



June 28, 2023

Via email

Mr. Timothy Pellerin, Town Manager
Town of South Berwick
180 Main Street
South Berwick, ME 03908

Re: Town of South Berwick – Cable Television Franchise Agreement

Dear Mr. Pellerin:

Please find attached the fully executed Cable Television Franchise between the Town of South Berwick and Comcast which will commence on September 8, 2023.

Please do not hesitate to contact me at Bryan_Christiansen@comcast.com or 617-279-6956 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Christiansen', is written over a horizontal line.

Bryan Christiansen, Director
Government & Regulatory Affairs

cc: Select Board -Town of South Berwick
Denise Mason, Manager, Comcast (via email)
Comcast Corporate Franchising (via Division transmittal)
Comcast Division Franchising and Finance (via Division transmittal)

CABLE TELEVISION FRANCHISE

GRANTED TO

COMCAST OF MAINE/NEW HAMPSHIRE, INC.

BY THE

**TOWN OF SOUTH BERWICK,
MAINE**

TERM: September 8, 2023 – September 7, 2033

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AGREEMENT

This Agreement, made this 8th day of September, 2023, between the Town of South Berwick, Maine as statutory Franchising Authority and Comcast of Maine/New Hampshire, Inc. (“Comcast”).

WITNESSETH

WHEREAS, the Franchising Authority of the Town of South Berwick, Maine, pursuant to 30-A M.R.S.A. §3008 and 3010 and the Cable Act, is authorized to grant one or more nonexclusive, revocable cable television franchises to construct, upgrade, operate and maintain a cable television system within the Town of South Berwick; and

WHEREAS, the Franchising Authority conducted a public hearing pursuant to Section 626(a) of the Cable Act for the purpose of providing an opportunity for public comment and to ascertain the future cable-related community needs and interests of South Berwick; and

WHEREAS, the Franchising Authority and Comcast did engage in good faith negotiations and did agree on the terms and conditions contained in this Franchise Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1-DEFINITIONS

For the purpose of this Franchise, the following words, terms, phrases and their derivations shall have the meanings ascribed to them in the Cable Act unless otherwise defined herein. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

(1) Access: The right or ability of any South Berwick resident and/or any Persons affiliated with a South Berwick non-commercial institution to use designated facilities, equipment and/or channels of the Cable System, subject to the conditions and procedures established for such use.

(2) Access Channel: A video channel which the Franchisee shall make available to the Franchising Authority and/or its designees, for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools, educational, institutional and similar organizations.

(3) Affiliate or Affiliated Person: When used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person, excluding any entity that is not involved with the use, business, management, operation, construction, repair and/or maintenance of Comcast Corporation's cable systems, such as NBC Universal

(4) Basic Service: Any service tier which includes the retransmission of local television broadcast signals.

(5) Cable Act: Public Law No. 98-549, 98 Stat. 2779 (1984)(the Cable Communications Policy Act of 1984), as amended by Public Law No. 102-385, 106 Stat. 1460 (1992) (the Cable Television Consumer Protection and Competition Act of 1992), as further amended by Public Law No. 104-458, 110 Stat. 110 (1996) (the Telecommunications Act of 1996).

(6) Cable Service or Service: The one-way transmission to Subscribers of Video Programming or other Programming services, together with Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming services, which the Franchisee may make available to Subscribers generally.

(7) Cable System or System: A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Town, 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 the Communications Act, or (E) any facilities of any electric utility used solely for operating its electric utility systems.

- (8) Commercial Subscriber: A commercial, non-residential Subscriber to Cable Service.
- (9) Complaint: Complaint: Any written or verbal contact with the Franchisee in connection with subscription in which a Person expresses dissatisfaction with an act, omission, product or service that is (1) within the Franchisee's control, and (2) requires a corrective measure on the part of the Franchisee.
- (10) Converter: Any device changing the frequency of a Signal. A Subscriber Converter may expand reception capacity and/or unscramble coded Signals distributed over the Cable System.
- (11) Department of Public Works ("DPW"): The Department of Public Works of the Town of South Berwick, Maine.
- (12) Downstream Channel: A channel over which PEG Signals travel from the Cable System Headend to an authorized recipient of Programming.
- (13) Drop: The cable that connects each home or building to the feeder line of the Cable System.
- (14) Educational Access Channel: A specific channel(s) on the Cable System which is made available for use by, among others, educational institutions and/or educators wishing to present non-commercial educational programming and/or information to the public.
- (15) Effective Date of Franchise (the "Effective Date"): September 8, 2023.
- (16) FCC: The Federal Communications Commission, or successor agency.
- (17) Franchise: The non-exclusive Cable Television Franchise granted to the Franchisee by this instrument.
- (18) Franchise Fee: The payments to be made by the Franchisee to the Town, which shall have the meaning as set forth in Section 622(g) of the Cable Act.
- (19) Franchisee: Comcast of Maine/New Hampshire, Inc., or any successor or transferee in accordance with the terms and conditions in this Franchise.
- (20) Franchising Authority: The Select Board of the Town of South Berwick, Maine.
- (21) Government Access Channel: A specific channel(s) on the Cable System which is made available for use by the Franchising Authority and/or its designee(s) wishing to present non-commercial government Programming and/or information to the public.
- (22) Gross Annual Revenues: All revenues derived by the Franchisee and/or its Affiliates, calculated in accordance with Generally Accepted Accounting Principles ("GAAP"), from the operation of the Cable System for the provision of Cable Service(s) over the Cable System including: the distribution of any Cable Service over the Cable System; Basic Service monthly fees and all other Cable Service fees; any and all Cable Service fees and/or charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; all Commercial Subscriber revenues; all Pay Cable, Pay-Per-View revenues; any other services now or in the future deemed to be Cable Services for purposes of computing Gross Annual Revenues by a court or forum of appropriate jurisdiction; video-on-demand Cable Services; fees paid for channels designated for commercial use; Converter, remote control and other cable-related equipment rentals and/or leases and/or sales; and home shopping revenues and advertising revenues on a pro-rata basis. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of

such Affiliates and/or Persons relating to Signal carriage over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to such Signal carriage. Gross Annual Revenues shall not include taxes or fees imposed by law or regulation and passed through to Subscribers, late fees, Franchise Fees (Fee on Fee), fees from non-Cable Services and bad debt that is written off, consistent with GAAP; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

(23) Headend: The electronic center of the Cable System containing equipment that receives, amplifies, filters and converts incoming Signals for distribution over the Cable System.

(24) Hub or Hub Site: A sub-Headend, generally located within a cable television community, used for the purpose of either (i) Signal processing or switching, or (ii) placement of a fiber node, microwave link or transportation super trunk.

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

(26) Normal Business Hours: Those hours during which most similar businesses in the Town are open to serve customers. In all cases, Normal Business Hours shall include some evening hours at least one (1) night per week and/or some weekend hours.

(27) Origination Capability: An activated cable and connection to an Upstream Channel, which allows User(s) to transmit a Signal(s) upstream to a designated location.

(28) Outlet: An interior receptacle, generally mounted in a wall that connects a Subscriber's or User's equipment to the Cable System.

(29) Pay Cable or Pay Service(s): Programming delivered for a fee or charge to Subscribers on a per-channel or group-of-channels basis.

(30) Pay-Per-View: Programming delivered for a fee or charge to Subscribers on a per-program or per-event basis.

(31) PEG: The acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.

(32) Pedestal: An environmental protection unit used in housing Cable Television System equipment and/or amplifiers.

(33) Person: An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

(34) Prime Rate: The prime rate of interest at Bank of America, or its successor.

(35) Programming or Video Programming: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(36) Public Access Channel: A specific channel(s) on the Cable System which is made available for use by, among others, South Berwick individuals and/or organizations wishing to present non-commercial programming and/or information to the public.

(37) Public Way or Street: The surface of, as well as the spaces above and below, any and all public

streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements, and public grounds or waters and all other publicly owned real property within or belonging to the Town, now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Franchisee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

(38) Town: The Town of South Berwick, Maine.

(39) Scrambling/encoding: The electronic distortion of a Signal(s) in order to render it unintelligible or unreceivable without the use of a Converter or other decoding device.

(40) Select Board: The Select Board of the Town of South Berwick, Maine.

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

(42) State: The State of Maine.

(43) Subscriber: Any Person, firm, corporation or other entity in the Town who or which elects to subscribe to, for any purpose, a Service provided by the Franchisee by means of, or in connection with, the Cable System.

(44) Transfer: The disposal by the Franchisee, directly or indirectly, by gift, assignment, sale, merger, consolidation or otherwise, of ownership resulting in a change of control of the Cable System or of this Franchise, to a Person or a group of Persons.

(45) Trunk and Distribution System: That portion of the Cable System for the delivery of Signals, but not including Drops to Subscriber's residences.

(46) Upstream Channel: A channel over which PEG Signals travel from an authorized location to the System Headend.

(47) User: A Person utilizing PEG Access facilities for purposes of production and/or transmission of PEG Access programming as opposed to utilization solely as a Subscriber.

ARTICLE 2

GRANT OF FRANCHISE

Section 2.1-GRANT OF FRANCHISE

Pursuant to the authority of 30-A M.R.S.A. §3008 and 3010 of the laws of the State of Maine, and subject to the terms and conditions set forth herein, the Select Board of the Town of South Berwick, Maine, as the Franchising Authority, hereby grants a non-exclusive Cable Television Franchise to the Franchisee, authorizing and permitting the Franchisee to, install, upgrade, operate and maintain a Cable System within the corporate limits of the Town of South Berwick.

This Franchise is granted under and in compliance with the Laws of Maine; the Cable Act and the rules and regulations of the FCC in force and effect during the period for which this Franchise is granted.

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 System in, under, over, along, across or upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town of South Berwick within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way. Nothing herein shall preclude Franchisee from offering any service over the Cable System as may be lawfully allowed. In exercising rights pursuant to this Franchise, the Franchisee shall not endanger or interfere with the lives of Persons, interfere with any installations of the Town, any public utility serving the Town or any other Persons permitted to use Public Ways and places.

Grant of this Franchise does not establish priority for use over other present or future permit holders or the Town's own use of Public Way and places. Any references herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Franchisee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

Section 2.2-TERM OF FRANCHISE

The term of this Franchise shall be for ten (10) years, commencing on September 8, 2023 and expiring on September 7, 2033, unless sooner terminated as provided herein.

Section 2.3-NON-EXCLUSIVITY OF THE FRANCHISE

(a) This Franchise shall not affect the right of the Franchising Authority to grant to any other Person a franchise or right to occupy or use the Public Ways or streets, or portions thereof, for the construction, installation, operation or maintenance of a Cable Television System within the Town of South Berwick; or the right of the Franchising Authority to permit the use of the Public Ways and places of the Town for any lawful purpose whatsoever. The Franchisee hereby acknowledges the Franchising Authority's right to make such grants and permit such uses.

(b) The grant of any additional Cable Television franchise(s) shall not be on terms materially more favorable or less burdensome than those contained in this Franchise.

Section 2.4-POLICE AND REGULATORY POWERS

By executing this Franchise, the Franchisee acknowledges that its rights are subject to the powers of the Town to adopt and enforce generally applicable by-laws necessary to the safety and welfare of the public. The Franchisee shall comply with all generally applicable DPW regulations, and any generally applicable ordinances enacted by the Town, provided that such ordinances are of general applicability and not specific to the Cable System, Franchisee, or this Franchise, including ordinances and regulations pertaining to management, control and regulation of public rights of way but only to the extent

authorized or allowed by State and Federal law. Any conflict between the terms of this Franchise and any present or future lawful exercise of the Town's police and generally applicable regulatory powers shall be resolved by a court of appropriate jurisdiction.

Section 2.5-REMOVAL OR ABANDONMENT

Subject to applicable law, upon termination of this Franchise by passage of time or otherwise, and unless (1) the Franchisee renews or is seeking renewal of its franchise for another term or (2) the Franchisee Transfers the Cable Television System to a transferee approved by the Franchising Authority, the Franchisee shall remove all of its supporting structures, poles, transmission and distribution systems, and all other appurtenances from the Public Ways and places and shall restore the areas, as close as possible, to their original condition. If such removal is not complete within six (6) months after such termination, the Franchising Authority may deem any property not removed as having been abandoned and may dispose of any such property in any way or manner it deems appropriate. Franchisee shall not be required to remove its Cable System or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Franchisee from providing Cable Service, if the Cable System is actively being used for the provision of a telecommunications or other lawful service.

Section 2.6-AMENDMENT BY MUTUAL AGREEMENT

This Franchise may only be amended by the mutual agreement of the Franchising Authority and the Franchisee, in writing, duly executed and signed by both parties, and attached hereto and made a part of this Franchise.

ARTICLE 3

TRANSFER AND ASSIGNMENT OF FRANCHISE

Section 3.1-TRANSFER OF THE FRANCHISE

(a) Subject to applicable law and compliance with the provisions in this Section 3.1, neither this Franchise, nor control thereof, nor any right thereto, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any Person, company and/or other entity holding such Franchise to any other Person, company and/or other entity, without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. Such consent shall be given upon a written application therefor on forms prescribed by the FCC.

(b) The application for consent to a Transfer or assignment shall be signed by the Franchisee and by the proposed transferee or assignee or by their representatives, evidence of whose authority shall be submitted with the application.

(c) The Franchisee shall submit to the Franchising Authority an original and two (2) copies, unless otherwise directed, of its FCC Form 394 (or such other or successor form used to request consent to any such Transfer or assignment). The request for approval of Transfer or assignment shall also contain all reasonably appropriate documentation and such additional information as the Franchising Authority may reasonably require.

(d) The consent of the Franchising Authority shall be given only after a public hearing, if such a hearing is scheduled by the Franchising Authority, in writing, in a timely manner, or requested by the Franchisee, in writing, in a timely manner, to consider the written request for Transfer. The Franchising Authority shall complete review of the request for Transfer and make a decision thereto no later than one hundred twenty (120) days after receipt of the request for Transfer. If the Franchising Authority fails to render a final decision on such request within said 120 days, such request shall be deemed granted unless both parties hereto agree to an extension of time.

(e) For purposes of determining whether it shall consent to any such change of control and ownership, the Franchising Authority shall consider the legal, financial, managerial, and technical qualifications of the prospective controlling or owning Person to operate the Cable System.

(f) Any proposed controlling or owning Person or transferee approved by the Franchising Authority shall be subject to all of the terms and conditions contained in this Franchise.

Section 3.2-EFFECT OF UNAUTHORIZED ACTION

(a) The taking of any action in violation of Section 3.1 herein shall be null and void, and shall be deemed a material breach of this Franchise.

(b) If the Franchising Authority denies its consent to any such action and a Transfer has nevertheless occurred, the Franchising Authority may revoke and terminate this Franchise.

(c) The grant or waiver of any one or more of such consents shall not render unnecessary any subsequent consent or consents, nor shall the grant of any such consent constitute a waiver of any other rights of the Town.

Section 3.3-NO WAIVER OF RIGHTS

The consent or approval of the Franchising Authority to any assignment, lease, Transfer or sublease of the Franchise granted to the Franchisee shall not constitute a waiver or release of the rights of the Town in and to the streets and Public Ways or any other rights of the Town under this Franchise, and any such Transfer shall, by its terms, be expressly subordinate to the terms and conditions of the Franchise.

ARTICLE 4

SYSTEM DESIGN

Section 4.1-CABLE SYSTEM

(a) In accordance with the requirements of Article 5, the Franchisee shall construct, operate, maintain and make available to all residents of the Town a Cable System of at least 860 MHz.

(b) The Franchisee shall transmit all of its Signals to Subscribers in stereo, provided that such Signals are delivered to the Franchisee in stereo.

(c) The system design of the Cable Television System shall conform to all applicable FCC technical specifications.

Section 4.2-EMERGENCY ALERT SYSTEM

The Cable System shall be in compliance with the FCC's Emergency Alert System ("EAS") regulations and in accordance with applicable Maine laws and/or regulations.

Section 4.3-PARENTAL CONTROL CAPACITY

The Franchisee shall provide, upon request, Subscribers with the capability to control the reception of any channels being received on their television sets, at a cost, if any, pursuant to applicable law(s).

ARTICLE 5

CONSTRUCTION, INSTALLATION, LINE EXTENSION AND MAINTENANCE STANDARDS

Section 5.1-SERVICE AVAILABILITY

(a) The Franchisee shall make Cable Service available to every residential dwelling unit in the Town in accordance with Section 5.1 (b) and (c) below, provided that the Franchisee is able to obtain any necessary easements and/or permits and subject to the completion of make-ready work. The Franchisee shall make every reasonable effort to obtain private rights-of-way and MDU access agreements and will comply with applicable State laws and regulations.

(b) The Cable System shall be extended automatically, at the Franchisee's sole cost and expense, to any and all remaining areas of the Town containing fifteen (15) dwelling units or more per aerial mile or thirty (30) dwelling units or more per underground mile of Cable System plant or fractional proportion thereof, both as measured from termination of the existing Trunk and Distribution System from which a usable Cable Service signal may be obtained. For purposes of this section, a home shall only be counted as a "dwelling unit", if such home is unserved and within two hundred (200) feet of the Public Way.

(c) Installation charges shall be non-discriminatory. A standard aerial installation charge shall be established by the Franchisee which shall apply to any residence located not more than two hundred feet (200') from the existing aerial Trunk and Distribution System and additions thereto. The Franchisee may charge residents located more than two hundred (200') feet from the existing aerial Trunk and Distribution System, and additions thereto, time and materials charges including a rate of return in accordance with applicable law in addition to the standard installation charge. The Franchisee shall have ninety (90) days to survey, design and install non-standard installations that are more than two hundred (200') feet from the existing Trunk and Distribution System, subject to Force Majeure. Underground installations are considered non-standard installations and may be subject to additional charge(s).

(d) The Cable Television System shall be further extended to all remaining areas in the Town that do not meet the requirements of Section 5(c) 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 measured from termination of the 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 Town;
- * P equals the fifteen (15) dwelling units per aerial or thirty (30) dwelling units per underground mile of aerial plant; and
- * SC equals the per dwelling unit contribution in aid of construction in the line extension area.

(e) Any dwelling unit owner located in an area of the Town without Cable Service may request such Service from the Franchisee. In areas meeting the requirements of Section 5 (c) and (d) above, the Franchisee shall extend Service to the area subject to Force Majeure and the performance of make ready. In those areas with less than fifteen (15) dwelling units per aerial or thirty (30) dwelling units per underground mile, both as measured from termination of the existing Trunk and Distribution System from which a usable Cable Service signal can be obtained, the Franchisee shall, within thirty (30) days following a request for Service, conduct a survey to determine the number of dwelling units in the area and shall inform the requesting dwelling unit owner of the contribution in aid of construction (see Section 5 (d) above) that will be charged.

The Franchisee shall apply for all necessary permits and pole attachment licenses within thirty (30) days of receiving the contribution in aid of construction from all participating dwelling units. Cable Service(s) shall be made available and fully activated to all requesting dwelling units who made a contribution in aid of construction within ninety (90) days of receipt of all necessary permits and pole attachment licenses by the Franchisee, subject to Force Majeure (including the performance of make-ready work).

(f) The Franchising Authority shall make its best efforts to provide the Franchisee with written notice of the issuance of building permits for planned housing developments in the Town.

Section 5.2-LOCATION OF CABLE SYSTEM

The Franchisee shall operate and maintain the Cable Television System within the Town of South Berwick. Poles, towers and other obstructions shall be erected so as not to interfere with vehicular or pedestrian traffic over Public Ways and places. The erection and location of all poles, towers and any other obstructions shall be in accordance with applicable Town ordinances and regulations.

Section 5.3-UNDERGROUND FACILITIES

(a) In the areas of the Town having telephone lines and electric utility lines underground, whether required by law or not, all of the Franchisee's lines, cables and wires shall be underground. At such time as these facilities are placed underground by the telephone and electric utility companies or are required to be placed underground by the Town, the Franchisee shall likewise place its facilities underground at its sole cost and expense.

(b) Underground cable lines shall be placed beneath the pavement subgrade in compliance with applicable Town ordinances, rules, regulations and/or standards. It is the policy of the Town that existing poles for electric and communication purposes shall be utilized wherever possible and that underground installation is preferable to the placement of additional poles.

(c) Franchisee shall have the right to reimbursement of project costs under any applicable insurance or government program for reimbursement. In the event that project costs are not reimbursed, Franchisee reserves the right to pass its costs through to Subscribers.

Section 5.4-TREE TRIMMING

In the installation of amplifiers, poles, other appliances or equipment and in stringing of cables and/or wires as authorized herein, the Franchisee shall avoid all unnecessary damage and/or injury to any and all shade trees in and along the streets, alleys, Public Ways and places, and private property in the Town. The Franchisee shall comply with all generally applicable rules and/or regulations established by the Franchising Authority or its designee during the term of this Franchise regarding tree and/or root trimming and/or pruning.

Section 5.5-RESTORATION TO PRIOR CONDITION

Whenever the Franchisee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the Franchisee fails to make such restoration within a reasonable time, the Franchising Authority may fix a reasonable time for such restoration and repairs and shall notify the

Franchisee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon failure of the Franchisee to comply within the specified time period, 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.

Section 5.6-TEMPORARY RELOCATION

The Franchisee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person holding a building moving permit issued by the Town. The expense of such raising or lowering shall be paid by the party requesting such move. The Franchisee shall be given not less than forty-five (45) days advance notice to arrange for such temporary wire changes and maintain continuity of service.

Section 5.7-DISCONNECTION AND RELOCATION

The Franchisee shall, without charge to the Franchising Authority and/or the Town, protect, support, temporarily disconnect, relocate in the same street, or other Public Way and place, 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 Town department acting in a governmental capacity. Franchisee shall have the right to reimbursement of project costs under any applicable insurance or government program for reimbursement. In the event that project costs are not reimbursed, Franchisee reserves the right to pass its costs through to Subscribers.

Section 5.8-SAFETY STANDARDS

The Franchisee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with Occupational Safety and Health Administration regulations, the National Electric Code, the National Electrical Safety Code, the rules and regulations of the FCC, all applicable building codes and land use restrictions as the same exist or may be amended hereafter.

Section 5.9-PRIVATE PROPERTY

The Franchisee shall be subject to all generally applicable laws, by-laws and/or regulations regarding private property in the course of constructing, upgrading, installing, operating and maintaining the Cable Television System in the Town. The Franchisee shall promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, upgrade, installation, operation or maintenance of the Cable Television System without charge to the Franchising Authority or the affected Subscriber(s).

Section 5.10-RIGHT TO INSPECTION OF CONSTRUCTION

(a) The Franchising Authority and/or its designee(s) shall have the right to inspect all construction and installation work performed subject to the provisions of this Franchise in order to ensure compliance with the terms and conditions of this Franchise and applicable law. Any such inspection shall not interfere with the Franchisee's operations, except in emergency situations.

(b) Any inspections conducted by the Franchising Authority and/or its designee(s) shall be at the sole cost and expense of the Town and shall have the prior written approval of the Franchisee, which approval shall be given in a timely manner and which approval shall not be unreasonably denied or withheld. Unless otherwise mutually agreed upon, the Town shall give at least fourteen (14) days prior notification to the Franchisee of its intention to conduct any inspection. The Franchisee shall be present during all such inspections.

Section 5.11-CABLE SYSTEM MAPS

Upon written request, but no more than once annually, the Franchisee shall file with the Franchising Authority strand maps of the Cable System plant. Said strand maps shall include the routing of the Cable System, including all underground and aerial plant.

Section 5.12-COMMERCIAL ESTABLISHMENTS

The Franchisee shall make Cable Service(s) available to any commercial establishments in the Town provided that said establishment(s) agrees to pay for installation and monthly subscription costs as lawfully established by the Franchisee, in accordance with applicable law(s) and/or regulation(s).

Section 5.13-SERVICE INTERRUPTION

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 minimal use and, if practical, only after a minimum of twenty-four (24) hour notice to all affected Subscribers.

ARTICLE 6

SERVICES AND PROGRAMMING

Section 6.1-BASIC SERVICE

The Franchisee shall provide a Basic Service which shall include all Signals which are required to be carried by a Cable System serving the Town pursuant to applicable statute or regulation.

Section 6.2-PROGRAMMING

(a) Pursuant to Section 624 of the Cable Act, the Franchisee shall maintain the mix, quality and broad categories of Programming set forth in **Exhibit 1** attached hereto.

(b) Franchisee shall comply with FCC Rules and Regulations regarding notice of programming changes. Advance notice shall not be required for the launch of new channels when offered on a subscription basis or added to an existing service tier at no additional cost to the customer. Written notices required by this section may be provided electronically as permitted by 47.C.F.R. §76.1600.

Section 6.3-LEASED CHANNELS FOR COMMERCIAL USE

Pursuant to Section 612 (b)(1)(B) of the Cable Act, the Franchisee shall make available channel capacity for commercial use by Persons unaffiliated with the Franchisee.

Section 6.4-CABLE COMPATIBILITY

The Franchisee shall continue to maintain equipment compatibility in accordance with applicable law and regulation.

Section 6.5-CONTINUITY OF SERVICE

It shall be the right of all Subscribers to receive Service insofar as their financial and other obligations to the Franchisee are honored. The Franchisee shall ensure that all Subscribers receive continuous, uninterrupted Service, except for necessary Service interruptions. When necessary Service interruptions can be anticipated, the Franchisee shall notify Subscribers, if practical, in advance.

Section 6.6-FREE CONNECTIONS AND MONTHLY SERVICE TO PUBLIC BUILDINGS AND SCHOOLS

(a) The parties agree that Franchisee will provide Basic Service to the locations identified in **Exhibit 2** and has the right in accordance with applicable law to deduct the marginal cost of those services from franchise fees. Comcast will notify the Town if it intends to implement said offset and the marginal cost of those services at least sixty (60) days prior to doing so.

(b) In accordance with Section 6.6 (a) above, the Franchisee shall, upon written request, provide and maintain one (1) standard aerial installation Subscriber Cable Drop up to 300 feet, (1) Outlet and monthly Basic Service to public schools, public libraries and other public buildings along the Cable System Trunk and Distribution System included in **Exhibit 2**, attached hereto. The Franchisee shall coordinate the location of each Drop and Outlet with each of the aforementioned institutions newly receiving Service. The Franchisee shall provide installation of such Drops and/or Outlets within sixty (60) days of any such requests from the Franchising Authority, subject to Force Majeure.

ARTICLE 7

PUBLIC, EDUCATION AND GOVERNMENT ACCESS CHANNELS AND CAPITAL FUNDING

Section 7.1-PEG ACCESS PROGRAMMING

The Franchising Authority and/or its designee(s) shall be responsible for the provision of PEG Access Programming to Subscribers in the Town.

Section 7.2-PEG ACCESS CHANNELS

(a) Subject to Section 7.2 (e) below, within eighteen (18) months of a written request by the Franchising Authority to the Franchisee, which request must be submitted to the Franchisee before the start of the fifth (5th) year of this Cable Television Franchise. The Franchisee shall make available to the Franchising Authority and/or its designee(s) one (1) Downstream Channel for South Berwick PEG Access use, as follows:

(b) The Franchisee shall provide the one (1) activated Downstream Channel for PEG Access use in standard digital ("SD") format in the Franchisee's Basic Service, the Franchising Authority and/or its designee(s) shall be responsible for providing the PEG Access Channel Signal(s) in SD format to the demarcation point at the designated point of origination for the PEG Access Channel. The Franchisee shall distribute the PEG Access Channels Signal(s) on its Cable System in SD format without substantial alteration or deterioration. The Cable System shall be capable of transmitting color video signals received at the Headend in color, stereo audio signals received at the Headend in stereo and properly formatted closed-captioned signals received at the Headend.

(c) In the event that a second PEG Access Channel is necessary for the provision of PEG Access Programming in South Berwick, the Franchising Authority shall write to the Franchisee, stating that there is a need for a second PEG Access Channel in order to provide additional programming for the benefit of South Berwick Subscribers. In its letter to the Franchisee, the Franchising Authority shall state, in good faith, the basis of such need, and provide reasonable documentation thereto. Said letter shall include the following: (1) that such a second PEG Access Channel is necessary to accomplish the stated PEG Access Programming goals of the Town; (2) that such a second PEG Access Channel will not be used simply to repeat PEG Access Programming that is already carried on the first PEG Access Channel, but will be used to carry substantially new locally-produced PEG Access Programming; and (3) that the initial PEG Access Channel is being substantially programmed (as defined below) with non-duplicated, locally-produced, non-character-generated programming during available cablecast hours, as defined below. The Franchising Authority agrees that such a second PEG Access Channel shall not be utilized solely to carry character-generated messages; provided, however, that the Franchising Authority may use said second PEG Access Channel to carry character-generated messages along with other new PEG Access Programming.

(d) "Substantially programmed" shall be deemed to have occurred anytime that the Public/Educational/Governmental Access Channel is programmed seventy-five percent (75%) of the time between the hours of 3:00 PM and 10:00 PM during weekdays (Monday-Friday) for a period of twelve (12) consecutive weeks, counted on a daily basis, with locally-produced, non-duplicated, non-character-generated PEG Access Programming.

(e) Subject to Section 7.2 (a) in order to provide PEG Access Programming to subscribers, Franchisee and Franchising Authority shall utilize one of the following three methods of bringing PEG Access programming content onto the System:

1. from a Town identified and designated point of demarcation;
2. via direct connections provided by Franchisee from specified PEG origination locations as set forth below in Section 7.3; or

3. by entering into an interconnection agreement with the existing provider of Cable Service in the Town as set forth in Section 7.2(d).

(f) The Franchisee may, with the Town's written approval (which will not be unreasonably withheld) and at Franchisee's expense, interconnect its Cable System with the existing cable operator's cable system(s) in order to cablecast, on a live basis, all PEG Access Programming carried by the existing cable operator consistent with this Agreement. The Franchisee shall take commercially reasonable steps to accomplish such interconnection within eighteen (18) months of the date Cable Service is substantially available to any Subscriber. Interconnection may be accomplished by reasonable method of connection that permits Franchisee to cablecast PEG programming concurrent with delivery to Franchisee's System, Franchisee shall negotiate in good faith with the existing cable operator(s) respecting reasonable, mutually convenient, cost-effective, and technically viable interconnection points, methods, terms and conditions. If requested by Franchisee, the Town shall make a good faith effort to have the existing cable operator(s) provide such interconnection to the Franchisee on reasonable terms and conditions. The Franchisee and the existing cable operator(s) shall negotiate the specific terms and conditions of the interconnection agreement. If requested by Franchisee, the Town may use reasonable efforts to assist in informally mediating disputes.

(g) Said PEG Access Channels shall be used to transmit PEG Access Programming to Subscribers at no cost to the Town and/or PEG Access Users.

(h) The Franchisee shall not move or otherwise relocate the channel location(s) of the PEG Access Channel(s), once established, without the advance, written notice to the Franchising Authority and/or its designee(s); such notice shall be at least thirty (30) days. The Franchisee shall use its best efforts, in good faith, to minimize any PEG Access Channel(s) relocations.

(i) The Franchising Authority and/or its designee(s) shall be responsible for the picture quality of PEG Access Programming at the input of the video transmitters that will be permanently located at each origination location listed below, which is the demarcation point between the video origination equipment owned, operated and maintained by the Franchisee and the Franchising Authority's and/or its designee(s) end-user equipment. The Franchisee may require access to said video transmitter(s) for the purpose of testing, maintaining, and/or adjusting output levels of the video transmitter.

Section 7.3-ORIGINATION POINT

South Berwick Town Hall – 180 Main Street

Section 7.4-EQUIPMENT OWNERSHIP AND MAINTENANCE

The Town shall own and maintain (i) all PEG Access equipment in its possession, as of the Effective Date of this Franchise and (ii) all PEG Access equipment purchased with funding pursuant to this Franchise.

Section 7.5-PEG ACCESS CHANNEL(S) MAINTENANCE

The Franchisee shall monitor the PEG Access Channels for technical quality and shall ensure that they are maintained at standards commensurate with those which apply to the Cable System's commercial channels; provided, however, that the Franchisee is not responsible for the technical quality of PEG Access Programming.

Section 7.6-CENSORSHIP

The Franchisee shall not engage in any program censorship or any other control of the content of the PEG Access Programming on the Cable System, except as otherwise required or permitted by applicable law.

Section 7.7-PEG ACCESSCABLECASTING

(a) In order that PEG Access Programming can be cablecast over the PEG Access Downstream Channels, all PEG Access Programming shall be encoded and then transmitted from the PEG Access Origination Locations specified herein to the Headend or Hub, where such PEG Access Programming shall be retransmitted in the downstream direction on one of the PEG Access Downstream Channel(s).

(b) It shall be the Franchisee's sole responsibility to ensure that said PEG Access Programming is properly switched electronically to the appropriate PEG Access Downstream Channel(s), in an efficient and timely manner. Any switching shall be the responsibility of the Franchising Authority and/or its designee(s). The Franchisee and the Franchising Authority shall negotiate in good faith any difficulties that arise regarding cablecasting of PEG Access Programming.

(c) The Franchisee shall provide and maintain all other necessary switching and/or processing equipment located in its Headend facility in order to switch upstream PEG Access Signals from the Town and/or its designee(s) to the designated Downstream PEG Access Channel(s). Nothing herein shall require the Franchisee to provide any other switching equipment or any other end-user equipment.

(d) In accordance with applicable law, the Franchisee reserves the right to pass-through or line-item costs associated with this Franchise, including the provision of PEG Access Programming to Subscribers.

ARTICLE 8

FRANCHISE FEES

Section 8.1-FRANCHISE FEE PAYMENTS

(a) The Franchisee shall pay to the Franchising Authority, throughout the term of this Franchise, a Franchise Fee equal to two percent (2%) of the Franchisee's Gross Annual Revenues, derived during each year of this Franchise. The Franchising Authority shall have the option, to be exercised by a vote of the Select Board at a public meeting, and made known to the Franchisee in writing, to increase or decrease the Franchise Fee as described herein, not to exceed five percent (5%) of Gross Annual Revenue as described herein. The Franchisee shall have 90 days to implement the request. The Franchisee shall not be liable for Franchise Fees in excess of five percent (5%) of its Gross Annual Revenues; provided, however, that said five percent (5%) cap shall not include (i) any interest due herein to the Franchising Authority and/or its designee(s) because of late payments.

(b) Payments shall be made to the Franchising Authority on the following quarterly basis: (i) on or before May 15th of each year of this Franchise for the previous (3) month period of January, February and March; (ii) on or before August 15th of each year of this Franchise for the previous three (3) month period of April, May and June; (iii) on or before November 15th of each year of this Franchise for the previous three (3) month period of July, August and September; and (iv) on or before February 15th of each year of this Franchise for the previous three (3) month period of October, November and December.

(c) The Franchisee shall file with each such payment a statement, prepared by a financial representative of the Franchisee, documenting, in reasonable detail, the total of all Gross Annual Revenues of the Franchisee during the preceding year.

(d) In the event that the payments required herein are not tendered on or before the dates fixed herein, interest due on such payments shall accrue from the date due at the rate of one percent (1%) above the Prime Rate.

Section 8.2-RECOMPUTATION

(a) Tender or acceptance of any payment required herein shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Town may have for additional sums including interest payable under this Section 8.2. All amounts paid shall be subject to audit and recomputation by the Franchising Authority and shall occur in no event later than two (2) years after each quarterly Franchise Fee is tendered with respect to such fiscal year.

(b) If the Franchising Authority has reason to believe that any such payment(s) are incorrect, the Franchising Authority shall notify the Franchisee of such belief in writing and the Franchisee shall have thirty (30) days from receipt of such written notification to provide the Franchising Authority with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Franchising Authority does not believe that such documentation supports the accuracy of such payment(s), the Franchising Authority may conduct an audit of such payment(s). If, after such audit and recomputation, the Franchise agrees that an additional fee is owed to the Franchising Authority, such fee shall be paid within thirty (30) days after such audit and recomputation.

Section 8.3-AFFILIATES USE OF SYSTEM

Use of the Cable System by Affiliates shall be in compliance with applicable State and/or federal laws, and shall not detract from Services provided to South Berwick.

Section 8.4-METHOD OF PAYMENT

All Franchise Fee payments by the Franchisee to the Franchising Authority pursuant to this Franchise shall be made payable to the Town.

ARTICLE 9

RATES AND CHARGES

Section 9.1-RATE REGULATION

The Franchising Authority reserves the right to regulate the Franchisee's rates and charges to the extent allowable under applicable federal law.

Section 9.2-NOTIFICATION OF RATES AND CHARGES

The Franchisee shall file with the Franchising Authority schedules which shall describe all Services offered by the Franchisee, all rates and charges of any kind, and all terms or conditions relating thereto. The Franchisee shall notify all Subscribers and the Franchising Authority of any impending rate increases in accordance with applicable federal law. Changes in prices for Cable Service, equipment and installation will be in conformance with applicable law, including FCC regulations 47 CFR §§76.1602, 76.1603, and 76.1619.

Section 9.3-PUBLICATION AND NON-DISCRIMINATION

All rates for subscriber Services shall be published and non-discriminatory. A written schedule of all rates shall be available upon request during business hours at the Franchisee's business office. Nothing in this Franchise shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or maintaining subscribers.

Section 9.4-CREDIT FOR SERVICE INTERRUPTION

Under Normal Operating Conditions, in the event that the Franchisee's Service to any Subscriber is interrupted for twenty-four (24) or more consecutive hours, provided that said interruption is not caused by the Subscriber, the Franchisee shall grant such Subscriber upon request a pro rata credit or rebate in compliance with applicable law(s).

ARTICLE 10

INSURANCE AND BONDS

Section 10.1-INSURANCE

From the Effective Date and at all other times during the term of the Franchise, including the time for removal of facilities provided for herein, the Franchisee shall obtain, pay all premiums for, and file with the Franchising Authority, on an annual basis, copies of the certificates of insurance for the following policies:

- (1) A comprehensive general liability policy naming the Franchising Authority, the Town, its officers, boards, committees, commissions, and employees as additional insureds for all claims on account of injury to or death of a Person or Persons occasioned by the construction, installation, maintenance or operation of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000.00) for injury or death or property damage in any one occurrence. The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000.00) in umbrella form. Overall limits of liability may be met through any combination of primary and excess liability insurance policies.
- (2) Automobile liability insurance for owned automobiles, non-owned automobiles and/or rented automobiles in the amount of:
 - (a) One Million Dollars (\$1,000,000.00) combined single limit for bodily injury, consequent death and property damage per occurrence;
- (3) Worker's Compensation and Employer's Liability in the minimum amount of:
 - (a) Statutory limit for Worker's Compensation; and
- (4) The following conditions shall apply to the insurance policies required herein:
 - (a) Such insurance shall commence no later than the Effective Date of this Franchise.
 - (b) Such insurance shall be primary with respect to any insurance maintained by the Town and shall not call on the Town's insurance for contributions.
 - (c) Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in Maine.
 - (d) The Franchisee's failure to obtain to procure or maintain the required insurance shall constitute a material breach of this Franchise under which the Town may suspend operations under this Franchise, subject to the provisions of Section 12.1 herein.

Section 10.2-PERFORMANCE BOND

(a) The Franchisee shall obtain and maintain at its sole cost and expense throughout the entire term of the Franchise a faithful performance bond running to the Town, with good and sufficient surety in the sum of One Hundred Thousand Dollars (\$100,000.00). Said bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by the Franchise.

(b) The performance bond shall be effective throughout the term of the Franchise, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that the Franchisee shall fail to comply with any one or more provisions of the Franchise, or to comply with any order, permit or direction of any department, agency, commission, board, division or office of the Town having jurisdiction over its acts, or to pay any claims, or liens due the Town which arise by reason of the construction, maintenance, operation or removal of the Cable Television System, the Town shall recover from the surety of such bond all damages suffered by the Town as a result thereof, pursuant to the provisions of Sections 12.1 and 12.2 infra.

(c) The performance bond shall be a continuing obligation of this Franchise. In the event that the Town

recovers from the surety, the Franchisee shall take immediate steps to reinstate the performance bond to the \$100,000.00 required coverage herein. Neither this section, any bond accepted pursuant thereto or any damages recovered thereunder shall limit the liability of the Franchisee under the Franchise.

Section 10.3-REPORTING

The Franchisee shall submit to the Franchising Authority, or its designee(s), upon written request, copies of all current certificates regarding (i) all insurance policies as required herein, and (ii) the performance bond as required herein.

Section 10.4-INDEMNIFICATION

The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the Franchising Authority, the Town, its officials, boards, commissions, committees, and/or employees against all claims for damage due to the actions of the Franchisee, its employees, officers or agents arising out of the construction, installation, maintenance, operation and/or removal of the Cable System under the Franchise, including without limitation, damage to Persons or property, both real and personal, caused by the construction, installation, operation, maintenance and/or removal of any structure, equipment, wire or cable installed. Indemnified expenses shall include all reasonable attorneys' fees and costs incurred up to such time that the Franchisee assumes defense of any action hereunder. The Franchising Authority shall give the Franchisee timely written notice of its obligation to indemnify and defend the Franchising Authority. Such notice shall be sufficient as long as it does not prejudice Franchisee's ability to defend the Town. Any settlement requiring Town remuneration must be with the advance, written consent of the Franchising Authority, which shall not be unreasonably denied.

ARTICLE 11

ADMINISTRATION AND REGULATION

Section 11.1-REGULATORY AUTHORITY

The Franchising Authority and/or its designee(s) shall be responsible for the monitoring and oversight of the Cable Television System. The Franchising Authority shall enforce the Franchisee's compliance with the terms and conditions of this Franchise. The Franchising Authority shall notify the Franchisee in writing of any instance of non-compliance pursuant to Section 12.1 infra.

Section 11.2-PERFORMANCE EVALUATION HEARINGS

(a) The Franchising Authority may hold a performance evaluation hearing during each year of this Franchise. The Franchisee shall be provided sixty (60) days' notice of any such hearing. All such evaluation hearings shall be open to the public. The purpose of said evaluation hearing shall be to, among other things, (i) review the Franchisee's compliance with the terms and conditions of this Franchise, customer service and Complaint response, and PEG Access Channels, facilities and support; and (ii) hear comments, suggestions and/or Complaints from the public. The Franchising Authority shall provide the Franchisee with reasonable, advance notice regarding the hearing date and compliance matters.

(b) The Franchising Authority shall have the right to question the Franchisee on any aspect of this Franchise including, but not limited to, the operation, maintenance and/or removal of the Cable Television System. During review and evaluation by the Franchising Authority, the Franchisee shall cooperate fully with the Franchising Authority and/or its designee(s), and produce such documents or other materials as are reasonably requested from the Town. Any Subscriber or other Person may submit comments during such review hearing, either orally or in writing, and such comments shall be duly considered by the Franchising Authority.

(c) Within sixty (60) days after the conclusion of such review hearing(s), the Franchising Authority shall issue a written report with respect to the adequacy of Cable System performance and quality of Service. If inadequacies are found which result in a violation of any of the provisions of this Franchise, the Franchising Authority shall notify the Franchisee in writing of any instance of non-compliance pursuant to Section 12.1 infra. The Franchisee shall subsequently respond and propose a plan for implementing any changes or improvements necessary, pursuant to Section 12.1 infra.

Section 11.3-NONDISCRIMINATION

The Franchisee shall not discriminate against any Person in its solicitation, Service or access activities, if applicable, on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the Town, sex, sexual orientation, disability, age, marital status, or status with regard to public assistance. The Franchisee shall be subject to all other requirements of federal and State laws or regulations, relating to nondiscrimination through the term of the Franchise.

Section 11.4-REMOVAL AND RELOCATION

The Franchising Authority shall have the authority at any time to order and require the Franchisee to remove or relocate any pole, wire, cable or other structure owned by the Franchisee that is dangerous to life or property. In the event that the Franchisee, after notice, fails or refuses to act within a reasonable time, the Franchising Authority shall have the authority to remove or relocate the same, which cost the Franchisee shall reimburse to the Town.

Section 11.5-JURISDICTION

Jurisdiction and venue over any dispute, action or suit shall be in any court of appropriate venue and subject matter jurisdiction located in the State of Maine and the parties by this instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit.

ARTICLE 12

DETERMINATION OF BREACH, LIQUIDATED DAMAGES-FRANCHISE REVOCATION

Section 12.1-DETERMINATION OF BREACH

(a) 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 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:

(b) 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

(c) 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 thirty (30) day period, to 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 twenty-one (21) day intervals as to the Franchisee's efforts, indicating the steps taken by the Franchisee to cure any such default and reporting the Franchisee's progress until any such default is cured.

(d) In the event that (i) the Franchisee fails to respond to such notice of default; (ii) the Franchisee fails to cure the default or to take reasonable steps to cure the default within the required thirty (30) day period; and/or (iii) the Franchising Authority is not satisfied with the Franchisee's response(s) or the Franchisee's efforts to cure, the Franchising Authority 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 and be heard at such public hearing. Within thirty (30) days after said public hearing, the Franchising Authority shall determine whether or not the Franchisee is in default of any provision of this Franchise.

(e) In the event that the Franchising Authority, after such hearings, determines that the Franchisee is in default, the Franchising Authority may determine to pursue any of the following remedies, by written notice to the Franchisee:

- i. seek specific performance of any provision of the Franchise which reasonably lends itself to such remedy as an alternative to damages;
- ii. commence an action at law for monetary damages;
- iii. foreclose on all or any appropriate part of the security provided pursuant to Section 10.2 herein;
- iv. declare the Franchise to be revoked subject to Section 12.3 below, appeal of any such decision and applicable law;
- v. invoke any other remedy available to the Town.

Section 12.2-REVOCATION OF THE FRANCHISE

In the event that the Franchisee fails to comply with any material provision of this Franchise, the Franchising Authority may revoke the Franchise granted herein, subject to the procedures of Section 12.1 above and applicable law.

Section 12.3-TERMINATION

The termination of this Franchise and the Franchisee's rights herein shall become effective upon the earliest to occur of: (i) the revocation of the Franchise by action of the Franchising Authority, pursuant

to Section 12.1 and 12.2 above; (ii) the abandonment of the Cable System, in whole or material part, by the Franchisee without the express, prior approval of the Franchising Authority; or (iii) the expiration of the term of this Franchise. Notwithstanding the above, Franchisee shall not be required to remove or relocate the Cable System, or to sell the Cable System, or any portion thereof as a result of termination, denial of renewal, or any other lawful action to forbid or disallow Franchisee from providing Cable Service, if the Cable System is actively being used for the provision of a telecommunications or other lawful service.

Section 12.4-NON-EXCLUSIVITY OF REMEDY

No decision by the Franchising Authority or the Town to invoke any remedy under the Franchise or under any statute, law or ordinance shall preclude the availability of any other such remedy.

Section 12.5-NO WAIVER-CUMULATIVE REMEDIES

(a) No failure on the part of the Franchising Authority to exercise, and no delay in exercising, any right in this Franchise shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in this Franchise.

(b) The rights and remedies provided herein are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Franchise shall impair any of the rights of the Franchising Authority under applicable law, subject in each case to the terms and conditions in this Franchise.

(c) A waiver of any right or remedy by the Franchising Authority at any one time shall not affect the exercise of such right or remedy or any other right or remedy by the Franchising Authority at any other time. In order for any waiver of the Franchising Authority to be effective, it shall be in writing. The failure of the Franchising Authority to take any action in the event of any breach by the Franchisee shall not be deemed or construed to constitute a waiver of or otherwise affect the right of the Franchising Authority to take any action permitted by this Franchise at any other time in the event that such breach has not been cured, or with respect to any other breach by the Franchisee.

(d) Acceptance of the terms and conditions of this Franchise will not constitute, or be deemed to constitute, a waiver, either expressly or implied, by the Franchisee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions.

ARTICLE 13

SUBSCRIBER RIGHTS & CONSUMER PROTECTION

Section 13.1-TELEPHONE ACCESS

(a) The Franchisee shall comply with the FCC's Customer Service Obligations, at 47 C.F.R. 76.309(c).

Section 13.2-CUSTOMER CALL CENTER/NUMBER

(a) The Franchisee shall maintain and operate its customer service call center twenty-four (24) hours a day, seven (7) days a week, including holidays. The Franchisee reserves the right to modify its business operations with regard to such customer service call center. The Franchisee shall comply with all State and federal requirements pertaining to the hours of operation of such customer service call center.

(b) Phone Number for Call Center: 1-800-934-6489

Section 13.3-FCC CUSTOMER SERVICE OBLIGATIONS/ LOCAL OFFICE LOCATION

a) The Franchisee shall comply with the FCC's Customer Service Obligations, codified at 47 U.S.C. Section 76.309

b) Xfinity Store Location: 861 Central Avenue, Dover, NH

Section 13.4-COMPLAINT RESOLUTION PROCEDURES

Complaints by any Person as to the operation of the Cable System may be filed in writing with the Franchising Authority, which shall within ten (10) days, forward copies of such complaints to the Franchisee. Franchisee will comply 30-A M.R.S.A. §3010.

Section 13.5-BILLING PRACTICES INFORMATION AND PROCEDURES

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

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

Section 13.6-DISCONNECTION AND TERMINATION OF CABLE SERVICES

In no event shall the Franchisee disconnect a Subscriber's Cable Service for nonpayment unless (1) the Subscriber is delinquent, (2) the Franchisee has given said Subscriber written notice of such past due amount in a clear and conspicuous manner and (3) said Subscriber has been given a second notice of delinquency, which may be as part of a monthly bill. Disconnection and/or termination of Cable Services shall be subject to applicable federal and/or State law(s) and regulation(s).

Section 13.7-EMPLOYEE AND AGENT IDENTIFICATION CARDS

All of the Franchisee's employees and agents entering upon private property, in connection with the construction, installation, maintenance and operation of the Cable System, including repair and sales personnel, shall be required to carry an employee identification card issued by the Franchisee.

Section 13.8-PROTECTION OF SUBSCRIBER PRIVACY

The Franchisee shall comply with applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Act and regulations adopted pursuant thereto.

ARTICLE 14

REPORTS, AUDITS AND PERFORMANCE TESTS

Section 14.1-GENERAL

(a) Upon the written request of the Franchising Authority, the Franchisee shall promptly submit to the Town any information regarding the Franchisee, its business and operations, or any Affiliated Person, with respect to the Cable System, any Service, in such form and containing such detail as may be specified by the Town pertaining to the subject matter of this Franchise which may be reasonably required to establish the Franchisee's compliance with its obligations pursuant to this Franchise.

(b) If the Franchisee reasonably believes that the documentation requested by the Franchising Authority involves proprietary or confidential information, then the Franchisee shall submit the information to its counsel, who shall confer with the Town Solicitor for a determination of the validity of the Franchisee's claim of a proprietary or confidential interest. If the Town Solicitor agrees that the material is of a proprietary or confidential nature, the information furnished shall not be a public record, but the Franchisee shall make it available, on its premises, to the Franchising Authority, at times convenient for both parties. The Franchisee may require the Franchising Authority and/or its representatives to execute a confidentiality agreement before making any such information available. In the event of a disagreement, the parties may submit the matter to the appropriate appellate entity.

Section 14.2-QUALITY OF SERVICE

Where there exists evidence which, in the reasonable judgment of the Franchising Authority, casts doubt upon the reliability or technical quality of Cable Service(s), the Franchising Authority shall cite specific facts which casts such doubt(s), in a notice to the Franchisee. The Franchisee shall submit a written report to the Franchising Authority, within thirty (30) days of receipt of any such notice from the Franchising Authority, setting forth in detail its explanation of the problem(s).

Section 14.3-DUAL FILINGS

(a) Upon written request, and pursuant to Section 14.1(b), the Franchisee shall make available to the Town, copies of any petitions or communications with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder.

(b) In the event that either the Franchising Authority or the Franchisee requests from any State or federal agency or commission a waiver or advisory opinion pertaining to any material aspect of the Cable System operation hereunder, it shall immediately notify the other party in writing of said request, petition or waiver.

Section 14.4-ADDITIONAL INFORMATION

At any time during the term of this Franchise, upon the reasonable written request of the Franchising Authority, the Franchisee shall not unreasonably deny any requests for further information which may be reasonably required to establish the Franchisee's compliance with its obligations pursuant to the Franchise, subject to Section 14.1 supra.

Section 14.5-INVESTIGATION

The Franchisee and any Affiliated Person(s) shall cooperate fully and faithfully with any lawful investigation, audit, or inquiry conducted by a Town governmental agency as such is related to Franchisee's compliance with the terms and conditions of this Franchise Agreement.

ARTICLE 15

EMPLOYMENT

Section 15.1-EQUAL EMPLOYMENT OPPORTUNITY

The Franchisee shall comply with all applicable State and federal laws regarding Equal Employment Opportunity.

Section 15.2-NON-DISCRIMINATION

The Franchisee shall adhere to all federal, State and local laws prohibiting discrimination in employment practices.

ARTICLE 16

MISCELLANEOUS PROVISIONS

Section 16.1-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 orally but only by an instrument in writing executed by the parties.

Section 16.2-CAPTIONS

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

Section 16.3-SEPARABILITY

If any section, sentence, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any State or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which shall remain in full force and effect for the term of this Franchise.

Section 16.4-ACTS OR OMISSIONS OF AFFILIATES

During the term of this Franchise, the Franchisee shall be liable for the acts or omission of its Affiliates while such Affiliates are involved directly in the construction, upgrade, maintenance or operation of the Cable System for the provision of Service as if the acts or omissions of such Affiliates were the acts or omissions of the Franchisee.

Section 16.5-FRANCHISE EXHIBITS

The Exhibits to this Franchise, attached hereto, and all portions thereof, are incorporated herein by this reference and expressly made a part of this Franchise.

Section 16.6-WARRANTIES

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

- (a) The Franchisee is duly organized, validly existing and in good standing under the laws of the State of Maine;
- (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 Effective Date of this Franchise, to enter into and legally bind the Franchisee to this Franchise and to take all actions necessary to perform all of its obligations pursuant to this Franchise; and
- (c) To the best of the Franchisee's knowledge, there is no action or proceedings pending or threatened against the Franchisee which would interfere with performance of this Franchise.

Section 16.7-FORCE MAJEURE

If by reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: 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 Maine or any of their departments, agencies, political subdivision, or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; public health emergencies; landslides; lightening; earthquakes; fires; hurricanes;

volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; hazardous safety conditions; and unavailability of essential equipment and/or materials beyond the control of the Franchisee, the Franchising Authority and/or the Town.

Section 16.8-APPLICABILITY OF FRANCHISE

All of the provisions in this Franchise shall apply to, and are enforceable against, the Town, the Franchisee, and their respective successors and assignees.

Section 16.9-NOTICES

(a) Every notice to be served upon the Franchising Authority shall be delivered or sent shall be delivered or sent by certified mail (postage prepaid) or via nationally recognized overnight courier service to:

- (i) Town of South Berwick
Select Board
180 Main Street
South Berwick, ME 03908

or such other address(es) as the Franchising Authority may specify in writing to the Franchisee. 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 of such notice(s).

(b) Every notice served upon the Franchisee shall be delivered or sent by certified mail (postage prepaid) or via nationally recognized overnight courier service to:

- (i) Comcast Cable Communications, Inc.
Attn: Government Affairs
5 Omni Way
Chelmsford, MA 01824

with copies to:

- (ii) Comcast Cable Communications, Inc.
Attn: Vice President, Government Affairs
676 Island Pond Road
Manchester, NH 03109
- (iii) Comcast Cable Communications, Inc.
Attn: Government Affairs
1701 John F. Kennedy Blvd
Philadelphia, PA 19103

or such other address(es) as the Franchisee may specify in writing to the Franchising 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 of such notice(s).

(c) All required notices shall be in writing.

Section 16.10-TOWN'S RIGHT OF INTERVENTION

The Town hereby reserves to itself, and the Franchisee acknowledges the Town's right as authorized by applicable law or regulation to intervene in any suit, action or proceeding involving this Franchise, or any provision in this Franchise.

Section 16.11-NO RECOURSE AGAINST THE FRANCHISING AUTHORITY

Pursuant to Section 635A(a) of the Cable Act, in any court proceeding involving any claim against the Franchising Authority or other governmental entity or any official, member, employee, or agent of the

Franchising Authority or such governmental entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, transfer, or amendment of this Franchise, any relief, to the extent such relief is required by any other provision of federal, State or local law, shall be limited to injunctive relief and declaratory relief.

Section 16.12-TERM

All obligations of the Franchisee and the Franchising Authority set forth in the Franchise shall commence upon the execution of this Franchise and shall continue for the term of the Franchise except as expressly provided for herein.

Section 16.13–NO THIRD-PARTY BENEFICIARIES

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

EXHIBITS

EXHIBIT 1

PROGRAMMING

The Franchisee shall provide the following broad categories of Programming:

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

EXHIBIT 2

FREE CONNECTIONS AND SERVICE TO PUBLIC BUILDINGS AND SCHOOLS

The following schools and public buildings shall receive Drops and the monthly Basic Cable Service at no charge.

Public School Buildings:

Central School @ 197 Main Street

Marshwood Great Works School @ 49 Academy Street

Municipal Buildings:

South Berwick Town Hall @ 180 Main Street

Fire Station @ 71 Norton Street

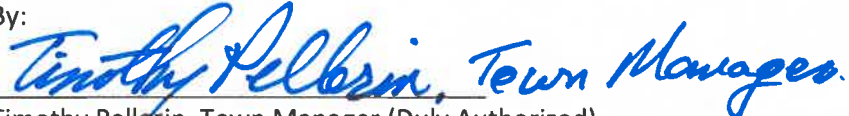
Public Works Garage @ 12 Front Street

SIGNATURE PAGE

In Witness Whereof, the Franchise is hereby issued as of July 11, 2023 by the Town of South Berwick, Maine, as Franchising Authority, and all terms and conditions are hereby agreed to by Comcast Of Maine/New Hampshire, Inc.

TOWN OF SOUTH BERWICK, ME

By:


Timothy Pellerin, Town Manager (Duly Authorized)

COMCAST OF MAINE/NEW HAMPSHIRE, INC.

By:


Anthony M. Bowling, Senior Vice President
Greater Boston Region