such Affiliates, in each case anywhere in the Service Territory (whether or not installed on or in LG&E's Structures and whether installed before or after the execution of this Agreement, and including without limitation, all Fiber Cable and Coaxial Cable now or heretofore installed on or attached to Utility Poles pursuant to the Existing Agreement or the Cable Television Tariff) are collectively referred to in this Agreement as the "Extended System". The System shall be deemed to include, without limitation, all Fiber Cables, Coaxial Cables, FOG Wire and related spikes, terminations and innerducts of TKR installed on or in, or attached to, Conduit Structures and/or Utility Poles of LG&E hereafter constructed anywhere in the Counties in Kentucky identified on Exhibit A attached hereto (the "Nine County Area"), to the extent the Service Territory of LG&E then encompasses, or is thereafter expanded to encompass, the location of those Conduit Structures and/or Utility Poles, but then only to the extent TKR's facilities are not installed in the Communications Space on the Utility Poles under the Existing Agreement and/or the Cable Television Tariff. Subject to the provisions of Section 3(I), the Extended System shall include only those cables, wires and other equipment of TKR and its Affiliates now or hereafter located within portions of the Nine County Area which are also then included in the Service Territory. In the event the Service Territory is at any time expanded to encompass additional portions of the Nine County Area, all Fiber Cables, Coaxial Cables, FOG Wire and related splices, terminations and associated innerducts (other than those assets included in one or more "Acquired Systems" or "Excluded Systems," each as defined in Section 3(I)) which have been or are hereafter installed or developed in those portions shall be deemed to be included in the Extended System for all purposes. The parties understand and agree that this Agreement is not intended to apply at any time to any other county other than those listed on Exhibit A hereto, regardless of either party's expansion into any other county.

(e) Interconnection of Facilities.

(i) In addition to the Conduit License and the Above Ground License provided for above, and subject to the limitations set forth in this Subsection (e) and elsewhere in this Agreement, upon 30 days prior written notice from TKR to LG&E delivered from time-to-time during the Term (or such shorter prior written notice as LG&E shall approve, in its reasonable discretion), LG&E shall permit TKR to interconnect designated manholes, handholes and other underground access holes and facilities of TKR with similar, adjacent facilities of LG&E in the Service Territory, for the purpose of passing Fiber Cables, Coaxial Cables and associated innerducts between the facilities of LG&E and TKR. Such notice from TKR shall describe the specific interconnections contemplated and their proposed locations in the Service Territory, shall describe any modifications to LG&E's facilities required to effect the same, and shall otherwise contain the items of information required by Section 1(f) to be set forth in the "Work Plans" of TKR (as defined in Section 1(f)).

Notwithstanding the foregoing, LG&E shall have no obligation to provide (or to continue to provide, as the case may be) such interconnection rights to TKR: (A) in the event LG&E shall determine, in good faith and in the exercise of its reasonable business judgment (and prior to its initial written authorization given to TKR to proceed with the relevant interconnection(s)), that such interconnection rights would adversely affect LG&E's ability to provide electric utility services to any of its customers, or would adversely affect the structural integrity of the facilities of LG&E to be interconnected; (B) with respect to any manholes, handholes or other underground access holes and facilities used in connection with the gas utility business or operations of LG&E; or (C) to the extent such access would result in a violation of any applicable statute, law, rule, regulation or ordinance, or any order of any governmental authority, or would be contrary to any provision of this Agreement, including without limitation, the conditions or criteria set forth in Section 1(c). LG&E shall notify TKR of its determination that the interconnection(s) proposed by TKR are not permissible based upon any of the criteria or factors described in Subsection (A), (B) or (C), above, within the 30day notice period described above; provided, that such determination shall not prevent LG&E from thereafter discontinuing TKR's interconnection rights based upon any of the circumstances in Subsection (C), above. Failure by LG&E to deliver such notice to TKR shall be deemed to be an approval by LG&E of the interconnection described in TKR's notice. TKR shall be solely responsible for obtaining and maintaining (and agrees to obtain and maintain) any and all governmental or third-party consents, approvals, easements, rights-of-way or the like required in order to locate the facilities of TKR adjacent to those of LG&E, or in order to interconnect such facilities pursuant to this Subsection.

(ii) Any costs or expenses incurred by either party to interconnect the facilities of TKR and LG&E under this Subsection (e) shall be the sole responsibility of, and shall be timely paid by, TKR. TKR shall indemnify and hold harmless LG&E, its successors and assigns, from and against all such costs and expenses, and from and against any and all other debts, obligations, damages or liabilities of any nature which may be suffered or incurred by them, directly or indirectly resulting from, arising out of or in any manner relating to, such interconnections, unless attributable to the negligence or willful misconduct of LG&E or its employees or agents. TKR shall not permit any materialmen's lien, mechanics lien or other lien or encumbrance to attach to the facilities of LG&E in connection with any interconnection pursuant to this Subsection (e). LG&E personnel shall supervise all interconnection activities performed by or for TKR, and LG&E shall be entitled, in its discretion, to perform any and all alterations of LG&E's facilities required for any interconnections. LG&E shall be compensated by TKR for such supervision and work at its actual cost for materials, equipment and labor. In the event TKR shall at any time remove its Fiber Cable, Coaxial Cable or associated innerducts from the facilities of LG&E in compliance with the provisions of this Agreement, or shall abandon the use of such cable or innerducts in the manner described in Section 6(d), TKR shall promptly reimburse LG&E upon demand for all costs and expenses incurred by LG&E in removing such cable and innerducts from its facilities, and in repairing or otherwise returning its facilities to the same condition as existed prior to the relevant interconnection(s), ordinary wear excepted.

(f) Construction and Installation

(i) From time-to-time during the Term, LG&E shall provide TKR with reasonable access to any of LG&E's construction documents concerning the LG&E Structures that are designated by TKR for possible use in connection with the System, together with reasonable access to the LG&E Structures themselves, in each case during periods scheduled in advance by TKR with LG&E, subject to the requirement that all persons performing such inspections must be accompanied by LG&E's personnel at all times. All such construction documents shall be subject to TKR's confidentiality and nondisclosure covenants set forth in Section 20.

(ii) No construction or installation of any portion of the System shall be commenced until the provisions of this Subsection (ii) have been fully complied with by TKR. TKR shall, from time-to-time, provide for LG&E's approval a set of written work plans to construct, install and maintain each phase of the System ("Work Plans"), which shall set forth in reasonable detail, among other things, the route(s) or path(s) of the relevant phase of the System, in the case of the Conduit Structures, the approximate number of linear feet of duct and the specific manholes to be included in that phase, the relevant fiber optic and coaxial cable specifications (including the number of Fiber Strands or the diameter of the Coaxial Cables involved), the conduit diameter requested, the number of Fiber Cables and/or Coaxial Cables involved in that phase, the construction procedures and schedules (including the approximate dates for commencement and completion), and the maintenance and emergency restoration procedures relevant to that phase. LG&E shall have a reasonable period of time (but in no event less than 20 nor more than 30 business days, unless the parties shall agree otherwise, in their reasonable discretion) to review such Work Plans, and shall have the right to disapprove such plans (or any portions thereof) if, in LG&E's reasonable judgment (A) the Work Plans (or such portions thereof) are not sufficient to assure that TKR and the System will comply with all of the provisions of this Agreement, including, but not limited to, those provisions relating to the non-interference of the System with LG&E's utility operations, and the safety of the System and TKR's installation and use of the same, or (B) the phase of the System contemplated in such Work Plans would fail to satisfy any of the conditions or criteria set forth in Section 1 (c). Upon LG&E's approval of the Work Plans (as they may be modified after discussions between the parties), LG&E shall issue to TKR a written notice to proceed with the construction and installation of that phase of the System ("Notice to Proceed"). The procedures for the construction and installation of any subsequent phase of the System, or any extension or modification of an existing phase of the System, shall be the same as that set forth in this Subsection. Once LG&E has issued a Notice to Proceed with respect to a particular portion of the System, LG&E may not thereafter withdraw, qualify or modify the same without the prior written consent of TKR. Subject to the provisions of Sections 6 and 7, below, once TKR has installed any portion of the System in compliance with the provisions of this Agreement (including without limitation, with the approval of LG&E's on-site supervisory personnel), LG&E shall not thereafter require that TKR remove or discontinue the use of the

same without the prior written consent of TKR. Notwithstanding the foregoing, and notwithstanding anything contained elsewhere in this Agreement to the contrary, in the event LG&E shall at any time determine, in the exercise of its reasonable business judgment, that TKR's Work Plans, or TKR's actual or proposed installation or use of any portion of the System, has resulted or will result in a violation of the type(s) provided for in Section 1(c)(iii)(C)(y), LG&E shall be entitled, in discretion, to immediately withdraw any applicable Notice to Proceed, and/or to discontinue TKR's installation or use of that portion of the System, in either case upon written notice to TKR. LG&E acknowledges that all Work Plans delivered by TKR hereunder shall remain subject to the confidentiality and nondisclosure covenants of Section 20, below.

(iii) As soon as reasonably practicable after a Notice to Proceed has been issued, TKR, at its sole risk and expense, shall construct and install the applicable phase of the System in a good and workmanlike manner, in compliance with this Agreement, the approved Work Plans and all applicable laws, rules and regulations, and in such a manner as will not disrupt or in any manner interfere with LG&E's electric or gas transmission or distribution businesses. With respect to construction or installation by or for TKR within Conduit Structures, or within the "power space" or "service space" on any Utility Poles (which may only be undertaken with the express written approval of LG&E), a representative of LG&E shall be present at all times, and shall have final authority regarding all safety, NESC and NEC issues which arise during such construction or installation by TKR. TKR shall use only qualified employees or contractors who are appropriately trained with regard to the NESC and the NEC to perform construction and installation work within, on or around the Conduit Structures and the Utility Poles, and who have been approved in advance by LG&E, which approval shall not be unreasonably withheld. In addition, TKR shall ensure that all of its employees, agents and contractors who at any time access LG&E's Structures in order to install the System abide by LG&E's company rules, regulations and safety policies set forth in (A) The Louisville Gas and Electric Company Safety Manual (2nd Edition), (B) the LG&E 5-Foot Rule (Safety Manual E5.7), and (C) the LG&E General Policy on Confined Space Working Conditions (collectively, the "Safety Policies"), copies of which were previously delivered by LG&E to TKR. LG&E shall be entitled to revise its Safety Policies from time-to-time in its discretion; provided, such revised policies shall bind TKR and its employees, agents and contractors only to the extent they have equal application to LG&E's own employees, agents and contractors, and then only to the extent TKR has been given 30-days advance written notice of the applicability of those revisions to TKR and its employees, agents and contractors (including a copy of the revised Safety Policy itself). LG&E agrees to provide TKR up to 100 additional copies of the Safety Policies (and of any revised Safety Policies) upon the written request of TKR. TKR agrees to provide each employee, agent and contractor who shall install the System (or any portion thereof) with a copy of the Safety Policies.

(iv) After TKR constructs and installs each phase of the System, TKR shall perform acceptance testing in accordance with the approved Work Plans and the guidelines set forth on Exhibit C attached hereto. Such acceptance testing shall include,

without limitation, testing to determine any problems with the ability of that phase of the System to interface with the Extended System. Testing of the System shall be based on the technical and performance specifications set forth in Exhibit D attached hereto, and TKR shall provide LG&E, upon its request from time-to-time, with copies of all reports generated as a result of such testing, to the extent they relate to the Fiber Cable, Coaxial Cable, FOG Wire or related facilities which are the subject of LG&E's licenses and other rights provided for in Section 3. TKR shall also promptly provide LG&E, upon its request, with all other reports generated by or for TKR or its Affiliates during the Term relating to their testing of such cables, wires and related facilities. LG&E shall have the right to conduct its own inspection and testing of the System in its discretion, at LG&E's expense, but shall coordinate in advance such activities with TKR in order to minimize any adverse effects on, or interruptions of, the operations of TKR and its Affiliates. LG&E's inspection and testing of the System shall not be deemed to limit or negate TKR's sole responsibility for any defective or unsafe features of or conditions relating to the System not caused by the negligence or willful misconduct of LG&E, or for TKR's failure to comply with any of the provisions of this Agreement. LG&E shall be responsible for any damages to the System, and for any other personal injuries or property damage, resulting from the negligent acts or omissions or willful misconduct of LG&E's agents or employees in their inspection or testing of the System. LG&E agrees to share with TKR, upon its request from time-to-time, the written results of LG&E's testing of the System. In addition, LG&E shall use its reasonable best efforts to promptly notify TKR in the event LG&E's inspection or testing of the System uncovers any conditions regarding the System which are, in LG&E's reasonable business judgement, defective or unsafe, or in the event LG&E otherwise becomes reasonably aware of a defective or unsafe condition with respect to the facilities or assets of TKR; provided, that LG&E shall have no obligation or liability to TKR in the event LG&E shall fail to promptly notify TKR of any defective or unsafe condition discovered by LG&E's personnel at a time when they are not specifically testing the System. Following its receipt of TKR's written report regarding the results of TKR's testing of the System, LG&E shall have 30 days to reject any portion of the System, based upon (A) a defect in the condition or performance of the Fiber Strands licensed to LG&E under Section 3(a), (B) a defect in the condition or performance of the Coaxial Cable which is the subject of LG&E's bandwidth license under Section 3(g) below, or (C) any failure of the System (or any portion thereof) to otherwise comply with the provisions of this Agreement (including without limitation, the specifications set forth on Exhibit attached hereto). Failure of LG&E to respond within that 30-day period shall be deemed to be an approval of all facilities that were specifically the subject of the testing (other than the facilities (if any) specifically identified in TKR's testing report as being defective or as encountering operating difficulties), but only to the extent such facilities were described in TKR's written report. In the event LG&E so rejects any portion of the System (indicating the specific deficiencies in the System), TKR shall thereafter undertake to correct the deficiencies, to re-test the facilities and to submit new test results to LG&E for its approval or rejection at the earliest practicable time. Any testing results provided by TKR to LG&E or developed by LG&E during the "Term" of this Agreement (as defined in Section 2) shall be subject to the confidentiality and nondisclosure provisions of Section 20, below.

(v) LG&E shall be reimbursed promptly by TKR for all reasonable costs and expenses incurred by LG&E in connection with its activities contemplated under this Subsection (f) (other than the costs and expenses incurred in connection with LG&E's own inspection and testing of the System as provided in Subsection (iv), above), at LG&E's actual cost in employee time (which is estimated as of the date of this Agreement to be \$36.00 per hour).

(vi) [Intentionally Omitted].

(vii) [Intentionally Omitted].

(viii) Throughout the Term, LG&E shall use its reasonable best efforts to assist TKR in attaining entrance rights to any building in the Service Territory designated by TKR, but only to the extent LG&E then has similar entrance rights to that building. LG&E shall not be obligated to incur any expenses associated with its efforts hereunder, and will have no obligation to expand its existing facilities to accommodate such access by TKR. LG&E shall also endeavor to notify TKR at the earliest practicable time in the event LG&E shall intend to gain access for its utility services to any building or other structure which is newly constructed or under development; provided that any notice of construction or installation delivered by LG&E to TKR as contemplated in Section 1(c)(i) shall be deemed to satisfy the provisions of the foregoing clause with respect to the buildings or structure identified therein. Consistent with the foregoing, in the event LG&E shall propose to extend its Conduit Structures to a particular building to which TKR also desires access, and in the event such Conduit Structures, as originally proposed by LG&E, would not be suitable to accommodate the needs specified by TKR (as permitted under this Agreement), then LG&E shall, upon the reasonable request of TKR, endeavor to modify its planned Conduit Structures to so accommodate TKR's needs; provided, that TKR shall be solely responsible for, and shall timely pay to LG&E, all incremental costs and expenses incurred by LG&E in modifying its Conduit Structures to meet TKR's request. Notwithstanding the foregoing, LG&E's modification of its proposed Conduit Structures shall be subject to the limitations provided for elsewhere in this Agreement.

(ix) Throughout the Term, LG&E shall use its reasonable best efforts to notify TKR at the earliest practicable time in the event LG&E intends to install its electric utility conductors and related ducts, innerducts and other facilities directly within underground earthen trenches to be dug by LG&E in the Service Territory, and without the installation Of Conduit Structures for the protection of the same. In addition, to the extent permissible under applicable laws, rules, regulations and ordinances, LG&E shall use its reasonable best efforts to permit TKR to install (at its expense) the Fiber Cables, Coaxial Cables and related splices, ducts and innerducts of TKR in the trenches so dug by LG&E (at such locations in those trenches as LG&E shall reasonably determine), but only to the extent (A) such installation by TKR would not, in LG&E's reasonable business judgment, interfere with LG&E's ability to provide its electric utility services to any of its customers, and (B) TKR has provided LG&E

with evidence reasonably satisfactory to LG&E that TKR has obtained all governmental and third-party consents, permits, authorizations and approvals necessary in order for TKR to install its facilities in those trenches. TKR agrees to reimburse LG&E for its incremental costs and expenses incurred in order for LG&E to afford TKR access to any trenches pursuant to this Subsection (ix). Notwithstanding anything contained herein to the contrary, LG&E shall be entitled to discontinue its performance under this Subsection (ix) at any time in the event (y) LG&E shall determine, in good faith and in the exercise of its reasonable business judgment, that its continued performance hereunder would violate or be contrary to any applicable laws, rules, regulations or ordinances then in effect, or (z) any governmental agency or regulatory authority, or any court or other tribunal, having jurisdiction over LG&E's businesses or operations, shall order that LG&E discontinue such performance for any reason, shall order that LG&E provide similar services to any person or entity in addition to, or in lieu of, TKR, shall deny rate treatment for any costs or expenses incurred by LG&E by reason of such services which are not reimbursed by TKR hereunder upon LG&E's demand, or shall order a general or special rate refund regarding any such costs or expenses.

2. **Term.** This Agreement shall commence effective as of the date first written above, and shall continue in effect until the fortieth (40th) anniversary of such date (the "Term"). Notwithstanding the foregoing, this Agreement may be terminated prior to the expiration of the Term under the circumstances provided for in Section 6. Upon the expiration of the Term, this Agreement shall immediately terminate and be rendered of no further force or effect whatsoever, with the exception of: (a) the parties' rights and obligations regarding any misrepresentation, breach of warranty or nonfulfillment of any covenant or agreement occurring hereunder prior to the expiration of the Term, which shall be deemed to survive for a period of one (1) year following such expiration, and thereafter with respect to any claim for breach properly asserted by a party during that one (1) year period; and (b) any provisions of this Agreement which expressly provide for their survival following the expiration or termination of this Agreement, which shall survive for the relevant period(s) set forth therein or, if no such periods are set forth therein, indefinitely.

3. ~~Grant of License and Rights to LG&E~~. In consideration of the Conduit License, the Above Ground License and LG&E's other covenants and agreements contained in this Agreement, TKR agrees as follows:

(a) **License of Fiber Strands.** Throughout the Term, TKR hereby grants to LG&E (and agrees to cause its relevant Affiliates, if any, to grant to LG&E) an exclusive, royalty-free right and license to use the following assets and facilities which are or may hereafter become a part of or incorporated in the Extended System, 24 hours a day, seven (7) days a week, whether or not installed in or attached to LG&E's Structures (collectively, the 'Fiber Strands Licensed to LG&E'), but subject to TKR's reservation of rights provided for in Section 3(f), and subject to the limitations set forth in Sections 1(d) and 3(l):

(i) The first useable 12 fiber optic strands ("Fiber Strands") of any Fiber Cable or FOG Wire installed or to be installed by or for TKR or any of its Affiliates as a part of the "Backbone of the Extended System", subject to the limitations provided below. For purposes of this Agreement, the "Backbone of the Extended System" shall mean: (A) the Fiber Cable and/or FOG Wire, or series of interconnected Fiber Cables and/or FOG Wires (collectively, the "Interconnected Fiber Cables"), constituting the primary rings of the Extended System installed or to be installed by or for TKR and/or its Affiliate(s) in the approximate locations identified in the system maps previously delivered by TKR to LG&E, consisting of approximately 110 linear miles of Interconnected Fiber Cables in the Service Territory (as such rings may be expanded, replaced or relocated from time-to-time by TKR or such Affiliates) (the "Initial Rings"); (B) any additional Interconnected Fiber Cables installed or to be installed by or for TKR and/or its Affiliate(s) as primary rings of the Extended System (as such rings may be expanded, replaced or relocated from time-to-time) (collectively, the "Additional Rings"), including without limitation, all Interconnected Fiber Cables which originate at a point on an Initial Ring or another Additional Ring, and which end at that same point, at any other point on that ring, or at a point on another Initial Ring or Additional Ring; and (C) any Fiber Cable and/or FOG Wire of the types provided for in Subsection (d)(i), below. Notwithstanding the foregoing, in the event TKR (in its discretion) installs Fiber Cable or FOG Wire as a part of any Additional Ring containing less than 68 Fiber Strands, then the number of Fiber Strands Licensed to LG&E hereunder with respect to such Fiber Cable or FOG Wire shall be limited to one-sixth (1/6) of the total number of Fiber Strands contained in that Fiber Cable or FOG Wire, as the case may be (rounded to the nearest whole number), **but in no event** more than the first useable 12 Fiber Strands, **or** less than the first useable two (2) Fiber Strands. The Initial Rings (including any replacements thereof) shall be maintained by TKR throughout the Term as a continuous interconnected loop of Fiber Cables and/or FOG Wires. TKR agrees that in no event shall the Fiber Cable or FOG Wire installed or to be installed as a part of the Initial Rings contain less than 12 Fiber Strands at any location. In addition, at no time shall Coaxial Cable be used by TKR or any of its Affiliates as a part of the Backbone of the Extended System, it being agreed that the Backbone of the Extended System (and any replacements thereof, in whole or in part) shall consist solely of Fiber Cables and/or FOG Wires.

(ii) A number of the first useable Fiber Strands contained in any Fiber Cable and/or FOG Wire installed or to be installed by or for TKR or any of its Affiliates as a part of the Extended System anywhere in the Nine County Area (exclusive of the Backbone of the Extended System, the Acquired Systems and the Excluded Systems) equal to one-sixth (1/6) of the total number of Fiber Strands contained in that Fiber Cable or FOG Wire, as the case may be, **but in no event** more than the first 12 useable Fiber Strands, **or less** than the first useable two (2) Fiber Strands. The parties agree that the foregoing license shall include, without limitation, Fiber Strands contained in each of the following: (x) all Interconnected Fiber Cables originating at a hub site on any Initial Ring or Additional Ring, and terminating at a splice enclosure at any node location on the Extended System; (y) all Interconnected Fiber Cables originating at any node location or other location on the Extended

System, and extending to tie premises of any customer of TKR or any of its Affiliates (including without limitation, Fiber Cable or FOG Wire which thereafter exits the premises of such customer and extends to any other customer or to another portion of the Extended System); and (z) any Fiber Cable and/or FOG Wire of the types provided for in Subsection (d)(ii) below. LG&E shall be responsible for obtaining all consents and approvals of third-party property owners necessary to access the Interconnected Fiber Cables extending to their premises. TKR shall reasonably cooperate with LG&E in its efforts to obtain such consents and approvals.

(iii) TKR shall be entitled to designate the specific Fiber Strands within each Fiber Cable that are licensed to LG&E hereunder; provided, that (A) TKR agrees to use its reasonable best efforts (y) to dedicate a particular colored bundle of Fiber Strands within each Fiber Cable contained in the Initial Rings and any Additional Rings for LG&E's exclusive use hereunder, including where the Fiber Strands Licensed to LG&E consist of 12 Fiber Strands in a particular Fiber Cable, and (z) to dedicate the "rose" and "aqua" colored Fiber Strands for the exclusive use of LG&E hereunder throughout the "Lateral Cable Facilities" (as defined in Subsection 3(b)) and throughout all other relevant portions of the Extended System (other than the Backbone of the Extended System), (B) TKR will use its reasonable best efforts to limit the number of colors (in addition to the "rose" and "aqua" colors) utilized to provide LG&E its Fiber Strands included in the Lateral Cable Facilities, and (C) TKR will provide LG&E, upon its reasonable request from time-to-time, with full color system maps of the Extended System, indicating the specific colors and locations of the Fiber Strands Licensed to LG&E and, where relevant, the specific locations where TKR has spliced Fiber Strands of one color with those of another color. TKR agrees in all cases to designate for LG&E's use hereunder only Fiber Strands which are fully useable in accordance with industry standards, and which have been spliced by TKR in accordance with the provisions of this Agreement (unless this Agreement contemplates that those Fiber Strands will not be spliced by TKR).

(b) Lateral Cable Facilities Defined. Subject to the provisions of Sections 1(d) and 3(l), all Fiber Cables, Coaxial Cables and FOG Wire installed or to be installed by or for TKR or any of its Affiliates as a part of the Extended System anywhere in the Nine County Area (exclusive of the Backbone of the Extended System, the Acquired Systems and the Excluded Systems, but inclusive of the Fiber Cables and FOG Wire referenced in Section 3(a)(ii), above), whether installed pursuant to this Agreement, pursuant to the Existing Agreement or the Cable Television Tariff, or otherwise, and regardless of whether installed in or on LG&E Structures, are collectively referred to in this Agreement as the "Lateral Cable Facilities."

(c) ~~Interconnected Fiber Strands and Coaxial Cable~~, TKR agrees that, in the event TKR (or its applicable Affiliate(s)) shall install, repair or replace Fiber Cable or FOG Wire which is or becomes a part of the Extended System, and in the event the splices to be made by TKR (or such Affiliate) to its own Fiber Strands are of the nature of straight,

'ad-to-end" splices (as opposed to "T" or spilt splices), TKR shall, at its expense, splice (or cause its relevant Affiliate to splice) the Fiber Strands Licensed to LG&E in the same manner and to the same extent as the Fiber Strands of TKR (or such Affiliate(s)), so that the Fiber Strands Licensed to LG&E shall extend to the same locations in the Service Territory as those Fiber Strands reserved to TKR and its Affiliates. Where appropriate, TKR shall cause the Fiber Strands Licensed to LG&E to be spliced "color-to-color" consistent with Section 3(a)(iii). Where TKR (or its Affiliate) proposes to splice its Fiber Strands at a particular location in a manner other than as a straight, "end-to-end" splice with other Fiber Strands, or where TKR (or such Affiliate) decides not to splice any of its Fiber Strands at a particular location, TKR shall be entitled not to splice the Fiber Strands Licensed to LG&E at that location (but shall maintain and provide LG&E, from time-to-time upon its reasonable request, a complete map of the Extended System showing all locations where LG&E's Fiber Strands have not been spliced by TKR (or such Affiliate)). TKR shall afford LG&E reasonable access to the Extended System throughout the Term in order to splice its Fiber Strands. As a part of the Work Plans described in Section 1(f), TKR shall include a detailed description (including location) of all proposed splices of TKR's or its Affiliate's Fiber Cables or FOG Wire to be made other than as a straight fiber splice. In addition, TKR shall provide LG&E notice of all proposed splices of any Fiber Cables or FOG Wire which are or will become a part of the Extended System, but not the System (including a detailed description of the proposed splices and their locations), to the extent the same will be made other than as a straight fiber splice. In the event following TKR's initial splicing of the Fiber Strands Licensed to LG&E in accordance with this Subsection (c), LG&E desires to change the manner in which such Fiber Strands are spliced, or to make additional splices of those Fiber Strands with other Fiber Strands or equipment of LG&E, such additional splices may be made by LG&E, in its discretion and at its expense, and with the supervision of an employee of TKR designated by TKR. LG&E shall promptly reimburse TKR for its cost in employee time for providing such supervision, and shall ensure that all of its employees, agents and contractors who at any time access the Fiber Strands Licensed to LG&E are appropriately trained with regard to the installation of Fiber Cables and the splicing of Fiber Strands. LG&E shall be solely responsible for maintaining all relevant information regarding the splices made by LG&E (and not by TKR for LG&E) with respect to any Fiber Strands, including the locations of all LG&E splice points.

(d) Extension of Licensed Fiber.

(i) Upon LG&E's request from time-to-time, TKR shall install additional Fiber Cables originating from locations on the Initial Rings or any Additional Rings designated by LG&E, sufficient to extend the Fiber Strands on those rings which are licensed to LG&E (or any portion of those strands designed by LG&E) to any one or more LG&E facilities located within 5,280 linear feet of such ring(s), but only to the extent appropriate easements, rights-of-way or other similar rights are available to TKR sufficient for such installation. Any such extended Fiber Strands shall constitute a part of the Fiber Strands Licensed to LG&E for all purposes under this Agreement. LG&E shall endeavor to obtain the

appropriate easements, rights of way and other similar rights in the name of TKR, or jointly in the names of LG&E and TKR (in LG&E's discretion); provided, LG&E shall have no obligation to expend funds to secure such rights for the account of TKR. If, despite LG&E's efforts, those easements, rights-of-way or other similar rights are available to LG&E but not to TKR, TKR shall construct and install the Fiber Strands Licensed to LG&E through the point where TKR's easements, rights of way or other similar rights end, but shall only be required to install additional Fiber Cables and associated facilities beyond that point for LG&E as an independent contractor, which additional Fiber Cables and associated facilities shall be and remain the exclusive property of LG&E. Thereafter, any attempts by LG&E to interconnect its Fiber Cables with the Fiber Strands Licensed to LG&E, or with any Coaxial Cable which is the subject of the 'Bandwidth Licensed to LG&E' (as defined in Section 3(g)), shall be conducted only with the direct supervision of an employee of TKR designated by TKR. LG&E shall promptly reimburse TKR for its actual cost for employee time with respect to such supervision. TKR agrees to install all such Fiber Cable at no initial cost to LG&E, provided LG&E agrees to promptly reimburse TKR for each foot of cable in excess of 500 feet actually installed to each facility designated by LG&E, at TKR's actual cost for time and materials (which is estimated as of the date hereof to be \$2.00 per 12-strand foot installed). LG&E may elect to install all or any portion of such Fiber Cable, at its expense, but shall not be entitled to use any easements, rights of way or other similar rights of TKR in connection with such installation, without TKR's prior written consent (which shall not be unreasonably withheld). In the event LG&E elects to install such Fiber Cable, TKR agrees to reasonably cooperate with LG&E in connection with the same. Nothing herein shall be deemed to restrict LG&E's ability to extend such Fiber Cables beyond the 5,280 foot limitation provided for above, at LG&E's expense. In addition, nothing herein shall be deemed to restrict TKR's ability to extend Fiber Strands of its own to LG&E's facilities, or to extend such Fiber Strands beyond those facilities, provided TKR has otherwise satisfied the provisions of this Agreement with respect to the installation of the Fiber Strands on or within LG&E Structures.

(ii) Upon LG&E's request from time to time, TKR shall install additional Fiber Cables originating from node locations on the Lateral Cable Facilities designated by LG&E, sufficient to extend two (2) of the Fiber Strands at that node location which are licensed to LG&E to any one or more LG&E facilities located within 5,280 linear feet of such node location, but only to the extent appropriate easements, rights-of-way or other similar rights are available to TKR sufficient for such installation. Any such extended Fiber Strands shall constitute a part of the Fiber Strands Licensed to LG&E for all purposes under this Agreement. LG&E shall endeavor to obtain the appropriate easements, rights of way and other similar rights in the name of TKR, or jointly in the name of LG&E and TKR (in LG&E's discretion); provided, LG&E shall have no obligation to expend funds to secure such rights for the account of TKR. If, despite LG&E's efforts, those easements, rights-of-way or other similar rights are available to LG&E but not to TKR, TKR shall construct and install the Fiber Strands Licensed to LG&E through the point where TKR's easements, rights of way and other similar rights end, but shall only be required to install additional Fiber Cables and associated facilities beyond that point for LG&E's account as an independent contractor, which

additional Fiber Cables and associated facilities shall be and remain the exclusive property of LG&E. Thereafter, any attempts by LG&E to interconnect its Fiber Cables with the Fiber Strands Licensed to LG&E, or with any Coaxial Cable which is the subject of the Bandwidth Licensed to LG&E provided for in Section 3(g), shall be conducted only with the direct supervision of an employee of TKR designated by TKR. LG&E shall promptly reimburse TKR for its actual cost for employee time with respect to such supervision. TKR agrees to install all such Fiber Cable at no initial cost to LG&E, provided LG&E agrees to reimburse TKR for each foot of cable in excess of 500 feet actually installed to each facility designated by LG&E, at TKR's actual cost for time and materials (which is estimated as of the date hereof to be \$1.75 per 2-strand foot installed). LG&E may elect to install all or any portion of such Fiber Cables, at its expense, but shall not be entitled to use any easements, rights of way or other similar rights of TKR in connection with such installation, without TKR's prior written consent (which shall not be unreasonably withheld). In the event LG&E elects to install such Fiber Cable, TKR agrees to reasonably cooperate with LG&E in connection with the same. Nothing herein shall be deemed to restrict LG&E's ability to extend such Fiber Cables beyond the 5,280 foot limitation provided for above, at LG&E's expense. In addition, nothing herein shall be deemed to restrict TKR's ability to extend Fiber Strands of its own to LG&E's facilities, or to extend such Fiber Strands beyond those facilities, provided TKR has otherwise satisfied the provisions of this Agreement with respect to the installation of the Fiber Strands on or within LG&E Structures.

(iii) Notwithstanding anything to the contrary contained in Subsection (d)(i) or (d)(ii), above, TKR shall have no obligation to install such additional Fiber Cables upon the request of LG&E: (A) until such time as LG&E shall, upon the request of TKR, provide TKR with evidence reasonable satisfactory to it that LG&E has all necessary authorizations and approvals of relevant property owners and governmental authorities for the installation (to the extent TKR does not have such necessary authorizations and approvals); or (B) in the event TKR shall determine, in good faith and in the exercise of its reasonable business judgement, that the installation of such additional Fiber Cables would adversely affect TKR's ability to provide its communications services to its customers generally; or (C) to the extent installation by TKR of such additional Fiber Cables would result in a violation of any applicable statute, law, rule, regulation or ordinance, or any order of any governmental authority, would result in an unsafe or hazardous condition relative to the public generally or to TKR's equipment or facilities, or would be contrary to any provision of this Agreement.

(iv) Any requests made by LG&E pursuant to this Subsection (d) shall set forth the routes, the locations of splice points, the diversity requirements and the requested completion dates for TKR to construct and install the relevant Fiber Cable. TKR shall use its reasonable best efforts to install and make such cable available to LG&E within 90 days of any request. Notwithstanding anything contained in this Subsection (d) to the contrary, in the event TKR shall elect to extend Fiber Strands to a particular location in addition to, and together with, the Fiber Strands requested by LG&E pursuant to Subsection (i) or (ii) above, LG&E's obligation to reimburse TKR for the same shall remain at TKR's actual cost for time

and materials to install the number of Fiber Strands requested by LG&E. However, TKR shall be responsible for any incremental material and labor costs necessary to install its additional Fiber Strands. LG&E shall have no obligation with respect to the costs incurred by TKR in installing Fiber Strands beyond the location(s) requested by LG&E.

(v) LG&E agrees to indemnify and hold TKR harmless from and against any and all losses, costs, liabilities and expenses suffered or incurred by TKR resulting from, arising out of or relating to TKR's installation of additional Fiber Cables at LG&E's request pursuant to Subsection (d)(i) or (d)(ii), above, except as otherwise provided in those Subsections, and except to the extent resulting from or arising out of the negligence or willful misconduct of TKR or its agents, employees or contractors.

(e) [Intentionally Omitted].

(f) TKR's Limited Use of the Fiber Strands Licensed to LG&E.

(i) For so long as LG&E shall not have a need for the same, TKR shall be entitled to use any of the Fiber Strands Licensed to LG&E on the Initial Rings, any Additional Rings and the Lateral Cable Facilities, for its own purposes, subject to the limitations and requirements set forth elsewhere in this Agreement. At such time as LG&E shall determine that it has a need for the Fiber Strands Licensed to LG&E on an Initial Ring or Additional Ring, or on a particular Lateral Cable Facility, it shall give TKR written notice of the same, specifying the Fiber Strands needed. TKR shall make all such Fiber Strands available for the immediate and, subject to the provisions of Subsection (ii) below, exclusive use of LG&E and its Affiliates within 60 days after TKR's receipt of LG&E's notice. Such Fiber Strands shall be in good and workable condition upon their delivery by TKR.

(ii) If, at any time during the Term, TKR shall determine that it has a reasonable need to utilize excess capacity on Fiber Strands that are licensed to (and which are being utilized by) LG&E hereunder, due to chronic capacity restraints on TKR's own Fiber Strands, TKR shall first submit to LG&E a written request to utilize such excess capacity. TKR's request shall identify the specific Fiber Strands of LG&E to be utilized, shall specify the duration of TKR's proposed use, shall describe in detail the method by which TKR intends to realize such excess capacity without adversely affecting LG&E's existing or intended use of the Fiber Strands Licensed to LG&E (including, where relevant, TKR's specific plans to multiplex LG&E's and TKR's signals or digital data streams), and shall specify the total capacity on the Fiber Strands Licensed to LG&E which TKR desires to utilize. Within 30 days after its receipt of such request, LG&E shall notify TKR whether (and to the extent) LG&E believes, in good faith and in the exercise of its reasonable business judgment: (A) that LG&E shall have need for such excess capacity on the Fiber Strands Licensed to LG&E in the foreseeable future, or (B) that such proposed use by TKR would interfere with or adversely affect LG&E's own use of such Fiber Strands. Thereafter, TKR shall be entitled to utilize the Fiber Strands License-d to LG&E only to the extent (A) and (B), above, shall not apply, and

then only in the manner and for the duration set forth in TKR's written request. All costs and expense; incurred in affording TKR access to any excess capacity on the Fiber Strands Licensed to LG&E, including without limitation, the cost of any new equipment or equipment upgrades required for the same, shall be the sole responsibility of, and shall be timely paid by, TKR. Notwithstanding the foregoing, in the event LG&E shall at any time determine, in good faith and in the exercise of its reasonable business judgment, that LG&E shall have need for any excess capacity on the Fiber Strands Licensed to LG&E then being utilized by TKR hereunder, TKR shall discontinue such use within 60 days after written notice thereof is delivered by LG&E. In addition, in the event LG&E shall at any time determine, in good faith and in the exercise of its reasonable business judgment, that any use by TKR of capacity on the Fiber Strands Licensed to LG&E is interfering with or adversely affecting LG&E's own use of such Fiber Strands, TKR shall, upon notice of the same from LG&E, promptly use TKR's best efforts to eliminate such interference; provided, that in the event TKR is thereafter unable to eliminate such interference within 48 hours of LG&E's notice, TKR shall immediately discontinue such use. LG&E shall have no obligation or liability of any nature to TKR or any other person by reason of any discontinuation of TKR's use of the Fiber Strands Licensed to LG&E.

(iii) TKR acknowledges that LG&E may, from time-to-time, have access to, or the right to utilize, Fiber Cable, FOG Wire, Coaxial Cable and related equipment and facilities owned by LG&E or its Affiliates, or by persons other than TKR and its Affiliates, in the Service Territory ("Third-Party Facilities"), including without limitation, Third-Party Facilities interconnected with Fiber Strands and Coaxial Cable which are the subject of LG&E's licenses under this Agreement. TKR shall have no right to utilize such Third-Party Facilities at any time or for any purpose, whether pursuant to this Subsection (f) or otherwise, without the prior written consent of LG&E and such other parties (if applicable).

(g) License of Bandwidth.

(i) Subject to the limitations set forth in Section 3(l), throughout the Term, TKR hereby grants to LG&E (and shall cause each of its relevant Affiliates, if any, to grant to LG&E) an exclusive, royalty-free right and license to use an uninterrupted segment of bandwidth capacity on all Lateral Cable Facilities which are now a part of the Extended System, or which may hereafter become a part of the Extended System, in each case affording LG&E (A) not less than 100 KHz of "Useable Bandwidth" (as defined below) and 25 KHz of "Spillover Bandwidth: (as defined below) on each side of that Useable Bandwidth, for every 1,600 customers of TKR and/or its Affiliates in the Service Territory (collectively, the "TKR Customers"), extending from the premises of such customers, upstream in the direction of TKR's (or its relevant Affiliates') facilities, and ending at the relevant hub site on an Initial Ring or Additional Ring, and (B) not less than 100 KHz of Useable Bandwidth and 25 KHz of Spillover Bandwidth on each side of that Useable Bandwidth, for every 5,000 TKR Customers, extending downstream from each hub site on an Initial Ring or Additional Ring, to the premises of such TKR Customers, 24 hours a day, seven (7) days a week (collectively, the

“Bandwidth Licensed to LG&E”). As used in this Agreement, the term “Useable Bandwidth” shall mean dedicated, uninterrupted and unobstructed bandwidth capacity over which no channels or signals (or related sidebands) shall be present ~~other than~~ those of LG&E and its Affiliates, and the term “Spillover Bandwidth” shall mean dedicated, uninterrupted and unobstructed bandwidth capacity over which no channels or signals of LG&E, TKR, any of their respective Affiliates or any other persons or entities shall be present, ~~other than~~ LG&E’s sidebands from its channel(s) or signal(s) transmitted over its Useable Bandwidth, and any sidebands from adjacent channels or signals of TKR, its Affiliates or their respective customers. LG&E agrees that its and/or its Affiliates’ sidebands in the Spillover Bandwidth shall not exceed the energy levels set forth on Exhibit E attached hereto and made a part hereof, and TKR agrees not to permit its, its relevant Affiliates’ or any TKR Customers’ sidebands in the Spillover Bandwidth to exceed the energy levels set forth on Exhibit for ‘Other Sideband’. In addition, LG&E shall not, and shall not permit its Affiliates to, place any signal on the Bandwidth Licensed to LG&E if the carrier or center frequency for that signal is outside of LG&E’s Useable Bandwidth, and TKR shall not, and shall not permit its Affiliates or any TKR Customers to, place any signal on the Extended System if the carrier or center frequency for that signal is inside the Spillover Bandwidth licensed to LG&E. The parties hereto agree that the Bandwidth Licensed to LG&E shall be made available by TKR and its relevant Affiliates to LG&E 24 hours a day, seven (7) days a week, using portions of the Lateral Cable Facilities ~~other than~~ the Fiber Strands Licensed to LG&E. The Bandwidth Licensed to LG&E shall be provided by TKR throughout the Lateral Cable Facilities (and on each portion of those facilities) using the same segment or range of bandwidth in the total spectrum of bandwidth in the relevant direction. Bandwidth provided by TKR in the upstream direction (customer to TKR facility) shall be drawn from the 5 to 12 MHz range of bandwidth, and bandwidth provided by TKR in the downstream direction (TKR facility to customer) will be drawn from the 50 to 90 MHz range of bandwidth, as determined by TKR in its reasonable discretion. Once TKR has initially allocated to LG&E a particular segment or range of bandwidth for its use under this Agreement, TKR shall not thereafter attempt to provide LG&E a different or alternate segment or range of bandwidth without the prior written consent of LG&E. The total power transmitted by LG&E at any one time over the Bandwidth Licensed to LG&E shall not exceed the following levels (unless otherwise agreed to by TKR), subject to LG&E’s right to transmit data at the rate(s) provided for in Subsection (g)(ii), below:

(y) In the upstream direction (customer to TKR facility), the level reasonably specified by TKR from time-to-time, measured with the carrier(s) unmodulated and at peak total power (which in any event shall be no less than the highest power level at which all other carriers (including without limitation, those of TKR and its Affiliates) are permitted to transmit signals over any other bandwidth capacity located within the 5 to 12 MHz range, or, in the event there are no other carriers in that range, at the highest power level which is possible without unreasonably affecting the signals or channels of TKR, its Affiliates or their respective customers); and

(z) In the downstream direction (TKR facility to customer), the level which is ~~the higher of~~ 15dB below the closest video carrier's power level, ~~or~~ the highest power level at which all other non-video carriers (including without limitation those of TKR and its Affiliates) are permitted to transmit signals over any other bandwidth capacity located within the 50 to 90 MHz range, in either case measured with the carrier(s) unmodulated and at peak total power.

(ii) LG&E and its Affiliates shall be entitled, in its discretion, to use the Bandwidth Licensed to LG&E on the Lateral Cable Facilities to transmit data at a rate of up to 64,000 bits per second in each direction. Data rates exceeding 64,000 bits per second shall be **allowed**, provided the 100 KHz of **Useable Bandwidth** is not exceeded, except by LG&E's sidebands in the Spillover Bandwidth, as contemplated above. TKR does not warrant the suitability of the Extended System at rates exceeding 64,000 bits per second. In the event LG&E shall at any time desire additional bandwidth capacity on any Lateral Cable Facilities, LG&E shall notify TKR in writing, specifying the increased capacity and the direction(s) for such capacity desired, and identifying the Lateral Cable Facilities in question. Within 30 days after its receipt of such notice, TKR shall notify LG&E whether (and to the extent) TKR believes, in good faith and in the exercise of its reasonable business judgment, that such additional bandwidth capacity then exists on the designated Lateral Cable Facilities, and whether (and to the extent) TKR or its relevant Affiliate shall have need for such additional bandwidth in the **foreseeable** future. To the extent such additional bandwidth capacity is not so needed, TKR shall make the same available to LG&E, at no cost or expense to LG&E, and such additional bandwidth capacity shall constitute part of the Bandwidth Licensed to LG&E for all purposes hereunder. Notwithstanding the foregoing (A) in the event TKR shall at any time determine, in good faith and in the exercise of its reasonable business judgment, that TKR shall have need for any additional bandwidth capacity made available to LG&E pursuant to this Subsection (g)(ii), LG&E shall discontinue its use of such additional bandwidth capacity **within 60 days after** written request **therefor** is delivered by TKR; and (B) in the event TKR shall at any time determine, in good faith and in the exercise of its reasonable business judgment, that any use by LG&E of additional bandwidth capacity pursuant to this Subsection (g)(ii) is interfering with or adversely affecting TKR's use of other bandwidth capacity on the Lateral Cable Facilities, LG&E shall, upon notice of the same **from TKR**, promptly use **LG&E's best** efforts to eliminate such interference; provided, that in the event LG&E is **thereafter unable to** eliminate such interference within 48 hours of **TKR's** notice, LG&E shall **immediately** discontinue such **use** of that additional bandwidth capacity. TKR shall have no obligation or liability of any nature to LG&E or any other person by reason of any discontinuation **of LG&E's use of the** additional bandwidth capacity.

(iii) LG&E shall be solely responsible for installing its own **equipment and facilities** (exclusive of Coaxial Cable, Fiber Cable and FOG Wire, and the equipment of TKR referenced below) necessary in order to utilize the Bandwidth Licensed to LG&E; **provided**, that TKR and its Affiliates shall at all times reasonably cooperate with LG&E in its efforts to **access and utilize** such bandwidth, including without **limitation**, by permitting LG&E

to interconnect LG&E's own equipment, facilities and cable (including without limitation, the Fiber Strands Licensed to LG&E included in the Backbone of the Extended System) to the Lateral Cable Facilities and other related facilities and equipment of TKR or its relevant Affiliate, and by affording LG&E (A) one (1) transmit and receive interface at the premises of each TKR Customer in the form of a conventional 75 ohm impedance matched tap, and (B) one (1) transmit and receive interface at each TKR hub site for every node location served by that hub site, in the form of conventional 75 ohm impedance matched termination(s). LG&E agrees to indemnify and hold TKR harmless from and against any and all losses, costs, liabilities, damages and expenses resulting from or arising out of LG&E's installation of LG&E's equipment, cable and facilities, and in interconnecting the same with those of TKR or its Affiliates, in each case unless attributable to the negligence or willful misconduct of TKR or its agents or employees. LG&E's efforts to access such bandwidth shall be undertaken with a view toward minimizing the adverse effects on TKR's businesses and personnel.

(h) **Restrictions on Use.** Except as otherwise provided in Section 6, LG&E shall use the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E solely for LG&E's or its Affiliates' internal uses (which are any uses not competing directly or indirectly with the businesses of TKR or its Affiliates), including without limitation, intra-company communications, communications with Affiliates, communications with vendors, customers and suppliers, communications with security and alarm service providers, meter reading and other electric or gas energy-related services which do not compete with TKR's services performed in compliance with Section 1(c)(iv) of this Agreement; provided, that LG&E and its Affiliates shall, in their discretion, be entitled at any time to use the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E to place telephone calls, facsimile transmissions and other communications directly to one or more long-distance telephone carriers, for transmission on the facilities of those carriers to any other person or entity, but only to the extent such calls, transmissions or other communications relate to the businesses of LG&E and/or its Affiliates of providing energy services to others; and provided further, that nothing contained herein shall restrict LG&E's ability to use the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E in direct or indirect competition with any energy services businesses now or hereafter engaged in by TKR or any of its Affiliates. LG&E shall not enter into any agreement for the use by any existing or future competitive access provider, local exchange carrier, inter-exchange carrier, cable TV company, any other telecommunications service provider, or any other person or entity (other than LG&E's Affiliates), of the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E. Except as otherwise provided in Section 6, TKR will retain ownership of the entire System throughout the Term, and will be responsible for all the burdens associated with such ownership. Subject to the provisions of Subsection (g)(i), above, LG&E shall not permit its communications signals transmitted over the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E to degrade the communications signals of TKR or its Affiliates transmitted over any of the Fiber Strands or bandwidth reserved exclusively for TKR and its Affiliates, in either case beyond the level of degradation expected under normal use, consistent with industry standards.

(i) Security Interest.

(i) TKR hereby sells, assigns, conveys, pledges, transfers and grants to LG&E (and agrees to cause its relevant Affiliates (if any) to sell, assign, convey, pledge, transfer and grant to LG&E) a security interest in the following assets and properties: (A) the Fiber Strands Licensed to LG&E (whether contained in Fiber Cable or FOG Wire now or hereafter owned by TKR or any of its Affiliates), (B) the Fiber Strands of TKR and its relevant Affiliates over which LG&E is entitled to utilize the Bandwidth Licensed to LG&E, whether now or hereafter owned by TKR or such Affiliates. (C) the Coaxial Cables of TKR and its relevant Affiliates located outside the city limits of the City of Louisville, Kentucky, over which LG&E is entitled to utilize the Bandwidth Licensed to LG&E, whether now or hereafter owned by TKR or such Affiliates, (D) the Bandwidth Licensed to LG&E, to the extent relating to the Fiber Strands and the Coaxial Cables described in Subsections (B) and (C), above, and (E) all splices, terminations and innerducts of TKR and its relevant Affiliates relating to any of the foregoing (collectively, the "Collateral"), in each case as collateral security for the performance by TKR of its covenants and agreements set forth in this Agreement, including without limitation, the licenses granted to LG&E hereunder. The security interests granted under this Subsection (i) shall include all "proceeds" of the Collateral, as that term is defined in the Uniform Commercial Code of Kentucky. TKR agrees to (and agrees to cause its relevant Affiliates, if any, to) promptly execute any financing statements (and any extensions, renewals and assignments thereof) reflecting the security interests described in this Subsection (i), upon the request of LG&E from time-to-time. LG&E shall provide TKR with copies of all such financing statements once filed with the appropriate governmental authorities. TKR acknowledges that the filing by LG&E of such financing statements (and any extensions, renewals or assignments thereof) with any relevant governmental or regulatory authorities in order to perfect LG&E's security interest in the Collateral shall not be deemed to be a breach by LG&E of its confidentiality and non-disclosure covenants set forth in Section 20. TKR hereby represents and warrants to LG&E that the Collateral is being pledged to LG&E free and clear of all liens and encumbrances. TKR agrees not to permit the further encumbrance of the Collateral without affording LG&E at least five (5) days prior written notice of the same. The security interests provided for in this Section 3(i) shall survive the expiration or termination of this Agreement for any reason, and shall continue to be binding on TKR and its relevant assets and properties for so long as TKR shall have any continuing obligations or liabilities to LG&E or any of its "Representatives" (as defined in Section 16) pursuant to any provision of this Agreement. LG&E agrees that at such time, following the expiration or termination of this Agreement, as TKR (or its successor or permitted assign) shall have fully performed each and every payment and performance obligation of TKR provided for in this Agreement, LG&E shall execute and deliver to TKR appropriate UCC-3 termination statements and other documents of release, terminating and releasing the financing statements referenced above and the security interests created hereby; provided, that LG&E may delay its termination and release of those financing statements and security interests for an additional period of 91 days, in the event LG&E believes, in good faith and in the exercise of its reasonable business judgment, that there is a

risk that TKR may become the subject of a voluntary or involuntary bankruptcy proceeding during that 91 day period.

(ii) The parties hereto **acknowledge** that **certain** assets and properties of TKR utilized to provide its franchised cable television services to residents of the City of Louisville (the "City Cable Assets") may not be **encumbered** by TKR without the prior approval of the Louisville Board of Alderman, and **acknowledge** that the **security** interests created pursuant to this Subsection (3)(i) are not intended by the **parties** to encumber the City Cable Assets in any manner. TKR hereby represents, warrants and **covenants** to LG&E that the Collateral is not **and will not be included** within the City Cable Assets. In the event it is determined at any time that, despite the parties' **efforts** and intentions, any portion of the Collateral is included with the City Cable Assets, the same **shall** be deemed to be released from the security interests created hereby; provided, that the foregoing **release** shall not apply to any Collateral which hereafter becomes within the City Cable Assets **solely** by **reason an** expansion of the city **limits** of the City of Louisville beyond its present boundaries.

(j) Ownership of Extended System; Affiliate and Third-Party Commitments. TKR hereby represents and warrants to LG&E that TKR owns (or will own, as applicable) sole title to all Fiber Cables, Coaxial Cables, FOG Wire (if any), related splices, termination points and innerducts, and **all** related communications equipment and facilities, that are or will be used by TKR or any of its **Affiliates** anywhere in the Service Territory (**exclusive** of equipment or facilities leased from third-parties which are not Affiliates of TKR, **and exclusive** of the "Excluded Systems" and the "Acquired Systems" provided for in Section 3(l), below). TKR further represents, warrants and covenants that TKR shall continue to hold **sole** title to **all** such assets and properties throughout the Term of this Agreement, and that no agreement between TKR and any of its Affiliates now exists (or **will hereafter** exist) that will impede or otherwise **adversely** affect the **full** use and enjoyment by LG&E of the licenses and other rights granted to it hereunder, or the ability of TKR to perform its covenants and agreements set forth herein. In the event, at any time during the Term, it is determined that **any** Affiliate of TKR or any other person or entity owns title to any portion of the Extended System (**other** than the Excluded Systems or the Acquired Systems), to any of the assets or properties pledged to LG&E as collateral security pursuant to Section 3(i), or to any other assets or properties required for the performance by TKR of its covenants or agreements **set forth in this Agreement, TKR shall cause** such Affiliate or other person or entity to take all actions within its reasonable control as are **necessary** to permit LG&E and its successors and **permitted assigns** to utilize the Extended System (or such other assets or properties) to the **fullest** extent contemplated in this Agreement, and, in the **case** of TKR's **Affiliate**, to **otherwise perform** and comply in all material respects with the provisions of this Agreement to the extent **relating** to such **Affiliate's** interests in the Extended System (or such other assets or properties).

(k) Access. TKR and its relevant **Affiliates** (if any) shall afford LG&E **reasonable** physical access to the Fiber Strands Licensed to LG&E and the Bandwidth Licensed

to LG&E (and all related Fiber Strands and Coaxial Cables) 24 hours a day, seven (7) days a week, so as to enable LG&E to utilize the Extended System to the fullest extent contemplated in this Agreement; provided, that LG&E shall coordinate in advance such physical access with TKR. TKR shall have the right to cause its agent or employee to accompany LG&E's agents or employees at any time that they access the Extended System, and LG&E shall promptly reimburse TKR for its costs in employee time incurred in providing such supervision. LG&E shall be entitled to access the Fiber Strands Licensed to LG&E at any point on the Backbone of the Extended System, but may access the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E on the Lateral Cable Facilities only at splice enclosures, splice points and termination points at TKR's (or its relevant Affiliate's) hub sites and node locations, and at splice enclosures, splice points and termination points located at the premises of the customers of TKR and/or its Affiliates. Notwithstanding the foregoing, LG&E shall be entitled to access the Fiber Strands Licensed to LG&E at any TKR splice enclosure or other splice location on the Lateral Cable Facilities in order to splice or re-splice the Fiber Strands Licensed to LG&E in a manner satisfactory to LG&E, but only to the extent necessary for LG&E to correct splices that were improperly made by TKR or its contractors, for LG&E to splice Fiber Strands that were left unspliced by TKR, or for LG&E to otherwise maintain the Fiber Strands Licensed to LG&E following any failure or refusal by TKR to maintain the same. LG&E shall ensure that all of its agents and employees who access the Extended System are appropriately qualified and trained for such work. LG&E shall indemnify and hold harmless TKR from and against any and all damages, claims, liabilities, costs and expenses that may be incurred by TKR resulting from or arising out of LG&E's physical access to the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E, unless attributable to the negligence or willful misconduct of TKR or its agents or employees.

(l) Exclusions for Certain Acquired and Existing Assets. Notwithstanding anything contained in this Agreement to the contrary, the provisions of this Agreement shall not apply in any manner with respect to any of the following:

(i) Any Fiber Cables, Coaxial Cables, FOG Wire or other related communications assets located outside of Jefferson County, Kentucky, which are not now owned by TKR, and which are hereafter acquired by TKR or any of its "Subsidiaries" (as defined in Section 34), with or without consideration, from one or more persons or entities who are not then Affiliates of TKR, and who were not Affiliates of TKR within the 12-month period immediately preceding the date of such acquisition, but only to the extent substantially all of such Fiber Cables, Coaxial Cables, FOG Wire or related communications assets (as applicable) were installed and used by those unaffiliated person(s) or entity(s) on a commercial basis throughout that 12-month period, and then only to the extent such Fiber Cables, Coaxial cables, FOG Wire and related communications assets were not included within the Extended System at any time prior to their acquisition by TKR or its relevant Subsidiary(s) (each an "Acquired System"); provided, that the foregoing exclusion from this Agreement shall not apply to (and the Acquired Systems shall not include) any assets or properties acquired by TKR or its Subsidiary(s) pursuant to any installment sales transactions, any capital lease or

lease-purchase transactions, or any other similar financing arrangements, or any assets which were, directly or indirectly, controlled by TKR or any of its Affiliates (by operation of law, contract or otherwise) during the 12-month period immediately preceding their acquisition by TKR or its Subsidiary(s); or

(ii) Any Fiber Cables, Coaxial Cables, FOG Wire or other **related** communications assets located outside of Jefferson County, Kentucky, which are now owned or hereafter acquired or developed by any Affiliates of TKR other than its Subsidiaries, but not by TKR itself (each an **"Excluded System"**); provided, that the foregoing exclusion from this Agreement shall not apply to (and the **Excluded Systems shall** not include) any Fiber Cables, Coaxial Cables, FOG Wire or other communications assets:

(A) which are hereafter assigned or transferred by TKR or any of its Subsidiaries to any one or more of its Affiliates;

(B) which are hereafter owned by one or more Affiliates of TKR, but are leased, licensed or otherwise made available for use by TKR or any of its Subsidiaries (with or without consideration); **or**

(C) which are located within areas contiguous to the **Service Territory**, which are then interconnected or to be interconnected, directly or indirectly, with communications assets of TKR or its Affiliates located within the Service Territory, and for **which** TKR or any of its Subsidiaries provide 50% or more of its signals (video or otherwise), **but only to the extent** such cables, wire or other assets, were newly developed or installed by **TKR's Affiliate(s)** following the date hereof, or are hereafter acquired by that Affiliate(s) pursuant to an installment **sale transaction**, a capital lease transaction, a lease-purchase transaction or other **similar** financing arrangement from an unaffiliated third-party who developed such assets and properties within 12 months of their acquisition; **or**

(iii) Any Fiber Cables, **Coaxial** Cables, FOG Wire or other related communications assets now or hereafter owned by any person or **entity** that is not now an Affiliate of **TKR**, but which **hereafter** becomes such an Affiliate of TKR (other than Subsidiaries of **TKR**), **but only to the extent** such Fiber Cables, Coaxial Cables, FOG Wire or other assets:

(A) were not previously owned by **TKR** or any of its existing Affiliates during the Term of this Agreement;

(B) are not at any time leased, licensed or otherwise made **available** for use by **TKR** or any of its Subsidiaries (with or without consideration); and

(C) do not at any time or at any location impose upon or transverse any public rights-of-way established by any governmental entity or **political**

subdivision for the use and enjoyment of public utilities, municipal services Or the public generally;

it being expressly understood by the parties that the exception provided for in this Subsection (iii) is intended to cover only single location communications assets that are owned or developed by future TKR Affiliates, such as communications systems developed by Affiliates of TKR in a commercial office building for the communications needs of persons in that building, and communications systems developed and utilized at one building or location for the purpose of producing program content or other communications signals for delivery to signal carriers (such as TKR) located within the adjacent public rights-of-way; or

(iv) Any Fiber Cables, Coaxial Cables, FOG Wire or other related communications assets now or hereafter owned by any person or entity that is not now an Affiliate of TKR, but which hereafter becomes an Affiliate of TKR (other than Subsidiaries of TKR), but only to the extent, such Fiber Cables, Coaxial Cables, FOG Wire or other assets:

(A) were not previously owned by TKR or any of its existing Affiliates during the Term of this Agreement;

(B) are not at any time leased, licensed or otherwise made available for use by TKR or any of its Subsidiaries (with or without compensation); and

(C) are not at any time used by the person or entity owning the same to transmit, carry or deliver multichannel entertainment video for direct delivery to residential homes or commercial establishments in the Service Territory (whether for its own account or for the account of any other person or entity, including TKR).

Notwithstanding the provisions of Subsection 3(l)(iv), above, in the case of Fiber Cables and FOG Wire the Fiber Strands for which are hereafter owned jointly by TKR and any of its Affiliates, or are owned in part by TKR and in part by that Affiliate, the Extended System shall be deemed to include the Fiber Strands so owned by TKR (whether jointly or otherwise), and TKR shall take all such actions as are necessary to afford LG&E the Fiber Strands Licensed to LG&E with respect to the same. TKR acknowledges that any Fiber Cable, Coaxial Cable, FOG Wire or other communications assets relating to any Acquired Systems or the Excluded Systems, and any right of TKR or its Affiliates to maintain or use the same on or within any LG&E Structures, shall be governed: (y) in the case of the Acquired Systems, solely by reference to such agreements or pole attachment tariffs, if any, as are then in effect between, or applicable to, LG&E and those unaffiliated persons or entities (and then, in the case of such agreements, only to the extent the same were assignable to TKR (or its relevant Subsidiary) without the prior consent of LG&E, or were assigned with such consent); and (z) in the case of the Excluded Systems, solely by reference to such agreement(s), if any, as are then in effect between LG&E, on the one hand, and TKR or its relevant Affiliate, on the other hand, dating to the Excluded Systems. LG&E acknowledges that its use of Fiber Strands,

Coaxial Cables and FOG Wire which are owned by Affiliates of TKR, and which otherwise meet the criteria set forth in Subsection (ii)(C), above, shall be limited in direction to the same use of those facilities then being made by TKR and its Affiliates. In the event any of those facilities are being used by TKR and its Affiliates on a uni-directional basis only, LG&E's use of those facilities pursuant to this Agreement shall be limited to that same direction, until such time (if any) as TKR or any of its Affiliates shall expand their use on a bi-directional basis.

4. **Additional Services Provided by TKR.** During the Term, and subject to any limitations imposed under applicable law, TKR shall provide certain customer messaging capabilities and other services and facilities to LG&E, in each case at no cost or expense to LG&E (except as otherwise provided below), to enable LG&E to communicate information to TKR's and LG&E's customers in the Service Territory, as provided for below (provided, such communications shall be limited to information reasonably relating to the energy services businesses engaged in by LG&E and/or its Affiliates from time-to-time):

(a) **Classified Advertising.** TKR shall provide (or cause to be provided) to LG&E eight (8) time slots of five (5) consecutive minutes each ("Time Slots") per 24-hour day, seven (7) days per week, on TKR's or its Affiliate's classified advertising channel in the Service Territory. During the Time Slots, LG&E shall be permitted to display photographs and graphical and other textual information to all customers of TKR and its Affiliates in the Service Territory, and LG&E shall use its reasonable best efforts to cross promote its programs in its other forms of customer communications. TKR shall afford LG&E a reasonable opportunity to select the daily Time Slots for its advertisements or programs, but in no event: (i) shall LG&E be afforded less than two (2) Time Slots per day during the hours of 4:00 p.m. and 11:00 p.m., local time, (ii) shall LG&E's Time Slots be scheduled within one and one-half (1 1/2) hours of each other without LG&E's consent, or (iii) shall more than two (2) of LG&E's Time Slots be scheduled during the hours of 12:00 midnight and 7:00 a.m., local time, on any day. In the event TKR and/or any of its Affiliates shall have more than one classified advertising channel transmitting in the Service Territory, LG&E shall be entitled, from time-to-time, to select the channel that will be the subject of this Subsection (a). LG&E's displays or communications shall be limited to information relating to the businesses of LG&E and its Affiliates of providing energy services to others, and LG&E shall not be permitted to assign its rights to any Time Slots to any person or entity (other than LG&E's Affiliates). Upon the request of LG&E from time-to-time, TKR and its Affiliates shall provide all services to LG&E and its Affiliates in connection with the production and transmission of their communications, displays or programs that are provided to TKR's (or its Affiliate's) other classified advertising customers. LG&E shall pay TKR its standard rates charged to its customers generally for all production services rendered by TKR as provided for above. All other services to be provided by TKR pursuant to this Subsection (a) shall be at no cost or expense to LG&E.

(b) **Digital Messaging.** As and when TKR and/or its Affiliates install terminals or other facilities in their customers' premises which enable those customers to

access on-screen messaging, TKR shall provide to LG&E and its Affiliates a reasonable opportunity to transmit at least three full pages of graphical and other textual data per 24-hour day to all customers of TKR and such Affiliates. seven (7) days per week, at the times selected by LG&E, in its discretion. As TKR acquires the capability to direct messages to specific customers or geographic areas, TKR shall provide LG&E with the capability to transmit its messages to specific customers or geographic areas designated by LG&E. TKR's (or its relevant Affiliates') customers shall be able to access LG&E's messages each day for a period of not less than 24 hours following their initial transmission or placement on the message board.

(c) ~~Video on Demand~~. At such time as TKR and/or its Affiliates acquire the capability to offer "Video on Demand Capability" (as defined below) to any of their customers in the Service Territory, TKR shall (or shall cause its relevant Affiliates to) permit LG&E, from time-to-time, in LG&E's discretion, to provide full motion compressed video programs in standard cable television format to TKR (or such Affiliates), and to make such video programs available to TKR's and its relevant Affiliate's customers which then have Video on Demand Capability, at no cost or expense to such customers (other than TKR's (or its Affiliate's) monthly regulated charges for signal services and equipment generally), and otherwise on the same basis as all other Video on Demand Capability programming. Consistent with the foregoing, such customers will be able to access LG&E's video programs without any obligation to pay TKR or its Affiliates on a "pay-per-view" or other similar basis for such programs. The video programs of LG&E shall be related to the businesses or operations of LG&E and/or its Affiliates conducted from time-to-time. In addition to transmitting LG&E's signal to the relevant customers, TKR shall provide the transportation of LG&E's compressed video signal from any one specified LG&E facility via TKR-owned fiber to TKR's video switch. As used in this Agreement, "Video on Demand Capability" shall mean the ability of a customer to select, upon demand during the service hours designated by TKR (or its relevant Affiliate), any video signal available at the video switch or other routing device of TKR (or such Affiliate) to which the customer is connected (to the extent such video signal has not been segregated by TKR or such Affiliate for special treatment apart from its video on demand services generally), and to receive video and audio signals personally and privately from the switch directly to the customer's television, telephone, computer or other video, audio or communications equipment (including without limitation, any such equipment leased from TKR or other third-party providers). TKR (or its applicable Affiliate) shall include a standard entry in each menu or other television listing published from time-to-time in connection with its Video on Demand Capabilities generally (including without limitation, in each television listing disseminated to its customers), in each case identifying the availability of LG&E's programming to such customers and, where supplied by LG&E on a timely basis following reasonable advance notice from TKR, the specific title(s) of such programming.

(d) ~~Additional Coaxial Cable Drops~~. Upon the written request of LG&E from time-to-time, TKR shall install, at FCC regulated rates for installation only, within its franchised service territory(s) and with the relevant property owners' permission, standard

Coaxial Cable drops of up to 125 feet from TKR's (or its relevant Affiliate's) facilities to any non-TKR customer, including, but not limited to, any LG&E facilities or customers, with whom LG&E desires to interconnect or communicate using the facilities or services available to LG&E, or for use by LG&E, pursuant to Section 3 and/or 4 of this Agreement. Such Coaxial Cable drops shall constitute a part of the Extended System for all purposes, except as otherwise provided below. LG&E may request that one or more Coaxial Cable drops be extended beyond the foregoing 125 foot limitation, provided LG&E shall pay TKR its actual cost in time and materials for that portion of each drop installed in excess of 125 feet from TKR's (or its relevant Affiliate's) facilities. LG&E, at its expense, may supplement such Coaxial Cable drops with additional cable footage of its own, if necessary; provided, that TKR shall, upon the request of LG&E from time-to-time, reimburse LG&E for the cost of installing such additional cable footage in the event the LG&E customer served by the same becomes a customer of TKR or any of TKR's Affiliates within one (1) year following such installation. Notwithstanding the foregoing, TKR shall have no obligation to install any Coaxial Cable drops pursuant to this Subsection (d): (i) until such time as (A) TKR shall have obtained satisfactory authorizations and approvals for such installation from all relevant property owners and governmental authorities (which TKR shall have no obligation to obtain), or (B) LG&E shall have presented TKR with evidence reasonably satisfactory to TKR that LG&E has the necessary authorizations and approvals for such installation from all relevant property owners and governmental authorities (in which event such cable drops shall be installed by TKR as an independent contractor of LG&E, for the account of LG&E); or (ii) to the extent such installation would result in a violation of any applicable statute, law, rule, regulation or ordinance, or any order of any governmental authority, would result in an unsafe or hazardous condition relative to the public generally or to TKR's equipment or facilities, or would be contrary to any provision of this Agreement.

(e) **Supervisory Assistance.** TKR shall cause a qualified representative of TKR to provide supervisory assistance to the employees and agents of LG&E at such times as they shall have need for access to TKR's hub sites or other facilities, in order to install, monitor, repair or replace LG&E's equipment located there, as contemplated in this Agreement. LG&E and TKR shall cooperate with each other in scheduling such access at mutually convenient times. LG&E shall promptly reimburse TKR for its actual cost in employee time incurred in providing the foregoing supervisory assistance.

(f) **Local Programming Credit.**

(i) TKR agrees to provide LG&E a credit of \$2,000 per quarter for each calendar quarter (or portion thereof) during the Term (subject to adjustment in the manner provided for in Subsection (ii), below), to be applied by LG&E (in its discretion) toward the purchase of local insertion advertising and programming time and related services from TKR for transmission to TKR Customers in the Service Territory (each a "Credit"). The Credits may be used by LG&E (alone or together with other Credits or funds) to purchase only programming time and related services of TKR offered to the public generally, unless the

parties shall agree otherwise. All programming time shall be scheduled by LG&E with TKR at least three (3) months in advance of its proposed broadcast date (unless TKR shall consent to a shorter scheduling period, which consent shall not be unreasonably withheld or delayed), and shall be subject to any scheduling commitments made by TKR to its other customers prior to the time LG&E schedules its programming time. TKR shall use its reasonable best efforts to accommodate the scheduling requests of LG&E, and the rates applicable to the programming services requested by LG&E, from time-to-time, shall be TKR's then-current published rates for those services applicable to its customers generally, or, if no such rates have been published by TKR for those services, then TKR's actual cost in time and materials to provide the same to LG&E. LG&E's scheduling requests shall include the proposed date(s) and time(s) of LG&E's broadcast(s), the relevant broadcast channel(s) to be used (which shall be limited to those channels over which TKR then provides local access programming services to the public), and the duration of each proposed broadcast (which shall, in any event, be consistent with TKR's standard programming segments available to its customers generally). LG&E shall be solely responsible for the production of all programming content to be broadcast by TKR (unless TKR shall agree to perform such production work for LG&E), and all programming proposed by LG&E must comply with TKR's policies regarding program content applicable to its customers generally. LG&E shall deliver its programming content to TKR at its address set forth in Section 21 at least 14 days prior to its scheduled broadcast date. TKR shall be entitled to change that address upon notice delivered to LG&E in accordance with Section 21. A credit for a particular calendar quarter shall accrue for use by LG&E as of the first day of that quarter. In the event LG&E shall fail to use a Credit (or any portion thereof) during the quarter in which it accrued, LG&E shall be entitled to carry that Credit (or portion thereof) forward for use in subsequent calendar quarters; provided, that a Credit shall immediately expire if it is not utilized by LG&E within two (2) years after the last day of the quarter in which it first accrued (unless LG&E's failure to use that Credit was due to a lack of available scheduling time by reason of prior TKR scheduling commitments, or was due to any of the circumstances described in Section 15). In the event any Affiliates of TKR hereafter control the use or availability of local insertion advertising or programming time on the Extended System (or any portion thereof), TKR shall cause those Affiliates to afford LG&E the Credits provided for in this Subsection (f) with respect to the purchase of such programming time, and to otherwise perform the same obligations as TKR hereunder.

(ii) Consistent with the foregoing, the amount of each Credit available to LG&E hereunder during the initial year of the Term shall be \$2,000, but the amount of LG&E's Credits shall thereafter be increased annually by a factor determined by reference to the Consumer Price Index for All Urban Consumers (or any successor index) applicable to Louisville, Kentucky (or, if no such index shall be applicable to Louisville, then the index applicable to Cincinnati, Ohio), published by the Bureau of Labor Statistics of the United States Department of Labor (the "Index"). The amount of such increase shall be equal to the percentage increase (if any) in the Index from the prior year, and the increase shall be effective as of the aforementioned publication of the Index.

(g) ~~Crawl Messaging~~. TKR shall provide LG&E (or shall cause its relevant Affiliate(s) to provide to LG&E) local insertion "crawl messaging" services on the "Weather Channel" enabling LG&E to communicate with the TKR Customers regarding hazardous or potentially hazardous conditions during periods for which the National Weather Service has issued any of the following advisories applicable to any portion of the Nine County Area: "Thunderstorm Warning"; "Tornado Watch"; "Tornado Warning"; "Flood Warning"; or "Winter Snow or Ice Warning". LG&E shall be entitled to transmit its crawl message over the Weather Channel twice during each hour (or portion thereof) for which those weather advisories continue, at such times during those hours as are mutually acceptable to LG&E and TKR; provided, that LG&E shall be entitled, in its discretion, to cause its second message to be transmitted after the first, without any intervening messages, delays or interruptions. In addition, to the extent the National Weather Service issues an advisory at any time during the pendency of another advisory, and in the event LG&E has already utilized its two crawl messages for the hour in which that additional advisory is issued, LG&E shall be entitled to transmit two (2) additional crawl messages during that hour following the initial issuance of the additional advisory (but shall thereafter resume its transmission of only two (2) messages per hour). LG&E's crawl messages shall be transmitted at the Same speed, in the same type style and size, and for the same duration as those of TKR's other crawl messaging customers, and LG&E and TKR shall cooperate with each other in the design and presentation of LG&E's crawl messages. Until otherwise designated by LG&E, all crawl messages shall read as follows: "From LG&E: Stay away from downed power lines. Warn others. Call LG&E at 589-3500 or 9 11." TKR and LG&E shall also reasonably cooperate with each other to design and implement a dedicated communications system that enables LG&E to access and utilize such crawl messaging capabilities at the earliest possible time during the periods described above. To the extent possible using then current technology, that dedicated communications system shall permit LG&E to directly access and utilize TKR's crawl messaging capabilities without involvement by TKR personnel. TKR shall ensure that any interruptions of other crawl messages by LG&E during the periods described above (whether those messages belong to TKR, its Affiliates or any other persons) are permissible without the prior consent or approval of any other persons or entities. Once such direct LG&E access has been established, LG&E shall be responsible for setting up its own crawl messages, for clearing the crawl messages of other persons in order to transmit LG&E's messages, and for resuming the transmission of such other messages upon the completion of those of LG&E. TKR and LG&E shall share equally the costs to design and implement that system; provided, LG&E's use of TKR's crawl messaging services shall otherwise be at no cost or expense to LG&E throughout the Term. In the event the "Weather Channel" is no longer carried by TKR or its Affiliates over the Extended System, or in the event TKR and/or its Affiliates no longer control the availability of local insertion crawl messaging services on the Weather Channel, TKR shall promptly notify LG&E of the same, and shall use its reasonable best efforts to secure another channel acceptable to LG&E for LG&E's crawl messages (but only to the extent TKR or one of its Affiliates is entitled to access crawl messaging capabilities on that channel). Notwithstanding anything contained in this Subsection (g) to the contrary, TKR's obligation to provide crawl messaging services to LG&E (including without limitation, at the times, with

the frequency and for the durations requested by LG&E) shall remain subject to circumstances beyond the reasonable control of TKR and its Affiliates (exclusive Of commitments With respect to crawl messaging services made by TKR to others), and shall be subject to the physical limitations of TKR's communications equipment.

(h) Portion of Extended System Utilized to Provide Additional Services.

The parties hereto agree that the services and other benefits to be provided by TKR and/or its Affiliates to LG&E pursuant to this Section 4 shall in all cases be provided using portions of the Extended System other than the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E.

(i) Placement of LG&E Equipment at TKR Hub Sites.

(i) Throughout the Term, TKR shall use its reasonable best efforts to provide LG&E with one, seven (7) foot by two (2) foot by two (2) foot rack of space within each TKR hub facility. Such rack shall be used by LG&E to house its equipment at that TKR hub site necessary for the interconnection and use by LG&E of the fiber strands and bandwidth licensed to it under Section 3, above. The placing of such equipment by LG&E on TKR's property shall in no way create a bailment of such equipment, and TKR shall not be liable for any damages or injuries, whether direct, indirect, consequential or incidental, which may be suffered or incurred by LG&E's equipment (or by any of LG&E's personnel while installing, monitoring or utilizing the same), unless such damages or injuries arise out of the willful misconduct or negligence of TKR or any TKR personnel. The placing of any equipment by LG&E on TKR property will be coordinated in advance with TKR (which shall be entitled to supervise all such installation work), and will require adherence by LG&E with the provisions of Section 6(g)(iii), below. All costs and expenses associated with the installation of any LG&E equipment under this Subsection (vi) will be borne solely by LG&E, and LG&E shall reimburse TKR for its actual cost in employee time incurred in providing the supervision described above (which is estimated as of the date of this Agreement to be \$36.00 per hour).

(ii) Notwithstanding the provisions of Subsection (i), above, TKR shall have no obligation to provide LG&E with access to any of TKR's facilities: (A) until such time as LG&E shall, upon the request of TKR, provide TKR with evidence reasonably satisfactory to it that LG&E has all authorizations and approvals of relevant property owners and governmental authorities required in order to locate the equipment of LG&E in TKR's facilities; (B) in the event TKR shall determine, in good faith and in the exercise of its reasonable business judgment, that LG&E's equipment, if located in TKR's facilities, would adversely effect TKR's ability to provide its communications services to any of its customers, or would utilize space reasonably determined to be required for the operations of TKR or any of its Affiliates; Or (C) to the extent such access would result in a violation of any applicable statute, law, rule, regulation or ordinance, or any order of any governmental authority, would result in an unsafe or hazardous condition relative to the public generally or to TKR's equipment or facilities, or would be contrary to any provision of this Agreement.

(iii) LG&E, at its expense, agrees to remove any of the equipment provided for in (i), above, upon 90 days prior written notice from TKR, in the event TKR shall determine, in good faith and in the exercise of its reasonable business judgement, that it then needs such space for its own operations. In addition, LG&E agrees that, in the event its use of such equipment interferes with the normal use and functioning of TKR's own equipment at that hub facility, LG&E shall promptly take such steps, at its expense, as are necessary to eliminate such interference or, if such interference cannot be eliminated within 24 hours (or such shorter period as TKR shall deem reasonable and necessary under the circumstances), shall de-energize LG&E's equipment until such time as the problem can be remedied. In the event TKR shall determine that there is insufficient space for LG&E's rack within a particular TKR hub facility, LG&E may (if permitted by law and under the terms of the applicable TKR lease, if any) locate its own enclosed facility on TKR's property, so long as LG&E's enclosed facility does not contain floor space exceeding 100 square feet and is no greater in height than TKR's existing facility located there. In the event TKR is prohibited from permitting LG&E to occupy space on TKR's property, LG&E may construct a comparable facility elsewhere, and interconnect with TKR's hub facility at LG&E's own expense. TKR shall reasonably cooperate with LG&E should this be necessary.

(iv) TKR will also use its reasonable best efforts to provide LG&E access at each TKR hub facility to the electric power sources servicing that facility (including back-up batteries and power supplies, where available), for purposes of providing all electric power necessary to operate LG&E's equipment located there. LG&E shall reimburse TKR for LG&E's proportionate share of electric power rates attributable to the power needs of such equipment, or shall apply such rates as a credit against the rates otherwise payable by TKR to LG&E for its electrical services to those hub facilities (subject to any limits now or hereafter imposed by applicable law or regulation of the Kentucky Public Service Commission on such rates, or on the method of their billing by LG&E).

(j) Access to TKR Extended System Data. Throughout the Term, upon the reasonable request of LG&E from time-to-time, and in addition to any other information required to be delivered by TKR to LG&E under this Agreement, TKR will provide LG&E with copies of all design maps of TKR and its Affiliates regarding the locations of the Extended System in the Service Territory, which shall set forth, in addition to the specific locations of the Extended System (A) whether Fiber Cable, FOG Wire or Coaxial Cable is being used at a particular location, and (B) in the case of Fiber Cables or FOG Wire, the total number of Fiber Strands used at that location. TKR shall endeavor to cause all design maps delivered by it to LG&E hereunder to also indicate all new additions to the Extended System for the calendar year in which delivered. All such design maps shall remain subject to the confidentiality and nondisclosure covenants set forth in Section 20.

5 . Additional Services Provided by LG&E During the Term, and subject to any limitations imposed under applicable law, LG&E shall provide the following additional services to TKR:

(a) Metropolitan Area Development. LG&E shall use its reasonable best efforts to provide TKR with information regarding LG&E's construction activities which could reasonably be expected to materially affect the Communications System. LG&E shall have no obligation or liability to TKR for any failure by LG&E to provide such information; provided, that LG&E shall remain responsible or liable for any physical damages resulting to TKR's equipment or facilities occasioned by the negligence or wilful misconduct of LG&E's agents or employees in connection with LG&E's construction activities. LG&E will also provide TKR with reasonable access to, and copies of, LG&E's facility maps, and will provide TKR with copies of any maps developed by LG&E during the Term that detail the placement of the System on or in LG&E's Structures, in each case in order to enable TKR to plan its future fiber optic network and coaxial network needs, and/or to assess any impact of LG&E's construction activities on the Communications System. LG&E shall have no obligation to create or maintain any such maps, and shall not be responsible for the accuracy or completeness of the same. Any information or maps provided at any time by LG&E to TKR hereunder is considered proprietary in nature, and shall be subject to the confidentiality provisions set forth in Section 20.

(b) Equipment Siting and Facility Access.

(i) Upon TKR's request, LG&E will reasonably assist TKR in co-locating its Fiber Cables, Coaxial Cables, FOG Wire and associated equipment relative to the Communications System in or around LG&E's existing substations, service centers or similar facilities located in the Service Territory. Notwithstanding the foregoing, LG&E shall have no obligation to provide (or to continue to provide, as the case may be) access to TKR in or around any of LG&E's facilities: (A) until such time as TKR shall, upon the request of LG&E, provide LG&E with evidence reasonably satisfactory to it that TKR has all necessary authorizations and approvals of relevant property owners and governmental authorities to locate the facilities of TKR there; (B) in the event LG&E shall determine, in good faith and in the exercise of its reasonable business judgment, that TKR's facilities, if located in or around LG&E's facilities, would adversely effect LG&E's ability to provide electric utility services to any of its customers, or would utilize space reasonably determined to be required for the operations of LG&E or any of its Affiliates; (C) that are used by LG&E in connection with the gas utility business or operations of LG&E; or (D) to the extent such access would result in a violation of any applicable statute, law, rule, regulation or ordinance, or any order of any governmental authority, would result in an unsafe or hazardous condition relative to the public generally or to LG&E's equipment or facilities, or would be contrary to any provision of this Agreement.

(ii) LG&E will also use its reasonable best efforts to provide any electric power services necessary to operate TKR's fiber optic system components at designated sites, inclusive of backup battery or power supplies where available, at negotiated rates (subject to any rate requirements now or hereafter imposed by applicable law or regulation of the Kentucky Public Service Commission, including without limitation, the

authority of the Public Service Commission to disallow or modify such negotiated rates). Notwithstanding the foregoing, TKR shall, at its expense, remove any of the equipment provided for in Subsection (i), above, upon 90-days prior written notice from LG&E, in the event LG&E shall reasonably determine that it then needs such space for its own operations. The placing of such equipment by TKR on LG&E's property shall in no way create a bailment of such equipment, and LG&E shall not be liable for any damages or injuries, whether direct, indirect, consequential or incidental, which may be suffered or incurred by TKR's equipment or any of TKR's personnel, unless such damages or injuries arise solely out of the willful misconduct or negligence of LG&E or any LG&E personnel. The placing of any facilities by TKR on LG&E's property will be coordinated in advance with LG&E (which shall be entitled to supervise all such installation work), and will require adherence to the terms and conditions set forth in Section 6(g), below. All costs and expenses associated with the construction and installation of any facilities under this Subsection (b) will be borne solely by TKR, and TKR shall reimburse LG&E for its actual cost in employee time incurred in providing the supervision described above.

(c) ~~Equipment Siting on Electric Distribution System.~~ LG&E will use its reasonable best efforts to develop an arrangement that will provide TKR with increased flexibility in the placement of its Fiber Cable and Coaxial Cable facilities on LG&E Structures pursuant to this Agreement, but only to the extent consistent with the provisions of this Agreement. In addition, LG&E will use its reasonable best efforts to develop an asset leasing arrangement with TKR that allows the placement of TKR's fiber optic facilities on desired routes which would otherwise not be permitted under the constraints of the NESC (subject to the limitations provided for in Sections 1(b) and 1(c), and elsewhere in this Agreement). The parties acknowledge that the foregoing provisions are intended only to address certain operational limitations imposed by reason of the capacity of LG&E's existing Conduit Structures and Utility Poles, and not to address changes or limitations that may now or hereafter be imposed under this Agreement, the Existing Agreement, the Cable Television Tariff or applicable law. Nothing contained in this Subsection 5(c) shall be deemed to affect or limit the rights or obligations of the parties under any other provisions of this Agreement or under applicable law.

(d) Transfer. At such time, during the Term, as the service representatives of LG&E's Customer Service Department shall complete their registration of new customers for LG&E's provision of electric and/or gas utility services in the portions of the Service Territory designated by TKR, from time-to-time, LG&E shall cause those service representatives to refer such new customers to a customer service representative of TKR, upon and subject to the terms and conditions set forth below:

(i) In the event the new customers are registered by LG&E's sales personnel in person at an LG&E customer service facility ("In-Person Customers"), LG&E's personnel will be directed by LG&E to inquire as to the interest of those customers in the services provided by TKR. In the event an In-Person Customer expresses an interest in TKR's

services, LG&E's personnel shall provide those customers with a sales pamphlet or brochure regarding TKR's services, which shall include the telephone number of TKR's customer service department, and shall indicate the daily times during which that department is open for business. TKR shall be solely responsible for the costs of preparing, printing and delivering to LG&E quantities of its sales pamphlets or brochures sufficient for the performance of LG&E's commitments hereunder. All such sales pamphlets and brochures shall be approved in advance by LG&E as to their length and content, which approval shall not be unreasonably withheld. Except for the service provided for in this Subsection (i), LG&E shall have no further obligation or liability to TKR with respect to In-Person Customers.

(ii) In the event new customers are registered by LG&E's sales personnel by telephone ("Telephone Customers") during the business hours that the sales departments of both LG&E and TKR are customarily open and available for customer calls, LG&E's personnel will be directed by LG&E to inquire as to the interest of those customers in the services provided by TKR. If a Telephone Customer expresses an interest in TKR's services, LG&E's personnel shall then ask that customer if it would like to be connected directly to a TKR service representative. If the customer answers that question in the affirmative, LG&E's personnel shall endeavor to connect that customer, via telephone, to the customer service department of TKR. LG&E's personnel shall have no obligation to describe or explain any particular services of TKR to any customer, but shall endeavor to make a statement to each customer regarding TKR's services which has been approved in advance by TKR and LG&E. LG&E's personnel shall not be required to dedicate more than 15 seconds to the foregoing dialogue. TKR shall be solely responsible, at its expense, for installing, maintaining and making available to LG&E, a number of dedicated private telephone lines linked directly with TKR's customer service department, together with all associated equipment and facilities, necessary for LG&E's performance of its services provided for in this Subsection (d). LG&E shall have no obligation to provide the connection services described herein until such time as TKR shall have installed all such equipment and facilities, and shall have established to LG&E's satisfaction that such equipment and facilities will permit direct telephone interconnections with live TKR customer service representatives at no cost or expense to LG&E (including without limitation for fees to third-party telephone service providers).

(iii) In the event LG&E's sales personnel are unable to reach a live representative of TKR within 20 seconds after first placing a particular call to TKR's service department, LG&E's personnel shall be entitled to discontinue their efforts regarding that call, and shall have no further obligation to TKR regarding the relevant customer. At no time shall LG&E's sales personnel or LG&E's customers be connected directly to any recorded message or holding position of TKR. In addition, neither LG&E's personnel nor its customers shall be placed on hold by TKR's live customer service representatives until such time as those representatives have identified themselves by name as a TKR representative, have welcomed and acknowledged by name the particular LG&E customer being connected to them, have

confirmed their acceptance of the customer and thanked LG&E's sales representative for the connection, and have requested permission from the LG&E customer to place them on hold.

(iv) In addition to any other rights or remedies that may be available (including without limitation, LG&E's right to terminate this entire Agreement pursuant to Section 6), LG&E shall be entitled to discontinue its services provided for in this Subsection (d) immediately upon written notice to TKR (or upon oral notice to TKR in the case of circumstances of the type described in Subsection (iv)(A)(z), below), upon the occurrence of any of the following (in which event LG&E shall have no further obligation to TKR under this Subsection (d) until such time as TKR shall have established, to reasonable satisfaction of LG&E, and at TKR's sole cost and expense, that the event(s) or circumstance(s) giving rise to such discontinuation by LG&E have been remedied, cured or eliminated, as applicable, and are not reasonably susceptible to reoccurrence):

(A) LG&E shall determine, in good faith and in the exercise of its reasonable business judgment, that its continued performance under this Subsection (d): (w) would violate or be contrary to any applicable laws, rules, regulations or ordinances then in effect, or (x) would render LG&E a telecommunications or public telephone utility under applicable state laws, rules or regulations, (y) would violate the terms of any contract or agreement to which LG&E is now a party, or by which it is now bound, or (z) would adversely impact or interfere with LG&E's electric or gas utility businesses in any material respect (including without limitation, the performance of LG&E's sales or customer service efforts for its own account, which shall in all cases have priority over the services to be provided for TKR hereunder);

(B) Any governmental agency or regulatory authority, or any court of other tribunal, having jurisdiction over LG&E's businesses or operations shall order that LG&E discontinue such services for any reason, shall order that LG&E provide similar services to any person or entity in addition to, or in lieu of, TKR, shall deny rate treatment for any costs or expenses incurred by LG&E in providing such services (or incurred by LG&E in connection with its customer service activities generally, by reason of LG&E's services for TKR hereunder), or shall order a general or special rate refund regarding any such costs or expenses;

(C) TKR shall have repeatedly failed to cause its customer representatives to answer LG&E's customer interconnection attempts within the 20 second time period provided for in Subsection (iii), above, after being notified in writing by LG&E of TKR's failure to satisfy that requirement on at least one (1) prior occasion during the preceding three (3) month period;

(D) TKR shall breach any of its other covenants or agreements contained in this Subsection (d) which, if curable, has not been cured within two (2) days following written notice thereof from LG&E, or shall repeat any such breach thereafter; or

(E) The rights and licenses granted to LG&E pursuant to Section 3 to utilize the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E (or any material portion thereof) shall be terminated or rendered null and void for any reason, or shall be suspended by TKR pursuant to Section 6(b) and not thereafter resumed within 90 days.

TKR shall be entitled, in its discretion and at its expense, to object to or challenge any order or determination of the type described in Subsection (iv)(B), above. LG&E shall reasonably cooperate with TKR, at TKR's expense, in connection with such objection or challenge, unless LG&E shall at any time determine, in good faith and in the exercise of its reasonable business judgment, that its cooperation (or continued cooperation) in such efforts would adversely affect LG&E or any of its businesses or operations in any material respect (in which event LG&E shall be entitled to discontinue such efforts with no further obligation or liability to TKR). In addition to the other discontinuation rights set forth in this Subsection (d)(iv), LG&E shall have the right to suspend its services provided for in this Subsection (d) (or any portion of those services) from time-to-time, without prior notice to TKR, in the event LG&E shall at any time determine, in good faith and the exercise of its reasonable business judgment, that periods of high demand have rendered LG&E's customer service representatives who are then on call unable to continue those services for TKR while at the same time meeting LG&E's standards for quality and timeliness regarding its own sales and customer service efforts. LG&E's standards for quality and timeliness are currently targeted at maintaining a reported minimum daily average of calls from existing and prospective LG&E customers answered by an LG&E customer service representative within 20 seconds after entering que, at 90% of all calls entering que. LG&E shall use its reasonable best efforts to maintain the highest possible number of calls transferred to TKR's customer service representatives pursuant to this Subsection (d), while at the Same time maintaining LG&E's standards for quality and timeliness. In addition, at such time as the demand on LG&E's customer service representatives subsides, LG&E shall promptly recommence its provision of transfer services for TKR hereunder. LG&E shall provide TKR during the Term, as and when requested by TKR (but in no event more frequently than monthly), a written report setting forth statistical data regarding LG&E's call transfer efforts for TKR's account. LG&E and TKR shall reasonably cooperate with each other to determine the nature of the statistical data to be provided by LG&E, and the parties contemplate that the same shall include, among other relevant data, information regarding the frequency with which LG&E's services provided for hereunder have been discontinued pursuant to this Subsection (iv) since LG&E's last report, the dates and approximate times of those discontinuations, and their duration. All statistical data provided by LG&E shall remain subject to TKR's confidentiality and nondisclosure covenants set forth in Section 20.

(v) The services to be provided by LG&E under this Subsection (d) (including without limitation, the reporting provided for above) shall be rendered by LG&E only to the extent reasonably possible using LG&E's existing personnel, equipment and facilities, and then only to the extent such use does not result in any of the conditions set forth

in Subsection (d)(iv)(A) or (d)(iv)(B), above. LG&E shall have no obligation to increase the size of its workforce, to alter LG&E's existing staffing levels or working hours, or to expand the capacity of or otherwise modify its existing equipment or facilities, in order to accommodate the needs or request of TKR. Any agreement by LG&E to do so in the future shall be upon such terms and conditions as LG&E shall deem appropriate. LG&E represents and warrants to TKR that, to LG&E's knowledge, its current customer service capabilities are adequate to perform the services contemplated in this Subsection (d), subject to LG&E's periodic discontinuation of those services during periods of high demand, as contemplated in Subsection (iv), above; provided, that LG&E makes no representations or warranties regarding the suitability or capacity of its existing communications equipment or dedicated private telephone lines for such-services. In addition to the foregoing, the parties agree that the traffic imposed on LG&E's customer service inbound telephone trunk facilities by calls which are transferred or extended to TKR's customer service department shall not be permitted to cause the grade-of-service on those facilities to degrade beyond P.01 as determined by the peak bouncing busy hour (PBBH) of the then most recent four (4) week rolling period, exclusive of instances of "stormboard" operations. In the event the grade-of-service on those facilities is determined at any time to have been so degraded, LG&E shall be entitled to install additional trunk facilities sufficient to improve the grade-of-service to P.01 (PBBH) at TKR's sole cost and expense (both for one-time and recurring costs); provided, that LG&E agrees to reasonably consult with TKR to discuss the justification and expense for such additional trunk facilities, and any alternative methods for improving the grade-of-service on LG&E's existing facilities, prior to commencing its installation of those additional facilities.

6. Termination and Purchase Options. Notwithstanding anything contained in this Agreement (including without limitation, Section 2) to the contrary, the parties hereto shall be entitled to terminate this Agreement only in the manner provided for in this Section 6, and shall not be entitled to terminate this Agreement in any other manner absent the written agreement of LG&E and TKR.

(a) Preliminary Statements and Commitments.

(i) LG&E acknowledges that TKR's use of LG&E's Conduit Structures and Utility Poles pursuant to this Agreement are considered by TKR to be important rights upon which its businesses and operations may become heavily reliant in the future, and acknowledges that, as a result of such potential reliance, TKR has a compelling need to preserve its access to those LG&E Structures throughout the 40-year Term of this Agreement (whether pursuant to the Conduit License, the Above Ground License or otherwise). TKR, on the other hand, acknowledges that LG&E's use of the Fiber Strands, Coaxial Cables and bandwidth capacity of TKR and its relevant Affiliates pursuant to this Agreement are considered by LG&E to be important rights upon which its electric and gas utility businesses and operations may become heavily reliant in the future, and acknowledges that, as a result of such potential reliance, LG&E also has a compelling need to preserve its access to those facilities of TKR and its Affiliates throughout the 40-year Term of this Agreement (whether

pursuant to the licenses granted to LG&E under Section 3 or otherwise). The parties recognize, however, that there may be circumstances under which certain rights or benefits to be derived by either or both of them pursuant to this Agreement may be placed in jeopardy for reasons beyond the reasonable control of either party. In addition, the parties recognize that a change in applicable laws or other similar circumstances may render it difficult, if not impossible, for either or both of them to fulfill all of their respective obligations under this Agreement.

(ii) In recognition of the foregoing facts and uncertainties, TKR and LG&E each hereby express their intent that the relative rights and benefits of the parties contemplated in this Agreement shall be **preserved on** substantially the terms provided for in this Agreement, absent conduct by one party in breach of this Agreement that materially and **adversely** affects the rights or interests of the other party (including without limitation, conduct which gives rise to a right of termination pursuant to Subsection 6(c)). If such preservation is not reasonably possible in light of a change in **applicable** laws or other circumstances beyond the reasonable control of either party, it is the parties' further intent that this Agreement **shall** be amended, modified or otherwise reconstituted (in one or more new agreements) in a manner that will, in the parties' reasonable business judgment, comply with those applicable laws or overcome those circumstances (as applicable), while at the same time achieving the parties' business objectives as contemplated herein in the manner that least disrupts their respective operations, that is no more financially burdensome on one party than it is on the other party, and that is otherwise commercially reasonable under the circumstances. TKR and LG&E, therefore, agree that the provisions of Subsection 6(b), shall in **all** cases be interpreted and enforced with a view toward, and in deference to, the parties' intentions and objectives as expressed in this Subsection 6(a), and agree to continue to reasonably cooperate with each other (both before and after any termination pursuant to Section 6(b)) in order to effect those intentions and objectives at the earliest **practicable** time. The provisions of this Subsection **6(a)(ii)** and Subsection 6(b), below, **will** not apply in the event of a termination of this Agreement pursuant to Subsection 6(c), **absent** the parties' separate agreement to the contrary. The provisions of **this** Subsection **6(a)(ii)** will, however, survive any termination of this Agreement pursuant **to** Subsection 6(b).

(ii) **LG&E** acknowledges that its purchase options provided for in Subsections 6(d) and 6(e), below, are intended only as a means to preserve **LG&E's access to,** and right to **utilize,** the communications assets and capabilities otherwise represented by **the** Fiber Strands Licensed to LG&E and the Bandwidth Licensed to **LG&E** to the fullest extent contemplated in this Agreement, in the event **LG&E's** rights or licenses pursuant to **Section 3** of this Agreement (or any portion thereof) are lost or otherwise jeopardized for any reason beyond the reasonable control of **LG&E**. Those purchase options are not intended **as** a means for **LG&E** to succeed to the other communications assets, capabilities or businesses of **TKR or** its Affiliates. In the **event,** pursuant to the exercise of its purchase option(s) provided for in Section 6(e) (but not pursuant to its purchase option(s) upon abandonment provided for in Section 6(d)), LG&E shall succeed to more assets, properties or bandwidth capacity of **TKR or**

its Affiliates than are reasonably necessary in order to preserve LG&E's access and use rights contemplated above, LG&E shall cooperate with TKR to ensure that TKR is thereafter afforded reasonable access to, and the right to utilize, all such excess assets, properties and bandwidth capacity at no out-of-pocket cost or expense to TKR (other than TKR's costs to maintain the same in good working order, condition and repair, ordinary wear excepted, and to otherwise comply with the provisions of this Agreement) for the remainder of the Term, and for so long thereafter as TKR shall have the right to occupy LG&E's Structures pursuant to the Existing Agreement and the Cable Television Tariff (or any successor agreement or tariff thereof).

(iv) **LG&E and TKR have each independently valued** the benefits to be derived by, and the burdens to be borne by, it pursuant to this Agreement, as compared with the benefits and burdens to be derived and borne by the other party, and each party agrees that those relative benefits and burdens are fair and reasonable under the circumstances. In particular, **LG&E and TKR** agree that (A) the covenants and agreements made by TKR to and for the benefit of **LG&E** pursuant to this Agreement constitute fair and reasonable consideration for the Conduit License, the Above Ground License and the other rights and benefits granted to **TKR** hereunder, and (B) the covenants and agreements made by **LG&E** to and for the benefit of **TKR** pursuant to this Agreement constitute fair and reasonable consideration for the licenses granted to **LG&E** pursuant to Section 3 and the other rights and benefits to be derived by **LG&E** hereunder. For these reasons, neither party shall at any time assert or take the position in any judicial or administrative proceeding, or otherwise, that any consideration provided by it hereunder is unreasonable or excessive in any respect, or that such party or any of its Affiliates are entitled to compensate the other party in a manner different from, or in lieu of, the compensation otherwise to be provided hereunder.

(v) **The parties hereto acknowledge** that the assets and capacity of **TKR being allocated** for use by **LG&E** pursuant to this Agreement represent a very small portion of the total communications capacity available on the Extended System for use by **TKR**, its **Affiliates** and its and their respective customers during the Term. For this reason, based upon the anticipated capacity needs of **TKR**, its **Affiliates** and their customers during the Term, and considering the anticipated communications needs of residents and others located in the Service Territory, **TKR** hereby represents and warrants to **LG&E** that, to **TKR's** knowledge, the Fiber Strands Licensed to **LG&E** and the Bandwidth Licensed to **LG&E** are not now required (and will not during the Term be required) by **TKR** or any of its **Affiliates** in order to fulfill any obligation which they may now or hereafter have to provide franchised cable television services or other regulated communications services to any governmental entity, regulatory authority, the public at large or any other person or entity. **TKR agrees** that it shall (and shall cause its relevant Affiliates to) maintain at all times throughout the Term, sufficient assets and communications capacity to provide the Fiber Strands Licensed to **LG&E** and the Bandwidth Licensed to **LG&E**, and shall ensure that all new facilities or communications capabilities developed during the Term by **TKR** and its Affiliates in the

Service Territory (**other** than the Excluded Systems and the Acquired Systems) include such assets and communications capacity.

(b) ~~Suspension and Termination for Regulatory Reasons~~

(i) Consistent with the provisions of Subsection 6(a), and subject to the termination provisions of Subsection 6(c), below, either party hereto (the "Suspending Party") shall be entitled to suspend the performance of any one or more of its covenants or agreements set forth in this Agreement (and any incidental rights or benefits of the other party) without obligation or liability to the other party hereto (the "Non-Suspending Party"), except as provided below, in the event the Suspending Party **reasonably** believes in good faith that, and has received a **written** opinion of its **legal** counsel that, any of the circumstances described in Subsections (A) or (B), below, then exists or will result absent such suspension:

(A) The Suspending Party's continued performance of those covenants or agreements would, in and of itself, be illegal under or violative of any Federal, state or **local** statute, law, rule, regulation or ordinance, or any order or ruling issued by the Kentucky Public Service Commission or any other state, Federal or local governmental entity or regulatory authority having jurisdiction over the Suspending Party or its businesses, assets or operations; or

(B) The failure of the Suspending Party to suspend its **performance** of those covenants or agreements, in and of itself:

(x) would materially and adversely affect the Suspending Party's rights under any franchise, right of way, permit, easement or other similar right which is material and substantial to the Terminating Party's business or operations (exclusive of considerations based upon the economic burdens of such continued performance);

(y) in the case of **LG&E**, would jeopardize the current status of **LG&E** Energy Corp., the parent company of **LG&E**, or any of its **Affiliates**, as companies exempt from registration under the Public Utility Holding Company Act of **1935**, as amended, or any rules or regulations **promulgated** thereunder; or

(z) would render the Suspending Party a **telecommunications** or public telephone **utility** under **applicable** state or Federal laws, rules or regulations.

Notwithstanding the foregoing: (y) **LG&E** shall not be entitled to suspend the **performance** of its services contemplated in Section 5(d) pursuant to this Section 6(b), it being expressly understood and agreed that the suspension or termination of those **services** (in the absence of a termination of this Agreement in its entirety) shall be governed solely by reference to Section 5(d); and (z) **TKR** shall not be entitled to suspend the performance of its obligations

contemplated in Sections 3(i), 6(d) or 6(e), pursuant to this Section 6(b), it being expressly understood that those obligations shall continue to be binding on TKR for the periods set forth therein or elsewhere in this Agreement. The Suspending Party's suspension of its performance of a particular covenant or agreement shall be effective as of that party's delivery of written notice thereof to the Non-Suspending Party, setting forth the reason(s) for the suspension in reasonable detail, and including a copy of the relevant opinion of legal counsel. If no such notice is delivered by the Suspending Party, its suspension of performance shall be deemed to have occurred upon the delivery of written notice of suspension by the Non-Suspending Party to the Suspending Party at any time after the former party first discovers the suspension of performance. Thereafter, the suspension of performance shall continue until the relevant circumstance(s) giving rise to the same have been remedied or eliminated to the parties' reasonable satisfaction as provided for in Subsection (b)(ii), below, or until this Agreement has been terminated pursuant to this Section 6, whichever shall first occur. The Non-Suspending Party shall remain responsible for the performance of all of its covenants and agreements set forth herein throughout the foregoing suspension period (to the extent they can be reasonably performed in the absence of the Suspending Party's performance), subject to the Non-Suspending Party's right to suspend its own performance hereunder in the manner contemplated above, or to terminate this Agreement as otherwise contemplated in this Section 6. Neither party shall be entitled to suspend performance of any of its covenants or agreements contained in this Agreement unless pursuant to a termination of this Agreement in accordance with this Section 6, or a suspension of performance specifically authorized in this Section 6, or pursuant to Section 15.

(ii) Upon the occurrence of any suspension of performance as contemplated in Subsection (b)(i), above, TKR and LG&E agree to use their reasonable best efforts to resolve the issue(s) giving rise to the same on mutually acceptable terms at the earliest practicable time. To that end, TKR and LG&E agree to cause their representatives to meet with one another within 10 business days after the date of delivery of the relevant suspension notice, in order to discuss the issue(s) and attempt to resolve the same. This dialogue shall continue for a period (the "Suspension Period") of at least 90 consecutive days after the date of the relevant suspension notice (or such shorter period as shall be necessary to resolve the issues), and the parties shall cause their representatives to reasonably cooperate in good faith with the representatives of the other party. In the event LG&E and TKR fail to resolve the issue(s) giving rise to the suspension to their reasonable satisfaction prior to the expiration of the Suspension Period (as the same may be extended by agreement of the parties), then the following provisions shall apply:

(A) If LG&E's performance under this Agreement was suspended (in whole or in part) during the Suspension Period, and if that suspension (or the bases for the same) can reasonably be expected to thereafter deprive TKR of a material and substantial portion of the benefits to be derived by it through the use of the Conduit License or the Above Ground License as contemplated in this Agreement, then TKR shall be entitled to terminate this Agreement upon 30-days prior written notice of termination delivered at any

time during the period commencing upon the expiration of the Suspension Period and ending 60 days thereafter. LG&E and TKR shall continue to use their reasonable best efforts to resolve the issues giving rise to the suspension (as contemplated above) through the date on which that termination notice is delivered by TKR. In the event TKR fails to deliver its notice of termination to LG&E during the foregoing 60-day period, it shall be deemed to have waived its right to terminate this Agreement by reason of LG&E's suspended performance, and LG&E shall thereafter be excused under this Agreement from its performance of those covenants and agreements (but not from any of its other covenants or agreements set forth herein) for the remainder of the Term (or for such shorter period during which LG&E's performance would, in the opinion of LG&E's legal counsel, result in any of the circumstances described in Subsections 6(b)(i)(A) or (B)); provided, that LG&E shall, upon the written request of TKR delivered within 30 days after the expiration of that 60-day period, promptly commence good faith negotiations with TKR with a view toward entering into a separate transaction whereby TKR would be afforded reasonable access to the benefits otherwise lost by reason of LG&E's suspended performance, on other commercially reasonable terms acceptable to the parties and consistent with Subsection 6(a)(ii). TKR shall be entitled to no compensation or other benefits from LG&E in lieu of, or by reason of, LG&E's suspension of its obligations in compliance with this Subsection 6(b). Nothing contained herein shall be deemed to affect or eliminate TKR's rights with respect to any suspension by LG&E of any of its other obligations pursuant to this Subsection 6(b), or with respect to any other termination rights of TKR provided for in this Agreement,

(B) If TKR's performance under this Agreement was suspended (in whole or in part) during the Suspension Period, and if that suspension (or the bases for the same) can be reasonably expected to thereafter deprive LG&E of a material and substantial portion of the benefits to be derived by it through the use of the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E as contemplated in this Agreement, then LG&E shall be entitled to terminate this Agreement upon 30 days prior written notice of termination delivered at any time during the period commencing upon the expiration of the Suspension Period and ending 60 days thereafter (which notice may, in the discretion of LG&E, contain LG&E's notice to TKR of its intent to exercise LG&E's purchase option with respect to the "Option Assets" pursuant to Subsection 6(e)(i)). LG&E and TKR shall continue to use their reasonable best efforts to resolve the issues giving rise to the suspension (as contemplated above) through the date on which that termination notice is delivered by LG&E. In the event LG&E fails to deliver its notice of termination to TKR during the foregoing 60-day period, it shall be deemed to have waived its right to terminate this Agreement by reason of TKR's suspended performance, and TKR shall thereafter be excused under this Agreement from its performance of those covenants and agreements (but not from any of its other covenants or agreements set forth herein) for the remainder of the Term (or for such shorter period during which TKR's performance would, in the opinion of TKR's legal counsel, result in any of the circumstances described in Subsections 6(h)(i)(A) or (B)); provided, that TKR shall, upon the written request of LG&E delivered within 30 days after the expiration of that 60-day period, promptly commence (and cause its relevant Affiliates (if any) to commence)

good faith negotiations with LG&E with a view toward entering into a separate transaction whereby LG&E would be afforded reasonable access to the benefits otherwise lost by reason of TKR's suspended performance, on other commercially reasonable terms acceptable to the parties and consistent with Subsection 6(a)(ii) (but subject to the provisions of Subsections 6(e)(iv)) and 6(f). LG&E shall be entitled to no compensation or other benefits from TKR in lieu of, or by reason of, TKR's suspension of its obligations in compliance with this Subsection 6(b). Noting contained herein shall be deemed to affect or eliminate LG&E's rights with respect to any suspension by TKR of any of its other obligations pursuant to this Subsection 6(b), or any other termination rights of LG&E provided for in this Agreement.

(C) If LG&E suspends performance under this Subsection 6(b) of any obligation other than its obligations to provide the Conduit License, the Above-Ground License or any related Conduit or Utility Poles to TKR pursuant to Section 1, then LG&E shall reimburse TKR (within 45 days after written demand for the same) for the reasonable, out-of-pocket costs and expenses incurred by TKR in securing one or more reasonable alternative sources to perform those suspended obligations of LG&E, or incurred by TKR in performing the activities represented by those obligations for its own account; provided, that TKR shall not be entitled to terminate this Agreement by reason of that suspension of performance by LG&E. If TKR suspends performance under this Subsection 6(b) of any obligation other than its obligations to provide the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E pursuant to Section 3, then TKR shall reimburse LG&E (within 45 days after written demand for the same) for the reasonable, out-of-pocket costs and expenses incurred by LG&E in securing one or more reasonable alternative sources to perform those suspended obligations of TKR, or incurred by LG&E in performing the activities represented by those obligations for its own account; provided, that LG&E shall not be entitled to terminate this Agreement by reason of that suspension of performance by TKR. The Non-Suspending Party shall provide reasonable documentation of all of its reasonable costs and expenses, when requested by the Suspending Party.

(iii) In the event of a termination of this Agreement in its entirety pursuant to this Subsection 6(b), the parties shall perform their respective obligations which have arisen prior to the effective date of termination (other than those obligations that were properly suspended in accordance with the provisions hereof), but shall not be obligated to perform any obligations which arise after the effective date of termination, unless otherwise designated in this Agreement as surviving its termination. The termination rights provided for in this Section 6(b) shall be in addition to all other rights and remedies which the terminating party may have at law or in equity by reason of a breach or default on the part of the non-terminating party occurring prior to that termination, whether pursuant to this Agreement or under applicable law; provided, that a suspension of performance by either party in compliance with this Subsection 6(b) shall not be deemed to be such a breach or default on the part of that party. Any opinion of legal counsel contemplated in this Subsection (b) shall be rendered by the Suspending Party's outside, independent legal counsel in writing to both LG&E and TKR, and shall set forth, in reasonable detail, the bases for such counsel's opinion.

(iv) Notwithstanding any other provision of this Subsection (b) to the contrary, and in addition to the covenants of LG&E and TKR set forth in Subsections (b)(i), (b)(ii) and (b)(iii), above, the parties each agree as follows:

(A) Throughout the pendency of any suspension of obligations pursuant to Section 6(b)(i) as a result of any order or ruling issued by the Kentucky Public Service Commission or any other Fedex-at. state. or local governmental entity or regulatory authority having jurisdiction over the Suspending Party or this Agreement, that party, with the assistance and cooperation of the Non-Suspending Party, shall contest such order or ruling in good faith, but shall not be required to incur expenses in excess of \$25,000 in doing so. In the event the Non-Suspending Party is willing to fund any expenditures by the Suspending Party in excess of \$25,000 as provided for in this Subsection (iv)(A), the Suspending Party agrees to continue its efforts to contest that order or ruling; provided, that in the event, in the opinion of the Suspending Party's legal counsel, its continued efforts would be futile regardless of the amount of additional expenditures funded by the Non-Suspending Party or efforts by the Suspending Party, the Suspending Party shall be entitled to immediately discontinue such efforts.

(B) Throughout the pendency of any suspension of obligations pursuant to Subsection 6(b)(i), should that suspension be required in order to preserve the Suspending Party's rights under any franchise, right-of-way, permit, easement or other similar right which is material and substantial to its business or operations, the Suspending Party, with the assistance and cooperation of the Non-Suspending Party, shall in good faith make all reasonable efforts, without expense to the Suspending Party in excess of \$25,000, and without substantially altering the terms and conditions of this Agreement or the rights or responsibilities of the Suspending Party under that franchise, right-of-way, permit, easement or other similar right, to renegotiate, cure or remedy such conditions as are necessary in order to preserve its rights under that franchise, right-of-way, permit, easement or other similar right and, at the same time, eliminate the need for the continuing suspension of its obligations. In the event the Non-Suspending Party is willing to fund any expenditures by the Suspending Party in excess of \$25,000 as provided for in this Subsection (vi)(B), the Suspending Party agrees to continue its efforts to renegotiate, cure or remedy that condition; provided, that in the event, in the opinion of the Suspending Party's legal counsel, its continued efforts would be futile regardless of the amount of additional expenditures funded by the Non-Suspending Party or efforts by the Suspending Party, the Suspending Party shall be entitled to immediately discontinue such efforts.

(c) ~~Material Breach or Default~~. Either LG&E or TKR may terminate this Agreement (in whole but not in part) upon written notice of termination delivered to the other party, in the event there is a "Material Breach or Default" hereunder by the other party, and the other party fails to cure such breach or default within 60 days after having received written notice of default from the terminating party describing the breach or default in reasonable

detail. The parties hereto agree that a "Material Breach or Default", for purposes of this Section 6(c), shall include only the following:

(i) In the case of LG&E, any act or omission (including without limitation, any refusal to perform) on the part of LG&E, any of its Affiliates, or any of their respective agents or employees (other than a suspension of performance by LG&E in compliance with Section 6(b)), which was within the reasonable control of LG&E or such Affiliates, and which has had the effect of depriving TKR of the use of a material and substantial portion of the benefits to be derived by it through the Conduit License or the Above Ground License as contemplated in this Agreement in violation of the provisions hereof for a period of 60 consecutive days, or for 60 non-consecutive days in any consecutive 90-day period (but only in the event TKR was actually using that portion of the Conduit License or the Above Ground License immediately prior to the commencement of that period, or can reasonably demonstrate that such use could and would have commenced as of the commencement of that period, but for the Material Breach or Default by LG&E); or

(ii) In the case of TKR, any act or omission (including without limitation, any refusal to perform) on the part of TKR, any of its Affiliates, or any of their respective agents or employees (other than a suspension of performance by TKR in compliance with Section 6(b)), which was within the reasonable control of TKR or such Affiliates, and which has had the effect of depriving LG&E of the use of a material and substantial portion of the benefits to be derived by it through the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E as contemplated in this Agreement in violation of the provisions hereof for a period of 60 consecutive days, or for a period of 60 nonconsecutive days in any consecutive 90-day period (but only in the event LG&E was actually using that portion of the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E immediately prior to the commencement of that period, or can reasonably demonstrate that such use could and would have commenced as of the commencement of that period, but for the Material Breach or Default by TKR).

For purposes of this Subsection 6(c), a party shall be deemed to have committed an act or omission of the type described in Subsection (c)(i) or (c)(ii), as the case may be, in the event that party shall at any time attempted to terminate or render this Agreement null and void, in whole or in part, in any manner other than pursuant to this Agreement.

Notwithstanding anything contained in this Subsection (c) to the contrary, neither party shall be deemed to have deprived the other party of a material and substantial portion of its licenses or other rights contemplated in Subsection (c)(i) or (c)(ii), above (as applicable), to the extent the former party had no responsibility under this Agreement for the provision of those licenses or other rights, or for the cause of such deprivation or the remedy thereof, or, where such responsibility does lie with the former party, to the extent: (A) the deprivation was initially caused by reason of a casualty damage or loss regarding the equipment or other assets which are reasonably necessary for the provision of such licenses or other rights, (B) such casualty

damage or loss did not result from the willful misconduct of the former party, (C) the former party proceeds in good faith and with reasonable diligence (and at its expense) to remedy the casualty damage or loss (and to resume the latter party's rights hereunder with respect to the same) at the earliest practicable time, and (D) such remedy is completed within 180 days following the date of such casualty damage or loss (subject to any force majeure events which delay such completion as contemplated in Section 15). The termination rights set forth in this Subsection (c) shall be in addition to all other rights and remedies which the terminating party may have at law or in equity by reason of a breach or default on the part of TKR or LG&E occurring prior to that termination, whether pursuant to this Agreement or under applicable law. LG&E and TKR shall each use their reasonable best efforts, and shall cooperate in good faith, to remedy any circumstance giving rise to a Material Breach or Default at the earliest practicable time, through the delivery of notice of termination by the relevant party as contemplated above. The party committing or responsible for the Material Breach or Default shall promptly reimburse the other party for its reasonable, out-of-pocket costs and expenses incurred in connection with those efforts.

(d) Option to Purchase Certain Assets Upon Abandonment.

(i) TKR hereby grants to LG&E (and agrees to cause its relevant Affiliates (if any) to grant to LG&E) an option to purchase the "Option Assets" (as defined below), or that portion of the Option Assets designated by LG&E, to the extent TKR (or such Affiliate(s)) abandons those Option Assets for any reason, upon and subject to the terms and conditions set forth below. As used in this Agreement, the "Option Assets" shall include only the following assets and properties which are located in the Service Territory as of the relevant option exercise date, subject to the provisions of Subsection 6(d)(iii): (A) the Fiber Strands Licensed to LG&E (whether contained in Fiber Cables or FOG Wire now or hereafter owned by TKR or any of its Affiliates); (B) the Fiber Strands of TKR and its relevant Affiliates over which LG&E is entitled to utilize the Bandwidth Licensed to LG&E, whether now or hereafter owned by TKR or such Affiliates; (C) an undivided ownership interest in the Coaxial Cables of TKR and its relevant Affiliates over which LG&E is entitled to utilize the Bandwidth Licensed to LG&E, equal to the percentage by which the Bandwidth Licensed to LG&E bears to the total amount of bandwidth capacity available over those Coaxial Cables under normal conditions (using generally available communications equipment) as of the relevant option exercise date, whether those Coaxial Cables are now or hereafter owned by TKR or such Affiliates; (D) the Bandwidth Licensed to LG&E; and (E) all splices and terminations of TKR and its relevant Affiliates relating to any of the foregoing, but only to the extent such splices and terminations are reasonably necessary to provide LG&E access to and connectivity with the Option Assets identified in (A), (B), (C) and (D), above. In the event LG&E exercises its option to purchase the Option Assets pursuant to this Subsection 6(d) or Subsection 6(e), below,, TKR agrees that it shall not thereafter attempt to remove any innerducts in which those Option Assets are contained without replacing the Same with innerducts of like quality within a reasonable period of time following the initial removal (but in no event later than 120 days following such removal). The purchase option provided for herein may be exercised by

LG&E, from **time-to-time**, **as and when portions** of the Option Assets are abandoned by TKR or its relevant Affiliate. If TKR (or such Affiliate) intends to abandon any Option Assets for any reason, TKR shall notify LG&E of such intention no later than 180 days prior to the expiration of the Term or, if the proposed abandonment shall be sooner, at least 180 days prior to the proposed abandonment date; provided, that the giving or receipt of such notice shall not be a precondition to LG&E's option hereunder. For purposes of this Section 6(d), TKR shall be deemed to have abandoned a portion of the Option Assets on the earlier to occur of: (i) 180 days following LG&E's receipt of the abandonment notice provided for above; or (ii) 10 days following the date on which LG&E shall have notified TKR of TKR's abandonment of that portion of the Option Assets, delivered at any time in the event each of the following criteria have been met: (A) LG&E's use of those Option Assets as contemplated in Section 3 of this Agreement has been disrupted or materially and **adversely** affected by reason of a failure of or defect in the Communications System (including without limitation, those Option Assets) which is not attributable to the negligence or willful misconduct of LG&E or its agents or **employees**; and (B) either (y) TKR has failed for any reason to commence with reasonable diligence the repair and/or replacement of the defective **portion(s)** of the Communications System, at TKR's sole cost and expense, within 20 days after written request therefore ("Repair Request") is delivered by LG&E (subject to any force majeure event that may delay such commencement as contemplated in Section 15), or (z) after having commenced such repair or **replacement** in a timely manner, TKR has failed to complete the same within 10 days after LG&E's delivery to TKR of a second Repair Request relating to the same repair or replacement work (which second Repair Request shall be delivered by LG&E no sooner than 120 days after its initial Repair Request for that work). Notwithstanding the foregoing, TKR shall not be deemed to have abandoned a portion of the Option Assets pursuant to Subsection (d)(i)(ii), above, in the event, prior to the expiration of the 120-day period set forth in that Subsection, LG&E shall have repaired or **replaced** the assets that failed or were defective, unless TKR shall thereafter fail to reimburse LG&E (within 30 days after LG&E's written demand) for **all** reasonable costs and expenses incurred by LG&E to repair or replace **those** assets. The option provided for herein shall be exercisable by LG&E upon written notice to TKR. In the event LG&E exercises that purchase option, TKR shall convey title to the relevant Option Assets to LG&E free and clear of all liens and encumbrances (**other than any** security interests **then** held by LG&E or its Affiliates) within 30 days following TKR's receipt of LG&E's exercise notice (or such later date as LG&E shall specify in such notice), and LG&E thereafter shall own those Option Assets without any obligation to TKR or **any** restrictions on LG&E's use of the same **whatsoever**. In the event TKR shall fail to deliver appropriate documents of conveyance to LG&E during that 30-day period, the provisions of this Subsection 6(d)(i) shall be deemed to be self-effecting, and shall serve in lieu of **those** documents of conveyance for **all** purposes. In the event LG&E exercises its option pursuant to this Subsection (d)(i), TKR shall also be **deemed** to have assigned to LG&E, without further consideration, any easements, rights of way and other **similar** agreements with **third-parties** which TKR may have regarding the ownership or use of the portion of the Option Assets that was abandoned, but only to **the** extent the same are assignable with or without the consent of the other parties thereto. In addition, TKR agrees to use its best efforts to obtain for LG&E

the consent or approval of all relevant third-parties with respect to such assignments, and shall otherwise cooperate with LG&E in connection with its assumption of those agreements. The provisions of this Subsection 6(d) shall be deemed to survive any expiration or termination of this Agreement other than a termination by TKR pursuant to Section 6(c).

(ii) Following its exercise of any option provided for in Subsection (d)(i), above, LG&E shall pay to TKR, at the closing of that transaction, a one-time aggregate cash payment of \$10.00 for all of the Option Assets (the "Abandonment Option Payment"). In the event TKR shall thereafter abandon (or be deemed to have abandoned) any other portion(s) of the Option Assets, LG&E shall be entitled to exercise its option to purchase the same from TKR in accordance with Subsection:(d)(i), but shall have no further payment obligation to TKR with respect to such additional purchase(s), it being understood and agreed that the Abandonment Option Payment by LG&E shall constitute reasonable and adequate compensation to TKR for all such additional purchases.

(iii) Notwithstanding the provisions of Subsection 6(d)(i), 6(d)(ii) or any other provision of this Agreement to the contrary, LG&E shall not be entitled to purchase any of the Option Assets described in Subsections 6(d)(i)(C), 6(d)(i)(D) or 6(d)(i)(E) pursuant to the purchase options set forth in this Section 6, to the extent (but only to the extent) those assets or properties constitute City Cable Assets (as defined in Section 3(i)(ii)), until such time as TKR and LG&E shall have received one of the following: (A) the written consent or approval of TKR's sale and LG&E's purchase of those City Cable Assets from the City of Louisville Board of Alderman (or any successor board or commission); (B) a written determination by the City of Louisville Board of Alderman that it has no jurisdiction or control over that sale and purchase; or (C) a final, non-appealable decision of a court of competent jurisdiction that the consent or approval of the City of Louisville Board of Alderman is not a condition to the legality of that sale and purchase. Upon the request of LG&E from time-to-time, TKR agrees to cooperate with LG&E in good faith and with reasonable diligence, in order for LG&E to obtain the consent, approval, determination or decision described above, including without limitation, by filing a joint petition for, and advocating the rendering of, such consent, approval, determination or decision. LG&E and TKR each agree to duly and timely pay one-half (1/2) of any reasonable costs or expenses incurred by them in the pursuit of such consent, approval, determination or decision. TKR agrees not to assert in any proceeding before the Louisville Board of Alderman or any court or other tribunal, that LG&E's purchase of the City Cable Assets should be denied, in whole or in part, by reason of the actual or anticipated need for such assets by TKR or any of its Affiliates.

(e) Additional Options to Purchase the Option Assets.

(i) TKR hereby grants to LG&E (and agrees to cause its relevant Affiliates (if any) to grant to LG&E) an additional option to purchase the Option Assets upon and subject to the terms and conditions set forth below, subject to the provisions of Subsection 6(d)(iii). Such option will be exercisable by LG&E upon written notice to TKR

delivered at any time following the occurrence of either of the following: (A) any termination of this Agreement prior to the expiration of the Term for any reason other than by TKR pursuant to Section 6(c) by reason of a Material Breach or Default on the part of LG&E, and other than by LG&E in violation of this Agreement; or (B) any sale or assignment (or attempted sale or assignment) by TKR or its relevant Affiliate (if any) of any right, title or interest which it may now or hereafter have under, in or to this Agreement and/or the Extended System, without the prior written consent of LG&E (which consent shall not be unreasonably withheld, and shall be given or withheld by LG&E within 30 days after the written request of TKR). For purposes of this Subsection 6(e)(i)(B), the consent of LG&E shall not be deemed to have been withheld unreasonably if done so based upon (w) TKR's attempt to sell or assign any right, title or interest which it may have in this Agreement or the Extended System (including without limitation, any sale or assignment by TKR's relevant Affiliate(s), if any) without simultaneously selling or assigning TKR's (or its Affiliate(s)) rights, title and interests in the Extended System or this Agreement, as the case may be, to the Same person or entity, or any sale or assignment (or attempted sale or assignment) by TKR or its relevant Affiliate in violation of Section 22 of this Agreement, (x) LG&E's good faith belief that the proposed purchaser or assignee of the Extended System intends to utilize the Extended System in connection with any activity in competition with LG&E's retail electric or natural gas businesses, (y) the proposed purchaser or assignee (as applicable) of the Extended System and this Agreement fails or refuses to agree in writing with LG&E to assume and become bound by all debts, obligations and liabilities of TKR under this Agreement in a manner reasonably satisfactory to LG&E, or (z) TKR's failure or refusal to acknowledge in writing to LG&E that such sale or assignment shall not be deemed to release TKR from its debts, obligations and liabilities under this Agreement (provided, that TKR shall have no obligation to remain bound by the provisions of this Agreement, as a condition to its sale or assignment of all of its rights, title, interest and obligations under, in and to this Agreement and the Extended System to a person or entity which is not then an Affiliate of TKR, to the extent the intended assignee or transferee of this Agreement and the Extended System would have a net worth (total assets minus total liabilities) in excess of \$100,178,000.00 after giving effect to such sale or assignment, so long as the other conditions set forth in this Subsection (e)(i) have been fulfilled, and so long as none of the circumstances described in (w), (x) or (y), above, then exist). In the event the proposed purchaser or assignee delivers to LG&E a binding written commitment not to utilize the Extended System at any time in the manner contemplated in Subsection (e)(i)(x), above, LG&E shall not oppose the proposed sale or assignment on the basis of that Subsection. TKR shall provide LG&E, upon its request, with reasonable financial information evidencing the proposed assignee's or transferee's net worth.

(ii) In the event LG&E elects to exercise its purchase option provided for in Subsection 6(e)(i), LG&E shall pay to TKR (and its relevant Affiliates, if any) an aggregate purchase price in cash for the Option Assets determined as follows ('Additional Option Price'):

(A) In the event the purchase option is exercised by reason of a termination of this Agreement by LG&E pursuant to Section 6(c) following a Material Breach or Default on the part of TKR, or by reason of any sale or assignment (or attempted sale or assignment) of the type contemplated in Subsection 6(e)(i)(B), the Additional Option Price shall be Ten Dollars (\$10.00), and shall be paid by LG&E at the closing of the sale and purchase as provided below; and

(B) In the event the purchase option is exercised by LG&E for any other reason permissible under this Subsection 6(e), the Additional Option Price shall equal the sum of:

(x) in the case of the Fiber Strands included in the Option Assets that are to be purchased, the incremental materials cost for those Fiber Strands incurred by TKR in connection with its original installation of the Fiber Cables in which they are contained;

(y) in the case of the portions of any Coaxial Cables included in the Option Assets and the Bandwidth Licensed to LG&E over those Coaxial Cables (which Coaxial Cables and bandwidth shall be deemed to be one and the same asset for the purpose of calculating the price therefor under this Subsection (y), but only for that purpose), a portion of TKR's original cost to install those Coaxial Cables (including its costs for materials and labor) determined by reference to the following formula:

$$X = (.5 \times A/B) + (.5 \times A/C)$$

Where: A= 100 KHz;

B = The total amount of bandwidth capacity in the upstream direction (customer to TKR facility) available over the relevant Coaxial Cables under normal conditions (using generally available communications equipment) as of the option exercise date; and

C = The total amount of bandwidth capacity in the downstream direction (TKR facility to customer) available over the relevant Coaxial Cable under normal conditions as of the option exercise date; and

(z) in the case of all other Option Assets. \$1,000.00 in the aggregate.

For purposes of Subsection (ii)(B)(x) above, the parties estimate that TKR's incremental materials cost for LG&E's Fiber Strancis, once the entire Extended System as now contemplated by TKR has been installed, will be approximately \$775,000.00. For purposes of Subsection (ii)(B)(y), above, the parties estimate that the portion of TKR's original cost to install the Coaxial Cables that would be payable by LG&E is approximately \$225,000.00, assuming for purposes of the formula described in Subsection (ii)(y) that the total amount of bandwidth capacity in the upstream direction is 35 MHz and the total amount of bandwidth capacity in the downstream direction is 700 MHz, and assuming the entire Extend System as now contemplated by TKR is installed. The information in the two preceding sentences is included for explanatory purposes only. The Additional Option Price shall be paid by LG&E to TKR at the closing of the sale and purchase as provided below, and TKR shall be responsible for documenting to LG&E's reasonable satisfaction TKR's costs incurred in connection with its original installation of the Option Assets.

(iii) If LG&E exercises the foregoing purchase option, TKR (and its relevant Affiliates) shall convey title to the relevant Option Assets to LG&E within 30 days after the delivery of LG&E's option exercise notice, free and clear of all liens and encumbrances (other than such security interests as are then held by LG&E or its Affiliates), and LG&E thereafter shall own those Option Assets without any further obligation to TKR with respect to the same, subject to Subsection (6)(h) below. In the event TKR (or its relevant Affiliates) fail for any reason to deliver to LG&E reasonable documents of conveyance with respect to the Option Assets within the abovedescribed 30-day period, the provisions of this Subsection 6(e) shall be deemed to be self-effecting, and shall serve in lieu of such documents of conveyance for all purposes. In the event LG&E exercises its purchase option pursuant to this Subsection 6(e), and to the extent they are then assignable, TKR agrees to assign to LG&E, without further consideration, any relevant easements, rights of way or other similar agreements with third-parties that TKR may have regarding the ownership or use of the Option Assets that are purchased by LG&E (or shall use its best efforts to obtain for LG&E's use and benefit such consents or approvals under those agreements as shall be required in order for LG&E to continue to own and use those Option Assets). In the case of an assignment of those agreements, TKR also agrees to use its best efforts to obtain for LG&E the consent or approval of all relevant third-parties with respect to that assignment, and shall otherwise cooperate with LG&E in connection with its assumption of those agreements. The purchase option provided for in this Subsection (e) shall survive the termination of this Agreement for any reason other than by TKR pursuant to Section 6(c).

(iv) Notwithstanding anything to the contrary contained in this Agreement, LG&E shall have an additional option to purchase a portion of the Option Assets upon and subject to the following terms and conditions. In the event: (A) TKR shall suspend its performance of a particular covenant or agreement (or group of covenants or agreements) in

compliance with Subsection 6(b); (B) that suspension has the effect of depriving LG&E of a material portion of the benefits to be derived by LG&E through the use of the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E as contemplated in this Agreement (whether or not also constituting a "substantial" portion of those benefits as contemplated in Subsection 6(b)(ii)(B)) during the relevant Suspension Period; (C) that suspension (or the bases for the same) can reasonably be expected to deprive LG&E of those benefits following the Suspension Period; and, to the extent applicable, (D) LG&E has elected not to terminate this Agreement when it would otherwise be permitted to do so pursuant to Subsection 6(b)(ii)(B); then LG&E shall have an option to purchase only those portions of the Option Assets the use or benefit of which was denied to LG&E by reason of TKR's suspension of performance. The purchase price payable by LG&E for the relevant Option Assets shall be determined in accordance with Subsection 6(e)(ii)(B), and the purchase option shall otherwise be exercised by LG&E in accordance with, and shall be subject to the provisions of, Subsection 6(e)(iii). The exercise by LG&E of its purchase option(s) pursuant to this Subsection (e)(iv) shall not be deemed to preclude or restrict any subsequent exercise by LG&E of this or any other purchase option with respect to the remaining Option Assets. Following any exercise by LG&E of the purchase option provided for in this Subsection (e)(iv), TKR agrees to maintain in good working order, condition and repair (ordinary wear excepted) all Option Assets so purchased by LG&E for the remainder of the Term (regardless of any earlier termination of this Agreement other than by TKR pursuant to Section 6(c)), at no cost or expense to LG&E.

(f) License to Use TKR Communications Capabilities. In the event LG&E exercises any of its purchase options pursuant to Subsection 6(d) or 6(e), TKR agrees to (and agrees to cause its relevant Affiliates to) grant to LG&E, its successors and permitted assigns, a royalty free, non-exclusive right and license to access and utilize the communications equipment and facilities of TKR (and such Affiliates) to the same extent and in the same manner as contemplated in Section 6(g) hereof, but only to the extent reasonably necessary for LG&E (and such other persons) to utilize the Option Assets (including the Bandwidth Licensed to LG&E) in the manner contemplated in this Agreement. Such right and license shall continue in effect for the remainder of the Term, regardless of any earlier termination of this Agreement pursuant to this Section 6. LG&E shall not be required to provide TKR any additional consideration for the foregoing rights and licenses.

(g) Removal of Equipment and Facilities; Ownership.

(i) Upon the termination of this Agreement by TKR pursuant to Section 6(c), TKR shall remove the System (or the portions designated by LG&E) from the LG&E Structures within 180 days from the date of such termination. TKR shall not remove any material portion of the System from the LG&E Structures (other than as contemplated in this Agreement) prior to the expiration of the Term, unless directed to do so by LG&E (in which event such removal shall be completed within 180 days follows, LG&E's direction). Subject to the limitations set forth in the immediately preceding sentence, TKR shall be entitled to remove all or any portion of the System from the LG&E Structures (and shall be

required to so remove the system upon the written direction of LG&E) within 180 days following the expiration of the Term, unless LG&E shall have previously exercised its option pursuant to Section 6(d) or 6(e) to purchase the Option Assets (or any portion thereof), in which event TKR shall not at any time thereafter remove from the LG&E Structures any of those Option Assets, or any Fiber Cables, Coaxial Cables or other assets of which those Option Assets are a part or in which they are contained. Failure by TKR to remove the System (or any *portion* thereof) as directed by LG&E within the above-referenced 180-day period shall be deemed to be an abandonment of the same pursuant to Section 6(d), in which event title to the System (or that portion) shall automatically vest in LG&E without further action on the part of TKR. Upon any removal of the System, TKR shall return the Conduit Structures, Utility Poles and other relevant facilities of LG&E to their same condition as existed prior the installation of the System (ordinary wear excepted), in each case at TKR's sole cost and expense.

(ii) (A) Notwithstanding anything to the contrary contained in this Agreement, the Existing Agreement or the Cable Television Tariff, and except as provided above, TKR shall not at any time remove any Fiber Cables, Coaxial Cables, FOG Wire, or related splices, terminations or associated innerducts, which are or hereafter become a part of the Extended System, from any LG&E Structure prior to the expiration of the Term, regardless of any earlier termination of this Agreement, the Existing Agreement or the Cable Television Tariff (other than a termination by TKR pursuant to Section 6(c)), and shall not thereafter remove any portions of the Extended System that are purchased by LG&E pursuant to an exercise of its option under Section 6(d) or 6(e) (in either case other than for the relocation of TKR's cable drops, from time-to-time in the ordinary course of TKR's business, but subject to the limitations set forth below), unless (y) such removal is required in order to comply with the provisions of Section 7, below, or any comparable provisions of the Existing Agreement or the Cable Television Tariff (and then only to the extent requested by LG&E in accordance therewith), or (z) such removal is required in order to comply with a final, non-appealable order of a court or regulatory authority having competent jurisdiction. In the event any regulatory authority or court having competent jurisdiction shall at any time order the removal by TKR of any of its Fiber Cables, Coaxial Cables, FOG Wire or related splices, terminations or associated innerducts from any LG&E Structures prior to the expiration of the Term, and in the event LG&E thereafter requests that TKR appeal that order to a higher authority having such jurisdiction, TKR agrees to appeal and further contest that order in good faith, but shall not be required to incur expenses in excess of \$25,000 in doing so. In the event LG&E is willing to fund expenditures by TKR in excess of \$25,000 in appealing and contesting such order, TKR agrees to continue those efforts in good faith; provided, that in the event, in the opinion of TKR's legal counsel, its continued efforts to appeal the order would be futile, regardless of the amount of additional expenditures funded by LG&E or the efforts of TKR, TKR shall be entitled to discontinue its appeal efforts.

(B) Following the discontinuation by TKR and its Affiliates of all of their services to any customer or location in the Service Territory, TKR shall not permit

the removal or disconnection of its or its Affiliate's cable drop to the premises of that Customer, or to that location, without giving LG&E at least 25 days prior notice of the same; provided, that the foregoing notice shall not be required by TKR with respect to a particular cable drop until such time as LG&E shall have notified TKR of LG&E's intention to begin using the Bandwidth Licensed to LG&E and/or the Fiber Strands Licensed to LG&E located anywhere in the same 5-digit ZIP Code area as that cable drop. Thereafter, TKR shall not permit the removal or disconnection of its cable drop to that customer or location for the remainder of the Term in the event LG&E shall notify TKR, within the above-described 25-day period, that (y) LG&E is then using a portion of that cable drop to provide service to, or to communicate with, LG&E's customer(s) at that location, or intends to so use that cable drop within the one (1) year period immediately following TKR's notice to LG&E, and (z) in the case of Coaxial Cable drops, LG&E is willing to reimburse TKR for one-half (1/2) of its reasonable cost (for materials only) associated with the purchase of a standard bandwidth filter or other similar device for that location which is reasonably satisfactory to TKR (in which event TKR shall undertake to install such filter or other similar device at its sole cost and expense, subject to LG&E's reimbursement obligation). In the event TKR or any of its Affiliates desire to filter or otherwise reduce the bandwidth capacity of any of its Coaxial Cable drops to a particular location, but intend to continue to use other bandwidth capacity on that cable to provide services or otherwise send or receive communications signals to or from that location, TKR shall be solely responsible, at its expense, for the purchase and installation of all bandwidth filters and other similar devices necessary in order to effect that filtering or reduction in bandwidth. The provisions of this Subsection (ii) shall be subject to the right of TKR to remove cable drop at such time as TKR is ordered to do so by the relevant property owner(s); provided, that TKR shall use its reasonable best efforts to notify LG&E of any such order prior to removing TKR's cable drop, and to assist LG&E in obtaining the permission of such property owner(s) for LG&E's continued use of the same. LG&E shall be responsible for obtaining such permission when requested by TKR. As and when TKR shall decide to remove a particular bandwidth filter or other similar device from a Coaxial Cable drop, TKR agrees that it shall use its reasonable best efforts to do so in a manner that will not damage the same or otherwise render it incapable of re-use. Thereafter, TKR agrees to use all re-useable bandwidth filters and other similar devices prior to seeking to acquire new filters or devices for which reimbursement may be sought from LG&E. In the event LG&E desires to communicate with a customer or location to which TKR and its Affiliates are not then providing services, but to which TKR does have one or more Coaxial Cable drops which have been disconnected, LG&E shall be entitled, at its expense, to have TKR's cable drop reconnected to the Extended System, and to thereafter utilize the same in connection with the Fiber Strands Licensed to LG&E and/or the Bandwidth Licensed to LG&E. TKR shall reconnect the cable drops requested in writing by LG&E, and shall be responsible for installing standard bandwidth filters or other similar devices to the extent TKR deems the same to be reasonably necessary in order to protect its own signals from unauthorized use. LG&E agrees to pay TKR its regulated reconnection charge for the foregoing reconnection services, together with TKR's actual materials cost for any necessary bandwidth filters. TKR shall complete all reconnection services requested by LG&E within the time periods mandated by applicable Federal, state or

local laws, rules or regulations dealing with cable television connections and reconnections generally.

(iii) Upon the expiration or termination of this Agreement for any reason, but subject to LG&E's rights and licenses provided for in Subsection 6(f), LG&E shall, upon TKR's written request, remove all equipment of LG&E located at TKR's hub sites within 180 days from the date of such request, at LG&E's sole cost and expense. The parties shall reasonably coordinate their removal efforts hereunder so as to minimize the disruptive effects on their respective businesses and personnel. The provisions of this Subsection 6(g) shall be deemed to survive the expiration or termination of this Agreement for any reason, except that the provisions of Subsection (g)(ii)(B) shall survive a termination of this Agreement only for the remainder (if any) of the Term.

(iv) Throughout the Term, and for a period of 180 days thereafter, TKR agrees not to (and agrees to cause its relevant Affiliates, if any, not to) sell, assign or convey to any other person (other than LG&E), any of the Option Assets, or any interest therein, other than in conjunction with a combined sale and assignment of the entire Extended System and this Agreement, and then only to the extent the provisions of Section 22 and 6(e) have been fully complied with; provided, that the foregoing covenant shall not prevent TKR from selling, assigning or conveying any portion of the Option Assets which are also City Cable Assets to the City of Louisville pursuant to its option to purchase set forth in TKR's existing cable television franchise with the City of Louisville. TKR agrees to use its best efforts to notify LG&E at least 90 days prior to any proposed purchase of the City Cable Assets by the City of Louisville pursuant to that option.

(v) Notwithstanding anything contained in this Section 6(g) to the contrary, in the event following a purchase of any Option Assets by LG&E pursuant to Section 6(e) (but not pursuant to Section 6(d)): (A) TKR desires to replace any Fiber Cables and/or Coaxial Cables containing those Option Assets (collectively, "Option Cables") in connection with an upgrade by TKR of the Extended System generally; (B) those Option Cables are then located within the Communications Space on one or more of LG&E's Utility Poles; and (C) LG&E reasonably determines that there is insufficient space remaining in the Communications Space on one or more of those Utility Poles ("Constrained Poles") to accommodate TKR's replacement Fiber Cable or Coaxial Cable without moving other cables and equipment then located in that Communications Space (including the Option Cables), then LG&E shall elect, in its sole discretion, either: (x) to permit TKR, at TKR's sole cost and expense, to move the relevant Option Cable to another location in the Communications Space on the Constrained Poles or, if another location in the Communications Space is not then available, to another location outside the Communications Space on the Constrained Poles, but in each case only to the extent reasonably necessary in order for TKR to attach its replacement Fiber Cable or Coaxial Cable to the Constrained Poles in the Communications Space; or (y) to modify or replace those Constrained Poles to the extent reasonably necessary in order to accommodate the installation of TKR's replacement Fiber Cable or Coaxial Cable within the

Communications Space on those Utility Poles, at LG&E's sole cost and expense (other than for the installation of TKR's replacement cables); or (z) to cause the other cables, electrical conductors and equipment (or any combination thereof) located on the Constrained Poles to be moved to other locations on those poles to the extent reasonably necessary in order to accommodate the installation of TKR's replacement Fiber Cable or Coaxial Cable within the Communications Space, at LG&E's sole cost and expense (other than for the installation of TKR's replacement cables). LG&E shall make its election as provided for above within 30 days after written request therefore is delivered by TKR (which request shall include a description of the Utility Poles in question, their specific location, and an explanation in reasonable detail of the reason(s) for TKR's belief that its replacement cables cannot be installed on those Utility Poles absent an action of the type described in (A), (B) or (C), above. Any movement of Option Cables by TKR as contemplated herein (including without limitation, any proposed new location for those cables on the Constrained Poles) shall comply with all applicable laws, rules, regulations and ordinances, with the NEC and the NESC, and with LG&E's Safety Policies, and no such movement shall be permitted to the extent it would result in any of the circumstances described in Subsections 1(c)(iii)(A), 1(c)(iii)(B) or 1(c)(iii)(C)(z). Any Option Cables that are moved by TKR pursuant to this Subsection 6(g)(v) shall be permanently re-attached by TKR to the Constrained Poles using industry standard pole attachment equipment. Upon any installation by TKR of Fiber Cables or Coaxial Cables on one or more Constrained Poles following an election by LG&E as contemplated in (x), (y) or (z), above, those Fiber Cables or Coaxial Cables shall constitute a part of the Extended System for all purposes under this Agreement, TKR shall assign, transfer and deliver to LG&E (or its designee) all remaining rights, title and interest of TKR in and to the Option Cables then located on those Constrained Poles, without any additional consideration from LG&E, and TKR shall thereafter cease to use any of those Option Cables for any purpose without the prior written approval of LG&E. The foregoing assignment, transfer and delivery shall take place within 30 days following the date on which TKR first utilizes its new Fiber Cables or Coaxial Cables (as applicable) attached to the Constrained Pole(s) on a commercial basis; provided, that in the event TKR fails for any reason to make that assignment, transfer and delivery, the provisions of this Subsection 6(g)(v) shall be deemed to be self-effecting without further action on the part of any party. The Option Cables to be assigned, transferred and delivered to LG&E hereunder shall include only those portions of the relevant Fiber Cable or Coaxial Cable extending from a Constrained Pole in both directions to the point where that cable is first installed on or attached to a Utility Pole that is not also a Constrained Pole. Upon the assignment and transfer of TKR's remaining interests in a particular Option Cable to LG&E pursuant to this Subsection (g)(v), LG&E shall continue to use that Option Cable solely for the uses and purposes provided for in Section 3(h) during the remainder of the Term. Throughout the Term, TKR shall maintain for the benefit of LG&E continuity of access over the Option Cables to the same TKR Customers, and to the same portions of the Extended System, to which LG&E had access prior to TKR's installation of its replacement Fiber Cables or Coaxial Cables (as applicable) on the Constrained Poles, which access shall continue on an uninterrupted basis until such time as LG&E has reasonable access to the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E (as applicable) in or over those

replacement cables, and then only to the extent LG&E has completed the connection (or re-connection) of its other Fiber Strands, bandwidth capacity and communications equipment to TKR's new cables. LG&E and TKR shall reasonably cooperate with each other in connection with LG&E's connection or reconnection efforts, which shall be completed by LG&E at the earliest practicable time following the date on which TKR has notified LG&E that its replacement cables are commercially operational.

(h) **Limited Use.** LG&E shall continue to utilize the Option Assets solely for the uses and purposes provided for in Section 3(h) to the extent LG&E purchases those assets pursuant to Section 6(e). In the event LG&E purchases any Option Assets pursuant to Section 6(d) following an Abandonment of the same by TKR, and in the event, prior to that Abandonment, TKR provided LG&E with new Fiber Strands Licensed to LG&E and/or Bandwidth Licensed to LG&E in place of the Fiber Strands and/or bandwidth capacity represented by the Abandoned Option Assets, affording LG&E continuity of service and access to the same customers and locations serviced by those Abandoned assets, then for so long thereafter during the remainder of the Term as those replacement Fiber Strands and/or bandwidth capacity are available to LG&E, LG&E shall utilize those Option Assets solely for the uses and purposes provided for in Section 3(h). Except as provided in the immediately preceding sentence, the restrictions of Section 3(h) shall not apply to any Option Assets purchased pursuant to Section 6(d).

7. **Relocation.**

(a) **Forced Relocation of LG&E Structures.** Upon 60 days prior written notice delivered to TKR from time-to-time during the Term (except in emergency or dangerous situations, in which event LG&E shall give only as much prior notice as it shall deem reasonable under the circumstances), LG&E shall have the right to replace, relocate, remove or abandon any of the LG&E Structures (and to cause the alteration, relocation or removal of any Fiber Cables, FOG Wire, Coaxial Cables and related splices, terminations and innerducts of TKR attached to or installed in such LG&E Structures), consistent with normal operating, maintenance and development procedures and prudent utility practices. LG&E shall use its reasonable best efforts to provide an alternate location on the LG&E Structures for any portion of the System required to be relocated or removed. LG&E will bear all costs and expenses of any relocation of the LG&E Structures, and TKR will bear all costs and expenses of any relocation and removal of the System (or any portion thereof). TKR shall be solely responsible for any losses occasioned by the resulting interruption of TKR's business or operations.

(b) **Relocation for Convenience; Assignment of Innerducts.** From time-to-time during the Term, LG&E shall be entitled to direct, by written notice to TKR, that portions of the System be relocated to other LG&E Structures, in the event LG&E shall determine, in good faith and in the exercise of its reasonable business judgment, that the space occupied by those portions of the System are required in connection with the energy services

businesses of LG&E or any of its Affiliates. LG&E shall use its reasonable best efforts to make available to TKR other suitable LG&E Structures as close in proximity to the former LG&E Structures as is possible. TKR agrees to complete such relocation within 180 days after the date of LG&E's request. LG&E shall reimburse TKR for its reasonable out-of-pocket costs and expenses incurred in connection with any relocation directed pursuant to this Subsection (b). In the event LG&E shall determine, in good faith and in the exercise of its reasonable business judgment, that LG&E or its Affiliates require the space occupied by an innerduct previously installed by TKR in the Conduit Structures, LG&E may, in its discretion, request that TKR assign title to that innerduct to LG&E. To the extent TKR is not then using that innerduct and determines, in good faith and the exercise of its reasonable business judgment, that it will not need the use of that innerduct during the succeeding one (1) year period, TKR shall notify LG&E of the same within 30 days after the date of LG&E's request, and shall, within 45 days after that request (or such shorter period as shall be acceptable to TKR and LG&E), assign title to that innerduct to LG&E at no cost or expense to LG&E. Subject to the dimensional and other limitations provided for in Section 1(a) and elsewhere in this Agreement, LG&E shall thereafter install for TKR a replacement innerduct of like size and quality in an alternate Conduit Structure as close in proximity to the innerduct assigned to LG&E as is reasonably practicable, within 90 days after TKR's request for the same (or as soon thereafter as is reasonably practicable). TKR agrees not to make such request until it has determined, in good faith, that it will have an actual need for that empty innerduct within 120 days following the date of the request. Any replacement innerducts installed by LG&E pursuant to this Subsection (b) shall be at the sole cost and expense of LG&E.

(c) **Relocation for Disruption.** In no event will the installation or use of the System be permitted to disrupt or in any manner interfere with LG&E's electric or gas transmission or distribution services, and TKR shall ensure that no such disruption or interference shall occur. Whenever LG&E notifies TKR in writing that the System is interfering with such services, constitutes a hazard to such services, fails to comply with applicable laws, codes or regulations, or is otherwise unsafe, TKR shall, within 10 days after the date of such notice, remove, rearrange or change the System as reasonably directed by LG&E, at TKR's expense. In the event of an emergency, LG&E reserves the right to immediately remove or relocate portions of the System at TKR's expense, and no liability therefor shall be incurred by LG&E because of such action.

(d) **Cooperation.** Subject to Subsections (a), (b) and (c), above, LG&E and TKR shall reasonably cooperate with each other to develop a plan and schedule for any relocation of the System required pursuant to this Section 7, including how and by whom the work shall be performed. Once it is determined by LG&E that such relocation is necessary, LG&E and TKR shall use their reasonable best efforts to relocate the System in a manner that will interrupt their respective businesses and operations the least.

8. Maintenance and Use.

(a) Maintenance Generally. TKR, at its sole cost and expense, shall maintain the entire Extended System, including the facilities licensed to LG&E hereunder and the mechanisms used to attach the System to the LG&E Structures, in good working order, condition and repair (ordinary wear excepted) throughout the Term. TKR shall comply with the maintenance responsibilities and **emergency** restoration procedures set forth in the approved Work Plans and, in the absence of such responsibilities and procedures, with the reasonable directions of LG&E's personnel.

(b) Restoration of Service. In the event of a loss or failure of the Extended System which renders the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E unusable, in whole or in part, TKR shall use its best efforts, at its expense, to correct the problem and restore LG&E's use within four (4) hours (or as soon thereafter as is reasonably possible). In the event TKR shall fail to restore such use within that period, and in the event TKR shall fail to work diligently to restore such service at the **earliest** practicable time thereafter, LG&E shall be free to retain the services of one or more contractors pre-approved by TKR and LG&E to immediately perform such repair work for the account of TKR. TKR shall reimburse LG&E for its reasonable costs and expenses incurred in connection with such repair work within 90 days after completion of the same.

(c) Reasonable Access. LG&E shall afford TKR reasonable access to the LG&E Structures 24 hours a day, 7 days a week, to maintain and repair the System; provided, that TKR shall coordinate in advance all maintenance and repair activities with LG&E; and provided further, that LG&E shall have no obligation to permit such access by TKR during emergency situations involving unusually hazardous conditions, or at any time when such access would materially interfere with LG&E's efforts to repair its **electric** or gas utility equipment or facilities, or to resume LG&E's electric or gas utility service. LG&E shall have the right to cause its agents or employees to accompany TKR's agents or **employees** any time that they access the System, and TKR shall promptly reimburse LG&E for its costs in employee time incurred in providing such supervision. TKR shall ensure that all of its **employees**, agents and contractors who shall at any time access the System in order to repair or replace the same are trained in the LG&E Policy Manual, and TKR agrees to provide a copy of the LG&E Policy Manual to each independent contractor prior to their repair or **replacement** of the System (or any portion thereof). In addition, all such employees, agents and contractors of TKR shall be appropriately trained under the NESC and the NEC, and LG&E shall have the right to approve in advance all such employees, agents and contractors, which approval shall not be unreasonably withheld, LG&E reserves the right to perform all repair and replacement work required to portions of the System located within the "power space" or "service space" on the Utility Poles, for reasonable compensation to be agreed upon by LG&E and TKR, but in no event greater than the lesser of (i) LG&E's actual cost for employee time and materials, (ii) the lowest per hour rate (for employee time and materials) paid by TKR to any independent contractor (including LG&E) for similar repair services

during the six (6) month period immediately preceding the date of the relevant repair work, as reasonably documented by TKR or (iii) the lowest per hour rate (for employee time and materials) quoted by a qualified contracting company (other than Affiliates of LG&E or TKR) for similar repair or replacement services in that space during that six (6) month period, as reasonably documented by TKR.

(d) Access to Monitoring Capabilities. In order to assist LG&E in its efforts to effectively and efficiently provide electric power to customers in the Service Territory, TKR agrees that, in the event TKR or any of its Affiliates, in their discretion, maintain or develop the capability to monitor the real-time status of electric power delivered to their equipment and facilities (or portions thereof) located in the Service Territory, they will provide LG&E with reasonable access to those capabilities at no cost to LG&E; provided, that TKR and its Affiliates shall have no obligation to develop or maintain such capability at any of their facilities. TKR shall reasonably cooperate with LG&E in developing a system which effectively and promptly transmits such information to LG&E on a real-time basis, including the development and installation of an electronic communications link between the facilities of TKR and its Affiliates, on the one hand, and those of LG&E, on the other hand. Any incremental equipment costs associated with that communications link will be borne by LG&E. In consideration of the services to be provided by TKR pursuant to this Subsection (d), LG&E shall use its reasonable best efforts to promptly notify TKR in the event LG&E detects a disruption in its own communications capabilities that LG&E believes may be the result of a larger disruption affecting TKR's services as well.

9. Taxes. Except as provided for below, LG&E and TKR shall each be solely responsible for, and shall duly and timely pay without reimbursement or indemnification, any and all taxes, assessments, fees, levies or other governmental impositions (together with applicable interest and penalties) for which each is or may become liable by reason of any interest that they may have in the Extended System, or by reason of the performance of their obligations under this Agreement. Subject to LG&E's purchase options provided for in Section 6, TKR shall be the sole owner of the Extended System for all purposes hereunder, including without limitation, for income tax purposes, TKR shall pay, and agrees to indemnify and hold harmless LG&E from and against, any and all property taxes and taxes in lieu of property taxes levied or imposed, now or in the future, on or concerning the Extended System, together with interest and penalties imposed or assessed concerning the Extended System. LG&E shall pay, and agrees to indemnify and hold harmless TKR from and against, any and all "use taxes" or the like levied against or imposed on LG&E by reason of its use of the Fiber Strands Licensed to LG&E or the Bandwidth Licensed to LG&E at any time following the date hereof.

10. ~~Safety Compliance with Laws.~~ Notwithstanding any provision of this Agreement to the contrary, all activities engaged in by TKR or LG&E, as the case may be, hereunder or in connection with the System, including but not limited to, TKR's use, construction, installation, maintenance, relocation or removal of the System, and LG&E's use,

construction, installation, maintenance, relocation or removal of its equipment located on or in TKR's property, shall comply with all Federal, state and local statutes, laws, rules, regulations, codes and ordinances applicable to TKR or LG&E, or their respective businesses or assets, or to such activities, including without limitation, the NESC and the NEC. TKR shall take all reasonable and necessary precautions, by the installation of protective equipment or other means, to protect all persons and property of all kinds against injury or damage occurring by reason of the construction, installation or use of the System, or by reason of any of TKR's other activities contemplated hereunder. TKR shall perform all such activities in a manner, and shall employ such methods and procedures, as shall make it unnecessary for LG&E to de-energize any of its electric lines or facilities for the safety or convenience of TKR or its personnel; provided, that the parties acknowledge that such deenergization of LG&E's lines or facilities will be required in connection with the installation of FOG Wire on LG&E Structures. TKR hereby releases and discharges LG&E from any and all obligations or liabilities arising out of LG&E's failure to so de-energize its facilities, and agrees to indemnify and hold harmless LG&E from and against all such obligations and liabilities (other than obligations or liabilities arising out of LG&E's negligent or willful failure to de-energize such facilities when scheduled in advance by TKR with the approval of LG&E). Without limiting the generality of the foregoing, in performing its activities hereunder, TKR shall comply with all applicable LG&E safety rules and regulations of which it or its employees or agents are made aware, including those contained in the Safety Policies. LG&E agrees to utilize the Fiber Strands Licensed to LG&E and the Bandwidth Licensed to LG&E in compliance with all applicable laws, rule-s, regulations and ordinances.

11. **Additional LG&E Inspection Rights** LG&E reserves the right, at its expense, to inspect any part of the Extended System at any time, and from time-to-time, upon reasonable advance notice to TKR, and TKR and its Affiliates shall reasonably cooperate with LG&E in connection with such inspection.

12. **Rights-of-Way, Etc., of TKR** TKR shall promptly secure and maintain all rights, licenses, permits, rights-of-way, easements, approvals and franchises from private landowners, governmental or regulatory authorities or other persons or entities, which are or may hereafter be required for the attachment or installation of the System to or in any LG&E Structures located on real property not owned by LG&E, and LG&E shall promptly secure and maintain all rights, licenses, permits, rights-of-way, easements and franchises from private land owners, governmental or regulatory authorities or other persons or entities, which are or may hereafter be required for the installation of any LG&E Structures on real property not owned by LG&E. Nothing in this Agreement shall be construed as a grant of any easement, right-of-way, franchise or other similar right by LG&E or TKR, or an assignment by LG&E or TKR, as the case may be, of any rights under its own easements, rights-of-way, permits or franchises. LG&E does not warrant that any of its easements, rights-of-way, permits or franchises are sufficient for the attachment or installation of the System to or on the LG&E Structures. TKR agrees to construct, install and maintain the System solely at its own risk, and LG&E does not assume any obligation or liability for the adequacy or inadequacy of

TKR's easements, permits, rights-of-way or franchises by virtue of the granting of the Conduit License, the Above Ground License, or any or her right hereunder. LG&E agrees to install and maintain all equipment of LG&E at or within TKR's property or facilities at LG&E's own risk, and agrees that any Fiber Cables or Coaxial Cables owned by LG&E and installed by TKR for the account of LG&E as an independent contractor hereunder shall, once properly installed by TKR in accordance with standard industry practice, be owned and maintained by LG&E at its own risk. Each party hereby agrees to indemnify, defend and hold harmless the other party from and against any and all claims, demands, liabilities, actions, causes of action, proceedings, damages, obligations, costs and expenses of any nature (including without limitation reasonable attorney's fees), resulting from or arising in connection with the failure by the indemnifying party to secure and maintain all rights, licenses, permits, rights-of-way, easements, franchises and approvals for which it is responsible under this Section 12.

13. **Representations and Warranties of LG&E.** LG&E hereby represents and warrants to TKR as follows: LG&E is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, having full corporate power and authority to own and lease its assets and properties as and where the same are now owned and leased, and to conduct its businesses as and where they are now being conducted. LG&E has full corporate power and authority to execute, deliver and perform this Agreement, and to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by LG&E, and constitutes the legal, valid and binding obligation of LG&E, enforceable in accordance with its terms, except as enforceability may be effected by bankruptcy, insolvency, and other similar proceedings affecting creditors' rights generally, or by general equitable principles. To the knowledge of LG&E, without independent investigation or inquiry, the covenants and agreements of LG&E and TKR set forth in this Agreement, the performance thereof by LG&E and TKR during the Term, and the proposed use by LG&E and TKR of the LG&E Structures, Fiber Cables, Coaxial Cables, Fffi Wii, Fiber Strands Licensed to LG&E, and Bandwidth Licensed to LG&E, each as contemplated in this Agreement, will not violate or be contrary to any applicable statutes, laws, rules, regulations or ordinances of any governmental authority or regulatory body, or any provision of the NESC or the NEC, in each case as amended through the date hereof. LG&E owns sole title to all of the LG&E Structures, and no agreement between LG&E and any of its Affiliates now exists (or will hereafter exist) that will impede or otherwise adversely affect the full use and enjoyment by TKR of the licenses and other rights granted to it hereunder, or the ability of LG&E to perform its covenants and agreements set forth herein. In the event, at any time during the Term, it is determined that any Affiliate of LG&E or any other person or entity owns title to any portion of the LG&E Structures, or to any other assets or properties required for the performance by LG&E of its covenants or agreements set forth in the Agreement, LG&E shall cause such Affiliate or other person or entity to take all actions as are necessary to permit TKR and its successors and permitted assigns to utilize the LG&E Structures (or such other assets or properties) to the fullest extent contemplated in (and subject to the limitations of) this Agreement, and, in the case of LG&E's Affiliate, to otherwise perform and comply in

all material respects with the provisions of this Agreement to the extent relating to the such Affiliate's interests in the LG&E Structures (or such other assets or properties).

14. **Representations and Warranties of TKR.** In addition to any other representations or warranties made by them in this Agreement, TKR hereby represents and warrants to LG&E as follows: TKR is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, having full corporate power and authority to own and lease its assets and properties as and where the same are now owned and leased, and to conduct its businesses as and where they are now being conducted. TKR has full corporate power and authority to execute, deliver and perform this Agreement, and to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by TKR, and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, except as enforceability may be effected by bankruptcy, insolvency and other similar proceedings effecting creditors' rights generally, or by general equitable principles. To TKR's knowledge, without independent investigation or inquiry, the covenants and agreements of LG&E and TKR set forth in this Agreement, the performance thereof by LG&E and TKR during the Term, and the proposed use by LG&E and TKR of the LG&E Structures, Fiber Cables, Coaxial Cables, FOG Wire, Fiber Strands Licensed to LG&E, and Bandwidth Licensed to LG&E, each as contemplated in this Agreement, will not violate or be contrary to any applicable statutes, laws, rules, regulations or ordinances of any governmental authority or regulatory body, or any provision of the NESC or the NEC, in each case as amended through the date hereof.

15. **Force Majeure.** The obligations of the parties under this Agreement are subject to force majeure, and no party will be in breach or default under this Agreement in the event of any failure or delay by such party in the performance of any of its obligations hereunder by reason of any of the following: any strike, walkout or other labor problems; Acts of God; fire; flood; material or facilities shortages; changes in applicable ordinances, statutes, laws, rules or regulations which render it impossible to perform hereunder (as opposed to changes which merely make such performance uneconomical or less profitable), subject to the parties' covenants set forth in Section 6; any condemnation or exercise of right of eminent domain; national emergencies; or riots or any war or civil disorder; in each case to the extent beyond such party's reasonable control; provided, the affected party gives written notice to the other party as early as practicable of the nature and probable duration of the force majeure event, and exercises reasonable diligence to avoid and shorten the duration of the force majeure event. Notwithstanding the foregoing, no force majeure event shall be deemed to excuse the timely performance and satisfaction of any payment obligation provided for under this Agreement.

16. **Indemnification.** TKR agrees to indemnify, defend and hold harmless LG&E and its Affiliates, and their respective directors, officers, agents, employees, successors and permitted assigns, and each of them (collectively, "Representatives"), from and against any and all claims, liabilities, damages, actions, causes of action, proceedings, obligations, judgments,

costs and expenses of any nature or kind whatsoever (including without limitation, reasonable attorney's fees) (collectively, 'Damages') which they may suffer or incur, directly or indirectly, resulting from, arising out of or in any manner relating to: (a) any injuries to persons (including death) or damages to property, or both, arising directly or indirectly out of TKR's or its Affiliates' design, construction, installation, use, maintenance, removal or repair of the Extended System or the Communications System, or any equipment or facilities relating thereto, or any actions by or on the part of TKR's agents, employees or representatives in connection with the same, in each case to the extent not due to the negligence or intentional misconduct of LG&E, (b) any misrepresentation, breach of warranty or non-fulfillment of any covenant or agreement of TKR contained in this Agreement, and (c) any of the services which may be rendered by LG&E (or its personnel) to TKR pursuant to Section 5(d) of this Agreement, to the extent not due to the negligence or intentional misconduct of LG&E (or such personnel). LG&E agrees to indemnify, defend and hold harmless TKR and its Affiliates, and their respective Representatives, from and against any and all Damages which may be suffered or incurred by them, directly or indirectly, resulting from, arising out of or in any manner relating to: (i) any misrepresentation, breach of warranty or non-fulfillment of any covenant or agreement of LG&E contained in this Agreement; and (ii) any injuries to persons (including death) or damages to property, or both, arising directly or indirectly out of LG&E's design, construction, installation, use, maintenance, removal or repair of any equipment owned by LG&E and located at or within TKR's property or facilities (exclusive of any portions of the System, the Fiber Strands Licensed to LG&E or the Coaxial Cables which are purchased by LG&E pursuant to Section 6(d) or 6(e)), or any actions by or on the part of LG&E's agents, employees or representatives in connection with the same, in each case to the extent not due to the negligence or intentional misconduct of TKR.

17. **Insurance.**

(a) **Maintenance Generally.** TKR and LG&E shall each, at its sole expense, cause to be issued and maintained during the Term of this Agreement insurance coverages of the types and in the amounts set forth below, each naming the other party as an additional insured or loss payee thereon, as applicable (other than under the workers' compensation and employer's liability coverage described below):

<u>Type of Insurance</u>	<u>Limit</u>	
General Liability (including contractual liability)	General Aggregate	\$1,000,000
written on an occurrence basis	Prod./Comp. Op. Agg.	\$1,000,000
	Personal & Adv. Injury	\$1,000,000
	Each Occurrence	\$1,000,000

Automobile Liability, including any auto, hired autos and non-owned autos	Combined Single Limit	\$1,000,000
Excess Liability, Umbrella Form	Each Occurrence	\$2,000,000
	Aggregate	\$2,000,000
Workers' Compensation and Employer's Liability	Each Accident	\$500,000
	Disease - Policy Limit	\$500,000
	Disease - Each Employee	\$500,000

(b) Certificates: Notice of Cancellation Within 10 days following the execution of this Agreement, certificates of insurance in form satisfactory to **LG&E** and **TKR**, and signed by the other party's insurer(s), shall be supplied by each party to the other party, evidencing that the above insurance coverages are in full force and effect, that not less than thirty (30) days' written notice will be given to such other party prior to any cancellation or restrictive modification of such policies, and that such other party is an additional insured or loss payee as applicable, under each such policy.

(c) No Limit on Liability. Neither party's liability to the other under this Agreement shall be limited to the amount of the insurance coverage maintained by the liable party.

18. Liens. In the event any construction lien or other encumbrance shall be placed on the System because of the actions of **LG&E** (other than the security interests created pursuant to Section 3(i)), or on the **LG&E** Structures because of the actions of **TKR**, that party shall promptly discharge the lien or release the encumbrance (by payment, posting of bond, court deposit, or other means) without cost or expense to the other party, and hereby agrees to indemnify the other party for any and all Damages that may be suffered or incurred by such party in discharging the lien or releasing the encumbrance.

19. Relationship of Parties and Independent Contractor Status. Neither **LG&E** nor **TKR** shall be deemed to be a partner, agent or joint venturer with or of the other by reason of this Agreement or the consummation of the transactions contemplated hereby. **LG&E** and **TKR** shall perform their duties under this Agreement as independent contractors, and at their own risk. Neither **LG&E** nor **TKR** shall at any time hold itself out as being a partner, co-venturer or agent of the other.

20. ~~Confidentiality and Publicity~~. Each party acknowledges that, in the course of the performance of this Agreement, it may have access to privileged and proprietary information claimed to be unique, secret and confidential and which constitutes the exclusive property or trade secrets of the other party. This information may be presented in documents marked with a restrictive notice or otherwise tangibly designated as proprietary, or disclosed during oral discussions, at which time representatives of the disclosing party will specify that

the information is proprietary. Unless jointly agreed to in writing, neither LG&E nor TKR shall knowingly disclose to third parties any proprietary information received from the other party(s) in connection with this Agreement: nor shall they disclose the terms of this Agreement to any other person or entity (other than to their respective Affiliates, directors, officers, employees, agents and contractors who have a need to know the same. and to persons or entities of the type described in (b), below), unless required in order to prosecute or defend any claim in an action involving any of the parties hereto, or unless required by any court or governmental agency or regulatory-body having competent jurisdiction. Notwithstanding the immediately preceding sentence, LG&E shall be entitled to disclose to MCI Telecommunication Corporation any actual or proposed use by TKR of FOG Wire on LG&E's high voltage transmission towers in the Service Territory, including the location of such FOG Wires and transmission towers. The parties shall each protect proprietary information received from the other with the same degree of care that they would take to protect their own proprietary information, and each party shall be responsible for ensuring that its directors, officers, employees, agents and contractors who have access to the confidential or proprietary information of the other party, maintain the confidentiality of such information in accordance with this Section 20. However, the parties shall have no obligation to keep confidential any information that is or becomes in the public domain through no fault of their own. No party shall issue news releases or publicize, or issue advertising, which references the other party, this Agreement, or any provision hereof, without first obtaining the written approval of the other party; provided, that the foregoing restriction shall not prevent the disclosure by a party of any proprietary information to the extent (a) in the opinion of that party's legal counsel, such disclosure is required by any law, regulation or rule of any securities exchange, or (b) such disclosure is made to a person or other entity that is itself bound to maintain the confidentiality of the same pursuant to a written confidentiality agreement with the disclosing party consistent with the provisions of this Section 20. The obligations of the parties set forth in this Section 20 will survive any expiration or termination of this Agreement for a period of two years.

21. **Notices.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, and shall be deemed to have been duly given (a) on the date of personal delivery, (b) on the date of delivery to a nationally recognized overnight delivery service, (c) on the date of deposit in the U.S. mails, postage prepaid, by certified mail, return receipt requested, or (d) on the date of transmission by telephonic facsimile transmission, in each case addressed as follows, or to such other addresses or facsimile numbers as shall be designated from time-to-time by the parties pursuant to this Section 21:

If to LG&E:

Louisville Gas and Electric Company
220 West Main Street
P.O. Box 32030
Louisville, KY 40232-2030
Attn: President
Fax No.: (502) 627-2155

If to TKR:

TCI/TKR of Jefferson County, Inc.
1536 Story Avenue
Louisville, KY 40206
Attn: Vice President, General Manager
and Technical Manager
Fax No.: (502) 587-6415

With a copy to:

TKR Cable Company
67B Mountain Boulevard
Warren, NJ 07059
Attn: Senior Vice President-Finance
Fax No. (908) 356-9087

22. **Successors and Assigns.** This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the parties hereto and their respective successors and permitted assigns. Except as otherwise provided in this Agreement, neither **LG&E** nor **TKR** may assign, delegate, sublease or transfer (by operation of law or otherwise) any rights, interest or obligations which they may have under or pursuant to this Agreement to any other **person** or entity without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Refusal to consent shall be considered reasonable if based upon any of the factors set forth in Subsections 6(e)(i)(w) through 6(e)(i)(z), above. Notwithstanding the foregoing, (a) **TKR** may assign any of its rights or interests under this Agreement to any wholly-owned Subsidiary of **TKR** that succeeds to all of the interests of **TKR** in the Extended System (provided no such assignment shall be deemed to release **TKR** from any of its obligations under this Agreement), and (b) **LG&E** may assign any of its rights or interests under this Agreement to any **Affiliate** of **LG&E** (provided no such assignment shall be deemed to release **LG&E** from any of its obligations under this Agreement), in each case without the prior consent of the other party. Any assignment, sublease or transfer made in violation of this Section 22 shall be null and void **ab initio**.

23. **Condemnation.** If any portion of the Extended System shall be condemned or subject to any eminent domain proceeding, **LG&E's** interest therein shall be severed from the interests of **TKR**, and any condemnation award(s) shall be **specifically allocated** between their respective interests as allowable by law,

24. Costs. Each party shall be responsible for its own costs and expenses (including without limitation, attorneys' fees), incurred in preparing, negotiating and executing this Agreement, and consummating the transactions contemplated hereby.

25. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties respecting its subject matter, and supersedes all prior oral or written agreements, statements and understandings between the parties (subject to the provisions of **Section 1 (a)** relating to the Letter Agreement and **Section 1 (b)(ii)** relating to the Existing Agreement and the Cable Television Tariff).

26. Amendments, Etc. No amendment, modification or waiver of this Agreement (or any provision hereof) shall be effective **unless** in writing and signed by the party against whom enforcement is sought.

27. Severability Subject to the provisions of Section 6, if any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party.

28. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the **Commonwealth** of Kentucky applicable to **contracts** made and to be performed entirely in that state, without regard to the conflicts of laws rules of that state.

29. Headings, ~~Gender~~. The section headings contained in this Agreement are for convenience and reference purposes only, and shall not affect the construction or interpretation of any provision hereof. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all other genders, **unless** the context requires **otherwise**.

30. Drafting. The terms of this Agreement were jointly negotiated by **LG&E** and **TKR**. In the event any dispute **arises** concerning this Agreement, this Agreement (or such provision) shall not be most strongly construed against the **drafter**.

31. Survival of Indemnities, Etc All indemnities, representations, and **warranties** set forth in this Agreement shall survive any expiration or termination of this Agreement for **any** reason, and any investigation made by any party,

32. No Waivers. A failure by any party to object to or exercise its rights with respect to a breach or default by any other party hereto shall not constitute a waiver of the **right** later to object to or exercise its rights with respect to the same breach or default or **any**

other breach or default hereunder, and shall not be deemed to amend the provisions of this Agreement.

33. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same instrument.

34. **Affiliates** As used in this Agreement, an "Affiliate" of a party shall mean any corporation, partnership, joint venture or other entity controlled by, controlling or under common control with such party; and a "Subsidiary" of a party shall include any corporation or other entity 50% or more of the outstanding voting capital stock (or other similar equity interest) of which is owned or controlled, directly or indirectly, by such party. As used in this Section, the term "control" shall mean: (a) the ownership, directly, indirectly, beneficially or otherwise, of (i) 50% or more of the outstanding voting securities (or their equivalent) of the relevant corporation, partnership, joint venture or other entity, or (ii) in the case of a partnership or joint venture, the ownership of any combination of general partnership interests and limited partnership interests constituting, in the aggregate, 50% or more of the total equity interests in such partnership or joint venture; or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the relevant corporation, partnership, joint venture or other entity, whether through the ownership of voting securities, by contract or otherwise.

35. **Further Assurances.** Each party agrees to execute all such further instruments and documents and to take all such further actions as the other party may reasonably request in order to effectuate the terms and purposes of this Agreement.

36. **Authority.** The persons signing this Agreement represent that they possess the property authority to do so and to bind the party on whose behalf they sign this Agreement.

37. **Remedies Cumulative.** Any and all rights and remedies afforded a party under this Agreement shall be cumulative to the fullest extent permitted by applicable law, and shall not preclude the exercise by such party of any and all other rights or remedies which may now or hereafter be available to it in law or in equity.

38. **Injunctive Relief.** The parties acknowledge that they may not be adequately compensated by money damages in the event of a breach by any other party of any of its covenants or agreements contained herein, and that they shall be entitled to specific performance and injunctive relief of such covenants and agreements, in addition to all other remedies.

39. **Documentation of Decisions** LG&E and TKR each agree that, where a decision or action contemplated in this Agreement has been made or taken by either of them "in the exercise of their reasonable business judgment", that party shall, when specifically

EXHIBIT A

Bullitt County

Hardin County

Henry County

Jefferson County

Meade County

Oldham County

Shelby County

Spencer County

Trimble County

the other, in writing within sixty (60) days after the aforementioned period, that it desires mediation, in which case the parties shall endeavor to settle the dispute by mediation administered by the American Arbitration Association ("AAA") Under its Commercial Mediation rules in effect on the date of this Agreement. The parties agree that they will select a neutral third party to mediate the dispute. In the event the parties cannot agree on the selection of a neutral third party mediator within fifteen (15) days after a party initiates mediation by providing written notice to the other party, the neutral third party will be selected with the assistance of the AAA. Such mediation shall take place in Louisville, Kentucky, or at such other location mutually agreed to by the parties. Each party to the mediation shall bear its own costs incurred in connection therewith, except that any fees or expenses due or paid to the third party mediator and AAA shall be borne equally by LG&E and TKR.

(d) **Binding Arbitration.** Any dispute arising out of or relating to this Agreement or the breach, termination or validity thereof, which has not been resolved by (i) negotiation as provided in Section 40(b), above, and for which non-binding mediation was not initiated by either party within the period provided in Section 40(c), above, or (ii) a non-binding mediation procedure as provided in Section 40(c), above, within ninety (90) days of the initiation of such procedure, shall be settled by arbitration administered by the AAA under its Commercial Arbitration Rules in effect on the date of this Agreement; provided, however, that if one party has requested the other to participate in a non-binding mediation procedure within the 90-day period provided hereinabove and the other has failed to participate, the requesting party may initiate such arbitration before expiration of that 90-day period. The controversy shall be submitted to three (3) arbitrators. Each party to the dispute shall select one (1) arbitrator within thirty (30) days after the dispute has been submitted to AAA for arbitration, and the two arbitrators selected by the parties shall select the third arbitrator. Discovery in the arbitration process shall be permitted, but shall be limited to requests for the production of documents in accordance with the Federal Rules of Procedure only. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. § 1-16, and judgment upon the award rendered by the arbitrators may be entered by any court having jurisdiction thereof. The place of arbitration shall be Louisville, Kentucky, or such other location as the parties may mutually agree. The arbitrators are not empowered to award damages in excess of compensatory damages and each party hereby irrevocably waives any right to recover such damages with respect to any dispute resolved by arbitration. Each party to the arbitration shall bear its own costs and expenses incurred in connection with the arbitration (including, without limitation, the fees and expenses of the arbitrator selected by such party), except that any fees or expenses due or paid the third selected arbitrator or the AAA (including, without limitation, any fees incurred in connection with the filing of the claim for arbitration) shall be borne equally by LG&E and TKR.

(e) **Clauses to Protect Rights.**

(i) The procedures specified in this Section 40 shall be the sole and exclusive procedures for the resolution of disputes between the parties arising out of or relating

to this Agreement; provided, however, that a party, without prejudice to the above procedures, may file a complaint for statute of limitations or venue reasons, or to seek a preliminary injunction or other provisional judicial relief. If in its sole judgment such action is necessary to avoid irreparable damage. Despite such action, however, the parties will continue to participate in good faith in the procedures specified in this Section 40.

(ii) All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in this Section 40 are pending. The parties will take such action, if any, requested by any party hereto to effectuate such tolling.

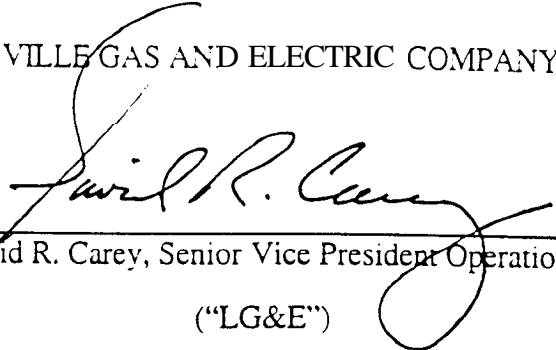
(iii) Each party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

(f) **Limited Scope.** Notwithstanding anything contained in this Section 40 to the contrary, the provisions of this Section 40 shall not apply to any discussions or negotiations (or renegotiations) between the parties regarding this Agreement, any provision hereof, or any replacement hereof, following a suspension or termination of this Agreement (or any portion hereof) as contemplated in Section 6, it being expressly understood that all such discussions and negotiations shall be conducted solely by the parties without the aid or involvement of any mediator or arbitrator, and that any amendments to this Agreement or new agreements resulting from those discussions or negotiations shall be upon such terms and conditions as are acceptable to LG&E and TKR, in their discretion (subject to their commitment to conduct all discussions and negotiations in good faith and with reasonable diligence).

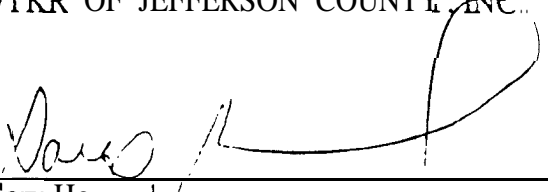
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement

through their authorized agents effective as of the date first written above.

LOUISVILLE GAS AND ELECTRIC COMPANY

By: 
David R. Carey, Senior Vice President Operations
("LG&E")

TCI/TKR OF JEFFERSON COUNTY, INC.

By: 
Gary Howard
Vice President

("TKR")

INDEX OF EXHIBITS
TO COOPERATIVE LICENSE AGREEMENT

- Exhibit A • Kentucky Counties Containing the Service Territory
- Exhibit B • Restricted Right of Way Description'
- Exhibit C • **Acceptance** Testing Procedures
- Exhibit D • **Specifications**
- Exhibit E • Spillover Bandwidth Schematic

EXHIBIT A

Bullitt County

Hardin County

Henry County

Jefferson County

Meade County

Oldham County

Shelby County

Spencer County

Trimble County

EXHIBIT B

Restricted Right-of-Way Description

The Route will consist of LG&E rights of way and transmission facilities beginning at the point where **LG&E interconnects** with facilities **belonging** to Public Service Indiana in the vicinity of PSI's Gallagher Generating Station. From that point, the Route crosses the Ohio River to Paddys Run Generating Station, thence to Cane Run Switching Station, thence to Ashbottom Substation, thence to South Park Substation, thence to a connection in the vicinity of Blue Lick Substation with the 161 KV line, thence south along that line to the point where LG&E interconnects with facilities belonging to the Tennessee Valley Authority at Green River, Kentucky.

EXHIBIT C

Acceptance Testing Procedures

1. TKR will perform the following acceptance tests relative to each phase of the System (including without limitation, the Fiber Strands licensed to LG&E), prior to its use, consistent with general industry standards:
 - * Bidirectional splice loss, for each spike.
 - * Overall attenuation end-to-end to be conducted from distribution frame to distribution frame at each hub location as applicable.
2. Upon completion of all acceptance testing, TKR will make available to LG&E upon its request all test data sheets and optical records via OTDR for LG&E's review.
3. TKR will be required at the time of each data review to make available to LG&E one complete set of as-built working drawings for all facilities covered under these acceptance testing criteria.
4. As part of the turnover as-built documentation package, TKR will supply LG&E with the following detailed documents:
 - * Cable routing drawings.
 - * Manhole and duct assignments as applicable.
 - * Aerial pole and assignments where applicable.
 - * Cable termination drawings and assignments.
 - * Copies of permits and construction approvals from appropriate authorities and landowners.
5. LG&E may request additional tests and documentation as reasonably necessary from time-to-time.

EXHIBIT D

Specifications

Design Criteria

TKR will endeavor to **keep** the number of spikes in a span to a minimum, marking fibers both aerial or underground.

TKR shall also meet **the optical fiber specifications** as detailed below:

To insure that specifications are adhered to, TKR will require the vendor to provide certified loss measurements for every fiber (including the fiber licensed to LG&E). Factory certified attenuation **test data will** also be made **available** to LG&E.

Optical Fiber Specifications • Single mode Fiber

Parameter Specification

Maximum Attenuation at	1310 nm. 0.50 dB/Km
Maximum Attenuation at	1550 nm. 0.40 dB/Km
Mode Field Diameter	9.4 ± 0.7 μm
Cladding Diameter	125.0 ± 2 μm
Cladding Non-Circularity	± 2%
Core to Clad Concentricity Error	≤ 1.0 pm
Cable Cut-Off Wavelength	≤ 1270 nm.
Zero Dispersion Wavelength	1310 ± 12 nm.
Zero Dispersion Slope	≤ 0.095 ps/(nm ¹ -Km)
Maximum Dispersion (1285- 1330 nm)	3.5 ps/(nm ² -Km)

Reference: **EIA** RS-455 Test Method

OTDR End-to-End Readings - Readings taken from both locations added together and divided by two.

End-to-End Attenuation Acceptance Criteria

Single Mode Fiber

The system will be tested at 1310 nm. and 1550 nm. The end-to-end attenuation acceptance criteria for fibers will be based on the following formula:

Maximum Acceptable End-to-End Attenuation at 1310 nm =

[0.5 dB/Km x the installed length of cable (in Km)]

+ [0.3 dB x number of splices]

+ [x dB (see note A below)]

Maximum Acceptable End-to-End Attenuation at 1550 nm =

[0.4 dB/Km x the installed length of cable (in Km)]

+ [0.3 dB x number of splices] + [x dB (see note A below)]

(OTDR readings will also be taken at 1310 and 1550 nm.)

Where:

- A) The attenuation contribution of each pigtail with associated connector (x) is considered to be 1.3 dB, comprised of 1.0 dB connector loss and 0.3 dB splice loss (pigtail to street cable splice).

Therefore, this will be 0 dB if span is not connectorized at either end; 1.3 dB if span is connectorized at one end; and 2.6 dB if span is connectorized at both ends.

Splice Loss

TKR splice loss will average 0.3 dB for all splices that are made by TKR. The 0.3 dB splice average will apply **only** to the junction between two identical optical fibers, i.e., identical in core and cladding dimensions, refractive index and optical loss characteristics.

All splices shall be of **electric fusion type**.

CHANNEL LIMITS

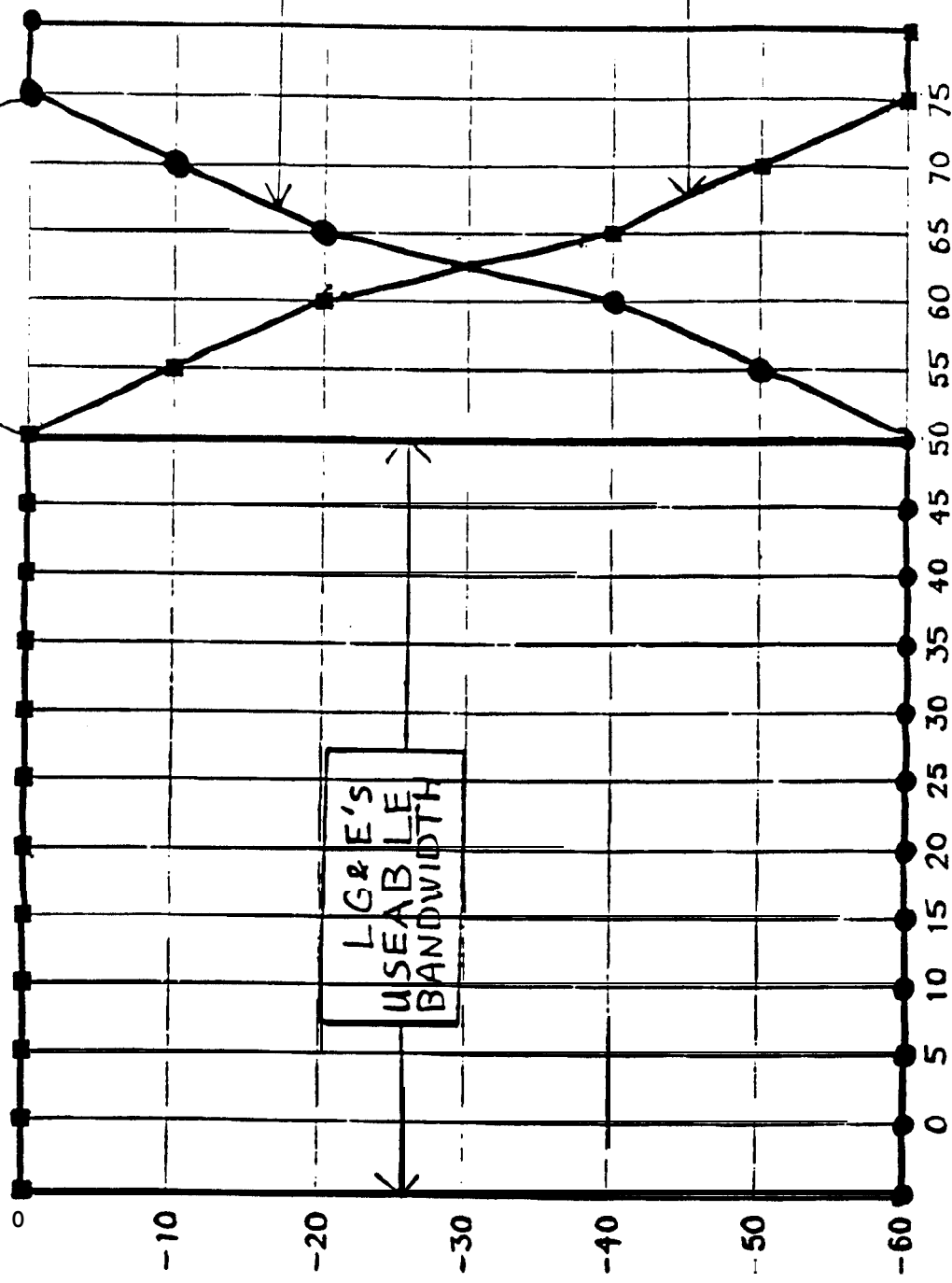
For 100KHz Channel

Spillover Bandwidth

LG&E'S USEABLE BANDWIDTH

Other Sideband

LG&E'S Sideband



Power Level Below Peak

■ Primary Signal ● Adjacent Channel
 KHz From Center Frequency