

**RENEWAL**  
**CABLE TELEVISION FRANCHISE**  
**FOR**  
**THE CITY OF CLAREMONT,**  
**NEW HAMPSHIRE**

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## **CLAREMONT, NH RENEWAL FRANCHISE**

### **INTRODUCTION**

WHEREAS, Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC, (hereinafter "Franchisee"), is the duly authorized holder of a renewal franchise to operate a cable television system in the City of Claremont, New Hampshire (hereinafter the "City") pursuant to NH R.S.A. 53-C, as amended, said Franchise Agreement previously assigned to FrontierVision Operating Partners, LP, on or about August 27, 1998, subsequently assigned to Adelphia Cable Communications in mid-1999, and renewed three-year agreement executed on July 12, 2006, scheduled to expire at midnight on July 11, 2009, and extended by the City and Comcast for two consecutive three month periods, until midnight January 11, 2010, or until such time as the Franchise is renewed for a longer term upon the same terms and conditions contained therein, ("Extension"),

WHEREAS, Franchisee filed a written request for a renewal of its franchise by letter dated June 22, 2005 in conformity with the Cable Communications Policy Act of 1984 ("Cable Act") and filed a renewal proposal dated July 12, 2008;

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 the Franchisee for the construction and continued operation of a cable system on the terms and conditions set forth herein;

WHEREAS, the City Council, 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 City the authority to grant a franchise for cable system operation within the City's territorial boundaries, the City hereby exercises its authority to grant a non-exclusive Renewal Franchise permitting the operation of a cable communications system within the City.

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) Basic Cable Service – means the lowest tier of service which includes the retransmission of local television broadcast signals.

(b) Cable Act – means 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.

(c) Cable Television System or Cable System – means the facility owned, constructed, installed, operated and maintained by Franchisee in the City of Claremont, 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; or (d) an open video system that complies with Section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

(d) Cable Service – means 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.

(e) Complaint – means any notice by a Subscriber to the Franchisee relating to a problem with its Cable Service, including but not limited to a billing dispute, problem with picture quality, delivery problems or with equipment supplied by the Franchisee which is not resolved during the initial telephone or service call or within a reasonable time subsequent thereto.

(f) Drop – means the coaxial cable that connects a home or building to the Subscriber Network or video return line.

(g) Effective Date – means January 12, 2010.

(h) FCC – means the Federal Communications Commission or any successor governmental entity.

(i) Franchising Authority – means the Board of Selectmen of the City of Claremont, New Hampshire, or the lawful designee thereof.

(j) Franchise Fee – means payment to be made by the Franchisee to the Franchising Authority, the City of Claremont and/or designee, which shall have the meaning set forth in Section 622(g) of the Cable Act, 47 U.S.C. Section 542(g).

(k) Franchisee – means Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC, or any successor or transferee in accordance with the terms and conditions in this Renewal Franchise.

(l) Gross Annual Revenues – means the monthly subscriber revenue received by the Franchisee from the operation of the Cable System in the City of Claremont 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, equipment rental fees, and net advertising (less agency fees) or home shopping revenue. Gross Annual Revenue shall not include refundable deposits, bad debt, late fees, investment income, nor any taxes, fees or assessments imposed or assessed by any governmental authority and collected by the Franchisee on behalf of such entity.

(m) Multichannel Video Programming Distributor – means 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.

(n) Outlet – means an interior receptacle that connects a television set to the Cable Television System.

(o) PEG Access Programming or Access Programming – means (i) “Educational”: Non-commercial programming produced by the City of Claremont Public Schools, or other educational organizations as designated by the Franchising Authority, and other non-commercial educational programming offered by them which is not ordinarily offered by operators of cable systems;

(ii) “Governmental”: Non-commercial programming produced by City of Claremont departments or agencies and other non-commercial programming offered by them or a duly authorized designee which is not ordinarily offered by operators of cable systems; (iii) “Public”: non-commercial programming produced by the residents of the City of Claremont, or produced by an access corporation or non-profit corporation operating within the City of Claremont, and other non-commercial programming not ordinarily offered by operators of cable systems.

(p) Person - means 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.

(q) PEG Access Channel or Access Channel – means the use of one or more video channel(s) owned by the Franchisee and made available to the City of Claremont without charge, for the purpose of transmitting community public, governmental and educational Access Programming to Subscribers.

(r) Public Way – 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 City of Claremont, which shall entitle the 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 City of Claremont 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 the Franchisee to the use thereof for the purposes of installing, operating, and maintaining the 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.

(s) Public Buildings – means those buildings owned or leased by the Franchising Authority for government administrative purposes, and shall not include buildings owned by the Franchising Authority but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

(t) Renewal Franchise or Franchise - means this renewal franchise agreement and any amendments or modifications in accordance with the terms herein.

(u) Standard Installation – shall mean the standard two hundred foot (200’) aerial Drop connection to the existing distribution system.

(v) Subscriber – means a Person or user of the Cable System who lawfully receives Cable Service with the Franchisee’s express permission.

(w) Subscriber Network – shall mean the trunk and feeder signal distribution network over which video and audio signals are transmitted to Subscribers.

(x) City – means the City of Claremont, New Hampshire.

(y) 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 Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC, a Delaware Limited Liability Company, authorizing and permitting Franchisee to construct,

operate and maintain a Cable Television System in the Public Way within the municipal limits of the City of Claremont. Nothing in this Renewal Franchise shall be construed to prohibit the 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 the 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 seven (7) years and shall commence on January 12, 2010, and shall terminate at midnight on January 11, 2017, however, so long as no material default then exists, said Franchise shall renew for an additional three year period, to terminate on January 11, 2020, subject to such changes or modifications as may be required by law or regulation. The term of this Renewal Franchise is subject to all provisions of New Hampshire law and applicable federal law, as such laws may be from time to time amended.

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

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

**SECTION 2.4 - NON-EXCLUSIVITY OF FRANCHISE [See RSA 53-C:3-b]**

(a) The 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 City for the right to use and occupy the Public Ways; provided, however, that in accordance with RSA Chapter 53-C and not inconsistent with federal law, the Franchising Authority shall not grant any additional franchises for Cable Service within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing Franchise within the City.

(b) In the event that the Franchisee believes that any additional franchise has been granted on 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 reasonable time.

(d) The issuance of additional franchise(s) shall be subject to all applicable federal and state laws, including RSA 53-C:3-b and applicable regulations promulgated thereunder.

(e) In the event that the Franchisee demonstrates that an existing or future Cable Service provider in the City has been provided relief by the Franchising Authority from any obligation of its Franchise, then the Franchisee shall be awarded an equivalent amount of relief from obligations herein. Such relief shall be in writing and in the form of an amendment to this Franchise. The Franchising Authority shall convene a public hearing on the issue within sixty (60) days of

Franchisee's notification to the Franchising Authority requiring such relief, unless otherwise mutually agreed to. Franchisee shall provide reasons for its belief in the notification. At the public hearing, the Franchising Authority shall afford the Franchisee an opportunity to demonstrate that any existing or future service providers in the City have been provided relief by the Franchising Authority from any obligation of its cable television Franchise. The Franchisee shall provide the Franchising Authority with such financial or other relevant information as is requested to justify its belief; provided, however, that the parties' counsels mutually and reasonably deem said information is non-proprietary.

## **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 of general applicability and not specific to the Cable Television System, the Franchisee, or this Renewal 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. The City specifically reserves all authority to manage, regulate and control the public rights of way granted it under RSA 213:160 et seq., provided that the exercise of such authority does not conflict with the rights granted herein or with the rights of the Franchisee under state or federal law.

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

(a) Franchisee must comply, if applicable, with all the requirements of RSA 231:160 et seq. for obtaining conduit or pole licenses for any conduits or poles that Franchisee wishes to install. Pursuant to RSA 231:161, permission is hereby granted to the 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 public streets and ways, provided the 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 Renewal 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 City to approve the location of all installations in the Public Ways, and subject to the City's lawful use of the Public Ways.

### ARTICLE 3

#### SYSTEM SPECIFICATIONS AND CONSTRUCTION

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

(a) The Franchisee shall make Cable Service available to every residential dwelling unit within the City where the minimum density is at least twenty (20) dwelling units per aerial strand mile, and 40 dwelling units per underground mile, providing however, that such dwelling units are within one (1) mile of the existing Cable System and the Franchisee is able to obtain from property owners any necessary easements and/or permits in accordance with the Cable Act. Where underground conduit exists or the trenching and installation of such facilities would be paid for by an entity other than Comcast thereby allowing street access to the dwellings and negating extraordinary expenses for underground construction, Franchisee will make Cable Service available on the same basis as service availability for residents served by aerial strand miles. Subject to the density requirement, Franchisee shall offer Cable Service to all new homes or previously unserved homes located within two hundred feet (200') of the Franchisee's distribution cable. For non-Standard Installations the Franchisee shall offer said service within ninety (90) days of a Subscriber requesting such for aerial installations and one hundred eighty (180) days,

weather permitting, of a Subscriber requesting such for underground installations. With respect to de minimis areas of the City which are currently served by Franchisee from a contiguous cable television system or currently unserved but could be served by abutting town(s) served by Franchisee, Franchisee shall have the option to serve such areas from its cable television system in such abutting city with permission from the Franchising Authority.

(b) The Cable Television System shall be further extended to all areas in the City 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:

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

- \* 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.

(c) Installation costs shall conform with the Cable Act. Any dwelling unit within two hundred aerial feet (200') of the Distribution Cable shall be entitled to a Standard Installation rate, unless the sub-surface is a hard surface or requires boring through rock or a similar hard surface (i.e. concrete, asphalt, etc.). Installations of more than two hundred feet (200') or which involve a hard surface or which require boring shall be provided at a rate established by the Franchisee in accordance with applicable federal and state laws. For installations more than two hundred feet (200'), not involving a hard surface, the two hundred feet (200') shall be at the Standard Installation rate.

(d) 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, the Franchisee shall be allowed 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 the Franchisee. Developer shall be responsible for the digging and back-filling of all trenches.

(e) If all of the transmission and distribution facilities of all of the respective public or municipal utilities, if any, in City are underground, the Franchisee shall place its Cable Systems' transmission and distribution facilities underground; provided that (1) such underground locations are actually capable of accommodating the Franchisee's cable and other equipment without technical degradation of the Cable System's signal quality, and (2) the Franchisee is reimbursed for its costs associated with such underground placement if reimbursement is made to any of the other respective utility companies in City. Such reimbursement shall be through payment from the City. In any area of City where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Franchisee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the 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 3.2 - SUBSCRIBER NETWORK**

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

(b) The Cable System shall be designed and constructed so that television station broadcast signals received by the Franchisee in stereo are transmitted in stereo to Subscribers. Consistent with 47 U.S.C. § 534 (b), Franchisee shall comply with all regulations concerning the transmission of advanced television signals.

(c) Notifications to Subscribers and the Franchising Authority regarding changes in rates, programming services or channel positions shall be made in accordance with applicable FCC regulations, currently 47 C.F.R. Part 76, at Sections 76.1602, 76.1603 and 76.1619, as they may be amended.

(d) Franchisee shall also comply with the requirements of N.H. RSA 53-C:3-d, as it may be amended, regarding annual notices to Subscribers and the Franchising Authority.

### **SECTION 3.3 - PARENTAL CONTROL CAPABILITY**

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

(b) If the Subscriber chooses to use a converter to achieve the parental control capability, Franchisee may charge Subscriber for use of the converter.

### **SECTION 3.4 - EMERGENCY OVERRIDE**

The Cable System shall comply with the FCC Emergency Alert System in accordance with the requirements of the FCC at 47 C.F.R., Part 11.



### **SECTION 3.5 – DELIVERY OF SIGNALS**

The Franchisee will abide by the applicable provisions of the Consumer Electronics Equipment Compatibility provision of federal law (currently 47 U.S.C. §544a).

### **SECTION 3.6 - LEASED ACCESS CHANNELS**

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

### **SECTION 3.7 - SUBSCRIBER NETWORK CABLE DROPS**

(a) The Franchisee shall maintain the current level of existing active Drops, Outlets and Basic Cable Service, at no charge to the City or the public schools owned or operated by Supervisory Administrative Union #6, to each Public Building or public school located along the existing cable route as of the Effective Date, as designated by the Franchising Authority within the City, listed in Exhibit A attached hereto, provided such are considered to be a Standard Installation and absent of other unusual installation conditions and requirements.

(b) Franchisee shall provide one (1) Drop, Outlet and Basic Cable Service at no charge to all new Public Buildings and other City or school-owned Public Buildings, along the distribution cable subject to the limitations set forth above. This obligation shall pertain to any new or relocated Public Buildings throughout the term of this Renewal Franchise, which shall be wired within six (6) months, weather permitting, of a written request delivered to Franchisee by the Franchising Authority. The Franchising Authority or its designee shall consult with a representative of the Franchisee to determine the appropriate location for each Outlet prior to requesting that the Franchisee install the free service.

(c) Nothing in this Section shall require the Franchisee to move existing Drops or Outlets, as listed in Exhibit A, or install an additional Drop or Outlet to any municipal or City owned or leased Public Building which already has a free Drop or Outlet.

(d) It is understood that the Franchisee shall not be responsible for any internal wiring of such Public Buildings or schools.

## ARTICLE 4

### TECHNOLOGICAL AND SAFETY STANDARDS

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

(a) In installing, operating and maintaining equipment, cable and wires, the 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 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. The Franchisee shall install and maintain its equipment, cable and wires in such a manner as shall not interfere with any installations of the City or any public utility serving the City.

(d) All structures and all equipment, cable and wires in, over, under, and upon streets, sidewalks, alleys, and public rights of way of the City, 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) The City reserves the right to reasonably inspect all construction and installation work for compliance with applicable laws, codes, ordinances and regulations and with provisions of the Renewal Franchise. The Franchising Authority or its designee(s) shall have the right to inspect the plant or equipment of the Franchisee in the City at reasonable times and under reasonable circumstances. The Franchisee shall fully cooperate in such inspections; provided, however, that such inspections are reasonable and do not interfere with the operation or the performance of the facilities of the Cable System, and that such inspections are conducted after reasonable notice to the Franchisee. The Franchisee shall be provided prior written notice of said inspections and shall be entitled to have a representative present during such inspections. All inspections shall be at the expense of the City.

(g) All lines, cables and distribution structures and equipment, including poles and towers, erected by Franchisee within the City shall be located so as not to obstruct or interfere with the proper use of the Public Ways, as defined herein, and not to interfere with the existing public utility installation. Franchisee shall have no vested right in a location except as granted herein by the Renewal Franchise, and such construction shall be removed by Franchisee at its own cost and expense whenever the same restricts or obstructs or interferes with the operation or location of said Public Ways, provided, however, that this standard shall apply to all Persons or entities owning lines, cables, and distribution structures, and equipment located in the Public Ways, and provided further that the Franchisee shall not be required to remove any such construction solely to accommodate needs of competing Cable Systems or other providers of Cable Services.

(h) Upon written notice from the Franchising Authority, the Franchisee shall remedy a general deficiency with respect to the technical standards described herein within sixty (60) days of receipt of notice and a safety deficiency within forty-eight (48) hours of receipt of notice and shall notify the Franchising Authority when the deficiency has been corrected. The Franchising

Authority may request in writing, and if so the Franchisee shall provide, progress reports at fourteen (14) day intervals on the status of repair efforts during the sixty (60) day period.

#### **SECTION 4.2 - REPAIRS AND RESTORATION**

(a) Franchisee shall adhere to the performance standard set by the FCC. Whenever it is necessary to interrupt service for the purpose of making repairs, adjustments, installation or other maintenance activities, Franchisee shall do so at such time as will cause the least inconvenience to Subscribers. Except where there exists an emergency situation necessitating a more expeditious procedure, the Franchisee may interrupt service for the purpose of repairing or testing the Cable System, only during periods of minimum use.

(b) Franchisee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street, on public property or public easement within the City. Franchisee shall comply with all building and zoning codes applicable to the construction, operation and maintenance of the Cable System, provided such codes apply to all similarly situated entities; Franchisor shall not unreasonably withhold such permits. Whenever the Franchisee takes up or disturbs any pavement, sidewalk or other improvement of any public right of way or public place, the same shall be replaced and the surface restored in as good condition as reasonably possible as before entry as soon as practicable, subject to all permitting and code specifications of general applicability. If not so repaired or restored, the Franchising Authority shall notify the Franchisee in writing and such repair or restoration shall be made within thirty (30) days, unless delayed by weather or events beyond the reasonable control of Franchisee, unless otherwise agreed by Franchisee and the Franchising Authority. Upon failure of the Franchisee to comply within the time specified (unless the Franchising Authority sets an extended time period for such restoration and repairs) or if such damage presents an emergency situation presenting a threat to public safety, the Franchising Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Franchisee upon demand by the Franchising Authority.

(c) Upon the failure, refusal or neglect of Franchisee to cause any work required by law or by this Renewal Franchise to be properly completed in any Public Way within the time prescribed, the

Franchising Authority may cause such work or other act to be performed or completed in whole or in part, and prior to so doing shall submit to Franchisee in advance an itemized estimate of the cost thereof. Franchisee shall, within thirty (30) days after receipt of a statement of the actual cost incurred, pay to the Franchising Authority the entire amount thereof. The Franchising Authority, at its option, and in its sole discretion, may draw upon the bond described herein to recover any cost incurred pursuant to this Section, should Franchisee fail to pay such costs within thirty (30) days of receipt of the statement of these costs, subject to the Franchising Authority complying with the notice and opportunity to cure provisions of Section 9.8 below.

(d) The Franchisee shall be subject to all laws of general applicability regarding private property in the course of constructing, installing, operating and maintaining the Cable System in the City. The Franchisee shall, at its sole cost and expense, promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, installation, operation or maintenance of the Cable System.

#### **SECTION 4.3 - CABLE LOCATION**

(a) In all areas of the City 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 the Franchisee's cable and other equipment without technical degradation of the Cable System's signal quality.

(b) Nothing in this Section 4.3 shall be construed to require the 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 4.4 - TREE TRIMMING AND HISTORIC DISTRICT**

The Franchisee shall have authority to trim trees upon and overhanging public streets, alleys, sidewalks and ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires, cables and equipment of the Franchisee, in accordance with applicable state law and any City bylaws and regulations. Notwithstanding the foregoing, the authority granted herein to trim trees is subject to state law, including, but not limited to, state laws governing scenic roads, including but not limited to New Hampshire RSA 231:157 and 158. In addition, Franchisee shall comply with all ordinances, laws or regulations of general applicability pertaining to designated historic districts in the City.

#### **SECTION 4.5 - PLANT MAPS**

Upon written request, Franchisee will make available to the Franchising Authority for inspection by the Franchising Authority at the Franchisee's primary place of business, a map showing where cable service is available within the City.

#### **SECTION 4.6 - BUILDING MOVES**

In accordance with applicable laws, the Franchisee shall, upon the written request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of the building(s). The 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 exclusively by the person(s) holding the building move permit.

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

The 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) The Franchisee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street, or other Public Right of Ways, or remove from any street or any other Public Ways and 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 City department acting in a governmental capacity.

(b) In requiring the 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 utility.

(c) In either case, the 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 the Franchisee, any Cable Service, program or signal transmitted over the Cable System by the Franchisee.

#### **SECTION 4.10 - EMERGENCY POWER**

The Cable System shall incorporate equipment capable of providing standby powering of the headend for a minimum of four (4) hours upon failure of the power furnished by the electric utility company, unless for reasons of force majeure.

#### **SECTION 4.11 - EMERGENCY REMOVAL OF PLANT**

(a) If, at any time, in case of fire or disaster in the City, 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 City 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, the 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 City.

## ARTICLE 5

### PROGRAMMING

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

The 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, the 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 the Franchisee.

(b) Franchisee shall comply with 47 C.F.R. 76.1603 of the FCC Rules and Regulations regarding notice of programming changes, and any successor regulations.

## ARTICLE 6

### PEG ACCESS CHANNELS AND SUPPORT

#### **SECTION 6.1 - PEG ACCESS CHANNELS**

(a) Franchisee shall continue to provide two (2) PEG Access Channels. Said Access Channels shall be available on the Effective Date.

(b) The Franchisee shall monitor the PEG Access Channels for technical signal quality and shall ensure that they are maintained at standards commensurate with those that apply to the Cable System's commercial Channels pursuant to FCC technical standards. The Franchising Authority shall be responsible for the picture quality of all PEG Access Programming at the demarcation point, which shall be the output of the modulator. To provide for adequate picture quality, the Franchise Authority's video signal shall meet National Television System Committee standards and/or the minimum operating input parameters of the modulators.

(c) The Franchising Authority shall maintain the current origination locations described in **Exhibit C**.

(d) Use of channel capacity for public, educational and governmental ("PEG") access 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, or an 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. Provided, however, the Franchisee shall seek to minimize changes to PEG Channel numbers and PEG Channel placement within programming tiers. 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.

(e) The PEG Access channels referenced in 6.1(a) is 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 designated educational institution, and governmental video programming provided by the Franchising Authority. A Public, Educational and Governmental Access Channel may not be used to cablecast programs for profit, political or commercial fundraising in any fashion. Unused capacity may be utilized by Franchisee subject to the provisions set forth in subsection (f) below.

(f) In the event the Franchising Authority or other PEG access user elects not to fully program its Channel(s), Franchisee may reclaim any unused time on those channels after providing three months advance written notice of the intent to reclaim the channel or channel time and giving the Franchisor or its PEG access designee, the opportunity to restore sufficient programming.

## **SECTION 6.2 - PEG ACCESS PROVIDER**

The Franchising Authority shall be responsible for developing, implementing, interpreting and enforcing rules for PEG Access Channel use which shall insure that PEG Access Channel(s) and PEG Access equipment will be available on a first-come non-discriminatory basis.

## **SECTION 6.3 – PEG ACCESS SUPPORT**

(a) In its discretion, the Franchising Authority, or its designee, may use the funding provided by Franchisee in Section 9.1 for salaries, operating and other related expenses related to PEG Access programming operations, equipment and/or facilities.

(b) Pursuant to ninety (90) day advance notice, a one-time capital payment of \$5,000 shall be made to the City in support of additional PEG access facilities in City Hall. Such additional facilities will supplement the existing PEG Access facilities and studio, shall be operated by the

Franchising Authority or its designee, and shall enable the City of Claremont to control cablecasting of programming from the City Hall location. The parties acknowledge that City Hall is already a live origination site and that engineering the solution for the additional facilities will leverage existing dedicated facilities to, if possible, reduce the costs of the project. This payment constitutes a Franchise-related cost subject to pass through to the Subscribers in accordance with federal law.

(c) Use of channel capacity for public, educational and governmental (“PEG”) access 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, or an 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. Provided, however, the Franchisee shall seek to minimize changes to PEG channel numbers. 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.

#### **SECTION 6.4 - ACCESS CABLECASTING AND PICTURE QUALITY**

(a) Subject to Section 6.1(d) above, Franchisee reserves the right to pass all its costs associated with the Upstream Links through to its Subscribers in accordance with law.

(b) Unless otherwise provided herein, the City and its designated users shall be solely responsible for any and all interface equipment, including but not limited to video production equipment. Franchisee shall be responsible for all equipment necessary to make interaction possible with the Cable System, excluding modulators.

## **SECTION 6.5 –PROGRAMMING EXCLUSIVITY AND NON-COMPETITION**

The Franchising Authority, or its designee, agrees that it will not use its designated PEG Access Channel, equipment, or other facilities to provide for-profit commercial services which have the effect of competing with the Franchisee's business. In addition, any Video Programming produced under the provisions of this Article 6 shall not be commercially distributed to a competing Multichannel Video Programming Distributor without the written consent of the Franchisee.

## **SECTION 6.6 – INTERCONNECTION WITH COMPETING CABLE FRANCHISE**

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 as provided in Section 6.1, the parties agree that the competing franchisee shall maintain its own upstream video return link from the studio location as set forth in paragraph 6.1(c). If PEG Access Programming is originating from Franchisee's hub rather than a studio location as contemplated by Subsection 6.1(c), 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 City upon execution of an interconnection agreement between Franchisee and the holder of the additional franchise. If a competing provider provides PEG access in the City, Franchise Authority will seek a similar and reciprocal requirement in the competitor's franchise agreement.

## **ARTICLE 7**

### **CUSTOMER SERVICE AND CONSUMER PROTECTION**

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

The 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. Comcast shall provide a toll free number for customers.

#### **SECTION 7.2 - SERVICE INTERRUPTIONS**

In the event that the Franchisee's service to any Subscriber is completely interrupted for twenty-four (24) or more consecutive hours, the 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 the Franchisee from the Subscriber.

#### **SECTION 7.3 - PROTECTION OF SUBSCRIBER PRIVACY**

The 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 may be amended.

#### **SECTION 7.4 – PROPRIETARY INFORMATION**

Notwithstanding anything to the contrary set forth in this Franchise, the 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 such information disclosed by the Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise and who

shall agree to maintain the confidentiality of all such information. The 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 the 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 the 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 7.5 - EMPLOYEE IDENTIFICATION CARDS**

All of the Franchisee’s employees and contractors, including repair and sales personnel, entering private property shall be required to carry an employee identification card issued by the Franchisee. All of the Franchisee’s vehicles or Franchisee’s contractors’ vehicles which have direct contact with customers shall be placarded to identify them.



## ARTICLE 8

### PRICES AND CHARGES

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

(a) All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Franchisee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations and federal law, currently 47 U.S.C. 543. Before any new or modified rate, fee, or charge is imposed, the 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 ("PEG") Access and other Franchise requirements, may be passed through to the Subscribers in accordance with federal law, except as otherwise provided herein at Section 6.1(d) above.

## ARTICLE 9

### REGULATORY OVERSIGHT

#### **SECTION 9.1-FRANCHISE FEE PAYMENTS**

(a) The Franchisee shall provide Franchise Fees to the City, equal to five percent (5.0%) of the Franchisee's Gross Annual Revenues, paid quarterly.

(b) The Franchisee's payments to the City shall be made on a quarterly basis based forty-five (45) days after close of each calendar quarter. The first and last payments shall be prorated, if necessary, to reflect the time period for which this Renewal Franchise is in effect.

(c) In accordance with Section 622(b) of the Cable Act, the 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 Revenues; provided, however, that said five percent (5%) shall also include any amounts included in the term "Franchise Fee" pursuant to Section 622(g)(1) of the Cable Act), and any amounts described in Section 9.1(a) and 9.1(b), but shall not include the following: (i) interest due herein to the Franchising Authority because of late payments; (ii) capital payments made pursuant to Section 6.3 herein; and (iii) any other exclusion to the term "Franchise Fee" pursuant to Section 622(g)(2) of the Cable Act.

(e) Each payment shall be accompanied by the statement certifying the factual basis for payment, including a breakdown by category of Franchisee's Gross Annual Revenues upon which such payment is based. The Franchising Authority may designate in writing one or more particular accounts or funds, including any non-capital reserve fund duly established, to which the Franchisee shall direct Franchise Fees due hereunder.

(f) Franchisee reserves its rights to pass through any and all eligible franchise related costs to subscribers, including franchise fees.

## **SECTION 9.2 - INDEMNIFICATION**

The 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 the 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 the Franchisee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. Upon such timely notice, the costs of defense or other expense incurred up to and including resolution of the claim, including settlement or final judgment, shall be the sole responsibility of the Franchisee. However, notwithstanding the above, 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 9.3 - INSURANCE**

(a) The Franchisee shall carry insurance throughout the term of this Renewal Franchise and any removal period as set forth in Section 9.7.1, below, with an insurance company authorized to conduct business in New Hampshire satisfactory to the Franchising Authority protecting, as required in this Renewal Franchise, the Franchisee and listing the City 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. Policy will contain a provision that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

(b) The 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). 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 the Franchisee. All policies will contain provisions that the Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

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

#### **SECTION 9.4 - PERFORMANCE BOND**

(a) The 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 City with a surety company satisfactory to the Franchising Authority to guarantee the following terms:

- (1) the satisfactory completion of the installation and operation of the Cable System in the time schedule provided herein;
- (2) the satisfactory restoration of pavements, sidewalks and other improvements;
- (3) the indemnity of the City; and
- (4) the satisfactory removal or other disposition of the Cable System.

(b) The Franchisee shall not reduce the amount or cancel said bond, or materially change the terms of said bond from the provisions of Section 9.4(a) herein without the Franchising Authority's prior written consent. The Franchising Authority shall not unreasonably withhold its consent.

(c) The Franchising Authority may draw upon the bond after it has provided Franchisee with notice and opportunity to cure pursuant to the provisions of Section 9.9 herein, and Franchisee has subsequently not cured the alleged default.

### **SECTION 9.5 - REPORTS**

The Franchisee shall maintain for public inspection all records required by the FCC and by N.H. RSA 53-C:3-e.

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

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

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

Upon written notice, the Renewal Franchise issued hereunder may, after due process, opportunity to cure and public hearing held by the Franchising Authority pursuant to Section 9.9 herein, and subject to any other rights available to the 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 9.4 (Performance Bond) or to maintain insurance as described in Section 9.3 (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 9.10 herein; and

(d) For repeated failure to comply with the material terms and conditions of the Renewal Franchise.

### **SECTION 9.8 - REMOVAL**

Upon revocation, nonrenewal or final termination of the Franchise for any reason, Franchisee shall remove, at Franchisee's sole expense, all or any portion of the Cable System from all streets and public property within the territorial boundaries of the City. In so removing the Cable System, Franchisee shall be responsible for any repairs or damage caused by the removal.

Franchisee shall begin removal of the Cable System within 60 days of the date of written notice by the City that removal is required. Completion of such removal must be completed within 12 months of the commencement of such removal, unless otherwise agreed to in writing by the Franchisee and the City.

### **SECTION 9.9 - NOTICE AND OPPORTUNITY TO CURE**

In the event that the Franchising Authority has reason to believe that the 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 the Franchisee in writing, by certified mail, of the provision or provisions which the Franchising Authority believes may have been in default and the details relating thereto. The Franchisee shall have sixty (60) days from the receipt of such notice to:

(a) 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 the Franchisee's position; or

(b) 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 sixty (60) day period, take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Franchisee shall report to the Franchising Authority, in writing, by certified mail, at forty-five (45) day intervals as to the Franchisee's efforts, indicating the steps taken by the Franchisee to cure said default and reporting the Franchisee's progress until such default is cured.

(c) In the event that (i) the Franchisee fails to respond to such notice of default; and/or (ii) the Franchisee fails to cure the default or to take reasonable steps to cure the default within the required sixty (60) 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 the Franchisee. The 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 the 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 30 days accepting or rejecting Franchisee's response pursuant to Section 9.8(a) above; (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 pursuant to Section 9.8(c) above; and/or (iv) the Franchising Authority fails to issue a written determination with thirty (30) days after the public hearing pursuant to Section 9.8(d) above, then the issue of said default against the Franchisee by the Franchising Authority shall be considered null and void.

## **SECTION 9.10 - TRANSFER OR ASSIGNMENT**

(a) 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 the Franchisee in the Renewal 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. The application for consent to an assignment or transfer shall be signed by the Franchisee and by the proposed assignee or transferee or by their representatives, evidence of whose authority shall be submitted with the application. Within thirty (30) days of receiving a request for consent, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the 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 the Franchisee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed given.

(b) Upon foreclosure or other judicial sale of the system, franchisee shall notify the Franchisor of such fact and such sale shall be treated as a transfer pursuant to the provisions of this section.

(c) If there shall be filed against Franchisee in any court, pursuant to any statute either of the United States or of any State, a petition at Bankruptcy or insolvency or for reorganization or for the appointment of the receiver or trustee of all or a portion of Franchisee's property, and if, within one hundred and twenty (120) days thereof, Franchisee fails to secure a discharge or dismissal thereof, or Franchisee shall voluntarily file any such petition or make an assignment for the benefit of creditors, Franchisee shall notify Franchisor of such fact within twenty (20) business days of its



occurrence. Additionally, if Franchisee files a bankruptcy petition, and later converts the petition to another chapter, then Grantee shall notify grantor of such fact within twenty (20) days of such occurrence.

#### **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 the 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 the Franchisee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

## 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 the 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 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 the 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 the Franchisee.

City of Claremont  
Attn: City Manager  
58 Opera House Square  
Claremont, NH 03743

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

Comcast Cable Communications, Inc.  
Attn: Vice President, Government Affairs  
Western New England Region  
222 New Park Dr  
Berlin, CT 06037-0000

with copies to:

Comcast Cable Communications, Inc.  
Attn: Vice President, Government Affairs  
676 Island Pond Road  
Manchester, NH 03109

Comcast Cable Communications, Inc.  
Attn: Government Affairs  
One Comcast Center  
Philadelphia, PA 19103-2838

(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 sections shall not affect the meaning or interpretation of the Renewal Franchise.

#### **SECTION 10.6 - APPLICABILITY OF RENEWAL FRANCHISE**

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

#### **SECTION 10.7 - WARRANTIES**

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

(a) The Franchisee is duly organized, validly existing and in good standing under the laws of the State;

(b) The 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 the 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 the Franchisee in accordance with the provisions herein; and

(d) There is no action or proceeding pending or threatened against the Franchisee which would interfere with performance of this Franchise Renewal.

#### **SECTION 10.8 - CITY REVIEW AND REPORT**

At the City's request, the Franchisee will attend an annual meeting with the City Council, or other City representatives as may be designated from time to time, to review compliance with the terms of this Franchise and matters of interest to either party. No later than ten (10) days prior to such meeting, either party may submit a list of items to be reviewed. Additionally, Franchising Authority may request a report annually from the Franchisee in the form attached as **Exhibit D**. Following such meeting, the City shall provide written confirmation of Franchisee's compliance or notice of any specific noncompliance.

#### **SECTION 10.9 - NON-WAIVER AND RESERVATION OF RIGHTS**

The failure of either party to this Renewal Franchise to insist upon the performance of any of the terms and conditions under this Franchise or the waiver of any breach of any of the terms and conditions of this Franchise shall not be construed as a continuing waiver of any of said terms and conditions or the right to enforce any prior or subsequent breach thereof. Acceptance of the terms and conditions of this Franchise will not constitute or be deemed to constitute a waiver, either expressly or impliedly, by franchisee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchisor hereby acknowledges that Franchisee reserves all of its rights under applicable Federal and State Constitution, laws and regulations.

#### **SECTION 10.10 - AMENDMENT**

This agreement may be amended only by mutual written consent signed by both the parties.

WITNESS OUR HANDS AND OFFICIAL SEAL, THIS \_\_\_\_\_ DAY OF

\_\_\_\_\_ 20\_\_.

**CITY OF CLAREMONT**

By:

\_\_\_\_\_  
Member, City Council

\_\_\_\_\_  
Member, City Council

\_\_\_\_\_  
Member, City Council

\_\_\_\_\_  
Member, City Council

\_\_\_\_\_  
Member, City Council

**COMCAST OF CONNECTICUT/GEORGIA/  
MASSACHUSETTS/NEW HAMPSHIRE/  
NEW YORK/NORTH CAROLINA/  
VIRGINIA/VERMONT, LLC**

By:

\_\_\_\_\_  
Kevin M. Casey  
President  
North Central Division

## **EXHIBIT A**

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

#### **Municipal Buildings:**

Fiske Free Library, 108 Broad Street, Claremont, NH  
Claremont Public Works, 8 Grandview Street, Claremont, NH  
Claremont Fire Department, 100 Broad Street, Claremont, NH  
Goodwin Community Center, 130 Broad Street, Claremont, NH  
City of Claremont, 58 Opera House Square, Claremont, NH  
Claremont Police Department, 1 Police Court, Claremont, NH  
Claremont Visitor's Center, 14 North Street, Claremont, NH

#### **Public School Buildings:**

Superintendent of Schools, 165 Broad Street, Claremont, NH  
Claremont Middle School, 107 South Street, Claremont, NH  
Bluff School, 2 Summit Road, Claremont, NH  
Maple Avenue School, 210 Maple Avenue, Claremont, NH  
Disnard Elementary School, 160 Hanover Street, Claremont, NH  
Stevens High School, 175 Broad Street, Claremont, NH  
21<sup>st</sup> Century Schools, Claremont School District, 169 Main Street, Suite 200, Claremont, NH  
Claremont Teen Center (Red Elephant Café), Claremont School District, 120 Broad Street, Claremont, NH  
Sugar River Valley Regional Technical Center, 111 South Street, Claremont, NH

#### **Non-Standard Installation Facilities Beyond 200' from Cable Plant**

Claremont Kindergarten, 18 Robert A. Easter Way, Claremont, NH\*  
Arrowhead Recreational Facility, 18 Robert A. Easter Way, Claremont, NH\*  
Water Treatment Plant, 196 Winter Street, Claremont, NH\*  
Wastewater Treatment Plant, 333 Plains Road, Claremont, NH\*  
Zotto Gym, 130 Broad Street (separate building), Claremont, NH\*

\* As of October 30, 2006, these facilities are identified as not within standard installation distance. City and Grantee would need to reach an agreement for payment of installation costs for these buildings to be connected to the cable system.

## **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**

Origination Locations: During the term of this Franchise, Grantee shall maintain, and construct, if necessary, the following origination locations:

Claremont City Hall

Stevens High School

Sugar River Valley Regional Technical Center

Monadnock Park (Grantee shall install the Monadnock Park origination location within 60 days of obtaining the licenses on the poles)

The costs of installation of live origination capabilities at these locations are considered franchise-related costs, subject to pass through. Prior to scheduling installation, Comcast, the City and the PEG Access channels will determine the allocation of costs for such installations.

\*Please note during the term of the contract, one or more of the above buildings may be relocated and would need to be included.

**EXHIBIT D**

**FORM OF ANNUAL REPORT**

Location of and hours of Payment Center:

Location of and hours of Customer Service Office

Customer Service Telephone Number:

Location of Headend (Reception Facility)

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

Contact Person to Service Unresolved Customer Complaints:

Updated Labor/Material Costs (if applicable) for Installation over 200 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.

Such information may be provided at a meeting of the Franchising Authority.