

**RENEWAL  
CABLE TELEVISION  
FRANCHISE AGREEMENT  
FOR  
THE TOWN OF HAMPTON FALLS,  
NEW HAMPSHIRE**

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- Exhibit A: FCC Rules -Part 11, Subpart D--Emergency Operations
- Exhibit B: Current Schedule of Rates and Charges

# HAMPTON FALLS RENEWAL FRANCHISE AGREEMENT

## INTRODUCTION

WHEREAS, Continental Cablevision of New England, Inc. d/b/a Continental Cablevision (hereinafter "Continental" or "Franchisee") is the duly authorized holder of a franchise agreement to operate a cable communications system in the Town of Hampton Falls, New Hampshire (hereinafter the "Town"), said franchise agreement having originally commenced on September 2, 1981;

WHEREAS, Continental filed a request for a renewal of its franchise agreement by letter dated September 2, 1993 in conformity with the Cable Communications Policy Act of 1984;

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

WHEREAS, the Board of Selectmen, as the Franchise Agreement Authority, finds that the renewal of Continental's franchise is appropriate in light of its past performance, compliance with the terms of its existing franchise agreement, and the terms contained in its request for franchise renewal;

WHEREAS, the Board of Selectmen has determined that the services and programming of such a franchise can contribute significantly to the communications needs and interest of the Town and its residents and institutions, and

NOW THEREFORE, after due and full consideration, the Town and Continental agree that this Franchise Agreement is issued upon the following terms and conditions:

**ARTICLE 1**  
**DEFINITIONS**

**SECTION 1.1 - DEFINITIONS**

The following terms used in this Franchise Agreement shall have the following meanings:

- (a) Addressable Technology - The capability of a cable system to electronically add, change or delete certain programming or service from a remote location.
- (b) Basic Broadcast Service - That service tier which shall include at least the retransmission of local broadcast television signals and the public, educational and governmental ("PEG") access channels, in accordance with the Cable Act of 1992.
- (c) Broadcast - Over-the-air transmission by a radio or television station.
- (d) Cable Act - 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. 104-104, § \_\_\_, 110 Stat. \_\_\_ (1996).
- (e) Cable Communications System or Cable System - The cable television system owned, constructed, installed, operated and maintained in the Town of Hampton Falls for the provision of broadband telecommunications services capable of operating as a fully addressable system of antennas, cables, wires, lines, fiber-optic cables, towers, wave guides or other conductors, converters, equipment or facilities, designed to provide telecommunications services, which includes, but is not limited to distributing video programming and technologies to Subscribers, and/or producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other

forms of signals to Subscribers and in accordance with the terms and conditions in this Franchise Agreement.

(f) Cable Service - The one-way transmission to Subscribers of video programming, or other programming service (including music), and Subscriber interaction, if any, which is required for the selection of such video programming or other programming service, and the installation and rental of equipment necessary for the receipt thereof.

(g) Channel - A band sufficient to carry either one standard video signal or a number of audio, digital or other non-video signals.

(h) Converter - An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber and any channel selector which permits a Subscriber to view all signals delivered at designated converter dial locations at the set or by remote control.

(i) Drop - The coaxial cable that connects a home or building to the Subscriber Network or Institutional Network.

(j) Effective Date - <sup>October 2</sup> ~~September 2~~, 1996

(k) FCC - Federal Communications Commission.

(l) Feeder Cable - The cable, connected to the trunk cable, from which cable service is distributed to multiple Subscribers, as distinguished from trunk cable (which distributes Cable Service throughout the franchise area).

(m) Franchise or Franchise Agreement - The Franchise Agreement granted herein.

(n) Franchise Authority - The Board of Selectmen of the Town of Hampton Falls, New Hampshire.

(o) Franchise Fee - The payments to be made to the Town as consideration for the renewal Franchise Agreement granted herein.

(p) Franchisee - Continental Cablevision of New England, Inc., a wholly-owned subsidiary of Continental Cablevision, Inc., d/b/a Continental Cablevision ("Continental").

(q) Gross Revenue - Consideration of any form or kind or compensation, which is derived by the Franchisee from the operation of the Cable System within the Town. Gross Revenue shall include all subscriber monthly fees for cable television services, installation and reconnection fees, and converter sales, if any, less bad debt expense and programming fees paid by Franchisee for non-broadcast programming expenses. Gross Revenue shall not include taxes, fees or other assessments collected for governmental authorities or Franchise Fees passed through to Subscribers.

(r) Leased Channel or Leased Access - A channel which the Franchisee shall make available pursuant to Section 612 of the Cable Act.

(s) New Hampshire Seacoast Area - The New Hampshire Seacoast Area includes Dover, Durham, Exeter, Greenland, Hampton, Hampton Falls, Kensington, New Castle, Newfields, Newington, Newmarket, North Hampton, Portsmouth, Rye and Stratham.

(t) Other Definitions - Any term defined in FCC rules and/or regulations, or by federal law, as of the Effective Date of this Franchise Agreement, but not included in the foregoing definitions. Other Definitions shall be incorporated herein by reference as is set forth in full and shall be defined as appears in such rules and/or regulations.

(u) Outlet - An interior receptacle that connects a television set to the Cable Communications System.

(v) Person - Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.

(w) Private Roads - Private rights of way or non-public roadways not classified as highways by Chapter 231 of the Revised Statutes Annotated of New Hampshire which provide access to two or more free-standing, non-connected residential buildings as residential buildings.

(x) Programming - Any video, audio, text or data coded signal carried over the Cable Communications System.

(y) Public Way - The surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right of way, including, but not limited to public utility easements (except those owned by the Town) dedicated utility strips or rights of way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or thereafter held by the Franchise Authority and the Franchisee 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 Franchise Authority within the service area for the purpose of public travel, or for compatible uses, and shall included other easements or rights of way and shall, within their proper use and meaning, entitle the Franchise Authority and the Franchisee to the use thereof for the purpose of the installing and transmitting of Franchisee's Cable Services or other services over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, compliances, attachments and other property as may be ordinarily necessary and pertinent to the Cable System.

(z) Residential Network - The cable network with bi-directional capability to be operated by the Franchisee over which video, audio, text and data signals can be transmitted to Subscribers, as described in Section 3.2 (Residential Network).

(aa) Service Interruption - The loss of any signal, video picture or sound on one or more channels carried over the Cable System for distribution to a Subscriber.



(bb) Service Tier(s) - A category of cable service or other services provided by a cable operator for which a separate rate is charge, as may be described and regulated by federal law.

(cc) Signal - Any transmission of electromagnetic or optical energy which carries information from one location to another.

(dd) Standard Service Package - A combination of cable service tiers, consisting of the Basic Broadcast tier and Cable Programming Service tiers, as provided by the Franchisee as of the Effective Date and including any individual broadcast channels or cable networks added to these tiers as a result of the reconstruction of the Cable Communications System.

(ee) Street - The surface of and the space above and below any public street, road, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive on any easement or right-of-way now or hereafter held by Town, and dedicated for use by the Town, use by the general public, or use compatible with the Cable System operations.

(ff) Subscriber - A person or entity who contracts with the Franchisee for, and lawfully receives, the video signals and cable services distributed by the Cable Communications System.

(gg) Transfer - The disposal by the Franchisee, directly or indirectly, by gift, assignment, sale, merger, consolidation or otherwise of the ownership or control of the Cable System or the renewal Franchise granted herein to a person or a group of persons acting in concert, as described in Section 7.9 (Transfer or Assignment).

(hh) Town - The Town of Hampton Falls, New Hampshire.

**ARTICLE 2**  
**GRANT OF FRANCHISE AGREEMENT**

**SECTION 2.1 - GRANT OF FRANCHISE AGREEMENT**

Pursuant to the authority of RSA 53-C of the Laws of New Hampshire, and Cable Communications Policy Act of 1984 as amended, the Board of Selectmen of the Town of Hampton Falls hereby grants a non-exclusive Franchise Agreement to Continental Cablevision of New England, Inc., a New Hampshire Corporation, authorizing and permitting said Franchisee to construct, operate and maintain a Cable Communications System within the municipal limits of the Town of Hampton Falls.

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

Subject to the terms and conditions herein, the Franchise Authority hereby grants to the Franchisee the right to construct, upgrade, install, operate and maintain a Cable Communications System, including such lines, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the Cable Communications System, in, under, over, along, across and upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town within the municipal boundaries and subsequent additions thereto, including property over which the Town has a sufficient easement or right-of-way, for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video, audio, text, data and other impulses in accordance with the laws of the United States of America, the State of New Hampshire, and bylaws/ordinances of the Town of Hampton Falls.

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

(a) The term of this non-exclusive Franchise Agreement shall be for a period of fifteen (15) years and shall commence on <sup>October 2</sup> ~~September 2~~, 1996, following the expiration of the current franchise, and shall terminate at midnight on <sup>October 1</sup> ~~September 1~~, 2011. The term of this Franchise Agreement is subject to all provisions of New Hampshire law and applicable federal law, as such laws may be from time to time amended.

*MC2*  
*TTS*  
*[Signature]*

(b) The right to use and occupy the streets, public ways and public places shall not be exclusive, and the Town reserves the right to grant similar or other uses of the said streets, public ways and public places to any entity for a similar cable system or otherwise at any time during the term of this Franchise Agreement provided such uses do not unreasonably interfere with the easement rights granted to Franchisee herein.

**SECTION 2.3 - POLE AND CONDUIT ATTACHMENT RIGHTS**

(a) Pursuant to RSA 231:161, permission is hereby granted to the Franchisee to attach or otherwise affix cables, wire, or optical fibers comprising the Cable Communications 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 Franchise the Town grants Franchisee equal standing with power and telephone utilities in the matter of placement of facilities on public ways. All poles and conduit installed within the service area, as defined in Section 3.1 (Area to be Served) herein, shall be made available for attachment or use by Franchisee, at just and reasonable rates applied to public utilities under the formula presently established by 47 U.S.C., Section 224.

(b) In all areas of the Town where public utility lines are aerially placed, if subsequently during the term of the Franchise Agreement such utility lines are required by state law or local bylaws/ordinances to be relocated aerially or underground, Franchisee shall similarly relocate its Cable System. Any costs of relocating utility poles or trenching for the placement of underground conduits shall be equally shared by all affected companies.

#### **SECTION 2.4 - RENEWAL**

This Franchise Agreement may be renewed for additional terms of fifteen (15) years in accordance with existing federal law and applicable regulations.

#### **SECTION 2.5 - POLICE AND REGULATORY POWERS**

The Franchisee's rights are subject to the powers of the Town to adopt and enforce general bylaws/ordinances necessary for the safety and welfare of the public, provided that such bylaws/ordinances are of general applicability and not specific to the Cable Communications System, the Franchisee, or this Franchise Agreement.

#### **SECTION 2.6 - EQUAL PROTECTION [See RSA 53-C:3-b]**

(a) In the event that the Franchise Authority grants an additional cable franchise or franchises such franchise(s) shall not contain terms and conditions more favorable or less burdensome, when taken as a whole, than those contained herein, unless precluded from doing so by law. In the event that the Franchise Authority grants any additional cable franchises, the Franchise Authority shall comply with all applicable provisions of the Communications Act of 1934, as amended, and state law. Such additional franchisee(s) shall hold harmless the Town and the Franchisee (Continental), from and against all costs and expenses incurred in strengthening poles, rearranging attachments, placing underground facilities and all other costs

(including those of the Town and Franchisee) incident to inspections, make-ready and construction of an additional cable system in the franchise area.

(b) In the event another provider of multichannel programming serves Subscribers in the Town, but is not required to be licensed by the Town, the Franchise Authority shall afford the Franchisee the opportunity, through a public hearing, to demonstrate or show any burdens or inequities which may or shall result from the continued compliance by the Franchisee of the terms of this Agreement. The Franchisee shall be allowed to submit evidence of past performance, investment or other facts or considerations deemed relevant by the Franchisee. However, the Town shall, in good faith, determine whether to modify, change, revise, or amend the terms of this Agreement, based upon the public interest and whether any such modification, change, revision or amendment to the Agreement shall be justified in light of the Town's applications of the public interest standard, and any other applicable legal principles.

Television (“HDTV”) technology can be received by Subscribers with HDTV capable television sets.

### **SECTION 3.3 - SUBSCRIBER CONNECTION**

(a) The Franchisee shall, within fifteen (15) days of written request by the occupant of a dwelling, connect the Cable System to a dwelling at standard installation charges if the dwelling is within two hundred aerial feet (200 ft.) of the nearest Feeder Cable and only if the dwelling is properly internally wired to meet the Franchisee’s specifications to prevent signal leakage.

(b) Residences located over two hundred aerial feet (200 ft.) from Feeder Cable shall be charged an additional one-time installation fee. Such charge shall not exceed One Dollar (\$1.00) per foot for each foot over two hundred feet, (200 ft.) unless the FCC permits a greater charge or permits calculation of the charge on a different basis.

(c) Franchisee shall complete construction of any such Subscriber connections within fifteen (15) days of either a written request for such connection by the occupant or owner of the dwelling or within fifteen (15) days of the date any necessary easements are obtained, whichever occurs later, taking into account, and subject to weather, force majeure, performance of make-ready, availability of construction crews and materials. If requested by the Franchise Authority, Franchisee shall provide a written report to the Town completely explaining its failure to meet the time frame stated herein.

### **SECTION 3.4 - RESIDENTIAL NETWORK CABLE DROPS**

The Franchisee shall provide, upon written request by the Town, one (1) Drop connected to the Residential Network, (1) Outlet, and the Standard Service Package to all municipal and school buildings which are in the Town and within two hundred feet (200 ft.) of Feeder Cable. Franchisee shall also install in each classroom of the

**ARTICLE 3**  
**SYSTEM SPECIFICATIONS AND CONSTRUCTION**

**SECTION 3.1 - AREA TO BE SERVED**

(a) Present Service Area: The Cable System shall pass all residential dwelling units in the Town and shall pass all commercial structures located on public ways in existence at the time this Franchise Agreement is entered into. Every public road shall be serviced by Feeder Cable unless such service can be supplied using alternative cable technology. Cable Service shall be provided to every existing dwelling unit requesting Cable Service and located on public streets and Private Roads, provided Franchisee is able to obtain from property owners any necessary easements at no cost and/or any applicable permits.

The build out to service all existing dwelling units shall be within six (6) months from the date of this Franchise, taking into account and subject to weather, force majeure, performance of make-ready, availability of construction crews and materials, and the ability to obtain all necessary easement and rights of way. In the event buildout takes longer, Franchisee shall provide a written report to the Town completely explaining its failure to meet the time frame stated herein.

(b) Future Service Area: The Franchisee shall, upon proper notice, have Cable Service available to new dwelling units on public streets and Private Roads at such time as an occupancy permit is obtained provided Franchisee is able to obtain from property owners any necessary easements and/or permits. Franchisee shall complete construction of any such line extensions as soon as practicable after such notice, taking into account, and subject to weather, force majeure, performance of make-ready, availability of construction crews and materials, and the ability to obtain all necessary easements and rights -of-way.

In the case of new construction or property development where utilities are to be placed aurally or underground, the developer or property owner shall give Franchisee reasonable notice of not less than forty-five (45) days prior to such construction or development, and, if applicable, of the particular date on which open trenching will be available for Franchisee's installation of conduit, pedestals and/or vaults, and materials to be provided at Franchisee's expense. Franchisee shall also provide specifications as needed for trenching. Cost of trenching and easements required to bring service to the development shall be borne by the developer or property owner.

Under all circumstances, the Cable System shall pass new units no more than six (6) months after written notice has been received by the Franchisee that an occupancy permit has been granted by the Town, subject to events of force majeure.

### **SECTION 3.2 - RESIDENTIAL NETWORK**

(a) The Franchisee commits to maintaining a leadership position in providing Cable Services in the Town and shall maintain and upgrade in accordance with the terms of this Franchise Agreement a two-way capable residential Cable System utilizing Addressable Technology, and cable and electronics capable of transmitting a minimum of seventy-five (75) channels.

(b) The Cable System shall be designed and constructed so that television station broadcast signals transmitted in stereo in any one Cable System service (e.g., Basic Broadcast Service) can be received in stereo by Subscribers to Basic Broadcast Service without the necessity of subscribing to any other Cable System service (e.g., FM service), providing Subscriber has video reception equipment capable of receiving stereo signals.

(c) The Cable System shall be designed and constructed with the capability so that television broadcast stations' signals transmitted utilizing High Definition



public schools in the Town existing as of the Effective Date of this Franchise Agreement one (1) Outlet for the purpose of receiving "Cable in the Classroom" programming. These Outlets shall be installed at no cost after approval by the appropriate school official on the location of each Outlet. Franchisee shall provide the above at no cost to the Town. The Franchise Authority or its designee shall consult with the appropriate individuals to determine the appropriate location of each Drop and Outlet prior to requesting that the Franchisee install the free service.

### **SECTION 3.5 - PARENTAL CONTROL CAPABILITY**

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

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

### **SECTION 3.6 - EMERGENCY OVERRIDE**

The Cable System shall incorporate audio override capabilities for use in the event of an emergency consistent with FCC regulations attached hereto as **Exhibit A**. The emergency override capability may be operated from a standard touch-tone telephone only by officials authorized by the Franchise Authority. Activation of this emergency override capability shall give authorized official(s) control of all channels for a limited period of time for the purpose of transmitting instruction to viewers. The Franchise Authority shall provide Franchisee with the name(s) of each individual authorized to activate the emergency override capability prior to granting such authorization. Authorization shall be limited to two (2) individuals.

### **SECTION 3.7 - FUTURE TECHNOLOGY**

(a) In order to maintain a leadership position in providing Cable Service in the Town, the Franchisee shall from time to time upgrade the Cable System, to the extent technically and economically feasible, to provide to the Town Cable Services offering the best available proven technology including, but not limited to, interactive capability.

(b) At the conclusion of the fifth (5th) and tenth (10th) years of this Franchise Agreement, beginning with the Effective Date of this Franchise, the Town shall have the option of requiring Franchisee to provide relevant cable technology necessary to give the Cable System the capability of then providing Cable Services equal to those services available to at least forty percent (40%) of all Franchisee's cable Subscribers in the New Hampshire Seacoast Area, as defined herein.

(c) In order for the Town to exercise its options in subsection (b) above, the following requirements must be met:

- (1) Town must first conduct a public hearing to consider the relevant cable technology which is subject to the upgrade option, with at least sixty (60) days written notice to the Franchisee, and during which all interested parties, including Franchisee, shall be given an opportunity to be heard.
- (2) Such relevant cable technology is technically and economically feasible. Economically feasible shall mean that Franchisee shall have prospects of earning a reasonable rate of return as that term may be defined by the FCC for applicable infrastructure investments by cable operators.

### **SECTION 3.8 - INTRA-SCHOOL DISTRICT COMMUNICATION**

The Franchisee will undertake all reasonable efforts to implement a system for intra-school district communication only at such a time when the school districts in the New Hampshire Seacoast Area formulate a plan to use any capacity offered on the Franchisee's cable systems including, but not limited to, connecting to any service or educational programming, if permitted, and offered by the University of New Hampshire. When interconnection of schools is implemented, Town schools will be included in the formulation of the plan.

### **SECTION 3.9 - LEASED ACCESS CHANNELS**

Franchisee shall make channel capacity available as required by the Cable Act for Leased Access used to a person, group, organization or entity upon reaching an appropriate agreement. Rates for the use of Leased Access Channels shall be negotiated between Franchisee and the commercial user in accordance with the provisions of the Cable Act. In the event federal law is amended so as not to require Leased Access Channels and does not expressly prohibit Leased Access Channels, Franchisee will continue to make available channel space for Leased Access purposes.

**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 Franchise Authority, except as may be approved by the Franchise 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 Communications System for which this Franchise Agreement is granted shall be done in conformance with all applicable federal, state or local bylaws/ordinances, 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) The Cable System shall be constructed, operated and maintained so as to comply, at a minimum, with all FCC requirements as to signal quality and characteristics and so as to avoid interference with television reception, radio reception, telephone communications or other electronic installations in Town. Upon request by the Franchise Authority or its designee, Franchisee shall provide proof of compliance of FCC signal requirements.

(d) Operating and maintenance personnel shall be thoroughly trained in the use of all safety equipment and the safe operation of vehicles and equipment. All areas of the Cable Communications System shall be routinely inspected and maintained by the Franchisee so that conditions that could develop into safety hazards for the public and/or operating and maintenance personnel can be corrected before they become a hazard. The Franchisee shall install and maintain its wire, cable,

fixtures, and other equipment in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.

(e) All structures and all lines, equipment and connections in, over, under, and upon streets, sidewalks, alleys, and public and private ways and places of the Town, wherever situated or located shall at all times be kept and maintained by the Franchisee in a safe and suitable condition and in good order and repair.

(f) The signal of any television or radio station carried on the Cable Communications 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 Communications 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.

(g) The Town reserves the right to inspect all construction and installation work for compliance with applicable laws, codes, ordinances and regulations and with provisions of the Franchise, and the Town through its code enforcement office. All inspections shall be at the expense of the Town.

(h) All lines, cable, and distribution structures and equipment, including poles and towers, erected by Franchisee, within the Town shall be located so as not to obstruct or interfere with the proper use of streets and to cause minimum interference with the rights of property owners who abut any of the said streets, 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 Franchise Agreement, 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 any future operation or location of said streets, provided, however, that this standard shall apply to all persons or entities owning lines, cables, and distribution structures, and

equipment and provided further that the Franchisee shall not be required to remove any such construction solely to accommodate needs of competing cable systems.

(h) Upon written notice from the Town, the Franchisee shall remedy a general deficiency with respect to the technical standards described herein within fourteen (14) days of receipt of notice and a safety deficiency within forty-eight (48) hours of receipt of notice and shall notify the Town when the deficiency has been corrected.

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

(a) Franchisee shall promulgate and adhere to a preventative maintenance policy directed toward maximizing the reliability (mean-time-between-malfunctions) and maintainability (mean-time-repair) of the Cable System with respect to its delivery of service to Subscribers at or above 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 in an emergency, and except for insignificant interruptions of thirty (30) minutes or less which may occur during the course of normal maintenance, service is to be interrupted only between the hours of midnight and 7:00 AM.

(b) Whenever the Franchisee takes up or disturbs any pavement, sidewalk or other improvement of any public streets or private roads or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. In no event shall such restoration be made later than ten (10) business days, weather permitting or due to events beyond the reasonable control of Franchisee, after Franchisee's receipt of written notification from the property owner so damaged unless otherwise agreed by Franchisee and the property owner. Upon failure of the Franchisee to comply within the time specified (unless the Franchise 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 Franchise Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by the Franchisee upon demand by the Franchise Authority.

(c) In addition, upon the failure, refusal or neglect of Franchisee to cause any work or other act required by law or by this Franchise Agreement to be properly completed in, on, over or under any street within any time prescribed, Town may cause such work or other act to be performed or completed in whole or in part, and upon so doing shall submit to Franchisee an itemized statement of prevailing rates of the cost thereof. Franchisee shall, within thirty (30) days after receipt of such statement, pay to the Town the entire amount thereof. The Town, 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 sixty (60) days of receipt of the statement of those costs.

#### **SECTION 4.3 - TREE TRIMMING**

The Franchisee shall have authority to trim trees upon and overhanging public streets, alleys, sidewalks and ways and places of the Town 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 Town bylaws/ordinances and regulations.

#### **SECTION 4.4 - STRAND MAPS**

Within sixty (60) days from a request in writing by the Franchise Authority, the Franchisee shall provide a complete set of strand maps of the service area, on which will be shown those areas in which the Franchisee's facilities exist, the location of all

streets and the location of all residences. Upon request by the Franchise Authority, the Franchisee shall provide updated maps as reasonably requested.

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

In accordance with applicable laws, the Franchisee shall, at its expense, upon the 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). The Franchisee shall be given not less than thirty (30) days advance 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 moving permit.

#### **SECTION 4.6 - EMERGENCY POWER**

The Cable System shall incorporate equipment capable of providing standby powering of the headend for a minimum of seventy-two (72) hours upon failure of the power furnished by the electric utility company unless for reasons of force majeure as defined in Section 8.2 (Force Majeure).

#### **SECTION 4.7 - RESIDENTIAL EXTERIOR WIRING**

Franchisee shall adhere to Subscribers reasonable request for location of entry and shall in other respects observe standard specifications for Drops connections into the residence. Exterior wiring on a residence shall be installed as unobtrusively as possible. Each Drop shall be grounded at each Subscriber's residence at the time of initial installation of Cable Service or during the next scheduled in-house servicing that is performed.



**ARTICLE 5**  
**CUSTOMER SERVICE AND CONSUMER PROTECTION**

**SECTION 5.1 - CUSTOMER SERVICE**

(a) Franchisee shall comply with the federal customer service standards as set forth by the FCC in accordance with the Cable Television Consumer Protection and Competition Act of 1992, as amended from time to time and as set forth in applicable New Hampshire statutes.

(b) The Franchisee shall provide and maintain a toll-free 24-hour answering line which Subscribers may call without incurring added message units or toll charges so that prompt maintenance and service is available. At the time of initial subscription the Franchisee shall give each new subscribing household a notice of billing practices and dispute procedures, which notice shall include the Franchisee's telephone number.

(c) Upon reasonable notice the Franchisee shall expeditiously investigate and resolve complaints regarding the quality of service, equipment malfunctions and similar matters. The Franchisee shall also maintain records of all reported complaints and action taken to respond to such complaints and shall make such records available to the Franchise Authority or designee for inspection upon request, but shall also comply with Subscribers' privacy rights in accordance with federal law.

(d) The Franchisee shall respond to all service calls within twenty-four (24) hours and correct malfunctions as promptly as possible. A serious system malfunction will be serviced as soon as possible after its discovery. For these purposes, the Franchisee shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its Subscribers.

(e) Except as limited by federal law or FCC regulations concerning privacy, the Franchisee shall maintain a record of all such complaints and such records shall

be available at Franchisee's local offices for at least two (2) years for inspection by the Town as it may from time to time request, during regular business hours and upon reasonable notice. 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. Upon request, the Franchisee shall provide to the Town an accounting of the number and nature of such complaints.

(f) The Franchisee shall maintain its records as required by and in a manner not inconsistent with applicable federal or state law or regulation.

(g) The Franchisee shall maintain a convenient location for the payment of customer bills within the New Hampshire Seacoast Area as defined herein.

## **SECTION 5.2 - SUBSCRIBERS' ANTENNAS - SWITCHING DEVICES**

Notwithstanding a required disconnection of Subscriber's existing antenna and downloads to receivers connected to the Cable System, Franchisee shall not remove such antennae and downloads. Subscribers may request and Franchisee shall provide AB switch or other appropriate switch technology. Franchisee may require payment of an installation charge by each Subscriber, in addition to the purchase cost, for switch installations made after initial installation of service to that Subscriber.

## **SECTION 5.3 - SERVICE INTERRUPTIONS**

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

(b) Franchisee shall consider a similar credit for any service interruptions lasting less than twenty-four (24) hours, excluding interruptions which are beyond the control of the Franchisee, such as, but not limited to, electrical outages, acts of God, or for any reason of force majeure.

#### **SECTION 5.4 - SUBSCRIBER PRIVACY AND RIGHTS TO INFORMATION**

(a) The Franchisee shall not collect, store, use or make available to any third party data relating to individual subscribing households without first giving the Subscriber an opportunity to remove his or her name from the Franchisee's list of Subscribers, unless such disclosure is necessary to provide Cable Service or to conduct cable-related business activities (for example, disclosure to the company that addresses and mails out monthly bills and guides, the programming services or a collections service for past due accounts). The conduct of the Franchisee under this Section shall be consistent with and governed by Section 631 of the Cable Communications Policy Act of 1984, "Protection of Subscriber Privacy."

(b) Any Subscriber, may upon written request, examine all records maintained by the Franchisee relating to the Subscriber's account. The Franchisee shall insure that all information related to billing and service requests is accurate and up-to-date and shall promptly correct any errors upon discovery.

## **SECTION 5.5 - TERMINATION OF SERVICE**

(a) In the event a Subscriber's service is terminated, monthly charges for service shall be pro-rated on a daily basis and, where advance payment has been made by a Subscriber, the appropriate refund shall be made by Franchisee to the Subscriber within forty-five (45) days of such termination.

(b) Franchisee shall have the right to disconnect a Subscriber for failure to pay an overdue account; provided, that

- (1) Franchisee billing practices and policy statement set forth the conditions under which an account will be considered overdue;
- (2) Franchisee mails, at least twelve (12) days prior to the proposed disconnection, written notice of intent to disconnect for delinquency in payment; and
- (3) the Subscriber's account is at least thirty (30) days delinquent.

## **SECTION 5.6 - IDENTIFICATION**

The Franchisee shall ensure that all of its vehicles, employees, agents, and subcontractors are reasonably identified to the general public. Agents and contractors hired by the Franchisee to perform any substantial work on the Cable System during the rebuild period in the Town shall inform the Police Department of the work location within the Town and provide relevant vehicle identification prior to commencing such work.

## ARTICLE 6 RATES AND CHARGES

### SECTION 6.1 - RATES AND CHARGES

(a) A price schedule for service and installation in effect on the date of execution of this Franchise Agreement is attached hereto as **Exhibit B**. Any changes in prices will be in conformance with the federal law, the rules and regulations of the FCC (47 CFR §76.33) and any currently or hereinafter applicable federal and/or state laws and regulations.

(b) Town shall have the right to extent granted under state law, the Cable Act and FCC regulations, to regulate rates, equipment, installation and service charges to Subscribers.

(c) The Franchise 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.

(d) The Franchisee may require a deposit or refuse service for a bona fide credit reason which relates to the Subscriber's overdue or delinquent account with the Franchisee. The Franchisee may levy reasonable collection charges, including a late fee, on overdue or delinquent accounts. The Franchisee requires that the account of any Subscriber requesting work be current before such work is performed.

(e) Franchisee shall notify the Board of Selectmen in writing at least thirty (30) days prior to any adjustment in price for Cable Service provided by the Cable System. At the request of the Town, upon fifteen (15) day written notice, Franchisee shall attend and respond at a public hearing disclosing either 1) financial or service information relevant to how Franchisee's Basic Broadcast Service rates compare to FCC rate benchmarks and detailed explanation on how rates are calculated, in

**ARTICLE 7**  
**REGULATORY OVERSIGHT**

**SECTION 7.1 - INDEMNIFICATION**

The Franchisee shall at its sole cost and expense indemnify and hold the Town harmless at all times during the term of this Franchise Agreement, and subsequent renewals, if any, from any and all claims for injury and damage to persons or property, both real and personal, caused by the construction, installation, operation or maintenance of any structure, equipment, wire or cable authorized to be installed pursuant to this Franchise Agreement. Upon receipt of notice in writing from the Franchise Authority, the Franchisee shall at its own expense defend any action or proceeding against the Town in which it is claimed that personal injury or property damage was caused by activities of the Franchisee, its employees and/or agents, in the construction, installation, operation or maintenance of its Cable Communications System.

**SECTION 7.2 - INSURANCE**

(a) The Franchisee shall carry insurance throughout the term of this Franchise Agreement with the Town as a named insured with an insurance company (ies) satisfactory to the Franchise Authority indemnifying the Town and the Franchisee from and 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, including loss of use thereof, shall be no less than One Million Dollars (\$1,000,000) as to any one occurrence. The amount of such insurance for liability for personal or bodily injury or death to any person shall be no less than One Million Dollars (\$1,000,000). These coverages shall be written under the ISO

Comprehensive General Liability including Broad Form Property Damage or equivalent. The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000) written as a following form umbrella with underlying policies listed and so designated. Such liability insurance shall include products and completed operations, independent contractors, personal and advertising injury, and automobile, and Franchisee's liability insurance shall be endorsed to include the full indemnity for the Town as an additional named insured.

(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).

(c) All insurance coverage, including Workers' Compensation, shall be maintained throughout the period of this Franchise Agreement. All expenses incurred for said insurance shall be at the sole expense of the Franchisee. No later than thirty (30) days after the execution of this Franchise, Franchisee shall furnish to the Town certificates of insurance under Sections 7.2(a)(b) and (c).

(d) All such Franchisee insurance policies and certificates of insurance shall stipulate that the coverage afforded by the policies will not be canceled, modified or not renewed until at least thirty (30) days prior notice has been given to the Town.

(e) The Town shall have the right, any time after the first (1<sup>st</sup>) year of this Franchise, to require an increase in the amounts of insurance to an amount no greater than Three Million Dollars (\$3,000,000) per person and Ten Million Dollars (\$10,000,000) per occurrence provided:

- (1) Town shall give Franchisee at least sixty (60) days notice of any such increase;
- (2) the increase may, at Franchisee's request, be considered at a public hearing at which all the parties are afforded an opportunity to be heard; and
- (3) there is at least thirty (30) days notice of any such hearing.

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

- (1) Franchisee abandons the Cable System or any part thereof at any time during the term of the Franchise; or
- (2) There is any change in ownership or control of the Franchisee, the Franchise or the Cable System in compliance with the provisions under Section 7.9 (Transfer or Assignment);
- (3) Franchisee fails to purchase and maintain insurance as required by this Franchise Agreement; or
- (4) Franchisee fails to perform its obligations under this Franchise Agreement or in any way violates the terms of this Franchise Agreement.

(c) 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 (1) or more provisions of this Section 7.3 (Performance Bond). Such losses, costs and expenses shall include, but not be limited to, reasonable attorneys' 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.

#### **SECTION 7.4 - FRANCHISE FEES**

(a) Franchisee shall pay to the Town as a Franchise Fee a sum equal to three percent (3%) of the Franchisee's Gross Revenues, as defined herein, derived during each year of the Franchise Agreement. Said payment shall not include any equipment or facilities grants or payment of any damages. Said payment shall be



made semi-annually within sixty (60) days after the end of the Franchisee's fiscal year and the six (6) month anniversary thereof. Should the Franchisee change its fiscal year, it shall notify the Town in writing of such change one hundred eighty (180) days prior to the effective date of such change and the payment schedule stated above shall be adjusted accordingly. Each payment shall be accompanied by a statement certifying the factual basis for payment, including a break-down by category and source of Franchisee's Gross Revenues upon which such payment is based. The payments are to be used by the Town for providing scholarships to Town of Hampton Falls residents who wish to pursue post-secondary education.

(b) Within ninety (90) days after the end of the Franchisee's fiscal year or within one hundred twenty (120) days of the payment of the Franchise Fee described above, the Town may, as needed to verify appropriateness of such payment, request and the Franchisee shall make available its financial records and books insofar as they apply to the calculation of the Franchise Fee and the calculation of Gross Revenues, and the Town may subject said records and books to independent audit at the Town's expense so as to verify the amount due to the Town for Franchise Fees. At any other time during the life of this Franchise Agreement, the Town may, upon reasonable belief and after notice and an opportunity by the Franchisee to be heard, inspect and subject to independent audit at Town's expense, the financial records and books of Franchisee insofar as they apply to the calculation of Gross Revenue and Franchise Fees paid to the Town; provided, however, that if the Town has a reasonable belief or reasonably should have such a belief of need to verify information, it must exercise its right to inspect and audit within five (5) years of such event.

(c) 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 1) any claim the Town may have for further or additional

sums payable under provisions of this Franchise Agreement or 2) any other claim whatsoever, provided, however, that if the Town knows or reasonably should have known that a payment is incorrect, it must challenge such payment within five (5) years of such event.

(d) The Town agrees to protect any proprietary information supplied from disclosure by treating such information as confidential to the extent permitted by RSA 91-A.

(e) In the event another provider of wireline video programming, including video dialtone, uses the streets for the purposes of constructing, operating and maintaining a facility for the distribution of video programming, the Town shall impose an equalization tax to the extent permitted by law on such cable services to equal the Franchise Fee, if any, and other payments required to be made by Franchisee. If an equalization tax is not permitted under the law, the Franchise Fee paid by the Franchisee shall be reduced in accordance with the following schedule: by one percent (1%) at such time when the penetration of such wireline video multichannel provider reaches five percent (5%); an additional one percent (1%) when the penetration rate reaches ten percent (10%).

## **SECTION 7.5 - REPORTS**

Upon written request and within ninety (90) days of such a request of an annual report, the Franchisee shall provide information regarding the overall operation of the Cable System during the preceding year. The information requested may include, but not be limited to the following types of information: status of rates and charges, new programming services added, status of operating procedure, Subscriber satisfaction survey results (if any), status of the upgrade/rebuild of the Residential Network or Institutional Network, and a summary of relevant FCC filings.

## **SECTION 7.6 - EQUAL EMPLOYMENT OPPORTUNITY**

The Franchisee is an Equal Opportunity Employer and must file an Equal Employment Opportunity Plan with the FCC and otherwise comply with the FCC regulations with respect to Equal Employment Opportunities. The Franchisee has filed its current plan with the FCC and agrees to abide by such plan.

## **SECTION 7.7 - REVOCATION OF FRANCHISE**

The Franchise Agreement issued hereunder may, after due notice and hearing as defined herein, be revoked by the Franchise Authority for any of the following reasons:

- (a) For failure to comply with any of the material terms and conditions of the Franchise Agreement;
- (b) The repeated failure, as determined by the Franchise Authority, to maintain signal quality pursuant to FCC standards;
- (c) For any transfer or assignment of the Franchise Agreement or control thereof without consent of the Franchise Authority;
- (d) For failure to maintain a performance bond as described in Section 7.3 (Performance Bond) or to maintain insurance as described in Section 7.2 (Insurance).

## **SECTION 7.8 - NOTICE AND OPPORTUNITY TO CURE**

Prior to instituting any action against the Franchisee under either Section 7.3 (Performance Bond) or Section 7.7 (Revocation of Franchise), the Franchise Authority shall notify the Franchisee in writing of specific failure and shall give the Franchisee ninety (90) days, or such longer time as may be granted by the Franchise Authority in its reasonable discretion, in which to demonstrate that a failure does not exist or to rectify such failure and shall not proceed further if the matter is resolved to

the reasonable satisfaction of the Franchise Authority within the specified time period.

## **SECTION 7.9 - TRANSFER OR ASSIGNMENT**

(a) This Franchise Agreement shall not be transferred or assigned without the prior written consent of the Franchise Authority, which consent shall not be arbitrarily or unreasonably withheld. Notice of any transfer or assignment shall be made in writing by the Franchisee to the Franchise Authority.

(b) For purposes of this Section, any sale, assignment or any other disposition of a majority ownership interest of the parent company of the Franchisee to any one person or group of persons acting in concert, in one transaction or a series of related transactions, shall be deemed to be a transfer within the meaning of this Section.

(c) The Franchisee shall not enter into any management contract or any other arrangement for the management of the Cable System, however structured, without the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed.

(d) 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 of 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 sixty (60) days thereof, Franchisee fails to secure a discharge thereof, or Franchisee shall voluntarily file any such petition or make an assignment for the benefit of creditors, Franchisee shall notify Town of such fact within five (5) days of its occurrence. Any subsequent sale of the Cable System, or any part hereof, or cable property or facilities, or the Franchise shall be treated as a transfer or assignment and the provisions of this Section requiring approval of the Town shall apply. The term "bankruptcy" as used herein shall include an assignment for the benefit of creditors.

(e) In reviewing any request to transfer or assign control or ownership, the Town shall analyze such factors as whether the transferee has the appropriate technical, legal and financial capacity to operate the Cable System, the impact of the proposed transfer on rates, charges on services and whether the proposed transfer will benefit the Town.

(f) The parties agree that the Town, in consenting to any transfer, does not waive its right to pursue Franchisee for violation of provisions of this Franchise Agreement. All terms of this Franchise Agreement shall be binding on transferees except as otherwise agreed to. The Town, as part of its review process, may impose reasonable conditions on the transferee before granting consent. Such condition shall be calculated to insure performance of this Franchise Agreement.

#### **SECTION 7.10 - REMOVAL OF SYSTEM**

Upon termination of this Franchise Agreement or of any renewal hereof by passage of time or otherwise, the Franchisee shall remove its supporting structures, poles, transmission and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, 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 Franchise Authority or property owner may deem any property not removed as having been abandoned or, at the Franchisee's expense, remove or cause to be removed any components of the Cable System and restore the areas to their original condition. Such abandonment shall not relieve the Franchisee of cost of removal.

**SECTION 7.11 - INCORPORATION BY REFERENCE**

All presently and hereafter applicable conditions and requirements of federal and state law and the rules and regulations of the FCC, as they may be amended from time to time are incorporated herein by reference and, shall control the interpretation and performance of this Franchise Agreement to the extent that any provision of this Franchise Agreement conflicts with or is inconsistent with such laws, rules or regulations.

**ARTICLE 8**  
**MISCELLANEOUS**

**SECTION 8.1 - SEVERABILITY**

If any section, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction thereof, such determination shall have no effect on any other section, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Franchise Agreement or any renewal or renewals hereof.

**SECTION 8.2 - 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; lightening; earthquakes; fires, hurricanes; volcanic activity; storms; floods; washouts; droughts, arrests; civil disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably within the Franchisee's control.

### **SECTION 8.3 - NOTICES**

Every notice to be served upon the Franchise Authority shall be delivered or sent by certified mail (postage prepaid) to Attn: Board of Selectmen, Town of Hampton Falls, One Drinkwater Road, Hampton Falls, NH 03844 or such other address as the Franchise Authority may specify in writing to the Franchisee. Every notice served upon the Franchisee shall be delivered or sent by certified mail (postage prepaid) to Attn: Director of Government and Public Affairs, Continental Cablevision, 751 East Industrial Park Road, Manchester, NH 03109-5633 and a copy to Attn: Corporate Counsel, Continental Cablevision, 6 Campanelli Drive, Andover, MA 01810, or such other address as the Franchisee may specify in writing to the Franchise Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

### **SECTION 8.4 - AMENDMENT OF MODIFICATION**

This Franchise Agreement shall not be amended or modified except by written agreement following publication of the proposed amendment in a manner consistent with the publication and notice provisions of RSA 33:8-a.

### **SECTION 8.5 - ANNUAL TOWN REVIEW**

Upon written request from the Town, the Franchisee will attend annual meetings with authorized Town official(s) to review compliance with the terms of this Franchise Agreement and matters of interest to either party. No later than five (5) days prior to such meeting either party may submit a list of items to be reviewed.



## **SECTION 8.6 - DELEGATION**

Town may delegate to any Town official, employee, agency or commission the authority to exercise any of Town's rights hereunder which may lawfully be so delegated.

## **SECTION 8.7 - ARBITRATION**

(a) Disputes arising under this Franchise Agreement shall be referred for resolution to arbitration. The procedure for resolving disputes by arbitration shall be as follows:

- (1) Each party shall select one (1) arbitrator and the Franchisee and the Town shall agree upon a third arbitrator who is knowledgeable about the cable industry. If the Town and the Franchisee are not able to agree upon a third arbitrator within thirty (30) days of notice of a dispute triggering this provision, the parties shall request that the American Arbitration Association select a third arbitrator.
- (2) The panel of arbitrators shall conduct a hearing in accordance with the rules and procedures established by the commercial section of the American Arbitration Association and the arbitrators shall render a written decision and provide a copy of such decision to the Town and to the Franchisee.
- (3) Each party specifically reserves the right pursuant to RSA 542, to appeal a decision of the arbitrator and each party reserves the right to seek judicial relief in an appropriate forum should the decision of the panel be arbitrary, capricious, clearly unsupported by substantial factual evidence or based upon a mistake of law, such determination shall not be made based upon the record and findings of fact made by the panel.

(b) Notwithstanding any other provision herein to the contrary, there shall be no submission to arbitration of any dispute over which jurisdiction lies solely, under the terms of the Cable Act, with the FCC, or over any dispute over which primary jurisdiction lies, under state law, with a particular state forum, or over any matter over which the Town has a right to act in a quasi-judicial capacity.

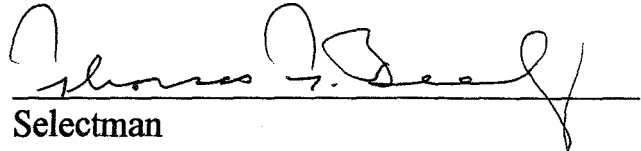
**SECTION 8.8 - FINAL AGREEMENT**

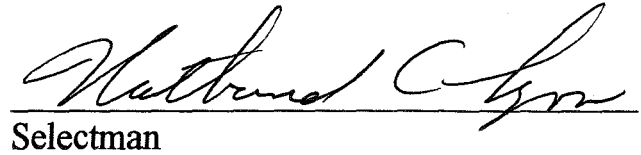
The Franchise Agreement stated herein, in writing, constitutes the final and entire agreement between the parties.

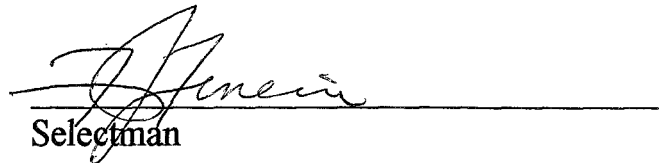
WITNESS OUR HANDS AND OFFICIAL SEAL, THIS 25<sup>th</sup> DAY OF  
September 1996.

TOWN OF HAMPTON FALLS

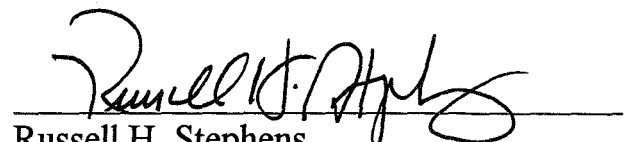
By:

  
Selectman

  
Selectman

  
Selectman

Accepted by:  
CONTINENTAL CABLEVISION  
OF NEW ENGLAND, INC.

  
Russell H. Stephens  
Senior Vice President  
Northeast Region

**EXHIBIT A**  
**FCC Rules - Part 11**  
**Subpart D**  
**Emergency Operations**

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

**SUBPART D**

**EMERGENCY OPERATIONS**

**11.51 EAS CODE AND ATTENTION SIGNAL TRANSMISSION REQUIREMENTS.**

(a) Broadcast stations must transmit, either automatically or manually, national level EAS messages and required tests by sending the EAS header codes, Attention Signal, emergency message and End of Message (EOM) using the EAS Protocol. The Attention Signal must precede any emergency audio message. After July 1, 1997, the shortened Attention Signal may only be used as an audio alert signal and the EAS codes will become the minimum signaling requirement for National level messages and tests.

(b) Broadcast stations may transmit only the EAS header codes and the EOM code without the Attention Signal and emergency message for State and local emergencies. Television stations and cable systems should ensure that pauses in video programming before EAS message transmission do not cause television receivers to mute EAS audio messages.

(c) Effective July 1, 1996, all radio and television stations shall transmit EAS messages in the main audio channel.

(d) By the above date, television stations shall transmit a visual message containing the Originator, Event, Location and the valid time period of an EAS message. If the message is a video crawl, it shall be displayed at the top of the television screen or where it will not interfere with other visual messages.

(e) Class D non-commercial educational FM stations as defined in § 73.506 of this chapter and low power TV stations as defined in § 74.701(f) of this chapter are not required to have equipment capable of generating the EAS codes and Attention Signal specified in § 11.31.

(f) Broadcast stations may additionally transmit EAS messages through other communications means other than the main audio channel. For example, FM stations may transmit the EAS codes on subcarriers including 57 kHz using the RBDS standard produced by the National Radio Systems Committee (NRSC) and television stations may use subsidiary communications services.

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

(g) Broadcast stations are responsible for ensuring that the equipment for generating the EAS codes and the Attention Signal shall modulate a broadcast station transmitter so that the signal broadcast to other broadcast stations and cable systems alerts them that the EAS is being activated or tested at the National, State or Local Area level. The minimum level of modulation for EAS codes, measured at peak modulation levels using the internal calibration output specified in § 11.32(a)(4) shall modulate the transmitter at no less than 80% of full channel modulation limits. Measured at peak modulation levels, each of the Attention Signal tones shall be calibrated separately to modulate the transmitter at no less than 40%. These two calibrated modulation levels shall have values that are within 1 dB of each other.

(h) Effective July 1, 1997, cable systems shall transmit EAS audio messages in the same order specified in paragraph (a) of this section. The Attention Signal may be produced from a storage device. Additionally, subject cable systems must:

- (1) Install, operate, and maintain equipment capable of generating the EAS codes. The modulation levels for the EAS codes and Attention Signal for cable systems shall comply with the aural signal requirements in § 76.605 of this chapter. This will provide sufficient signal levels to operate cable subscriber television or radio receivers equipped with EAS decoders and to audibly alert subscribers.
- (2) Provide a video interruption and an audio EAS message on all channels. The audio message must state which channel is carrying the visual EAS message.
- (3) Subject cable systems shall transmit a visual EAS message on at least one channel. The message shall contain the Originator, Event, Location and the valid time period of the EAS message. If the visual message is a video crawl, it shall be displayed at the top of the subscriber's television screen or where it will not interfere with other visual messages.
- (4) Cable systems shall provide a method to alert hearing impaired or deaf subscribers to EAS messages. Methods may include: a box that displays EAS messages and activates other alerting mechanisms or lights; visual messages on all channels; etc.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

(5) Cable systems may elect not to interrupt EAS messages from broadcast stations based on a written agreement between all concerned.

(i) Other technologies and public service providers, such as DBS, low earth orbiting satellites, etc., that wish to participate in the EAS may contact the FCC's EAS office or their State Emergency Communication Committee for information and guidance.

(j) If manual interrupt is used as specified in paragraph (l) of this section, EAS Encoders must be located so that station or cable staff, at normal duty locations, can initiate the EAS code and Attention Signal transmission.

(k) Broadcast stations or cable systems that are co-owned and co-located with a combined studio or control facility (such as an AM and FM licensed to the same entity and at the same location or a cable headend serving more than one system) may provide the EAS transmitting requirements contained in this section for the combined station or cable system with one EAS Encoder. The requirements of § 11.32 must be met for both the broadcast station and cable system.

(l) Broadcast stations and cable systems are required to transmit all received EAS messages in which the header code contains the Event codes for Emergency Action Notification (EAN), Emergency Action Termination (EAT), and Required Monthly Test (RMT), with the accompanying location codes for their State and State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL- code which identifies the broadcast station or cable system retransmitting the message. See § 11.31(c). If an EAS source originates any EAS messages with the above Event codes, it must include the location codes for the State and counties in its service area. When transmitting the required weekly test, broadcast stations and subject cable systems will use the event code RWT. The location codes will be the state and county for the broadcast station city of license or subject cable system community. Other location codes may be included upon approval of station or cable system management approval. EAS code requirements and examples are provided in the EAS Operating Handbook. Operations may be conducted automatically or manually.

(1) Automatic interrupt of programming and transmission of EAS messages is required when facilities are unattended and must include a permanent record that contains at a minimum the following information: Originator, Event, Location and valid time period of the message. The decoder performs the functions necessary to determine which EAS messages are automatically transmitted by the encoder.

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

- (2) **Manual** interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN and EAT Event codes must be transmitted immediately and Monthly EAS test messages within 15 minutes. All actions must be logged or recorded.

(m) Broadcast stations and cable systems may employ a minimum delay feature, not to exceed 15 minutes, for automatic interrupt of EAS codes but not for the EAN Event which must be transmitted immediately.

(n) Either manual or automatic operation of EAS equipment may be used at broadcast stations or cable systems that use remote control. If manual operation is used, an EAS decoder must be located at the remote control location and directly monitor the signals of the two assigned EAS sources. If direct monitoring of the assigned EAS sources is not possible at the remote location, automatic operation is required. If automatic operation is used, the remote control location may be used to override the transmission of an EAS message. Broadcast stations and cable systems may change back and forth between automatic and manual operation.

#### 11.52 EAS CODE AND ATTENTION SIGNAL MONITORING REQUIREMENTS.

(a) Before July 1, 1997, broadcast stations must be capable of receiving the Attention Signal required by § 11.32(a)(9) and emergency messages of other broadcast stations during their hours of operation. Effective July 1, 1996, all broadcast stations must install and operate during their hours of operation, equipment capable of receiving and decoding, either automatically or manually, the EAS header codes, emergency messages and EOM code. The effective date for subject cable systems is July 1, 1997.

**NOTE:** After July 1, 1997, the two-tone Attention Signal will not be used to actuate two-tone decoders but will be used as an aural alert signal.

(b) If manual interrupt is used as specified in § 11.51(l)(2), decoders must be located so that operators at their normal duty stations at broadcast stations and cable systems can be alerted immediately when EAS messages are received.

(c) Broadcast stations or cable systems that are co-owned and co-located with a combined studio or control facility, (such as an AM and FM licensed to the same entity and at the same location or a cable headend serving more than one system) may provide the EAS monitoring requirements contained in this section for the combined station or cable system with one EAS Decoder. The requirements of § 11.33 must be met for the combined station or cable system.



FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

(d) Broadcast stations and subject cable systems must monitor the two EAS sources assigned in accordance with the monitoring priorities in the EAS Operating Handbook. The off-air monitoring assignments of each broadcast station and cable system are specified in the State EAS Plan and FCC Mapbook.

- (1) If the required EAS sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the FCC's EAS office. In an emergency, a waiver may be issued over the telephone with a follow up letter to confirm temporary or permanent reassignment.
- (2) Broadcast station and cable system management will determine which header codes will automatically interrupt their programming for State and Local Area emergency situations affecting their audiences.

(e) A broadcast station or cable system is required to interrupt normal programming either automatically or manually when it receives an EAS message in which the header code contains the Event codes for Emergency Action Notification (EAN), Emergency Action Termination (EAT), or Required Monthly Test (RMT) for its State or State/county location.

- (1) Automatic interrupt of programming is required when facilities are unattended. Automatic operation must provide a permanent record of the EAS message that contains at a minimum the following information: Originator, Event, Location and valid time period of the message.
- (2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 15 minutes. All actions must be logged or recorded. Decoders must be programmed for the EAN and EAT Event header codes for EAS National level emergencies and the RMT and RWT Event header codes for required monthly and weekly tests, with the appropriate accompanying State and State/county location codes.

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

**11.53 DISSEMINATION OF EMERGENCY ACTION NOTIFICATION.**

Initiation of the EAN by any one of the following sources is sufficient to begin the emergency actions in § 11.54.

**(a) NATIONAL LEVEL.**

The EAN is issued by the White House. The EAN message is sent from an origination point to control points of the participating radio and television networks, cable networks and program suppliers, wire services, communications common carriers and other entities. It is then disseminated via:

- (1) Radio and television broadcast networks to all affiliates with the use of internal alerting facilities.
  - (2) Cable networks and program suppliers to cable systems and subscribers.
  - (3) Wire services to all subscribers (AM, FM, TV, LPTV and other stations).
  - (4) Off-air monitoring of EAS sources.
- (b) State level and Local Area levels. EAN dissemination arrangements at these levels originate from State and local governments in accordance with State and Local Area plans.
- (c) Broadcast stations must, prior to commencing routine operation or originating any emissions under program test, equipment test, experimental, or other authorizations, determine whether the EAS has been activated by any of the following methods:
- (1) Monitor the radio and TV networks and cable systems.
  - (2) Check the wire services.
  - (3) Monitor the assigned EAS sources.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

**11.54 EAS OPERATION DURING A NATIONAL LEVEL EMERGENCY.**

(a) The EAS Operating Handbook summarizes the procedures to be followed upon receipt of a National level EAN or EAT Message.

(b) Immediately upon receipt of an EAN message, broadcast stations and cable systems must:

- (1) Monitor the radio and television networks, cable networks and program suppliers, and wire services for further instructions.
- (2) Verify the authenticity of the EAN message with the current Red Envelope Authenticator List (broadcast stations only).
- (3) Monitor the two EAS sources assigned in the State or Local Area plan or FCC Mapbook for any further instructions.
- (4) Discontinue normal programming and follow the transmission procedures in the appropriate section of the EAS Operating Handbook. Announcements may be made in the same language as the primary language of the station.
  - (i) Key EAS sources (National Primary (NP), Local Primary (LP), State Primary (SP), State Relay (SR) and Participating National (PN) sources) follow the transmission procedures and make the announcements in the National Level Instructions of the EAS Operating Handbook.
  - (ii) Non-participating National (NN) sources follow the transmission procedures and make the sign-off announcement in the EAS Operating Handbook's National Level Instructions section for NN sources. After the sign-off announcement, NN sources are required to remove their carriers from the air and monitor for the Emergency Action Termination message. NN sources using automatic interrupt under § 11.51(I)(1) must transmit the header codes, Attention Signal, sign-off announcement and EOM code after receiving the appropriate EAS header codes for a national emergency.

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

- (5) After completing the above transmission procedures, key EAS and Participating National sources must transmit a common emergency message until receipt of the Emergency Action Termination Message. Message priorities are specified in § 11.44. If LP or SR sources of a Local Area cannot provide an emergency message feed, any source in the Local Area may elect to provide a message feed. This should be done in an organized manner as designated in State and Local Area EAS Plans.
- (6) The Standby Script shall be used until emergency messages are available. The text of the Standby Script is in the EAS Operating Handbook's section for Participating sources.
- (7) TV broadcast stations shall display an appropriate EAS slide and then transmit all EAS announcements visually and aurally as specified in § 73.1250(h) of this chapter.
- (8) Announcements may be made in the same language as the primary language of the station.
- (9) Broadcast Stations in the International Broadcast Service must cease broadcasting immediately upon receipt of an Emergency Action Notification and must maintain radio silence until an EAT is issued. Such stations may be issued an emergency authorization by the FCC with concurrence of the Director, Office of Science and Technology Policy, to transmit Federal government broadcasts or communications.
- (10) Broadcast stations may transmit their call letters and cable systems may transmit the names of the communities they serve during an EAS activation. EAS State and Local Area identifications must be given as provided in State and Local Area EAS plans.
- (11) All broadcast stations and cable systems operating and identified with a particular Local Area must transmit a common national emergency message until receipt of the Emergency Action Termination.
- (12) Broadcast stations, except those holding an EAS Non-participating National Authorization letter, are exempt from complying with § 73.62 and § 73.1560 of this chapter (operating power maintenance) while operating under this part.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

- (13) National Primary (NP) sources must operate under the procedures in the National Control Point Procedures.
- (14) The time of receipt of the EAS and Emergency Action Termination messages shall be entered in the broadcast station logs (as specified in § 73.1820 and § 73.1840 of this chapter), or the cable system records (as specified in § 76.305 of this chapter).

(c) Upon receipt of an Emergency Action Termination Message, broadcast stations and cable systems must follow the termination procedures in the EAS Operating Handbook.

(d) Broadcast stations and cable systems originating emergency communications under this section shall be considered to have conferred rebroadcast authority, as required by Section 325(a) of the Communications Act of 1934, 47 U.S.C. § 325(a), to other participating broadcast stations and cable systems.

**11.55 EAS OPERATION DURING A STATE OR LOCAL AREA EMERGENCY.**

(a) The EAS may be activated at the State or Local Area levels by broadcast stations and cable systems at their discretion for day-to-day emergency situations posing a threat to life and property. Examples of natural emergencies which may warrant activation are: tornadoes, floods, hurricanes, earthquakes, heavy snows, icing conditions, widespread fires, etc. Man-made emergencies may include: toxic gas leaks or liquid spills, widespread power failures, industrial explosions, and civil disorders.

(b) EAS operations must be conducted as specified in State and Local Area EAS Plans. The plans must list all authorized entities participating in the State or Local Area EAS.

(c) Immediately upon receipt of a State or Local Area EAS message, participating broadcast stations and cable systems must do the following:

- (1) State Relay (SR) sources monitor the State Relay Network or follow the State EAS plan for instructions from the State Primary (SP) source.
- (2) Local Primary (LP) sources monitor the Local Area SR sources or follow the State EAS plan for instructions.
- (3) Participating National (PN) and Non-participating National (NN) sources monitor the Local Area LP sources for instructions.

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 11

- (4) Broadcast stations and cable systems participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in the State and Local Area Plans. Television stations must comply with § 11.54(b)(7). Broadcast stations providing foreign language programming shall comply with § 11.54(b)(8).
- (5) Upon completion of the State or Local Area EAS transmission procedures, resume normal programming until receipt of the cue from the SR or LP sources in your Local Area. At that time begin transmitting the common emergency message received from the above sources.
- (6) Resume normal operations upon conclusion of the message.
- (7) The times of the above EAS actions must be entered in the broadcast station or cable system records as specified in § 11.54(b)(15), FCC Form 201 may be used to report EAS activations.
- (8) Use of the EAS codes or Attention Signal automatically grants rebroadcast authority as specified in § 11.54(d).

**EXHIBIT B**

**Current Schedule of Rates and Charges**

## SCHEDULE OF RATES AND CHARGES

Hampton Falls

### MONTHLY CHARGES

	<u>Current Rate</u>	<u>New Rate Jan. 1, 1996</u>
<b>STANDARD SERVICE PACKAGE</b> ...	\$20.80	\$22.87
<i>(includes all Levels of Service below)</i>		
<b><u>LEVELS OF SERVICE</u></b>		
Basic Broadcast .....	\$ 7.28	\$ 7.14
Cable 1 .....	\$ 2.08	\$ 3.12
Cable 2 .....	\$11.44	\$12.61
<i>(Note: Any combination of service levels requires the purchase of the Basic Broadcast Tier.)</i>		
<b><u>PREMIUM CHANNELS</u></b>		
HBO .....	\$10.95	No Change
Showtime .....	\$10.95	No Change
Cinemax .....	\$10.95	No Change
The Disney Channel .....	\$10.95	No Change
SportsChannel .....	\$10.95	No Change
NESN .....	\$10.95	No Change
The Golf Channel .....	\$ 3.95	No Change
Pay Per View Movies .....	Variable	No Change
Playboy Television .....	\$10.95	No Change
The Movie Channel .....	\$10.95	No Change
Encore .....	\$ 5.95	No Change
Service Plus* .....	\$ 2.00	No Change
<i>*(Charge for reception of premium service(s) and Smart Guide on additional outlets.)</i>		
<b><u>OTHER CHARGES</u></b>		
<del>Cable Box .....</del>	<del>\$ 2.02</del>	<del>No Change</del>
FM Service .....	\$ 3.00	No Change
<del>Remote Control .....</del>	<del>\$ .19</del>	<del>No Change</del>
Smart Guide .....	\$ 1.95	No Change
<del>Service Maintenance Plan .....</del>	<del>\$ .95</del>	<del>No Change</del>

Note: Rates do not include applicable regulatory fees, access charges and state and local taxes. In accordance with FCC rules and regulations, a customer has the right to file a complaint with the FCC regarding any rate change on our Cable 1 or 2 tiers within 45 days from the time the change appears on your bill. The address and phone number of the FCC is: Cable Services Bureau, Consumer Protection Division, 1919 M Street NW, Washington, DC 20554, (202) 416-0856. Complaints must be filed on an FCC form 329 which is available from Continental Cablevision, the FCC or your local franchising authority listed on your bill.

### EQUIPMENT & INSTALLATION/SERVICE CHARGES

	<u>Current Rate</u>	<u>New Rate Sep. 1, 1996</u>
Cable Box .....	\$ 2.02	\$ 2.09
Remote Control .....	\$ .19	\$ .28
Service Protection Plan .....	\$ .95	\$ .99
<b><u>INSTALLATION /SERVICE CHARGES</u></b>		
■ Initial Home Installation .....	\$48.00	\$37.21
■ Activation of Prewired Service .....	\$24.77	\$29.77
Activation of Prewired Additional Outlet/ Initial Home Installation .....	\$23.29	\$22.33
Activation of Prewired Additional Outlet/ Separate Home Visit .....	\$32.00	\$29.77
Additional Outlet/Initial Home Installation ....	\$23.29	\$29.77
Additional Outlet/Separate Home Visit .....	\$32.00	\$37.21
Activation of Prewired Service to Apartment/Condominium Unit .....	\$20.85	\$22.33
VCR Connection/Initial Home Installation ....	\$10.67	\$14.88
VCR Connection/Separate Home Visit .....	\$24.77	\$22.33
Activation of Service to Overdue Accounts .....	\$15.00	same
Change of Service (Requiring Home Visit) .....	\$24.77	\$22.33
Change of Service (Not Requiring Home Visit) ..	\$ 1.99	same
● Home Service Visit (per hour) .....	\$32.00	\$44.65
▲ Non-Standard Initial Home Installation .....	\$32.00	\$37.21
Customized Home Installation (per hour) ....	\$32.00	\$44.65
* Home Amplifier/Initial Home Installation .....	\$10.67	\$22.33
* Home Amplifier/Separate Home Visit .....	\$24.77	\$52.24
<b><u>MISCELLANEOUS CHARGES</u></b>		
Unreturned or Damaged Cable Box .....	(up to) \$250.00	same
Unreturned or Damaged Remote Control .....	(up to) \$ 25.00	same
A/B Switch Equipment Purchase .....	\$ 10.00	same
Home Amplifier Equipment Purchase .....	\$ 44.50	same
Returned Check Fee .....	\$ 15.00	\$18.00
Late Fee (except Maine towns) .....	\$ 1.00	same

■ Primary Outlet Only

● Service charge for problems not related to Company's equipment or cable signal. (1/2 Hour minimum.)

▲ Additional charges for time and materials are added to the Initial Home Installation charge. Definition of non-standard Installation varies by service area.

\* Separate equipment charge applies.

Rates do not include federal, state and local taxes and fees.

INSERT #4557





AT&T Broadband  
6 Campanelli Drive  
Andover, MA 01810  
Phone 978 683-5500  
Fax 978 683-6631  
Human Resources Fax 978 975-8732  
Legal Fax 978 683-7057  
Marketing Fax 978 683-8379

June 18, 2002

VIA AIRBORNE EXPRESS

Board of Selectmen  
Town of Hampton Falls  
One Drinkwater Road  
Hampton Falls, NH 03844

**Re: Franchise Performance Bond**

Dear Chairman and Members of the Board:

Enclosed for your files is the original St. Paul Fire and Marine Insurance Company bond # SS9939 in the amount of \$100,000. Said bond is in accordance with Section 7.3 of the Renewal Cable Television License which commenced on October 2, 1996 and expires on October 1, 2011.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,

Ronni A. Ricker  
Coordinator of Legal  
& Regulatory Affairs

RAR/dc

Enc.

cc: Cable Advisory Committee - c/o Town Hall  
Mark Reilly, Esq. - AT&T Broadband Vice President of Law & Public Policy  
Elizabeth A. Graham - AT&T Broadband Director of Government Affairs  
Jerry Reese - AT&T Broadband Manager of Government Affairs

