

**FIRST AMENDMENT TO DECEMBER 7, 2015**

**RENEWAL CABLE TELEVISION FRANCHISE AGREEMENT**

**BETWEEN THE TOWN OF SALEM, NEW HAMPSHIRE, AND**

**COMCAST OF MAINE/NEW HAMPSHIRE, INC.**

WHEREAS, Comcast of Maine/New Hampshire, Inc. (hereinafter "Franchisee"), is the duly authorized holder of a Renewal Cable Television Franchise to operate a cable television system in the Town of Salem, New Hampshire (hereinafter the "Town") pursuant to NH RSA 53-C, as amended, said Renewal Franchise having commenced on December 7, 2015, and having the expiration date previously extended until December 5, 2019;

WHEREAS, Franchisee and the Town wish to amend the Renewal Cable Television Franchise Agreement;

WHEREAS, Section 10.4 of the Renewal Cable Television Franchise Agreement authorizes amendment by written agreement following publication of the proposed amendment in a manner consistent with NH RSA Chapter 43;

WHEREAS, the Select Board of the Town of Salem as Franchising Authority (hereinafter "Franchising Authority") is authorized to amend the Renewal Cable Television Franchise Agreement pursuant to NH RSA Chapter 53-C;

NOW THEREFORE, after due and full consideration, the Franchising Authority and Franchisee agree that the Renewal Cable Television Franchise Agreement is hereby amended as follows:

**FIRST:** Section 2.2, Term: is deleted and a new Section 2.2 is inserted therefore as follows:

The term of this non-exclusive Renewal Franchise shall be for a period of fourteen (14) years and shall commence on December 7, 2015, following the expiration of the current franchise, and shall expire at midnight on December 6, 2029.

**SECOND:** Section 3.3, Subscriber Network Cable Drops, is hereby deleted in its entirety, and a new Section 3.3 is substituted in its place, as follows.

**SECTION 3.3 – GOVERNMENT CABLE DROPS TO THE CABLE SYSTEM**

The parties agree that Franchisee will provide basic cable service to the locations identified in Exhibit A and has the right in accordance with applicable law to deduct the value of those services from franchise fees. Franchisee will notify the Town if it intends to implement said offset and the value of those services at least sixty (60) days prior to doing so.

Subject to the provisions herein the Franchisee shall provide, as directed in writing, by the Franchising Authority, (i) one cable drop connected to the Cable System within the standard installation requirements of Section 3.1, (ii) one Outlet, and (iii) the Basic Cable Service to all municipal and public school buildings which are listed in Exhibit A hereto and are located along the Cable System trunk and distribution system. The obligation of Franchisee to provide drops, Outlets and Basic Cable Service shall pertain throughout the life of this Renewal Franchise and shall apply specifically to municipal and public school buildings newly constructed or acquired subsequent to the commencement of this Renewal Franchise, which shall be wired within ninety (90) days of delivery of a written request from the Franchising Authority to Franchisee. The Franchisee shall consult with the Franchising Authority or its designee to determine the appropriate location of each Drop and Outlet prior to the installation of the service.

**THIRD:** Section 6.2, Paragraph PEG ACCESS CABLECASTING is hereby deleted in its entirety, and a new Section 6.2 is substituted in its place as follows

- (a) In order that PEG Access Programming can be cablecast over the PEG Access Downstream Channels, all PEG Access Programming shall be encoded and then transmitted from the PEG Access Origination Locations specified in Exhibit C to the Cable Studio located at Salem High School – 44 Geremonty, and from said Cable Studio to the Franchisee's Headend or Franchisee's Hub, where such PEG Access Programming shall be retransmitted in the downstream direction on one of the PEG Access Downstream Channel(s) with the foregoing at no charge to the Town or its access designee.
- (b) As part of the PEG access video return system described above in subsection 6.2 (a) the Franchisee shall purchase, install, maintain and operate: (i) digital interface equipment for each PEG Access Channel and (ii) corresponding digital transmitter at each remote location within eighteen (18) months of this First Amendment to the Renewal Cable Television becoming effective.
- (c) It shall be the Franchisee's sole responsibility to ensure that said PEG Access Programming is properly switched electronically to the appropriate PEG Access Downstream Channel(s), in an efficient and timely manner. Any manual switching shall be the responsibility of the Franchising Authority and/or its designee(s). The Franchisee shall not charge the Franchising Authority and/or its designee(s) for such switching responsibility or for the video return lines transport provided by Franchisee hereunder. The Franchisee and the Franchising Authority shall negotiate in good faith any difficulties that arise regarding cablecasting of PEG Access Programming.
- (d) The Franchisee shall provide and maintain all other necessary switching and/or processing equipment located in its Headend facility in order to switch upstream PEG Access Signals from the Town and/or its designee(s) to the designated Downstream PEG Access Channel(s) and Franchisee shall maintain the VRL wires for transport as necessary for VRL operation and transmission. Nothing herein shall require the Franchisee to provide any other switching equipment or any other end-user equipment except as provided in Section 6.2.

(e) The demarcation point between equipment owned, operated and maintained by the Franchisee and equipment owned, operated and maintained by the Town's access designee shall be the input into the transmitters provided by Franchisee at each site for each PEG channel.

(f) Upon written notice from the Franchising Authority and after receipt of payment for such Origination Capability construction from the Franchising Authority, the Franchisee shall construct an additional Origination Capability connection to any additional municipal or school building. The Franchisee shall provide a written estimate to the Franchising Authority of the actual costs of such additional Origination Capability connection costs. Franchisee may have up to 18 months from date of payment to construct said additional origination point.

**FOURTH:** Section 7.8 MONITORING is hereby deleted in its entirety, and nothing is substituted in its place.

**FIFTH:** Section 7.9 POLLING is hereby deleted in its entirety, and nothing is substituted in its place.

**SIXTH:** Section 9.4, Paragraph (a) FRANCHISE FEES is hereby deleted in its entirety, and a new Section 9.4(a) is substituted in its place as follows:

(a) Franchisee shall pay a Franchise Fee to the Town, throughout the term of this First Amendment to the Renewal Franchise equal to five (5%) of Franchisee's Gross Annual Revenue. The Franchisee shall have one hundred twenty (120) days from the receipt date of this First Amendment to the Renewal Franchise signed by the Town to implement Franchise Fee described herein. The Franchising Authority shall designate the fund(s) to which the Franchisee Fees shall be deposited.

Section 9.4, Paragraph (b) FRANCHISE FEES is hereby deleted in its entirety, and a new Section 9.4(b) is substituted in its place as follows:

(b) The Franchising Authority may request, in writing, to the Franchisee, for a change in their Franchise Fee either to increase or decrease it from five percent (5.0%) of the Franchise Gross Annual Revenue as defined herein, provided however if the Franchising Authority chooses to increase the Franchise Fee it is not to exceed the cap as defined below in Section 9.4 (e). The Franchisee shall have one hundred twenty (120) days from the receipt of the written request to do so.

**SEVENTH:** Section 9.4, Paragraph (e) FRANCHISE FEES is hereby deleted in its entirety, and a new Section 9.4(e) is substituted in its place as follows:

In accordance with Section 622(b) of the cable Act (47 U.S.C. Section 542(b)), Franchisee shall not be liable for a total financial commitment pursuant to this Franchise and applicable law in excess of five percent (5%) of its Gross Annual Revenues. That said five percent (5%) cap shall include (i) non-exempt PEG contributions whether in-

kind or cash payments; and (ii) the marginal cost to Franchisee to provide the in-kind cable drops and services as enumerated within Exhibit 2.

**EIGHTH:** New Section 9.13 (b) shall be added in its entirety and a new Exhibit F added as follows:

(b) Additionally, at the Town's written request, Franchisee shall submit an annual report in the form attached as Exhibit F.

**Exhibit F**  
**ANNUAL REPORT**

**TOWN of Salem for \_\_\_\_\_(Year)**

Location of and hours of Payment Center:

Location of and hours of Customer Service Office:

Customer Service Telephone Number:

Location of Head End (Reception Facility):

Miles of Cable Plant:

Number of Subscribers:

Projects Constructed:

Franchise Fee Paid: \$ \_\_\_\_\_

Contact Person to Service Unresolved Customer Complaints:

Updated Labor/Material Costs (if applicable) for installation over 300 feet from existing plant:

Upon written request from the Franchising Authority, Franchisee shall also provide the following:

Customer Service Statistics:

- a) Number of reports of system outages and response time for such outages;
- b) A summary of written complaints and brief description re: resolution of such complaints;

In all other respects, the Renewal Cable Television Franchise Agreement is not amended and remains in full effect.

WITNESS OUR HANDS AND OFFICIAL SEAL, this 23 day of May, 2023.

FRANCHISING AUTHORITY:

**TOWN OF SALEM**

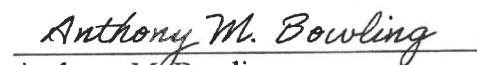
BY:

  
Christopher A. Dillon, Town Manager, Duly Authorized

FRANCHISEE:

**COMCAST OF MAINE/NEW HAMPSHIRE, INC.**

BY:

  
Anthony M. Bowling  
Vice President, Greater Boston Region

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**EXTENSION OF THE CABLE TELEVISION  
FRANCHISE AGREEMENT  
BETWEEN  
THE TOWN OF SALEM, MAINE  
AND  
COMCAST OF MAINE/NEW HAMPSHIRE, Inc.**

In its statutory role as Franchising Authority, pursuant to the laws of the State of New Hampshire, The Town of Salem (the "Town") hereby extends the current Cable Television Franchise Agreement (the "Franchise Agreement"), granted to Comcast of Maine/New Hampshire, Inc. ("Comcast"), on December 6, 2015, upon the same terms and conditions contained therein, for a period from 12:01 AM on December 6, 2018 until midnight on December 5, 2019 ("Extension"), or until such time as the Franchise is renewed for a longer term, whichever occurs sooner.

This extension shall under no circumstances be construed or deemed to be a renewal of the Franchise Agreement under either state or federal law(s) or the terms of said Franchise Agreement. The Town and Comcast reserve all of their lawful rights pursuant to all applicable state and federal (laws).

This extension is subject to the terms and conditions contained in the regulations of the FCC; the Cable Communications Policy Act of 1984 (the "1984 Cable Act"); the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act") and all Town, State, and Federal statutes and by-laws of general application.

Nothing herein shall be construed in any manner whatsoever as a waiver, release or surrender of any rights that the Town and/or Comcast may have under Section 626 and Section 635 of the 1984 Cable Act with respect to this Extension. The Town expressly reserves all rights under applicable provisions of the 1984 Cable Act-including Section 626 and Section 635.

The Franchising Authority and Comcast agree to negotiate diligently and in good faith during the Extension period to finalize a long term agreement.

In Witness Whereof, this 10 day of Dec, 2018, this Extension is hereby issued by the Select Board of the Town of Salem, New Hampshire as the Franchising Authority, all terms and conditions are hereby agreed to by Comcast of Maine/New Hampshire.

**Town of Salem, New Hampshire**  
Duly Authorized by its Franchise Authority

By:



Christopher A. Dillon  
Town Manager

**Comcast of Maine/New Hampshire, Inc.**

By:



Traey L. Pitcher  
Regional Senior Vice President  
Greater Boston Region

**RENEWAL**  
**CABLE TELEVISION FRANCHISE**  
**FOR**  
**THE TOWN OF SALEM,**  
**NEW HAMPSHIRE**

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# **SALEM, NH RENEWAL FRANCHISE**

## **INTRODUCTION**

WHEREAS, Comcast of Maine / New Hampshire, Inc. (hereinafter "Franchisee"), is the duly authorized holder of a renewal Franchise to operate a Cable Television System in the Town of Salem, New Hampshire (hereinafter the "Town") pursuant to NH R.S.A. 53-C, as amended, said Franchise having commenced on September 18, 2012;

WHEREAS, Franchisee filed a written request for a renewal of its Franchise by letter dated July 1, 2009 in conformity with the Cable Communications Policy Act of 1984 ("Cable Act");

WHEREAS, there has been an opportunity for public comment, as required by Section 626(h) of the Cable Act;

WHEREAS, the Franchising Authority has determined that the financial, legal, and technical ability of Franchisee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and desires to enter into this Renewal Franchise with Franchisee for the construction and continued operation of a Cable System on the terms and conditions set forth herein;

WHEREAS, the Town's Board of Selectmen, as the Franchising Authority, finds that Franchisee has complied with the terms of its previous Franchise; and

WHEREAS, insofar as the State of New Hampshire has delegated to the Town the authority to grant a Franchise for Cable System operation within the Town's territorial boundaries, the Town hereby exercises its authority to grant a non-exclusive Franchise permitting the operation of a Cable Television System within the Town of Salem.

NOW THEREFORE, after due and full consideration, the Franchising Authority and Franchisee agree that this Renewal Franchise is issued upon the following terms and conditions:

## ARTICLE 1

### DEFINITIONS

#### **SECTION 1.1 - DEFINITIONS**

For the purpose of this Renewal Franchise, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§521 *et seq.* (the “Cable Act”), and the Revised Statutes Annotated of New Hampshire, as amended from time to time, unless otherwise defined herein.

- (a) **Access Provider** – shall mean the Person, group or entity, or non-profit corporation or agency, designated by the Franchising Authority for the purpose of operating and managing the use of Public, Educational and Government Access Programming funding, equipment and channels on the Cable Television System in accordance with this Renewal Franchise and 47 U.S.C. 531.
- (b) **Basic Cable Service** – shall mean the lowest tier of service which includes the retransmission of local television broadcast Signals; Public, Educational and Governmental Access Channel(s); and other Signals or services required by the FCC or the Cable Act.
- (c) **Cable Act** – shall mean the Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 Stat. 2779 (1984), 47 U.S.C. 521 *et seq.*, amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, Public Law No. 102-385 and the Telecommunications Act of 1996, Public Law No. 104-458, 110 Stat. 56 (1996) and as may be further amended.
- (d) **Cable Television System or Cable System** – shall mean the facility owned, constructed, installed, operated and maintained by Franchisee in the Town of Salem, consisting of a set of closed transmission paths and associated Signal generation, reception, and control equipment that is designated to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include (a) a facility that serves

only to retransmit the television Signals of one or more television broadcast stations; (b) a facility that serves Subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) of the Cable Act) to the extent such facility is used in the transmission of Video Programming directly to Subscribers unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with Section 653 of the Cable Act, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

(e) Cable Service or Service – shall mean the one-way transmission to Subscribers of (i) Video Programming, or (ii) other Programming service, and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other Programming service.

(f) Drop – shall mean the coaxial cable that connects a home or building to the feeder cable of the Subscriber Network or institutional network/video return line.

(g) Educational Access Channel – shall mean the video channel(s) designated for non-commercial use by educational institutions such as public or private schools (grades K-12), but not “home schools,” community, public or private colleges or universities.

(h) Effective Date – shall mean December 7, 2015.

(i) FCC – shall mean the Federal Communications Commission or any successor governmental entity.

(j) Franchising Authority – shall mean the Board of Selectmen of the Town of Salem, New Hampshire, or the lawful designee thereof.

(k) Franchisee – shall mean Comcast of Maine / New Hampshire, Inc. or any successor or transferee in accordance with the terms and conditions in this Renewal Franchise.

(l) Franchise Fee – shall mean the payments to be made to the Franchising Authority or other governmental entity which shall have the meaning set forth in Section 622(g) of the Cable Act, 47 U.S.C. §542.

(m) Governmental Access Channel – shall mean a channel designated for non-commercial use by the Franchising Authority for the purpose of showing public local government Programming.

(n) Gross Annual Revenue – shall mean the revenue received by Franchisee from the operation of the Cable System in the Town of Salem to provide Cable Services, calculated in accordance with generally accepted accounting principles, including but not limited to monthly Basic Cable Service, premium and pay-per-view fees, installation fees and equipment rental fees. Gross Annual Revenue shall not include fees on Subscriber fees, refundable deposits, bad debts, late fees, investment income, or any taxes, fees or assessments imposed or assessed by any governmental authority and collected by Franchisee on behalf of such entity. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with generally accepted accounting principles, provided however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in the Gross Annual Revenues in the period so collected.

(o) Modulator – shall mean a cable television Modulator or equivalent device used for video Signal processing and transport.

(p) Multichannel Video Programming Distributor – shall mean a Person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by Subscribers or customers, multiple channels of Video Programming.

(q) Outlet – shall mean an interior receptacle that connects a television set to the Cable Television System.

(r) PEG Access User – shall mean a Person utilizing the Cable Television System, including all related facilities, for purposes of production and/or transmission of PEG Access Programming as opposed to utilization solely as a Subscriber.

(s) Person – shall mean any natural Person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

(t) Public Access Channel – shall mean a video channel designed for non-commercial use by the public on a first-come, first-served, non-discriminatory basis.

(u) Public, Educational and Governmental (PEG) Access Channel – shall mean a video channel designated for non-commercial use by the public, educational institutions such as public or private schools (but not “home schools,” community colleges, and universities) as well as the Franchising Authority.

(v) Public, Educational and Government (PEG) Access Programming – shall mean non-commercial Programming produced by the Town of Salem or its designee, any Salem residents or organizations, schools and government entities and the use of designated facilities, equipment and/or channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal Franchise.

(w) Public Way(s) – shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Town of Salem, which shall entitle Franchisee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Town of Salem for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle Franchisee to the use thereof for the purposes of installing, operating, and maintaining Franchisee’s Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

(x) Public Buildings – shall mean those buildings owned or leased by the Franchising Authority for government administrative purposes, but shall not include buildings owned by

Franchising Authority and leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

(y) Renewal Franchise or Franchise – shall mean this Agreement and any amendments or modifications in accordance with the terms herein.

(z) Signal – shall mean any transmission which carries Programming from one location to another.

(aa) Standard Installation – shall mean the standard two hundred twenty-five foot (225') aerial Drop connection to the existing distribution system.

(ab) Subscriber – shall mean a Person or user of the Cable System who lawfully receives Cable Service with Franchisee's express permission.

(ac) Subscriber Network – shall mean the trunk and feeder Signal distribution network over which video and audio Signals are transmitted to Subscribers.

(ad) Town – shall mean the Town of Salem, New Hampshire.

(ae) Trunk and Distribution System – shall mean that portion of the Cable System for the delivery of Signals, but not including Drop cable(s) to Subscribers' residences.

(af) Video Programming or Programming – shall mean the Programming provided by, or generally considered comparable to Programming provided by, a television broadcast station.

## **ARTICLE 2**

### **GRANT OF RENEWAL FRANCHISE**

#### **SECTION 2.1 - GRANT OF RENEWAL FRANCHISE**

(a) Pursuant to the authority of RSA 53-C and the Cable Act, the Franchising Authority hereby grants a non-exclusive Renewal Franchise to Comcast of Maine / New Hampshire, Inc., a Delaware corporation, authorizing and permitting Franchisee to construct, operate and maintain a Cable Television System in the Public Way within the municipal limits of the Town of Salem. Nothing in this Franchise shall be construed to prohibit Franchisee from offering any service over its Cable System that is not prohibited by federal or State law.

(b) This Renewal Franchise is granted under and in compliance with the Cable Act and RSA 53-C of the Laws of New Hampshire, and in compliance with all rules and regulations of the FCC and other applicable rules and regulations in force and effect during the period for which this Renewal Franchise is granted.

(c) Subject to the terms and conditions herein, the Franchising Authority hereby grants to Franchisee the right to construct, upgrade, install, operate and maintain a Cable Television System within the Public Way.

#### **SECTION 2.2 - TERM: NON-EXCLUSIVITY**

The term of this non-exclusive Renewal Franchise shall be for a period of three (3) years and shall commence on December 7, 2015 following the expiration of the current Franchise, and shall expire at midnight on December 6, 2018.

#### **SECTION 2.3 – RENEWAL OF FRANCHISE**

The renewal of this Franchise shall be governed by applicable federal law and regulations promulgated hereunder and by applicable New Hampshire law.

## **SECTION 2.4 – NON-EXCLUSIVITY OF FRANCHISE**

(a) Franchisee acknowledges and agrees that the Franchising Authority reserves the right to grant one or more additional franchises to other Cable Service providers within the Town for the right to use and occupy the Public Ways within the Franchising Authority's jurisdiction; provided, however, that in accordance with RSA 53-C:3-b no such franchise agreement shall contain terms or conditions more favorable or less burdensome than those in any existing Franchise within the Town.

(b) In the event that the Franchisee believes that any additional franchise has been granted or modified to include terms and conditions more favorable or less burdensome than those contained in this Renewal Franchise, the Franchisee may so notify the Franchising Authority in writing and may request that the Franchising Authority convene a hearing on such issue. Along with said written request, the Franchisee shall provide the Franchising Authority with written reasons for its belief. At said hearing, the Franchisee shall have an opportunity to demonstrate that any such additional franchise is on terms more favorable or less burdensome than those contained in this Renewal Franchise. The Franchisee shall provide the Franchising Authority with such financial or other relevant information as is requested.

(c) Should the Franchisee demonstrate that any such additional franchise has been granted on terms and conditions more favorable or less burdensome than those contained in this Renewal Franchise, the Franchising Authority shall consider and negotiate, in good faith, equitable amendments to this Renewal Franchise within a reasonable time.

## **SECTION 2.5 - RESERVATION OF AUTHORITY**

Nothing in this Renewal Franchise shall (i) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or bylaws/ordinances/ordinances of general applicability and not specific to the Cable Television System, Franchisee, or this Franchise, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to the Public Ways. Any conflict between the terms of

this Renewal Franchise and any present or future exercise of the municipality's police and regulatory powers shall be resolved by a court of appropriate jurisdiction.

## **SECTION 2.6 - POLE AND CONDUIT ATTACHMENT RIGHTS**

(a) If Franchisee desires to install its own poles in the right of way, it shall comply with RSA 231:161 and 160-a. Pursuant to RSA 231:161, permission is hereby granted to Franchisee to attach or otherwise affix including, but not limited to, cables, wire, or optical fibers comprising the Cable Television System to the existing poles and conduits on and under the Public Ways, provided Franchisee secures the permission and consent of the public utility companies to affix the cables and/or wires to their pole and conduit facilities. By virtue of this Franchise the Franchising Authority grants Franchisee equal standing with power and telephone utilities in the manner of placement of facilities on Public Ways, subject to the lawful exercise of the authority of the Town to approve the location of all installations in the Public Ways, and subject to the Town's lawful use of the Public Ways.

(b) To the extent permitted by applicable law and in accordance with the requirements of RSA 72:23, I (b), the Franchisee(s) and any other entity now or hereafter using or occupying property of the State or of a city, town, school district or village district pursuant to this Franchise shall be responsible for the payment of, and shall pay, all properly assessed current and potential personal and real property taxes, if any, for such use or occupation and all properly assessed current and potential personal and real property taxes, if any, on structures or improvements added by Franchisee or any other entity using or occupying such property pursuant to this Franchise. Pursuant to the provisions of this Section and subject to the provisions of Section 9.8 (Notice and Opportunity to Cure) herein, "failure of the Franchisee to pay the duly assessed personal and real estate taxes when due shall be cause to terminate said lease or agreement by the Franchising Authority." Accordingly, this is a material term of the Franchise and failure to pay duly and properly assessed personal and real property taxes when due shall be cause for Franchising

Authority to provide a written notice to Franchisee, pursuant to the provisions of Section 9.8, to show cause by a date certain specified in the notice as to why this Franchise should not be revoked pursuant to Section 9.7 (Revocation of Franchise) of the Franchise. To the extent applicable law provides authority for the Franchising Authority to assess taxes on Franchisee, pursuant to RSA 72:23, I(b), 72:8-a, 73:10 and/or 48-B:4 or otherwise, the Franchising Authority shall be authorized to impose such taxes and Franchisee shall be obligated to pay such properly assessed taxes. However, Franchisee reserves all rights to appeal any assessment of personal or real property taxes. Further, the parties acknowledge that there is a dispute between the parties concerning the applicability of RSA 72:23 to the Cable System. The parties agree to abide by any final decision made by a court of competent jurisdiction after all appeals by either party have been exhausted.

(c) Nothing in this Franchise shall be deemed a waiver or relinquishment of any rights, defenses or claims that Franchisee may have with respect to the application of any law referenced in this Section 2.6 to Franchisee's services or the operation of its Cable System. Franchisee shall have the right to pass through to Subscribers and to itemize separately on Subscribers' monthly bills any tax imposed on Franchisee by the Franchising Authority.

## **ARTICLE 3**

### **SYSTEM SPECIFICATIONS AND CONSTRUCTION**

#### **SECTION 3.1 - AREA TO BE SERVED**

(a) Franchisee shall make Cable Service available to every residential dwelling unit within the Town where the minimum density is at least twenty (20) dwelling units per aerial mile and forty (40) dwelling units per underground mile providing, however, that any plant extension is measured from the existing Trunk and Distribution System and Franchisee is able to obtain from property owners any necessary easements and/or permits in accordance with the Cable Act. Franchisee shall make service available to multiple dwelling units (MDU) where economically feasible and providing that Franchisee is able to obtain from the property owners any necessary easements, permits and agreements to provide service to said MDU. Subject to the density requirement, Franchisee shall offer Cable Service to all new homes or previously unserved homes located within two hundred twenty-five feet (225') of Franchisee's distribution cable within thirty (30) days of a written request by an occupant. For non-Standard Installations, Franchisee shall offer said service within ninety (90) days of a Subscriber's request for such aerial installations and one hundred eighty (180) days, weather permitting, of a Subscriber's request for such underground installations.

(b) Installation costs shall conform with the Cable Act. Any dwelling unit within an aerial two hundred twenty-five feet (225') of the Trunk and Distribution System shall be entitled to a Standard Installation rate in accordance with applicable federal and State laws. For non-Standard Installations (aerial), the first two hundred twenty-five feet (225') shall be at the standard rate. Underground installs are considered non-Standard Installations. All non-Standard Installations shall be provided at a rate established by the Franchisee in accordance with applicable federal and State laws.

(c) The Cable Television System shall be further extended to all areas in the Town that do not meet the requirements of Section 3.1(a) above upon the request of dwelling unit owners in such areas and based upon the following cost calculation: The cost of wiring such areas shall be calculated by taking the capital cost of extending such service divided by the number of dwelling units in such area minus the costs of extending service to dwelling units in an area along the Public Ways that meets the twenty (20) dwelling units per aerial or forty (40) dwelling units per underground mile of cable plant and/or fractional proportion thereof density requirement specified in subsection (a) above. The resulting cost shall equal the per dwelling unit contribution relating to line extension of cable service in that particular area of the Town, or

$$(C/LE) - (CA/P) = SC$$

\* C equals the cost of construction of new plant from existing Cable System plant;

\* LE equals the number of dwelling units requesting service in the line extension area and who subsequently pay a contribution in aid;

\* CA equals the average cost of construction per mile in the primary service area;

\* P equals the twenty (20) dwelling units per aerial or plant; and

\* SC equals the per-dwelling-unit contribution in aid of construction in the line extension area.

## **SECTION 3.2 - SUBSCRIBER NETWORK**

Franchisee shall maintain a Cable Television System fully capable of carrying a minimum bandwidth of 750 MHz.

## **SECTION 3.3 - SUBSCRIBER NETWORK CABLE DROPS**

(a) Franchisee shall maintain the current level of existing active Drops, Outlets and Basic Cable Service, at no charge to the Town, to each Public Building located along the existing cable

route as of the Effective Date as designated by the Franchising Authority within the Town and listed in **Exhibit A** attached hereto.

(b) Upon written request by the Franchising Authority, Franchisee shall provide one (1) Standard Installation, Drop, Outlet and Basic Cable Service at no charge to any new Public Buildings and other Town owned Public Buildings along the distribution cable subject to the limitations set forth above. The Franchising Authority or its designee shall consult with a representative of Franchisee to determine the appropriate location for each of such Public Building's respective Outlet prior to requesting that Franchisee install the service.

(c) Nothing in this Section shall require Franchisee to move existing or install additional Drops or Outlets at no charge to those Public Buildings included in **Exhibit A**, or to move existing or install additional Drops or Outlets already installed in Public Buildings pursuant to Subsection (b) above.

(d) The Franchisee shall not be responsible for any internal wiring of such Public Buildings.

#### **SECTION 3.4 - PARENTAL CONTROL CAPABILITY**

(a) Pursuant to applicable law, upon request, and at no separate, additional charge, Franchisee shall provide Subscribers with the capability to control the reception of any channel on the Cable System.

(b) The Franchising Authority acknowledges that the parental control capability may be part of a converter box and Franchisee may charge Subscriber for use of said box.

#### **SECTION 3.5 - EMERGENCY ALERT OVERRIDE CAPACITY**

Franchisee shall comply with the FCC's Emergency Alert System ("EAS") regulations.

## **ARTICLE 4**

### **TECHNOLOGICAL & SAFETY STANDARDS**

#### **SECTION 4.1 - SYSTEM MAINTENANCE**

- (a) In installing, operating and maintaining equipment, cable and wires, Franchisee shall avoid damage and injury to trees, structures and improvements in and along the routes authorized by the Franchising Authority, except as may be approved by the Franchising Authority if required for the proper installation, operation and maintenance of such equipment, cable and wires.
- (b) The construction, maintenance and operation of the Cable Television System for which this Renewal Franchise is granted shall be done in conformance with all applicable laws, bylaws/ordinances of general applicability, codes and regulations, including, but not limited to, OSHA, the National Electrical Safety Code and the rules and regulations of the FCC as the same exist or as same may be hereafter changed or amended.
- (c) Operating and maintenance personnel shall be trained in the use of all safety equipment and the safe operation of vehicles and equipment. Franchisee shall install and maintain its equipment, cable and wires in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.
- (d) All structures and all equipment, cable and wires in, over, under, and upon the Public Ways or public places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.
- (e) The Signal of any broadcast station carried on the Cable Television System shall be carried without material degradation in quality at all subscribing locations within the limits imposed by the technical specifications of the Cable System and as set forth by the FCC. The Cable System shall be operated and maintained so as to comply with the technical standards set forth in the FCC's rules and regulations as they apply to Cable Television Systems.

(f) Upon written notice from the Franchising Authority, Franchisee shall remedy a general deficiency with respect to the technical standards described herein within two (2) months of receipt of notice and a safety deficiency within twenty-four (24) hours of receipt of notice and shall notify the Franchising Authority when the deficiency has been corrected.

#### **SECTION 4.2 - CABLE LOCATION**

(a) In all areas of the Town where all of the transmission and distribution facilities of all public or municipal utilities are installed underground, Franchisee shall install its Cable System underground provided that such facilities are actually capable of receiving Franchisee's cable and other equipment without technical degradation of the Cable System's Signal quality.

(b) In all areas of the Town where public utility lines are aerially placed, if subsequently during the term of Franchisee Renewal such public utility lines are required by local ordinance or State law to be relocated aerially or underground, Franchisee shall similarly relocate its Cable System if it is given reasonable notice and access to the public and municipal utilities facilities at the time that such are placed underground. Any costs incurred by Franchisee for relocating utility poles or trenching for the placement of underground conduits shall be entitled to reimbursement of such relocation costs in the event public or private funds are raised for the project and made available to other users of the Public Way.

(c) Provided Franchisee has at least ninety (90) days' prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame. If a substantial quantity of cable is required for a large subdivision and said quantity is not in stock, Franchisee shall be allowed reasonable additional time for said installation. The Franchising Authority, or its designee, shall exercise reasonable efforts to have the Planning Board and developers give timely written notice of

trenching and underground construction to Franchisee. Developer shall be responsible for the digging and back-filling of all trenches.

(d) Nothing in this Section shall be construed to require Franchisee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

#### **SECTION 4.3 - REPAIRS AND RESTORATION**

Whenever Franchisee takes up or disturbs any Public Way or other improvement of any Public Way or public place, the same shall be replaced and the surface restored in as good condition as possible as before entry as soon as practicable. If Franchisee fails to make such restoration within a reasonable time, the Franchising Authority may fix a reasonable time for such restoration and repairs and shall notify Franchisee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of Franchisee to comply within the time specified, the Franchising Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by Franchisee upon written demand by the Franchising Authority. However, prior to such repair or restoration the Town should submit a written estimate to Franchisee of the actual cost of said repair or restoration.

#### **SECTION 4.4 - TREE TRIMMING**

Franchisee shall have authority to trim trees upon and overhanging the Public Ways and public places of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables and equipment of Franchisee, in accordance with applicable State law and any Town bylaws/ordinances and regulations.

#### **SECTION 4.5 - BUILDING MOVES**

In accordance with applicable laws, Franchisee shall, upon the written request of any Person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of the building(s). Franchisee shall be given not less than thirty (30) days' advance written notice to arrange for such temporary wire changes. The cost to raise or lower wires shall be borne by the Person(s) holding the building move permit.

#### **SECTION 4.6 – PLANT MAPS**

Franchisee shall maintain a complete set of plant maps of the Town which will show those areas in which its facilities exist. The plant maps will be retained at Franchisee's primary place of business and will be available to the Franchising Authority for inspection by the Franchising Authority upon written request.

#### **SECTION 4.7 - DIG SAFE**

Franchisee shall comply with all applicable "dig safe" provisions, pursuant to RSA 374:51 of the New Hampshire laws.

#### **SECTION 4.8 - DISCONNECTION AND RELOCATION**

(a) Franchisee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street or other Public Ways, or remove from any Public Ways and public places, any of its property as required by the Franchising Authority or its designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any Town department acting in a governmental capacity.

- (b) In requiring Franchisee to protect, support, temporarily disconnect, relocate or remove any portion of its property, the Franchising Authority shall treat Franchisee the same as, and require no more of Franchisee than, any other similarly situated utility.
- (c) In either case, Franchisee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement.

#### **SECTION 4.9 – PROHIBITION AGAINST RESELLING OF SERVICE**

No Person shall resell, without the express prior written consent of Franchisee, any Cable Service, program or Signal transmitted over the Cable System by Franchisee.

#### **SECTION 4.10 - EMERGENCY REMOVAL OF PLANT**

(a) If, at any time, in case of fire or disaster in the Town, it shall be necessary in the reasonable judgment of the Franchising Authority to cut or move any of the wires, cable or equipment of the Cable Television System, the Town shall have the right to do so without cost or liability, provided, however, that wherever possible the Franchising Authority gives Franchisee written notice and the ability to relocate wires, cable or other equipment.

(b) In either case, Franchisee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement. All cable operators or public or municipal utility companies shall be treated alike if reimbursed for such costs by the Town.

#### **SECTION 4.11 – STANDBY POWER**

The Cable System shall incorporate equipment capable of providing standby powering of the head end for a minimum of forty-eight (48) hours upon failure of the power furnished by the electric utility company unless for reasons of force majeure.

## **ARTICLE 5**

### **PROGRAMMING**

#### **SECTION 5.1 - BASIC CABLE SERVICE**

Franchisee shall make available a Basic Cable Service tier to all Subscribers in accordance with 47 U.S.C. 534.

#### **SECTION 5.2 - PROGRAMMING**

(a) Pursuant to 47 U.S.C. 544, Franchisee shall maintain the mix, quality and broad categories of Video Programming as set forth in **Exhibit B**. Pursuant to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of Franchisee.

(b) Franchisee shall comply with 76.309(c)(3)(i)(b) of the FCC Rules and Regulations regarding notice of Programming changes as they exist or as they may be amended from time to time.

#### **SECTION 5.3 - REMOTE CONTROLS**

Franchisee shall allow Subscribers to purchase remote control devices which are compatible with the converter installed by Franchisee, if any, and allow the use of remotes. Franchisee takes no responsibility for changes in its equipment or services that might render inoperable the remote control devices acquired by Subscribers.

#### **SECTION 5.4 - STEREO TV TRANSMISSIONS**

All broadcast Signals that are transmitted to Franchisee's head end in stereo shall be transmitted in stereo to Subscribers.

## **SECTION 5.5 – CABLE CHANNELS FOR COMMERCIAL USE**

Pursuant to 47 U.S.C. 532, Franchisee shall make available channel capacity for commercial use by Persons unaffiliated with Franchisee. Rates for use of commercial access channels shall be negotiated between Franchisee and the commercial user in accordance with federal law.

## ARTICLE 6

### PEG ACCESS CHANNEL(S)

#### **SECTION 6.1 - PEG ACCESS CHANNEL(S)**

(a) Use of channel capacity for Public, Educational and Governmental (PEG) Access Programming shall be provided in accordance with federal law, 47 U.S.C. 531, and as further set forth below. Franchisee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. A PEG Access User, whether an individual, educational or governmental user, acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use. Franchisee shall not exercise editorial control over any public, educational, or governmental use of channel capacity, except Franchisee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity pursuant to Section 611 of the Cable Act. The Franchising Authority shall be responsible for developing, implementing, interpreting and enforcing rules for PEG Access Channel use.

(b) Franchisee shall designate capacity on three (3) channel(s) for a Public, Educational, and Governmental Access Channel(s) to be used for public Video Programming provided by the Franchising Authority or its designee, educational access Video Programming provided by the Franchising Authority or its designated educational institution(s), and governmental Video Programming provided by the Franchising Authority. A Public, Educational and Governmental Access Channel may not be used to cablecast for-profit, political or commercial fundraising programs in any fashion. Unused capacity may be utilized by Franchisee subject to the provisions set forth in Subsection (c) below.

(c) In the event the Franchising Authority or other PEG Access User elects not to fully program its channel(s) with original PEG Access Programming, Franchisee may reclaim any unused time on those channels.

## **SECTION 6.2 - PEG ACCESS CABLECASTING**

(a) In order that PEG Access Programming can be cablecast over Franchisee's downstream PEG Access Channel, all PEG Access Programming shall be modulated, then transmitted from an origination location listed in **Exhibit C** to Franchisee-owned head end or hub-site on a Franchisee-owned upstream channel made available to the Town for its use. At the Franchisee-owned head end, said PEG Access Programming shall be retransmitted in the downstream direction on one Franchisee-owned Subscriber Network downstream PEG Access Channel. Any construction of video return lines or origination sites, and/or the activation of any additional PEG Access Channels, shall be paid for by the Town. Said payment shall be made in advance to the Franchisee subject to the provision to the Town by the Franchisee of a detailed estimate of said cost.

(b) Franchisee shall provide and maintain all necessary switching and/or processing equipment located at its hub-site or head end in order to switch upstream Signals carrying PEG Access Programming from the location(s) listed in **Exhibit C** to the designated Franchisee-owned Subscriber Network downstream PEG Access Channel.

(c) The Franchising Authority reserves the right to require the Franchisee to provide video origination capability at an additional location in town to be determined by the Franchising Authority.

(d) The Franchising Authority shall provide written notice to Comcast as to the additional video origination location site it has chosen to construct. Comcast shall only construct video origination from one location in Town.

(e) Within one hundred twenty (120) days of receipt of notice, Comcast will provide a written estimate to the Franchising Authority for the construction of the site selected.

(f) Within sixty (60) days of receipt of the estimate, the Franchising Authority shall issue a payment in the full amount of the estimate to Comcast.

(g) Comcast shall complete the construction process and activate the site within eighteen (18) months of receipt of payment from the Franchising Authority, subject to Force Majeure. Comcast shall continue to own and/or repair according to FCC technical specifications, any video return line it constructs to provide video origination capability under this Franchise.

(h) Franchisee shall own, maintain, repair and/or replace any Franchisee-owned head end or hub-site audio and/or video Signal processing equipment. The Town and/or PEG Access Provider shall own, maintain, repair and/or replace studio and/or portable Modulators and demodulators. The demarcation point between Franchisee's equipment and the Town's or PEG Access provider's equipment shall be at the output of the Town's and/or the PEG Access Provider's Modulator(s) at any of the origination locations in **Exhibit C**.

(i) If a digital simulcast is available from the Derry hub, the PEG Access Channel shall be provided in both analog and digital format until such time as the system transitions to all digital. At that time the PEG Access Channel will be delivered in digital format only.

### **SECTION 6.3 – INTERCONNECTION WITH COMPETING CABLE FRANCHISEE**

In the event a franchise is issued by the Franchising Authority for a competing franchise and such competing franchisee desires to cablecast the PEG Access Programming originating from a PEG access studio or origination location, the parties agree that the competing franchisee shall maintain its own upstream video return link from the studio or origination location. If PEG Access Programming is originating from Franchisee's hub rather than a studio or origination location, Franchisee shall make the Programming on the PEG Access Channel available to the holder of the additional franchise for cablecasting over its Cable System in the Town upon execution of an interconnection agreement between Franchisee and the holder of the additional franchise.

### **SECTION 6.4 – FRANCHISE RELATED COST**

The Franchising Authority acknowledges that under the Cable Act certain costs, including, but not limited to, costs of Public, Educational and Governmental Access; the cost to construct video

return lines from video origination sites; the cost to activate a PEG Channel and the cost of other Franchise requirements may be passed through to the Subscribers in accordance with federal law.

## **SECTION 6.5 – PEG ACCESS PROGRAMMING INDEMNIFICATION**

Without in any way waiving any statutory immunity or the right to assert defenses to liability provided by law, and subject to the provisions of RSA 507-B, or any other law defining the scope of municipal liability in tort, the Franchising Authority and/or the Access Provider shall indemnify the Franchisee for any liability, loss or damage it may suffer due to violation of the intellectual property rights of third parties or arising out of the content of Programming aired on any PEG channel and from claims arising out of the Franchising Authority's rules for or administration of PEG Access Programming.

## ARTICLE 7

### CUSTOMER SERVICE & CONSUMER PROTECTION

#### **SECTION 7.1 - CUSTOMER SERVICE**

(a) Franchisee shall comply with all customer service regulations of the FCC (47 CFR §76.309) as they exist or as they may be amended from time to time, which standards are attached hereto as **Exhibit D** and made a part hereof.

(b) Franchisee shall also continue its contract with a business in the Town to serve as a payment center. In the event that the current contract with the payment center is terminated, Franchisee shall make a good faith effort to enter into a contract with another business located within the Town for the purpose of serving as a payment center.

#### **SECTION 7.2 - CONSUMER COMPLAINT**

(a) The Franchisee shall establish a procedure for resolution of complaints by Subscribers. Franchisee shall notify Subscribers of its procedures in accordance with federal law.

(b) Upon reasonable notice, the Franchisee shall expeditiously investigate and resolve all complaints regarding the quality of service, equipment malfunctions and similar matters.

(c) Except as limited by federal law or FCC regulations concerning privacy, the Franchisee shall comply with the provisions of NH RSA 53-C:3-e, as it may be amended, regarding Subscriber complaints. Nothing herein shall be deemed to require Franchisee to maintain records of oral complaints which can be handled to the Subscriber's satisfaction in the course of the initial conversation in which the complaint is made or does not require technical field response.

#### **SECTION 7.3 - SERVICE INTERRUPTIONS**

In the event that Franchisee's service to any Subscriber is completely interrupted for twenty-four (24) or more consecutive hours, Franchisee will grant such Subscriber a pro rata credit or rebate

upon request, on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or at its option, apply such credit to any outstanding balance then currently due. In the instance of other individual Subscriber service interruptions, credits shall be applied as described above after due notice to Franchisee from the Subscriber.

#### **SECTION 7.4 - SUBSCRIBER TELEVISION SETS**

Franchisee shall not engage directly or indirectly in the business of selling or repairing television sets; provided, however, that Franchisee may make adjustments to television sets in the course of normal maintenance.

#### **SECTION 7.5 - PROTECTION OF SUBSCRIBER PRIVACY**

Franchisee shall comply with all applicable federal and State privacy laws and regulations, including 47 U.S.C. 551 and regulations adopted pursuant thereto as they exist or as they may be amended from time to time, which regulations are attached hereto as **Exhibit E** and made a part hereof.

#### **SECTION 7.6 – PROPRIETARY INFORMATION**

Notwithstanding anything to the contrary set forth in this Franchise, Franchisee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority who have a need to know in order to enforce this Franchise and who shall agree to maintain the confidentiality of all such information. Franchisee shall not be required to provide Subscriber information in violation of 47 U.S.C. 551 or any other applicable federal or State privacy law. For purposes of this Section, the terms “proprietary or confidential” include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans,

financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by Franchisee to be competitively sensitive. In the event that the Franchising Authority receives a request under a State “sunshine,” public records or similar law for the disclosure of information Franchisee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify Franchisee of such request and cooperate with Franchisee in opposing such request.

#### **SECTION 7.7 - EMPLOYEE IDENTIFICATION CARDS**

All of Franchisee’s employees, including repair and sales personnel, and contractors entering private property shall be required to carry an employee identification card approved by Franchisee and bearing a picture of said employee. If such employee(s) cannot produce such a photo identification card and, as a result, is not admitted to a Subscriber’s home, such visit shall be deemed to be a missed service visit by the Franchisee. All of Franchisee’s and/or its contractors’ or subcontractors’ vehicles performing work on the Cable System in the Town shall be placarded with proper identification making them readily identifiable.

#### **SECTION 7.8 – MONITORING**

Neither Franchisee nor its designee nor the Franchising Authority nor its designee shall, without a court order, tap, monitor, arrange for the tapping or monitoring, or permit any Person to tap or monitor, any cable, line, Signal, input device, or Subscriber Outlet or receiver for any purpose without the prior written authorization of the affected Subscriber or user, unless otherwise required by applicable law, provided, however, that Franchisee may conduct system-wide or individually addressed “sweeps” solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, billing for pay services or monitoring channel usage in a manner not inconsistent with the Cable Act. Franchisee shall report to the affected parties any instances of monitoring or tapping of the Cable Television System, or any part thereof, of which it

has knowledge, whether or not such activity has been authorized by Franchisee. Franchisee shall not record or retain any information transmitted between a Subscriber or user and any third party except as required for lawful business purposes.

#### **SECTION 7.9 – POLLING**

No poll or other upstream response of a Subscriber or user shall be conducted or obtained unless: 1) the program of which the upstream response is a part contains an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response, or 2) the program has an informational, entertainment or educational function which is self-evident. Franchisee or its designees shall release the results of upstream responses only in the aggregate and without individual references.

## ARTICLE 8

### PRICES & CHARGES

#### **SECTION 8.1 - PRICES AND CHARGES**

(a) All rates, fees, charges, deposits and associated terms and conditions to be imposed by Franchisee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations currently codified at 47 CFR Sections 76.1602, 1603, and 1609, as may be amended from time to time, which regulations are attached hereto as **Exhibit D** and made a part hereof. Before any new or modified rate, fee, or charge is imposed, Franchisee shall follow the applicable FCC and State notice requirements and rules and notify affected Subscribers, which notice may be by any means permitted under applicable law. Nothing in this Renewal Franchise shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or retaining Subscribers.

(b) The Franchising Authority acknowledges that under the 1992 Cable Television Consumer Protection and Competition Act certain costs of Public, Educational and Governmental Access Programming and other Renewal Franchise requirements may be passed through to Subscribers in accordance with federal law.

## **ARTICLE 9**

### **REGULATORY OVERSIGHT**

#### **SECTION 9.1 - INDEMNIFICATION**

Franchisee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, and agents from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of Franchisee's construction, operation, maintenance or removal of the Cable System, including, but not limited to, reasonable attorney's fees and costs, provided that the Franchising Authority shall give Franchisee written notice of its obligation to indemnify and defend the Franchising Authority within timely (best efforts of ten (10) business days) receipt of a claim or action pursuant to this Section. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

#### **SECTION 9.2 - INSURANCE**

(a) Franchisee shall carry insurance throughout the term of this Renewal Franchise and any removal period with an insurance company authorized to conduct business in New Hampshire satisfactory to the Franchising Authority protecting, as required in this Renewal Franchise, Franchisee and listing the Town as an additional insured against any and all claims for injury or damage to Persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of its Cable System. The amount of such insurance against liability for damage to property shall be no less than One Million Dollars (\$1,000,000) as to any one occurrence. The amount of such insurance for liability for injury or death to any Person shall be no less than One Million Dollars (\$1,000,000). The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000) in umbrella form. The policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(b) Franchisee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of One Million Dollars (\$1,000,000). The policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(c) All insurance coverage, including Workers' Compensation, shall be maintained throughout the period of this Renewal Franchise. All expenses incurred for said insurance shall be at the sole expense of Franchisee. The policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(d) Franchisee shall provide Franchising Authority with certificate(s) of insurance for all policies required herein upon renewal of policies.

### **SECTION 9.3 - PERFORMANCE BOND**

(a) Franchisee has submitted and shall maintain throughout the duration of this Renewal Franchise and any removal period a performance bond in the amount of Fifty Thousand Dollars (\$50,000) running to the Town with a surety company satisfactory to the Franchising Authority to guarantee the following terms:

- (i) satisfactory compliance with the provisions of this Franchise Agreement;
- (ii) restoration of the Public Ways and other improvements in accordance with this Franchise;
- (iii) the indemnification of the Town as provided in Section 9.1; and
- (iv) the satisfactory removal of the Cable System pursuant to Section 9.10.

Pursuant and subject to the provisions of Section 9.8 (Notice and Opportunity to Cure) herein, the Town may draw upon this bond for the purpose of curing any deficiency or breach by Franchisee of the terms stated in this Section 9.3. This right to draw upon this bond shall not in any way impede or impair the right of the Franchisee to appeal the basis for such action.

(b) The total amount of the bond shall be forfeited in favor of the Town in the event:

- (i) Franchisee abandons the Cable System or any part thereof at any time during the term of this Franchise; or
- (ii) Franchisee fails to purchase and maintain insurance as required by this Franchise; or
- (iii) Franchisee fails to perform its obligations under this Franchise or in any way violates the terms of this Franchise.

(c) The Town may not draw upon this bond until the provisions and procedures of Section 9.8 (Notice and Opportunity to Cure) have been met. The Town may draw upon this bond and may otherwise recover any and all penalties due to the Town and any and all damages, losses, costs, and expenses suffered or incurred by the Town resulting from the failure of Franchisee to comply with one or more provisions of this Section 9.3. Such losses, costs and expenses shall include, but not be limited to, reasonable attorney's fees and other legal, consulting and auditing expenses. Nothing herein shall be deemed to permit the Town to collect more than the sums that it is due. The Town may not recover these sums from multiple parties.

(d) Franchisee shall not reduce the amount or cancel said bond or materially change the terms of said bond from the provisions of Section 9.3(a) herein without the Franchising Authority's prior written consent, which consent shall not be unreasonably withheld.

#### **SECTION 9.4 - FRANCHISE FEE**

(a) Franchisee shall pay a Franchise Fee to the Town, throughout the term of this Renewal Franchise equal to three and one quarter (3.25%) of Franchisee's Gross Annual Revenue for the first year of the term of this Franchise. The Franchisee shall have ninety (90) days from the Effective Date to implement Franchise Fee described herein. The Franchising Authority shall designate the fund(s) to which the Franchisee Fees shall be deposited.

(b) The Franchising Authority may request, in writing, to the Franchisee, for a change in their Franchise Fee either to increase it or decrease it from three and one quarter (3.25%) of the

Franchises Gross Annual Revenue as defined herein, provided however if the Franchising Authority chooses to increase the Franchise Fee it is not to exceed the cap as defined above in Section 9.4 (b).

The Franchisee shall have 90 days from date of receipt of the written request to do so.

(c) The Franchisee's payments to the Town shall be made on a quarterly basis forty-five (45) days after close of each calendar quarter. The first and last payments shall be prorated, if necessary.

(d) Each payment shall be accompanied by a statement certifying the factual basis for payment, including a breakdown by category of Franchisee's Gross Annual Revenue upon which such payment is based.

(e) In accordance with Section 622(b) of the Cable Act, Franchisee shall not be liable for a total financial commitment pursuant to this Renewal Franchise and applicable law in excess of five percent (5%) of its Gross Annual Revenue; provided, however, that said five percent (5%) shall include any funding provided pursuant to Section 9.4(a) herein and any amounts included in the term "Franchise Fee" pursuant to Section 622(g)(1) of the Cable Act (47 U.S.C. §542(g)), but shall not include (i) interest due herein to the Franchising Authority because of late payments; and (ii) any other exclusion to the term "Franchise Fee" pursuant to Section 622(g)(2) of the Cable Act (47 U.S.C. §542(g)(2)).

(f) At any time during the life of this Renewal Franchise, the Franchising Authority may, as needed to verify the information provided hereunder, upon reasonable belief and after notice and an opportunity by the Franchisee to be heard, inspect and subject to independent audit, at the Franchising Authority's expense, the financial records and books of Franchisee insofar as they apply to the calculation of (i) Gross Annual Revenues in the Town, and (ii) Franchise Fees paid to the Franchising Authority; provided, however, that if the Franchising Authority has a reasonable belief or reasonably should have such a belief of a need to verify information, it must exercise its right to inspect and audit within one (1) year of such event.

(g) No acceptance of any payment shall be construed as an accord that the payment is, in fact, the correct amount nor shall such acceptance of payment be construed as a release of (i)

any claim the Franchising Authority may have for further or additional sums payable under provisions of this Renewal Franchise or (ii) any other claim whatsoever.

(h) The Franchising Authority Agrees to protect any information supplied to it in accordance with Section 7.6.

#### **SECTION 9.5 - REPORTS**

Franchisee shall maintain for public inspection all records required by the FCC and as specified in 47 CFR §76.305 in the manner prescribed therein.

#### **SECTION 9.6 - EQUAL EMPLOYMENT OPPORTUNITY**

Franchisee is an Equal Opportunity Employer and shall comply with applicable FCC regulations with respect to Equal Employment Opportunities.

#### **SECTION 9.7 - REVOCATION OF FRANCHISE**

Upon written notice, the Franchise issued hereunder may, after due process pursuant to opportunity to cure (Section 9.8) and public hearing held by the Franchising Authority, and subject to any other rights available to Franchisee, be revoked by the Franchising Authority for any of the following reasons:

- (a) For failure to file and maintain the performance bond as described in Section 9.3 (Performance Bond) or to maintain insurance as described in Section 9.2 (Insurance);
- (b) For repeated failure to maintain Signal quality pursuant to the standards provided for by the FCC;
- (c) For any transfer or assignment of the Renewal Franchise without prior notice to the Franchising Authority in violation of Section 9.9 herein; and
- (d) For repeated failure to comply with the material terms and conditions of this Renewal Franchise.

## **SECTION 9.8 - NOTICE AND OPPORTUNITY TO CURE**

(a) In the event that the Franchising Authority has reason to believe that Franchisee has defaulted in the performance of any or several provisions of this Renewal Franchise, except as excused by force majeure, the Franchising Authority shall notify Franchisee in writing, by certified mail, of the provision or provisions of which the Franchising Authority believes Franchisee may have been in default and the details relating thereto. Franchisee shall have ninety (90) days from the receipt of such notice to:

(i) respond to the Franchising Authority in writing, contesting the Franchising Authority's assertion of default and providing such information or documentation as may be necessary to support Franchisee's position; or

(ii) cure any such default (and provide written evidence of the same) or, in the event that by nature of the default such default cannot be cured within such ninety (90) day period, take reasonable steps to cure said default and diligently continue such efforts until said default is cured. Franchisee shall report to the Franchising Authority, in writing, by certified mail, at forty-five (45) day intervals as to Franchisee's efforts, indicating the steps taken by Franchisee to cure said default and reporting Franchisee's progress until such default is cured.

(b) The Franchising Authority shall issue a written reply within thirty (30) days of receiving Franchisee's response pursuant to Section 9.8(a)(i) either accepting or rejecting Franchisee's response, and/or shall issue a written acknowledgment of Franchisee's cure of the default within thirty (30) days of receiving written notice of the cure, or, in the alternative, shall notify Franchisee, by certified mail, that the default remains and that the Franchising Authority is scheduling a hearing, pursuant to Section 9.8(c) below.

(c) In the event that (i) Franchisee fails to respond to such notice of default, and/or (ii) Franchisee fails to cure the default or to take reasonable steps to cure the default within the required ninety (90) day period, the Franchising Authority or its designee shall promptly schedule a public

hearing no sooner than fourteen (14) days after written notice, by certified mail, to Franchisee. Franchisee shall be provided reasonable opportunity to offer evidence, question witnesses, if any, and be heard at such public hearing.

(d) Within thirty (30) days after said public hearing the Franchising Authority shall issue a written determination of its findings. In the event that the Franchising Authority determines that Franchisee is in such default, the Franchising Authority may determine to pursue any lawful remedy available to it.

(e) In the event that (i) the Franchising Authority fails to issue a written reply within thirty (30) days accepting or rejecting Franchisees' response pursuant to Section 9.8(a) above, and/or (ii) the Franchising Authority fails to issue a written acknowledgement after Franchisee's notice that it cured said default pursuant to Section 9.8(b) above, and/or (iii) the Franchising Authority fails to schedule a public hearing no later than thirty (30) days of sending a written notice consistent with Section 9.8(c) above, and/or (iv) the Franchising Authority fails to issue a written determination within thirty (30) days after the public hearing pursuant to Section 9.8(d) above, then the issue of said default against Franchisee by the Franchising Authority shall be considered null and void.

## **SECTION 9.9 - TRANSFER OR ASSIGNMENT**

This Renewal Franchise shall not be transferred or assigned without the prior written consent of the Franchising Authority, which consent shall not be arbitrarily or unreasonably withheld. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of Franchisee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for consent, the Franchising Authority shall, in accordance with FCC rules and regulations, notify Franchisee in writing of the additional information, if any, it requires to determine the legal, financial, and technical qualifications of the transferee or new controlling party. If the Franchising Authority has not taken

action on Franchisee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed given.

## **SECTION 9.10 - REMOVAL OF SYSTEM**

Upon termination of this Franchise Renewal or of any renewal hereof by passage of time or otherwise, Franchisee shall remove its supporting structures, poles, transmission and distribution systems and other appurtenances from the Public Way and other public and private places in, over, under, or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within six (6) months of such termination, the Franchising Authority or property owner may deem any property not removed as having been abandoned.

## **SECTION 9.11 - INCORPORATION BY REFERENCE**

(a) All presently and hereafter applicable conditions and requirements of federal, State and local laws, including but not limited to the rules and regulations of the FCC and the State of New Hampshire, as they may be amended from time to time, are incorporated herein by reference to the extent not enumerated herein. All such general laws, rules and regulations, as amended, shall control the interpretation and performance of this Renewal Franchise to the extent that any provision of this Renewal Franchise conflicts with or is inconsistent with such laws, rules or regulations.

(b) Should the State of New Hampshire, the federal government or the FCC require Franchisee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Franchising Authority and Franchisee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

## **SECTION 9.12- NO THIRD PARTY BENEFICIARIES**

Nothing in this Renewal Franchise is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Renewal Franchise.

## **SECTION 9.13 - ANNUAL TOWN REVIEW AND REPORT**

At the Town's written request the Franchisee will attend an annual meeting with the Board of Selectmen or their designee to review compliance with the terms of this Franchise and matters of interest to either party. No later than thirty (30) days prior to such meeting either party may submit a list of items to be reviewed.

## **ARTICLE 10**

### **MISCELLANEOUS**

#### **SECTION 10.1 - SEVERABILITY**

If any Section, Subsection, sentence, clause, phrase or other portion of this Renewal Franchise is, for any reason, declared invalid in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

#### **SECTION 10.2 - FORCE MAJEURE**

If for any reason of force majeure Franchisee is unable in whole or in part to carry out its obligations hereunder, said Franchisee shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this Renewal Franchise, the term "force majeure" as used herein shall have the following meaning: strikes; acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the State of New Hampshire or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; tornados; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; unavailability of materials and/or essential equipment; environmental restrictions or any other cause or event not reasonably within Franchisee's control.

### **SECTION 10.3 - NOTICES**

(a) Every notice to be served upon the Franchising Authority shall be delivered or sent by certified mail (postage prepaid) to the following address or such other address as the Franchising Authority may specify in writing to Franchisee:

Town of Salem  
Attn: Board of Selectmen  
33 Geremonty Drive  
Salem, NH 03079

(b) Every notice served upon Franchisee shall be delivered or sent by certified mail (postage prepaid) to the following address or such other address as Franchisee may specify in writing to the Franchising Authority:

Comcast Cable Communications, Inc.  
Attn: Government Relations  
55 Concord Street  
North Reading, MA 01864

with copies to:

Comcast Cable Communications, Inc.  
Attn: Vice President, Government and Regulatory Affairs  
330 Billerica Road  
Chelmsford, MA 01824

Comcast Cable Communications, Inc.  
Attn: Government Affairs  
One Comcast Center  
Philadelphia, PA 19103

(c) Delivery of such notices shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

### **SECTION 10.4 - ENTIRE AGREEMENT**

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed without written amendment following publication of the proposed amendment in a manner consistent with the publication and notice provisions of RSA Chapter 43.

## **SECTION 10.5 - CAPTIONS**

The captions to Sections throughout this Renewal Franchise are intended solely to facilitate reading and reference to the Sections and provisions of the Renewal Franchise. Such captions shall not affect the meaning or interpretation of the Renewal Franchise.

## **SECTION 10.6 - WARRANTIES**

Franchisee warrants, represents and acknowledges that as of the Effective Date of this Franchisee Renewal:

- (a) Franchisee is duly organized, validly existing and in good standing under the laws of the State;
- (b) Franchisee has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the date of execution of this Franchise Renewal to enter into and legally bind Franchisee to this Franchise Renewal and to take all actions necessary to perform all of its obligations pursuant to this Franchise Renewal;
- (c) this Franchise Renewal is enforceable against Franchisee in accordance with the provisions herein; and
- (d) there is no action or proceeding pending or threatened against Franchisee which would interfere with performance of this Franchise Renewal.

## **SECTION 10.7 - APPLICABILITY OF RENEWAL FRANCHISE**

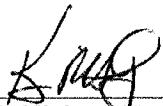
All of the provisions in this Renewal Franchise shall apply to the Town, Franchisee, and their respective successors and assigns.

WITNESS OUR HANDS AND OFFICIAL SEAL, THIS 8 DAY OF

December 2015.

**TOWN OF SALEM, NH**

By: Authorized by its Franchising Authority

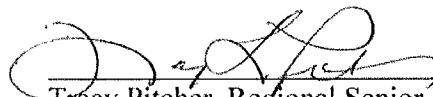


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Keith Hickey, Town Manager

**COMCAST OF MAINE/NEW HAMPSHIRE, INC.**

By:



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Tracy Pitcher, Regional Senior Vice President  
Greater Boston Region

## **EXHIBIT A**

### **PUBLIC BUILDINGS ON THE CABLE SYSTEM**

Walter F Haigh School, 24 School Street, Salem

Mary A Fisk Elementary School, 14 Main Street, Salem

Salem Police Department, 86958 Veterans Memorial, Suite A, Salem

Dr. L F Soule School, 173 South Policy Street, Salem

Public Works Department, 21 Cross Street, Salem

Salem Police Department, 9 Veterans Memorial Pkwy, Salem

Salem High School, 44 Geremonty Drive, Salem

Kelley Library, 234 Main Street, Salem

Salem Fire Department, North Fire Station, 113 East Broadway, Salem

Salem Fire Department, Central Fire Station, 152 Main Street, Salem

Salem Fire Department, South Fire Station, 170 Lawrence Road, Salem

William T Barron Elementary School, 55 Butler Street, Salem

Salem School District (SAU), 38 Geremonty Drive, Salem

Woodbury School, 206 Main Street, Salem

William E Lancaster School, 54 Millville Street, Salem

North Salem Elementary School, 140 Zion Hill Road, Salem

## **EXHIBIT B**

### **PROGRAMMING**

Franchisee shall provide the following broad categories of Video Programming:

- News Programming;
- Sports Programming;
- Public Affairs Programming;
- Children's Programming;
- Entertainment Programming; and
- Local Programming.

**EXHIBIT C**

**VIDEO RETURN ORIGINATION LOCATIONS**

Salem Town Hall

33 Geremonty Drive

Salem High School

44 Geremonty Drive

## **EXHIBIT D**

### **CUSTOMER SERVICE REGULATIONS**

#### **Code of Federal Regulations 47 CFR §76.309**

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability--

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes Known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that is convenient for the customer.

(3) Communications between cable operators and cable subscribers--

(i) Refunds--Refund checks will be issued promptly, but no later than either--

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits--Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions--

(i) Normal business hours--The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal operating conditions--The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service interruption--The term "service interruption" means the loss of picture or sound on one or more cable channels.

#### **Regulations Re: Notifications**

**Sec. 76.1602 Customer service--general information.**

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Effective July 1, 1993, the cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions of programming carried on the system; and
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(c) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.

**Sec. 76.1603 Customer service--rate and service changes.**

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by Sec. 76.1602.

(c) In addition to the requirement of paragraph (b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days' written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

(d) A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the local franchising authority.

(e) To the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.

(f) Notwithstanding any other provision of part 76 of this chapter, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

Note 1 to Sec. 76.1603: Section 624(h) of the Communications Act, 47 U.S.C. 544(h), contains additional notification requirements which a franchising authority may enforce.

Note 2 to Sec. 76.1603: Section 624(d)(3) of the Communications Act, 47 U.S.C. 544(d)(3), contains additional notification provisions pertaining to cable operators who offer a premium channel without charge to cable subscribers who do not subscribe to such premium channel.

Note 3 to Sec. 76.1603: Section 631 of the Communications Act, 47 U.S.C. 551, contains additional notification requirements pertaining to the protection of subscriber privacy.

#### **Sec. 76.1619 Information on subscriber bills.**

(a) Effective July 1, 1993, bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(c) A cable franchise authority may enforce the customer service standards set forth in this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

## EXHIBIT E

### PRIVACY LAWS

47 USC § 551. Protection of subscriber privacy

**(a) Notice to subscriber regarding personally identifiable information; definitions**

(1) At the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

- (A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;
- (B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;
- (C) the period during which such information will be maintained by the cable operator;
- (D) the times and place at which the subscriber may have access to such information in accordance with subsection (d) of this section; and
- (E) the limitations provided by this section with respect to the collection and disclosure of information by a cable operator and the right of the subscriber under subsections (f) and (h) of this section to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

(2) For purposes of this section, other than subsection (h) of this section—

- (A) the term “personally identifiable information” does not include any record of aggregate data which does not identify particular persons;
- (B) the term “other service” includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and
- (C) the term “cable operator” includes, in addition to persons within the definition of cable operator in section 522 of this title, any person who
  - (i) is owned or controlled by, or under common ownership or control with, a cable operator, and
  - (ii) provides any wire or radio communications service.

**(b) Collection of personally identifiable information using cable system**

(1) Except as provided in paragraph (2), a cable operator shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

(2) A cable operator may use the cable system to collect such information in order to—

- (A) obtain information necessary to render a cable service or other service provided by the cable operator to the subscriber; or
- (B) detect unauthorized reception of cable communications.

**(c) Disclosure of personally identifiable information**

(1) Except as provided in paragraph (2), a cable operator shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or cable operator.

(2) A cable operator may disclose such information if the disclosure is—

- (A) necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber;

(B) subject to subsection (h) of this section, made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

(C) a disclosure of the names and addresses of subscribers to any cable service or other service, if—

- (i) the cable operator has provided the subscriber the opportunity to prohibit or limit such disclosure, and
- (ii) the disclosure does not reveal, directly or indirectly, the—
  - (I) extent of any viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or
  - (II) the nature of any transaction made by the subscriber over the cable system of the cable operator; or

(D) to a government entity as authorized under chapters 119, 121, or 206 of title 18, except that such disclosure shall not include records revealing cable subscriber selection of video programming from a cable operator.

**(d) Subscriber access to information**

A cable subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A cable subscriber shall be provided reasonable opportunity to correct any error in such information.

**(e) Destruction of information**

A cable operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (d) of this section or pursuant to a court order.

**(f) Civil action in United States district court; damages; attorney's fees and costs; nonexclusive nature of remedy**

- (1) Any person aggrieved by any act of a cable operator in violation of this section may bring a civil action in a United States district court.
- (2) The court may award—
  - (A) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;
  - (B) punitive damages; and
  - (C) reasonable attorneys' fees and other litigation costs reasonably incurred.

(3) The remedy provided by this section shall be in addition to any other lawful remedy available to a cable subscriber.

**(g) Regulation by States or franchising authorities**

Nothing in this subchapter shall be construed to prohibit any State or any franchising authority from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

**(h) Disclosure of information to governmental entity pursuant to court order**

Except as provided in subsection (c)(2)(D) of this section, a governmental entity may obtain personally identifiable information concerning a cable subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

- (1) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and
- (2) the subject of the information is afforded the opportunity to appear and contest such entity's claim.