

**BEFORE THE ATTORNEY GENERAL OF WEST VIRGINIA
STATE CAPITOL
CHARLESTON, WEST VIRGINIA**

IN THE MATTER OF THE INVESTIGATION OF:

**ALTICE USA, INC. dba
OPTIMUM and formerly dba SUDDENLINK
COMMUNICATIONS
ONE COURT SQUARE
LONG ISLAND CITY, NY, 11101**

ASSURANCE OF VOLUNTARY COMPLIANCE

The Attorney General of West Virginia ("Attorney General") has been investigating certain practices of Altice USA, Inc., operating through several subsidiaries in West Virginia under the Suddenlink and Optimum brands with regard to its Internet access services sold to West Virginia consumers and related customer care issues including billing and technician visits among many others. In accordance with W. Va. Code § 46A-7-107, Optimum, without admitting that any of its prior practices are in violation of the West Virginia Consumer Credit and Protection Act, (the "Act"), W. Va. Code § 46A-1-101 *et seq.* or other applicable laws, has consented to observe the following terms, conditions, and agreements in the future conduct of its business from and after the date of this **ASSURANCE OF VOLUNTARY COMPLIANCE**.

**I.
BACKGROUND**

1. Altice USA, Inc. is a for-profit company that was incorporated in Delaware in September 2015. In December 2015 it acquired Cequel Communications LLC d/b/a Suddenlink Communications and its subsidiaries (collectively, the "Suddenlink Entities"), including Cebridge

Acquisition, LLC, Cequel Communications, LLC, Cequel III Telecommunications II, LLC, Universal Cable Holdings, Inc., Friendship Cable of Texas, Inc., Hornell Television Services, Inc., and Cequel III Communications I, LLC, which offered multichannel video programming distributor services, Internet access services, telephony services through Voice Over Internet Protocol (“VoIP”), security services, and other telecommunications services under the Suddenlink brand in 16 states, including West Virginia. In June 2016, Altice USA, Inc. acquired Cablevision Systems Corporation and its subsidiaries, which offered comparable services in the New York metropolitan area under the Optimum brand. In August 2022, Altice USA, Inc., and its subsidiaries (collectively, “Optimum” or the “Company”) retired the Suddenlink brand and began offering services under the Optimum name throughout its service area, including in West Virginia. Optimum maintains a business office at 168 Great Teays Boulevard, Suite 7, Scott Depot, West Virginia 25560, as well as retail stores throughout its service territory in West Virginia.

2. Optimum operates dozens of franchises for video programming distribution services throughout the state of West Virginia and provides telephone and Internet services to thousands of West Virginia residents.

3. The Internet is a global communications network of computers and other devices such as cellular telephones, electronic tablets, televisions, monitors, security cameras, etc., that allows users to exchange information with each other. Individual consumers access the Internet network through Internet Service Providers (“ISPs”) such as Optimum.

4. When Optimum’s hybrid coaxial cable/fiber (“HFC”) network in West Virginia experiences disruption, its Internet access services, video programming distribution services and VoIP services can all be affected, as they are routed over the same HFC network.

5. Optimum offers subscribers the choice of various broadband Internet service plans described primarily by their maximum achievable download speed (e.g., Optimum__ advertising download speeds of “up to” ___ Mbps).

6. The speed at which a consumer’s electronic devices connect to the Internet can be important to the type of use that can be made of any device and to the amount paid for the service.

7. On Optimum’s HFC network, multiple subscribers share the total bandwidth that can be transmitted through the “last mile” of cable to the home. Subscribers who share the bandwidth are placed in the same service group, or a “node,” by Optimum.¹

8. Optimum has marketed its broadband Internet service to subscribers as fast and reliable and as offering “lightning fast downloading.”

9. Optimum advertises on television, the Internet, email and through direct mailers. Its internet service has also been advertised as fast & reliable on door hangers. Optimum also has advertised itself as the “fastest Internet provider” in certain markets, having “blazing fast speed” with 1 Gig service, and providing “fast and reliable” Internet. It has also advertised that it is the “fastest Internet provider according to PC mag.”

10. Optimum has offered residential broadband Internet service plans in various West Virginia markets with advertised download speeds of “up to” 15 Mbps, 30 Mbps, 50 Mbps, 75 Mbps, 100 Mbps, 200/300 Mbps, 400 Mbps, and 1 Gig (940 Mbps), among others, since it acquired the Suddenlink Entities in December 2015.

11. Since December 2015, Optimum has marketed its “1 Gig” Internet access service (with up to 940 Mbps download speeds) in certain areas of West Virginia. Optimum now advertises

¹This sharing of bandwidth or “oversubscription” of the capacity on a node is common in the telecommunications industry since not all customers on a node are using the Internet in the same manner at the same time.

that its 1 Gig service is available to 90% of the homes in its service territory in West Virginia. Approximately 29% of Optimum's residential Internet customers in West Virginia have 1 Gig service.

12. Between 2017 and 2022 the Attorney General received more than 2,300 complaints from Optimum customers complaining about a variety of issues. Consumers complained, among other things, that they were not receiving the Internet service promised because:

- the service was slow
- the service was intermittent
- the service failed entirely

The Attorney General expressed concerns to Optimum regarding these complaints and the Company's operations in West Virginia since at least as early as 2020 and launched this investigation in 2021.

13. Since that time, the Company has cooperated with the Attorney General's investigation and taken proactive steps in response to address the concerns raised by the Attorney General, has invested in its network in West Virginia, and improved service for the benefit of West Virginians. Optimum was sometimes able to resolve customer complaints relating to Internet service by troubleshooting over the phone or via a service visit from a field technician. At other times, however, network upgrades were required to resolve the issue.

14. Certain West Virginia subscribers with 1 Gig internet service did not have sufficient bandwidth in their last mile service group to consistently achieve the advertised maximum download speed of 940 Mbps during peak hours until Optimum implemented various steps to increase the available bandwidth on their node/service group.

15. Separately, thousands of Optimum subscribers were using company-owned modems that were not suitable for their current speed plans for certain periods of time. While in many instances Optimum took steps to proactively upgrade company-owned equipment, not all subscribers were immediately provided with the appropriate equipment. Optimum continues to evaluate its “modem – speed” mismatch problem and upgrade equipment. During 2021, more than 9,000 customers received upgraded modems from Optimum after they complained about speeds or after Optimum discovered a mismatch on its own.

16. Although Optimum invested in its infrastructure throughout the complaint period, in order to deliver advertised speeds to customers – and significantly increased its level of capital investment in response to the Attorney General’s investigation – some customers on the 1 Gig speed tier were unable to consistently achieve such speeds prior to needed network upgrades. For example, Optimum sold its 1 Gig Internet service to a consumer in Charleston in 2019 but was not able to consistently deliver download speeds close to 940 Mbps to the consumer until after it “split a node” in March 2021. Optimum had about 540 customers sharing bandwidth on the original node before splitting it into two with about 285 and 270 customers sharing the identical amount of bandwidth on the resulting two nodes.

17. For portions of the complaint period, Optimum advertised a “We Promise” Customer Guarantee which made the following promises to Optimum’s customers:

- a. Money-Back Guarantee – If you’re not satisfied with any service within 30 days, we’ll give you your money back.
- b. Service Guarantee – We’ll arrive within our appointment window or give you a \$20 credit.

c. Reliability Guarantee – If you're without service for more than 24 hours, we'll give you a \$20 credit upon request.

d. Product Guarantee – We'll continue to evolve, improve and enhance your services – today and tomorrow.

18. Some consumer complaints allege that Optimum has not kept its guarantees under its "We Promise" advertising.

19. Other related complaints from consumers include:

a. Charging consumers for service visits when problems for the failed service were outside the consumers' homes;

b. Failing to provide reliable internet services;

c. Technicians failing to keep appointments;

d. Technicians failing to complete installation of new service; and

e. Scheduling multiple service visits that do not resolve the issues of which they complained.

20. During the period of increased consumer complaints to the Attorney General's office, Optimum reduced or eliminated customer service personnel, as shown by the following:

a. In 2017, Optimum closed a customer service call center in Parkersburg, WV; "This [closing the call center] does not impact our customers — local customers will not notice any changes other than an improving service experience," Anselmo said [Lisa Anselmo, head of communications for Altice USA]. "Customers will continue to experience exceptional support over the phone through our topic-based (rather than location-based) customer service model."

b. Between 2017 and 2021, Optimum reduced the number of field service technicians employed from more than 200 to about 75 while contracted technicians have increased from about 70 to 95.

c. Optimum closed retail customer stores throughout its service territory in West Virginia. Subsequent to the launch of the Attorney General investigation, however, Optimum has taken significant steps to reverse all of these trends. It has established an internal team to provide a more dedicated focus and resources for its customers in West Virginia and continues to actively recruit technicians and other employees in the state. Optimum also opened a new West Virginia call center that currently employs approximately 40 agents. And, it opened six new retail stores during 2022-2024.

21. Based on significant improvements to its network in West Virginia Optimum makes the commitments described herein to provide restitution and to continue to make additional investments in its network in West Virginia for the purpose of improving Internet speeds and network reliability in the State. The Attorney General has agreed to enter into this ASSURANCE, to accept Optimum's commitments detailed below.

22. The activities of Optimum are subject to the provisions set forth in the Consumer Credit and Protection Act, W. Va. Code §§ 46A-1-101 *et seq.*, which is regulated by the Attorney General pursuant to W. Va. Code §§ 46A-7-101 *et seq.*

23. Optimum represents that it has entered into this ASSURANCE for the sole purpose of compromising disputed claims, without the necessity for protracted and expensive litigation. This ASSURANCE does not constitute an admission by Optimum of any violation of West Virginia law.

II. DEFINITIONS

24. For purposes of this ASSURANCE, the following definitions shall apply.

25. “West Virginia consumer” or “consumer” shall mean and include all natural persons who resided in West Virginia at the time of purchasing Internet access services from Optimum for personal, family or household purposes.

26. “Advertised Speed” shall mean the maximum achievable download speed advertised or offered, including at point of sale, in association with a specific Internet Service Plan, such as “18 Mbps,” “As Fast As 18 Mbps,” “Max Speeds As Fast As 18 Mbps,” or “9 to 18 Mbps.”

27. “Mbps” means megabits per second.

28. “Clear(ly) and Conspicuous(ly)” means, when referring to a written statement, a disclosure in a type, size, and location sufficiently noticeable for a consumer to read and comprehend it, and in a print that contrasts with the background against which it appears. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in a manner that is likely to be noticed, readable, and understandable, and it must not be obscured in any manner. An oral disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it and shall not be inconsistent with any previously made statements.

29. “Close Proximity” shall mean that the disclosure is near the triggering representation. For example, a disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in close proximity to the triggering representation; provided, however, that in the case of a digital banner or other space constrained advertisements, disclosures required to

be made under the Assurance may be made by providing a hyperlink that takes the Consumer to a web flow that Clearly and Conspicuously provides the disclosure.

30. “Internet Service Plan” shall mean Internet access services sold by Optimum to a consumer with a certain Advertised Speed for a specific monthly sum plus taxes, fees and other charges.

31. “Force Majeure” shall mean an event or events reasonably beyond the ability of Optimum to anticipate and control, in Optimum's reasonable judgment given the then-available circumstances and information. This includes, but is not limited to, severe or unusual weather conditions, strikes, labor disturbances and disputes, supply chain interruptions, war or act of war (whether an actual declaration of war is made or not), insurrection, riots, act of public enemy, incidences of terrorism, acts of vandalism, actions or inactions of any government instrumentality or public utility including condemnation, accidents for which the Optimum is not primarily responsible, fire, flood, epidemics, or other acts of God, delays associated with governmental or non governmental permits or other approvals necessary for enhancements of Optimum’s facilities or equipment, and unavailability of materials and/or qualified labor to perform the work necessary, including due to supply chain interruptions.

32. “Eligible Automatic Relief Consumer” shall mean a current residential Internet subscriber as of the Effective Date of this ASSURANCE.

III. AGREEMENT

33. Notwithstanding the foregoing and without admitting that it has committed any violations of West Virginia law, Optimum promises to take the following actions in order to resolve the concerns of the Attorney General.

34. Optimum promises and voluntarily assures the Attorney General that it shall comply with the Act, W. Va. Code §§ 46A-1-101, *et seq.*, and other applicable laws.

35. Optimum promises and voluntarily assures the Attorney General that it shall abide by the following terms regarding financial and infrastructure commitments:

A. Payments

36. Optimum agrees to pay \$500,000.00 to the State of West Virginia on February 15, 2025 for costs incurred by the Attorney General related to his investigation. This amount will be made by wire transfer or be in the form of a check made payable to the State of West Virginia. At the discretion of the Attorney General, the payment shall be used by the Attorney General for any one or more of the following purposes: direct and indirect administrative, investigative, compliance, enforcement, or litigation costs and services incurred for consumer protection purposes; to be held for appropriation by the Legislature; and/or distribution to taxpayers and/or consumers. No portion of this payment may be deemed a penalty, fine, or forfeiture.

B. Infrastructure

37. Optimum has and shall continue to make infrastructure improvements in West Virginia:

a. Optimum has already made capital expenditures totaling over \$75,000,000 between 2021 through to the third quarter of 2024 to address the Attorney General's concerns raised during the investigation, including: (a) upgrading the maximum Internet speeds available in the Beverly/Elkins, Buckhannon and Shinnston markets from maximum download speeds of 100 Mbps to 500 Mbps; (b) upgrading the maximum download speeds available in Sissonville from 30 Mbps to 500 Mbps; and (c) increasing network capacity in all markets in which it offers 1 Gig internet service by upgrading to DOCSIS 3.1 technology.

b. Optimum further agrees to (i) make additional capital expenditures in its current service area in West Virginia to upgrade its entire hybrid fiber-coaxial cable system to a DOCSIS 3.1 standard with “mid-split” upgrades that allocate more of the signal spectrum to upstream traffic, and (ii) thereafter offer a speed tier to residential subscribers with download speeds of up to 1 Gig (940 Mbps) or higher and upload speeds of 100 Mbps or higher (a “1 Gig/100 Mbps Speed Tier”). This speed tier shall be made available to residential subscribers across Optimum’s current service area in West Virginia by the end of 2027. Notwithstanding the above, Optimum shall not be deemed to be in non-compliance with this provision in the event of any delay in completing such mid-split upgrades and/or offering such speed tier as a result of a Force Majeure. Optimum expects to make capital expenditures over \$40 million in connection with this upgrade project.

C. Consumer Complaints

38. Consumer complaints filed with the Attorney General’s office after the Effective Date of this ASSURANCE shall be resolved to the reasonable satisfaction of the Attorney General’s office. The Attorney General anticipates both consumers and Optimum will be reasonable and cooperate to reach a resolution. This provision of the ASSURANCE does not affect the operation of section B of the Restitution Program of this ASSURANCE.

D. Advertising and Disclosure of Internet Access Services

39. Optimum promises to publish on its website disclosures about its broadband internet service available for purchase in West Virginia, including (1) non-promotional monthly charges for each tier of service, data charges, additional data usage, equipment fees, one-time fees, and applicable taxes, (2) typical downstream and upstream speeds, and latency, (3) application-specific network management practices and subscriber-triggered network management practices;

(4) privacy policies; (5) and how to lodge a complaint to the company, to the FCC, and to the Office of the West Virginia Attorney General.

40. Optimum agrees to submit to the West Virginia Broadband Council the West Virginia portion of its biannual broadband availability reports submitted to the Federal Communications Commission's Broadband Data Collection (BDC) program. Optimum will transmit such data within five (5) business days of its FCC filing.

41. Optimum agrees to provide the West Virginia Broadband Council with data concerning its delivery of advertised broadband speeds in West Virginia,

42. Optimum promises and voluntarily assures the Attorney General that it shall abide by the following terms regarding advertising of Internet Service Plans.

a. In advertising internet speeds associated with particular Internet Service * Plans, Optimum shall

(1) disclose online (at the same link referenced below in subsection of this paragraph) how the advertised speed is substantiated;

(2) describe speeds as "wired," including at the point of sale (e.g. any contract, webpage or other customer interaction where subscribers select a particular internet plan);

(3) Clearly and Conspicuously disclose that wireless speeds may vary; and

(4) provide a link or disclose a website location describing why actual experience might vary depending on the following factors (e.g., "See www.optimum.com/internet/speedfactors for information on factors that could cause speeds to vary"):

- i. Effect of WiFi;
- ii. Multiple users;
- iii. Device limitations; and
- iv. Network congestion

b. Optimum shall substantiate its Advertised Speeds based on internal testing, consumer speed test data, or other data regarding network performance, including reliable, relevant data from third party sources. Testing shall be conducted at least monthly on a statistically significant number of West Virginia subscribers for each Advertised Speed. Advertised Speeds shall be deemed substantiated if the median speed test results over the test period equal or exceed 85% of the Advertised Speed. If Optimum cannot substantiate Advertised Speeds for an Internet Service Plan as described in this paragraph for three consecutive test periods, it shall cease offering that plan and offer subscribers on that plan the option to select a lower speed plan that can be substantiated at Optimum's price for that lower speed plan.

43. Any obligations described here do not supersede or replace any obligations imposed by any FCC Broadband Label requirements imposed as part of the FCC Docket 22-2 ("Empowering Broadband Consumers Through Transparency").

In addition, Optimum shall make available on its website an outage map for its West Virginia service area which identifies current outages, indicates the number of affected customers and provides status and resolution information. It shall also provide West Virginia customers with the option to enroll to receive outage alerts via email or text message.

44. After the effective date of any FCC rules describing the consumer broadband label in FCC Docket 22-2, Optimum will display broadband labels applicable to internet speed tiers offered in West Virginia in compliance with such rules.

E. Equipment

45. Optimum promises and voluntarily assures the Attorney General that it shall abide by the following term regarding equipment practices: Equipment provided to subscribers at the time of subscription or upgrade must be capable of delivering the Advertised Speed for the applicable Internet Service Plan and, to the extent installed by an Optimum technician, field-tested for such capability prior to being deployed for the first time.

F. Training, Monitoring and Record Keeping

46. Optimum promises and voluntarily assures the Attorney General that it shall

(1) reasonably train subscriber-facing customer service representatives and sales force personnel to take reasonable steps to reasonably inform consumers about the factors that can affect internet speeds, including those described herein.

(2) monitor sales agents and customer service agents for compliance with the terms of this Assurance. Managers will document their efforts to monitor sales agents and customer service agents for such compliance.

(3) track consumer regulatory complaints regarding Optimum's internet services by West Virginia customers in order to identify trends that need correction.

(4) advise any Consumer who has an estimated hold time for customer service in excess of five (5) minutes the anticipated period of the hold-time. In such a case, the hold message will advise the Consumer about the option to be called back by an Optimum representative in lieu of remaining on hold.

47. Optimum promises and voluntarily assures the Attorney General that it shall abide by the following terms regarding recordkeeping.

a. Optimum or its agents shall retain representative samples of all distinct television, radio, print and digital advertisements disseminated following the date of this ASSURANCE that target Internet service subscribers for forty-eight months from the date of this ASSURANCE, and shall make such records available to the West Virginia Attorney General upon reasonable request.

b. Optimum shall retain results of any internal speed testing performed, whether in-house or by a vendor, for forty-eight months from the date of this ASSURANCE, and shall make such records available to the West Virginia Attorney General upon reasonable request.

IV. COMPLIANCE AND REPORTING

48. Optimum will comply with call center customer service standards described below as measured on a quarterly basis. During normal call center business hours and under normal operating conditions:

(1) 80% of all calls received will be answered within 30 seconds of when the connection is made;

(2) Consumers who use an automated system shall have the option to speak to a live agent, provided that this option shall not be required for service-related calls made during a known outage, or in a situation through which Consumers' accounts were deauthorized for non-payment.² Eighty percent (80%)

² This occurs when a bill is 45-50 days past due.

of all IVR calls in which a live agent option is selected shall be answered by a live agent within 30 seconds of Consumers' election of that option; and

(3) The Consumer will receive a busy signal less than 5% of the time.

a. Optimum will monitor field technicians on five key performance indicators (KPIs) for field service operations: (i) average number of times that a customer calls for technical support on an annualized basis, (ii) number of service visits per customer on an annualized basis, (iii) on-time arrival rates, (iv) 30-day repeat service visit rate (reflecting the effectiveness of the initial service visit), and (v) overall customer satisfaction with the service visit (OSAT). The Company will take appropriate steps to increase performance any time performance on one or more of these KPIs dips below reasonable and customary performance standards.

b. Optimum shall provide a written report to the Attorney General on a quarterly basis beginning June 30, 2025 and ending June 30, 2028 describing the status of the midsplit upgrade project described in Paragraph 37.b above, which report shall include the total number of homes passed by its upgraded Internet service with an available 1 Gig/100 Mbps Speed Tier, the regions in West Virginia where those homes passed are located, and the number of customers subscribing to the 1 Gig/100 Mbps Speed Tier.

V. **RESTITUTION PROGRAM**

The Parties agree to the following Restitution Program under this AVC.

A. Current Residential Internet Customers

49. Optimum will provide twenty-five dollars (\$25) in bill credits to each Eligible Automatic Relief Consumer, provided that such credits may be given in five (5) consecutive monthly bill credit installments of five dollars (\$5) each, with the first such monthly installment

credit given within sixty (60) days of the Effective Date, and provided further that the Eligible Automatic Relief Consumer must continue to be a current subscriber in a particular month in order to receive the applicable installment bill credit for that month.

B. Former West Virginia Customers

50. “Ascertainable Loss” shall mean any ascertainable deprivation, detriment, or injury arising from any conduct addressed by this ASSURANCE. Ascertainable Loss does not include, among other things, consequential damages, pain and suffering damages, compensation for lost time or wages, or similar damages.

51. “Eligible Complaint” shall mean a written complaint received by the Company or the State from January 1, 2019, to ninety (90) days after the Effective Date of this ASSURANCE: (a) from a Consumer who entered into an agreement with Optimum for a service in West Virginia; (b) involving issues addressed by this ASSURANCE; (c) alleging an Ascertainable Loss; (d) that has not been previously resolved; and (e) wherein the Consumer is not an Eligible Automatic Relief Customer.

52. Eligible Consumers: Consumers with an Eligible Complaint may participate in the following Complaint Resolution Program:

a. Time Period for filing an Eligible Complaint: There will be an open period of ninety (90) days after the Effective Date for a Consumer with an Eligible Complaint to file a written complaint if the customer had a service address in West Virginia at the time he or she made his or her purchase of an Optimum Internet service package.

b. Upon receipt of the complaints, Optimum shall determine within seventy-five (75) calendar days if the complaint qualifies as an Eligible Complaint. If Optimum determines in good faith that the complaint does not constitute an Eligible Complaint, then

Optimum shall list the complaint on a Complaint Ineligibility Report to be provided to the State in accordance with Paragraph 52(d) below.

c. If Optimum determines that a complaint is an Eligible Complaint, it shall have a reasonable time after receiving a complaint to attempt to resolve the Eligible Complaint with the Consumer. If Optimum and the Consumer resolve the complaint, Optimum shall provide the accepted relief within a reasonable time of the Consumer's acceptance of the offer. The Consumer shall not be asked or be required to sign a release to accept the offer. The results of the resolution shall be placed on a report called the Eligible Compliant Resolution Report to be provided to the State in accordance with Paragraph 52(d) below. If Optimum and the consumer cannot resolve the complaint then Optimum will list it on an Unresolved Complaint Report, which will be subject to mediation with the consumer through the Attorney General's Office.

d. Upon the conclusion of the Complaint Resolution Program, Optimum shall send the State the following reports regarding the status of the complaints received through the Restitution Program: Eligible Complaint Resolution Report(s), Unresolved Complaint Report(s), and Complaint Ineligibility Report(s). All reports shall assign an unidentifiable number to each complaining Consumer to protect the Consumer's personally identifiable information. The reports will also set forth the nature of the Consumer's complaint and how Optimum responded to and addressed the complaint. Thereafter, Optimum will meet and confer with the State upon request to discuss any of the information in the reports set forth above including to mediate any complaint on the Complaint Ineligibility Report if requested by the Attorney General.

e. Optimum shall also submit a status report on the provision of one-time credits to Eligible Automatic Relief Consumers within 90 days of the Effective Date if credits are issued in a lump sum, and within 30 days of the expiration of the restitution credits if made on a monthly basis.

f. Any check that is provided to a Consumer who filed an Eligible Complaint shall state that it must be cashed within 180 days after completion of the Restitution Program. All restitution funds reflected by checks that remain undistributed 180 days after completion of the Restitution Program shall be forwarded to West Virginia in accordance with the state's unclaimed property requirements.

VI. GENERAL PROVISIONS

A. Cure Provisions

53. As consideration for the relief agreed to herein, if the Attorney General determines that Optimum has failed to comply with any of the terms and conditions of this ASSURANCE, and if the Attorney General determines, in his sole discretion, that the failure to comply does not threaten the health or safety of the citizens of the State or does not create an emergency requiring immediate action, the Attorney General shall notify Optimum in writing of its failure to comply. Optimum shall then have fifteen (15) business days after receipt of the written notice to provide a written response to the Attorney General. The response shall be signed by one of Optimum's senior executive officers and contain, at a minimum, one of the following:

a. A statement explaining why Optimum believes it is in compliance with the ASSURANCE;

b. A statement explaining how the alleged breach occurred, and how it will be or has been corrected; or

c. A statement explaining that the alleged breach cannot be reasonably corrected within fifteen (15) business days from receipt of the notice but that:

(1) Optimum has begun to take action to correct the alleged breach (with an explanation of the corrective action it is taking);

(2) Optimum is pursuing corrective action with reasonable and due diligence; and

(3) Optimum has provided the Attorney General with a detailed and reasonable time frame for correcting the alleged breach.

54. Upon request by Optimum, a representative of the Attorney General shall meet with Optimum, at Optimum's expense (if outside of Charleston, West Virginia), to discuss the alleged failure to comply or Optimum's response thereto. In considering whether a violation occurred, the Attorney General agrees to take into consideration any information presented by Optimum. The Attorney General will consider the information presented by Optimum. Unless prohibited by State law, no corrective action by Optimum shall prevent the Attorney General from taking any available legal action to compel Optimum's compliance with this ASSURANCE nor shall said corrective action release Optimum from liability for any violations prior to the notice or during the time of consideration by the Attorney General. Nothing in this ASSURANCE waives Optimum's rights to defend itself or take such legal action as it deems necessary against any allegations that it is in violation of this ASSURANCE.

B. Breach Provisions

55. If Optimum fails to upgrade its hybrid fiber coaxial system to a mid-split system with an available 1 Gig/100 Mbps Speed Tier throughout its current service area in West Virginia by December 31, 2027, other than as a result of Force Majeure, Optimum agrees to pay a civil penalty of up to \$40 million to the State of West Virginia on a pro-rated basis determined by the

percentage of the homes passed in its current service area which are not upgraded with an available 1 Gig/100 Mbps Speed Tier as of December 31, 2027. By way of example, if 90% of homes passed have the 1 Gig/100Mbps Speed Tier available as of December 31, 2027 and 10% do not, the applicable penalty amount would be \$4 million (i.e., 10% of \$40 million).

56. Before any such penalty is imposed, the parties shall have exhausted the Cure Provisions set forth above. If the parties agree a breach has occurred, but do not agree on the percentage of homes passed remaining to be upgraded, the parties may seek appropriate relief in the Circuit Court of Kanawha County, West Virginia.

57. Regardless of the resolution of any breach, Optimum acknowledges that the Attorney General can seek appropriate relief as provided by West Virginia law in the event it violates the terms of this ASSURANCE, including by failing to complete the upgrade of its hybrid coaxial system to a mid-split system as set forth in this Assurance.

C. Sunset Provision

58. Except as set forth below, the terms of this ASSURANCE shall expire upon the completion of the restitution and the infrastructure upgrade programs set forth in this Assurance. In other words, if the infrastructure upgrades are not completed by December 31, 2027, the terms of this ASSURANCE shall remain in effect until the infrastructure upgrades have been completed.

59. This Sunset Provision does not relieve Optimum of its data retention requirements under paragraph 47.

D. Other Provisions

60. If the Attorney General receives a request or demand for any documents, materials, reports or information that Optimum provided relating to this ASSURANCE or the negotiations resulting in this ASSURANCE, or for any documents, materials, reports or information specified by or required herein, the Attorney General shall promptly notify Optimum in writing of the

request. The Attorney General will refrain from producing any such documents, materials, reports or information until the expiration of five business (5) days following such written notice to Optimum so that Optimum may take any actions it deems appropriate.

61. Optimum further promises not to represent directly or indirectly, or in any manner whatsoever, that the Attorney General has sanctioned, condoned or approved, any part or aspect of its business operation, unless written authorization is obtained from the Attorney General, and then only to the extent of said written authorization. It is agreed and understood that the contents of this ASSURANCE are and shall be public information.

62. It is further agreed and understood that, while the parties to this ASSURANCE presently intend to cooperate in securing and obtaining compliance with the terms of this ASSURANCE, the matters settled by this agreement may be reopened at any time by the Attorney General of West Virginia for further proceedings in the public interest, including such actions as may be necessary to monitor compliance with this ASSURANCE.

63. This ASSURANCE is binding upon the Attorney General, Optimum and Optimum's successors, assigns or other entities or persons otherwise bound by law.

64. This ASSURANCE shall not be deemed or construed as: (a) an admission of the truth or falsity of any claims or allegations made against Optimum; or (b) an admission by Optimum that it has violated or breached any law, statute, regulation, term, provision, or obligation of any agreement. This ASSURANCE does not constitute a finding of law or fact, or any evidence supporting any such finding that Optimum has engaged in any act or practice declared unlawful by any laws, rules, or regulations of any state. Optimum denies any liability or violation of law and enters into this ASSURANCE without any admission of liability.

65. No part of this ASSURANCE constitutes or shall constitute evidence or liability against Optimum in any action brought by any person(s) or entity or other party of any violation of any federal or state statute or regulation or the common law except in an action brought to enforce the terms of this ASSURANCE.

66. This ASSURANCE is not intended for use by any third party in any other proceeding.

67. Any failure by the West Virginia Attorney General to insist upon the strict performance by Optimum of any of the provisions of this ASSURANCE shall not be deemed a waiver of any of the provisions hereof, and the West Virginia Attorney General, notwithstanding, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this ASSURANCE to be performed by Optimum.

68. In the event that any one or more of the provisions contained in this ASSURANCE, excluding non-admission language in paragraph 64 or release language in paragraph 71, shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the West Virginia Attorney General, such invalidity, illegality, or unenforceability shall not affect any other provision of this ASSURANCE.

69. In the event the Attorney General brings an action to enforce the terms of this ASSURANCE, Optimum agrees not to challenge the jurisdiction of any state or federal court of competent jurisdiction in West Virginia.

70. Any written notice to Optimum required by this ASSURANCE shall be sent by first-class mail and e-mail to:

Clayton Friedman
Counsel for Optimum
Troutman, Pepper & Locke
100 Spectrum Center Dr, Suite 1500

Irvine CA 92618
Clayton.friedman@troutman.com

And

William Heberer
Altice USA
SVP-Legal
One Court Square, 45th Floor
Long Island City, NY 11120
William.heberer@alticeusa.com

71. By execution of this ASSURANCE, the Attorney General releases and forever discharges, to the fullest extent of the law, Optimum from the following: all civil claims, causes of action, damages, restitution, fines, costs, and penalties that the West Virginia Attorney General could have asserted against Optimum prior to the Effective Date, based on the allegations contained in this ASSURANCE or addressed by any of the terms of this ASSURANCE (collectively the “Released Claims”).

72. Neither this ASSURANCE nor anything herein shall be construed or used as a waiver, limitation or bar on any defense otherwise available to Optimum, or on Optimum’s right to defend itself from or make arguments in any pending or future legal or administrative action, proceeding, local or federal claim or suit, including without limitation, private individual or class action claims or suits, relating to Optimum’s conduct prior to the execution of this ASSURANCE, or to the existence, subject matter or terms of this ASSURANCE.

73. This ASSURANCE memorializes the entire agreement by and between Optimum and the Attorney General regarding the subject matter addressed by this ASSURANCE.

IN WITNESS WHEREOF, Optimum has caused this ASSURANCE to be executed and represents that the persons whose signatures appear below are authorized to bind Optimum to the

terms and conditions set forth herein. The Attorney General of West Virginia or his designate has approved this ASSURANCE.

ALTICE USA, INC.

January 10, 2025
DATE

BY: 
(Signature)
Its: General Counsel

STATE OF New York,
COUNTY OF Nassau, TO-WIT:

Taken, subscribed, and sworn to before me in the County and State aforesaid this 10th
day of January, 2025.

My commission expires April 26, 2027.


NOTARY PUBLIC

Amy P. Pfail
Notary Public, State of New York
Reg. No. 01PF0006279
Qualified in Nassau County
Commission Expires April 26, 2027

APPROVED BY:

SENIOR ASSISTANT ATTORNEY GENERAL

DATED: _____

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

terms and conditions set forth herein. The Attorney General of West Virginia or his designate has approved this ASSURANCE.

ALTICE USA, INC.

DATE

BY: _____
(Signature)

Its: _____

STATE OF _____,

COUNTY OF _____, TO-WIT:

Taken, subscribed, and sworn to before me in the County and State aforesaid this _____
day of _____, 2025.

My commission expires _____.

NOTARY PUBLIC

APPROVED BY:



SENIOR ASSISTANT ATTORNEY GENERAL

DATED: 1-10-2025

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

Taken, subscribed, and sworn to before me in the County and State aforesaid this

10th day of January, 2025.

My commission expires 2/3/2029.

Lori Nichols
NOTARY PUBLIC

