



CABLE TELEVISION FRANCHISE AGREEMENT

Between

TOWN OF PITTSFIELD, NEW HAMPSHIRE
(NH0090)

and

ATLANTIC BROADBAND (NH-ME), LLC

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CABLE TELEVISION FRANCHISE AGREEMENT

1.0 DEFINITIONS

1.1 Meanings. For the purposes of this Franchise Agreement, the following terms, phrases, words, abbreviations and their derivations shall have the meanings given herein.

1.1.1. Access or Access Cablecasting. Authorized non-commercial information, entertainment, educational or governmental programming transmitted by the Franchisee on the Cable System's Access Channel in accordance with the requirements of Section 17 of this Franchise Agreement for residents of the Town of Pittsfield, Town departments, boards and agencies, and private and public schools located in the Town.

1.1.2. Access Channel. A video Channel which the Franchisee shall make available to the Town of Pittsfield in accordance with the requirements of Section 17 of this Agreement for the purpose of transmitting authorized non-commercial information, entertainment, educational and governmental programming for residents of the Town of Pittsfield, Town departments, boards and agencies, and private and public schools located in the Town.

1.1.3. Affiliate or Affiliated Person, Any Person who or which directly or indirectly controls the Franchisee, any Person which Franchisee directly or indirectly controls, and any Person directly or indirectly subject to control by a Person which directly or indirectly controls the Franchisee.

1.1.4. Applicable Law. The applicable federal, State and local statutory and regulatory provisions, including any applicable judicial and administrative decisions interpreting such provisions, that exist now or in the future relating to the construction, operation and maintenance of a Cable System and the communications services it provides.

1.1.5. Area Outage. An Area Outage occurs when cable or equipment is damaged, fails or otherwise malfunctions (collectively called "malfunctions"), and eight (8) or more Subscribers receiving Cable Services from that section of cable or that equipment receive unsatisfactory (as established by the applicable FCC technical standards), unusable or no Cable Service as a result of that malfunction.

1.1.6. Basic Service. The service tier that includes the retransmission of local television broadcast signals consistent with the requirements of the Communications Act.

1.1.7. Broadcast. Over-the-air transmission by a radio or television station.

1.1.8. Cable Service. The one-way transmission to Subscribers of video programming or other programming services, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, as defined in Section 602 of the Communications Act.

1.1.9. Cable 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.

1.1.10. **Channel or Video Channel.** The bandwidth used by a Cable System to deliver a standard television broadcast signal (as defined by the FCC).

1.1.11. **Communications Act.** The Communications Act of 1934, as amended.

1.1.12. **Converter.** A special tuner or electronic device attached to the Subscriber's equipment which expands reception capacity and/or unscrambles coded signals distributed over the Cable System.

1.1.13. **Downstream Channel.** A Channel that delivers a video programming Signal from the Cable System Headend to an authorized recipient.

1.1.14. **Drop or Cable Drop.** The connection between each home or building and the feeder line of the Cable System.

1.1.15 **Effective Date.** Sixty (60) days following the execution of this Agreement by the Town and Franchisee.

1.1.16. **FCC.** The Federal Communications Commission or any successor agency.

1.1.17. **Franchise.** An initial authorization, or renewal thereof, issued by the Franchising Authority to the Franchisee consistent with applicable federal and state laws authorizing the construction and/or operation of a Cable System in the Town.

1.1.18. **Franchise Agreement or Agreement.** This contract between the Franchisee and the Franchising Authority regarding the non-exclusive Franchise granted herein.

1.1.19. **Franchisee.** Atlantic Broadband (NH-ME), LLC or any successor or transferee in accordance with the terms and conditions of this Franchise Agreement.

1.1.20. **Franchise Fee.** The payments to be made pursuant to this Agreement to the Franchise Authority by the Franchisee, consistent with Section 622(g) of the Communications Act, as consideration for the Franchise granted herein.

1.1.21. **Franchising Authority.** The Town and the Board of Selectmen of the Town of Pittsfield, or its lawful successor.

1.1.22. **Gross Annual Revenues.** Consistent with the requirements of Applicable Law, revenue actually received during a specified period by the Franchisee from the operation of the Cable System to provide Cable Service in the Town including, without limitation: (i) fees paid by any Subscriber for Cable Services delivered over the Cable System, including all analog and digital video and audio service tiers and optional premium services and per-channel or per-program services, (ii) fees paid by any Subscriber for the provision of any Cable Service related activity in connection with the operation of the Cable System, including fees for installation, additional outlets, relocation, disconnection, reconnection and changes in Cable Services, converter, remote control and other equipment rentals and/or leases and/or sales for Cable Services ; (iii) fees paid by Subscribers on Franchise Fees ("fee on fee"); (iv) fees paid by any Person for the use of Channels designated for commercial use; (v) revenues received from the sale of advertising on the Cable System in the Town; and revenues received from the sale of products on the

Cable System (including home shopping revenues). The term "Gross Annual Revenues" shall also include any other Person's gross revenue that is derived directly or indirectly from or in connection with the operation of the Cable System to the extent that said revenue is derived through a means which has the effect of evading payment of Franchise Fees to the Town by the Franchisee that would otherwise be paid herein. The term "Gross Annual Revenues" shall not include: (a) revenue from telecommunications services or information services unless the same are determined to be Cable Services by the FCC or a court of competent jurisdiction; (b) bad debts; (c) any taxes on services furnished by Franchisee and imposed directly upon any Subscriber or user by the Town, state, federal or other governmental unit; or (d) any other revenue that is not derived from Franchisee's operation of the Cable System to provide Cable Service.

1.1.23 **Headend.** Franchisee's technical facility which broadcast and cablecast signals are received and translated or modified for further distribution over the Cable System to Subscribers.

1.1.24. **Leased Channel or Leased Access.** A Channel that is available on the Cable System for commercial use pursuant to Section 612 of the Communications Act.

1.1.25. **Local Origination.** Local programming produced by the Franchisee and transmitted over the Cable System.

1.1.26. **Outlet.** An interior receptacle that connects a Subscriber's equipment to the Cable System.

1.1.27. **Pay Cable or Premium Services.** Programming delivered for a separate fee or charge to Subscribers on a per-channel or group of channels basis.

1.1.28. **Pay-Per-View.** Programming delivered for a separate fee or charge to Subscribers on a per-program or per-event basis.

1.1.29. **PEG.** The acronym for public, educational and governmental access programming under Section 611 of the Communications Act and used in conjunction with the Access Channel, support and facilities required pursuant to this Agreement.

1.1.30. **Person.** Any person, firm, partnership, association, corporation, company group of individuals acting in concert or organization of any kind.

1.1.31. **Signal.** Any transmission of electromagnetic or optical energy which carries Cable Services from one location to another.

1.1.32. **State.** State of New Hampshire

1.1.33. **Street or Public Way.** The surface of, as well as the spaces above and below, any and all public Streets, roads, avenues, highways, boulevards, concourses, driveways, bridges, sidewalks, Public Ways, circles, lanes, tunnels, and parkways, or other easement dedicated for compatible uses within, belonging to or controlled by the Town, now or hereafter existing.

1.1.34. **Subscriber.** Any Person lawfully receiving Cable Service from the Cable System.

1.1.35. **Town.** The Town of Pittsfield, New Hampshire, a body corporate and politic located in York County in the State of New Hampshire.

1.1.36. **Two-way Capability.** The ability to transmit audio, video and digital Signals upstream and downstream on the Cable System.

1.1.37. **Upstream Channel.** A portion of the electromagnetic frequency spectrum over which Signals travel from an authorized location to a Cable System distribution point.

1.1.38. **Upstream Transmissions.** Signals traveling from Subscriber or other originating points on the Cable System to a cable distribution point.

2.0 GENERAL CONDITIONS

2.1 **Representation by Franchisee.** Franchisee represents to the Franchising Authority that neither it, nor its members, officers, agents, employees or any other Person acting under its control or on its behalf has authorized or exerted or caused to be authorized or exerted any undue influence in furtherance of or to obtain the award of this Franchise Agreement, including any undue political influence, or has performed or authorized or caused to be performed or authorized any unlawful act in furtherance of or to obtain the award of this Franchise Agreement. A breach of the representations contained herein shall constitute a substantial violation of this Franchise Agreement, and shall entitle the Franchising Authority to terminate this Franchise Agreement for cause.

2.2 **Grant of Authority.** Franchisee is hereby granted by the Franchising Authority the non-exclusive right and privilege to construct, upgrade, erect, operate and maintain a Cable System within the current and future jurisdictional boundaries of the Town (hereinafter called the "Franchise Area"), in, upon, along, across, above, over and under the Streets and Public Ways, and all future extensions thereof and additions thereto, poles, wires, cables, optical fibers, underground conduits, manholes and other television and radio conductors and fixtures necessary for the installation, maintenance and operation of a Cable System for the reception, transmission, collection, amplification, origination, interception, sale and distribution of Cable Services and other lawful communications services. The Franchising Authority expressly reserves the right consistent with Applicable Law to authorize other Persons to operate Cable Systems or to provide Cable Service in the Franchise Area on such terms as it deems appropriate, subject to Sections 2.2.3 and 3.2 hereof, and to operate a Town-owned Cable System. No privilege or power of eminent domain is bestowed by this grant of authority.

2.2.1. **No Priority over Public Way.** Grant of this Franchise does not establish priority for use over other present or future permit holders or the Town's own use of Streets and Public Ways. Any reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that it holds property rights in any particular Streets or Public Ways sufficient to permit the use of a particular Street or Public Way for any particular purpose, or that the Town shall gain or be permitted to exercise any rights to use Streets or Public Ways in the Town greater than those already possessed by the Town.

2.2.2. **Compliance with Federal, State and Local Laws and Regulations.** The Franchisee and Franchising Authority shall comply with Applicable Law. This Franchise and all rights and privileges granted hereby are subject to the requirements and limitations of Applicable Law and the police powers of the Town to adopt and enforce laws, ordinances, rules and regulations necessary to the health, safety

and general welfare of the public. Any conflict between the terms of this Franchise Agreement and any present or future exercise of the Town's police powers shall be resolved in favor of the former.

2.2.3 Level Playing Field. In the event that during the term of this Franchise Agreement the Franchising Authority enters into a new franchise agreement or renewal of a franchise agreement with any other Person authorizing the operation of a Cable System within part or all of the Franchise Area for the provision of Cable Service, which Cable System operates in competition with the Franchisee's Cable System, said cable franchise agreement shall be granted on terms that, taken as a whole, are not materially more favorable or less burdensome than the terms of this Franchise Agreement.

2.2.4 Renewal of Franchise. The Franchise may be renewed by the Franchising Authority for an additional period of time in accord with Applicable Law.

2.3 Provision of Service. Beginning with the Effective Date of this Franchise Agreement, and continuing throughout the term thereof, the Franchisee shall make available upon request of the owner, tenant or lessee of any improved "required to be served" property within the Franchise Area the full range of Cable Services available to other Subscribers, subject to payment of Subscriber rates therefore. "Required to be served property" is any property (i) passed by the Cable System on the Effective Date of this Franchise Agreement; (ii) property in areas to which the Cable System and the provision of Cable Service is to be extended as provided in Section 2.3.1 below, effective upon completion of construction in any such areas or relevant portion thereof; and (iii) any property in areas to which the Cable System and the provision of Cable Service must be extended as provided in Section 2.3.2 below, effective in the latter two cases upon completion of construction in any such area or relevant portion thereof.

2.3.1. Service Area. If Franchisee is unable to complete any future extension due to Force Majeure, completion of pole make-ready, or availability of construction crews and equipment, Franchisee shall provide written notice and explanation to the Town on a monthly basis until such extension is completed. Cable Service shall be provided to every existing dwelling unit requesting Cable Service and located on Streets and Public Ways, provided Franchisee is able to obtain from property owners any necessary easements at no cost and/or any applicable permits.

2.3.2. Extensions of Service to New Homes and Businesses. In the case of new homes or businesses constructed after the Effective Date of this Franchise Agreement on Streets or Public Ways to which service is not required to be extended pursuant to Section 2.3.1, the Franchisee agrees to extend service to such new homes or businesses at no cost (other than installation costs as prescribed below in Section 21.1 below) where there are ten (10) full time (twelve (12) months per year) occupied single family residential dwelling units per mile contiguous to the existing Cable System or fractional portion thereof (the "Density Requirement"). Service will be automatically extended to newly developed or previously excepted areas which later meet the Density Requirement. The Franchisee shall have the right, to be exercised in its sole discretion, to extend Cable Service to others parts of the Franchise Area not meeting the Density Requirement. Such other areas may be serviced upon request and upon payment arrangements for the cost in time, materials and labor, permits and pole make-ready work. Franchisee may also require minimum service commitments from subscribers in those parts of the Franchise Area not meeting the Density Requirement.

2.4 Certification by Franchisee. Franchisee hereby certifies that it has investigated its supply sources, is familiar with the community, has examined the Cable System and its operations and has reviewed its own financial condition, and the obligations it assumes hereunder are commercially practicable.

3.0 DURATION OF FRANCHISE AGREEMENT

3.1 Term. The term of this Franchise Agreement shall commence on the Effective Date for a 10 year term.

3.2 Early Termination. If the Federal Government or the State issues a franchise or other authorization to another entity permitting the construction and/or operation of a Cable System in the Town, then Franchisee, in its sole discretion, may terminate this Agreement on thirty (30) days advance written notice to the Franchising Authority and opt to provide Cable Services to the Town pursuant to such Federal or State franchising process. If the Franchising Authority is prevented by operation of law from implementing the requirements of Section 2.2.3 above, then Franchisee, in its sole discretion, may terminate this Agreement on thirty (30) days advance written notice to the Franchising Authority and opt to provide Cable Services to the Town pursuant to the franchise or other authorization granted to any competitor pursuant to such Federal, State or local franchising process.

4.0 EMPLOYMENT PRACTICES

4.1 Equal Opportunity. Franchisee shall not hire, or refuse to hire or employ or bar or discharge from employment or discriminate for or against any Person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex. In carrying out the construction, operation, maintenance, service and repair of the Cable System, Franchisee shall not refuse to hire or employ, or bar or discharge from employment, nor discriminate against any Person in compensation or in terms, conditions or privileges of employment in violation of any Federal or State statute, local ordinance or the Constitution of either the United States or the State.

5.0 INSURANCE/IMMUNITY/INDEMNIFICATION

5.1 Franchisee Insurance. Franchisee shall maintain during the full term of this Franchise Agreement, including the time for removal of facilities provided for herein, such insurance as set forth below covering the construction, installation, operation, and maintenance of the Cable System within the Franchise Area by Franchisee, its employees and agents. The Franchisee shall obtain and pay all premiums for said insurance, and shall file, as obtained and renewed, with the Franchising Authority all certificates of insurance for said insurance.

(i) Worker's Compensation and any other legally required employee benefits shall be supplied in statutory amounts required by the State;

(ii) Property insurance, all risk, replacement cost basis, on all insurable Franchisee assets;

(iii) Commercial General Liability insurance shall be supplied in the following amount: combined single limit for bodily injury, Personal injury, death or property damage in the amount of at least one million dollars (\$1,000,000) per occurrence (which may be supplied by a combination of primary and excess policy limits) and Franchisee's liability insurance shall include contractual liability;

(iv) Motor Vehicle Liability insurance for owned, non-owned, and/or rented motor vehicles, including automobiles and trucks, in the amount of at least two hundred fifty thousand dollars (\$250,000) combined single limit; and

(v) Excess Liability insurance written on an occurrence basis, in the minimum amount of three million dollars (\$3,000,000) per occurrence.

5.1.1. Additional Insured. The liability insurance policy shall name the Town as an additional insured.

5.1.2. Franchisee's Insurance Primary. The insurance of the Franchisee shall be primary for the Cable System operations with respect to any insurance maintained by the Town and shall not call on the Town's insurance for contributions.

5.1.3. Combination of Policies. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those required herein.

5.1.4. Deductibles. The Franchisee shall be responsible for all deductibles.

5.1.5. Failure to Obtain or Maintain Insurance. The Franchisee's failure to procure or maintain the required insurance shall constitute a material breach of the Franchise Agreement under which the Franchising Authority may immediately suspend the right of the Franchisee to operate under this Franchise. Nothing contained herein shall be constructed to give the Franchising Authority the right to terminate this Franchise under these circumstances without first giving the Franchisee the opportunity to cure this material breach under the provisions of this Franchise.

5.1.6. Franchisee's Contractors and Subcontractors. The Franchisee shall require that every one of its contractors and their subcontractors are covered by the Franchisee's insurance as required herein or, in the alternative, said contractors and subcontractors must carry in full force and effect, the same insurance in the same minimum amounts and meeting the same requirements as required in this Section 5.0.

5.1.7. Evidence of Insurance. Upon written request by the Franchising Authority, but not more frequently than annually, Franchisee shall furnish to the Franchising Authority current certificates of insurance, which shall include the indemnity set forth in Section 5.1.1 above and shall include the Town as an additional insured.

5.1.8. Approval. All insurance coverage shall be with a company authorized to do business in the State of New Hampshire.

5.1.9. No Limitation on Town's Recovery. Except as limited by Applicable Law, the provisions of this Section and the provision and/or payment of insurance proceeds are not intended in any way to limit the amount of recovery by the Town to the limits of the bond provided, and the Franchisee, in the event of damage or injury in excess of the insurance provided, agrees that it will be liable to the Town for such excess.

5.2 Town Immunity. The provisions of this Section 5 and the procurement by Franchisee of insurance policies meeting the requirements of this Section 5 shall not be interpreted or construed to affect any waiver, suspension, release or alteration of or to any and all sovereign immunity or other immunities as may be available to the Town by law.

5.3 Indemnification.

5.3.1. Mutual Indemnification.

(a) It is expressly understood and agreed by and between the Franchisee and the Franchising Authority that the Franchisee shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, commissions, committees, employees and agents (hereinafter collectively referred to as the "Town" only for this Section 5.3.1(a)) from and against all damages, losses and expenses incurred on account of any claim, demand, lawsuit, litigation by a third party against the Town, whether judicial, quasi-judicial, administrative or otherwise, arising from or related to the negligence of Franchisee, its officers, employees, contractors, subcontractors, and/or agents in the construction, installation, operation, maintenance, use or removal of the Franchisee's Cable System, including without limitation any claim, demand, law suit, or litigation alleging (i) personal injury (including accidental death) and property damage, or (ii) libel, slander, or unfair competition of any kind whatsoever, whether or not any such act or omission complained of is authorized, allowed or prohibited by the Franchisee. The obligations contained in this Section 5.3.1 shall not apply in the event that any damage, loss or expense incurred by the Town is brought about as a result of the negligent or intentional acts of the Town.

(b) It is expressly understood and agreed by and between the Franchising Authority and Franchisee that the Franchising Authority shall, at its sole cost and expense, indemnify, hold harmless and defend the Franchisee, its directors, officers, employees and agents (hereinafter collectively referred to as the "Franchisee" only for this Section 5.3.1(b)) from and against all damages, losses and expenses incurred on account of any claim, demand, lawsuit, litigation by a third party against the Franchisee, whether judicial, quasi-judicial, administrative or otherwise, arising from or related to the negligent or intentional acts or omissions of the Franchising Authority, its employees and agents in connection with exercising the Franchising Authority's rights and performing its obligations under this Franchise Agreement.

5.3.2. In the event of any claim, demand or litigation specified in Section 5.3.1, the Person entitled to indemnification under Section 5.3.1 (the "Indemnified Party") shall give prompt written notice of such claim, demand or litigation to the Person required to indemnify under Section 5.3.1 (the "Indemnifying Party"). The Indemnifying Party, at its sole cost and expense, shall resist and defend such claim, demand or litigation with legal counsel selected by the Indemnifying Party or its applicable insurer and shall have sole control of the defense or settlement of any claim, demand or litigation and all negotiations for the settlement or compromise of the same. The Indemnified Party and its representatives shall cooperate with the Indemnifying Party and its

representatives in the defense and/or settlement of any claim, demand or litigation. Nothing herein shall be deemed to prevent the Indemnified Party from participating in the defense and/or settlement of any claim, demand or litigation by the Indemnified Party's own counsel at the Indemnified Party's own expense; however, the Indemnifying Party shall have sole control of the defense and/or settlement of any claim, demand or litigation and all negotiations for the settlement or compromise of the same. To the extent the Indemnifying Party makes payment pursuant to this Section, it may require from the Indemnified Party an assignment of all right of recovery against any party. Anything in this Section 5.3 to the contrary notwithstanding, with respect to any third party claim, neither party will (i) dispose of, compromise or settle any claim or action in a manner that is not reasonable under the circumstances and in good faith, or (ii) make any settlement or compromise without the other party's consent, which consent will not be unreasonably withheld, delayed or conditioned.

5.3.3. Indemnified expenses shall include, without limitation, attorneys' fees and costs, all out-of-pocket expenses. This indemnification obligation shall survive after the expiration of this Franchise Agreement, and shall remain in effect until the running of the applicable statute of limitations.

5.3.4. The Indemnifying Party's obligations contained in Section 5.3.1 shall not apply to any damages, losses or expenses on account of any claim, demand, lawsuit, litigation by a third party, whether judicial, quasi-judicial, administrative or otherwise, arising from or related to the negligent or intentional acts or omissions of any Indemnified Party.

6.0 PERFORMANCE BOND

6.1 Performance Bond. Franchisee shall obtain and maintain during the entire term of this Franchise Agreement, at its sole cost and expense, and file with the Franchising Authority, an irrevocable performance bond, running to the Town, with a surety reasonably acceptable to the Franchising Authority and authorized to do business as a surety in the State, to guarantee the faithful performance by Franchisee of all of its obligations under this Franchise Agreement. Such performance bond shall be in the amount of ten thousand (\$10,000.00).

6.1.1. Conditions. The performance bond shall provide, but not be limited to, the following conditions:

(a) There shall be recoverable by Town within thirty (30) days after written request by the Franchising Authority, any and all damages, losses, costs and expenses suffered or incurred by the Town resulting from the failure of Franchisee to comply with one or more provisions of this Franchise Agreement. Such losses, costs and expenses shall include, but not be limited to, reasonable attorney's fees and other legal and auditing expenses.

(b) Not less than thirty (30) days' prior notice to the Franchising Authority shall be provided of Franchisee's or the surety's intention to cancel, materially change, or not to renew the performance bond.

6.2 Forfeiture. The total amount of the bond shall be forfeited in favor of Town in the event:

6.2.1 Franchisee abandons the Cable System or any part thereof at any time during the term of this Franchise Agreement;

6.2.2. There is any unauthorized change in ownership or control of Franchisee, this Franchise Agreement or the Cable System except in compliance with the provisions of Section 8;

6.2.3. Franchisee fails to purchase and maintain insurance as required by Section 5.1 hereof; or

6.2.4. The Franchise Agreement is revoked as provided in Section 9.2 hereof.

6.3 Replenishment. In the event that any portion of the performance bond is forfeited for any reason, Franchisee shall be required to post an additional bond in an amount equal to the forfeiture within forty five (45) days of the date of the forfeiture.

6.4 No Limitation on Town's Recovery. Except as limited by Applicable Law, the provisions of this Section are not intended in any way to limit the amount of recovery by the Town to the limits of the bond provided, and the Franchisee, in the event of damage or injury in excess of the performance bond provided, agrees that it will be liable to the Town for such excess.

7.0 RESERVED.

8.0 OWNERSHIP OF CABLE SYSTEM

8.1 Transfer or Change of Control

8.1.1. Written Approval Required. No majority transfer of the Franchise, transfer of control of the Franchisee or assignment (whether, by sale of stock or otherwise), or of the rights and privileges granted hereunder, or of facilities constituting a significant part of the Cable System, either in whole or in part, shall be effective without prior written approval of the Franchising Authority. Such approval shall not be unreasonably withheld, delayed or conditioned.

(a) In making a determination of whether to approve or reject a transfer or assignment of the Franchise or Cable System, or a transfer of control of the Franchisee, the Franchising Authority may, to the extent consistent with Applicable Law, consider the following: (i) the financial capability, management experience, technical expertise, and/or the legal ability of the transferee or assignee; and (ii) the effect on cable competition. Consistent with the requirements and limitations of Applicable Law, any proposed assignee or transferee shall provide such additional information to the Franchising Authority to reasonably assure it that such assignee or transferee shall adhere to all of the terms and conditions contained in this Franchise.

(b) The following shall not be considered a "change of control" of the Franchisee: (i) a transaction in which ownership interests in Franchisee or the Person controlling Franchisee is transferred from an individual to an immediate family member of that individual, including the individual's spouse, parent, sibling or child, or from one Person to an Affiliate; and (ii) any transaction in which a non-controlling interest in Franchisee or the Person controlling Franchisee.

Any pledge, mortgage, collateralization, or encumbrance, of any assets of, or any ownership interest in, the Cable System or the Franchisee shall not require the prior written approval of the Franchising Authority under this Section 8.1, provided that such transaction will not in any respect prevent the Franchisee or any successor from complying with all of its obligations under this Franchise, but the exercise of any right to foreclose or seize such assets shall be subject to the provisions of this Section.

8.1.2. Conditions Relating to Assignment or Transfer. Any transfer or assignment of the Franchise shall be in writing, which shall include an express written acceptance of all terms and conditions of this Franchise by the transferee or assignee.

8.1.3 Effect of Unauthorized Transfer. Any transfer or assignment of the Franchise or Cable System or transfer of control of the Franchisee without such prior written approval from the Franchising Authority shall constitute a material breach of this Franchise Agreement. The assignment of the Franchise or transfer of control of the Franchisee without the prior written consent of the Franchising Authority shall be null and void, unless such occurs in light of the Franchising Authority unreasonably withholding its consent to said change of control or transfer. If the Franchising Authority denies its consent for an assignment or transfer of the Franchise or Cable System, or for the transfer of control of the Franchisee, and such an assignment or transfer nevertheless has been effected, the Franchising Authority may revoke and terminate this Franchise.

8.2 No Waiver of Rights. The consent or approval to any transfer or assignment of this Franchise or transfer of control of the Franchisee shall not constitute a waiver or release of the rights of the Franchising Authority under this Franchise, and any such transfer, assignment or transfer of control, by its terms, shall be expressly subordinate to the terms and conditions of this Franchise. The consent or approval of the Franchising Authority to any transfer, transfer of control, assignment or similar action shall not constitute a waiver or release of the rights of the Town in and to the Public Ways and streets or any other rights of the Town under this Franchise; nor shall such consent render unnecessary any consent subsequent transactions.

8.3 Management Contract. Neither the Franchisee, nor parent company of the Franchisee, if any, shall enter into a Cable System management contract or any other arrangement for the management of the Cable System, however structured, without the prior written consent of the Franchising Authority, which consent will not be unreasonably withheld, delayed or conditioned. Nothing in this Section 8.2 shall require the Franchising Authority's consent for (i) employment contracts; (ii) contracts with contractors or subcontractors; or (iii) contracts with consultants or other professionals that the Franchisee may use in the construction, operation and/or maintenance of the Cable System.

8.4 Bankruptcy. Subject to applicable bankruptcy law(s), if there shall be filed against the Franchisee in any court, pursuant to any statute either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Franchisee's property, and if, within sixty (60) days thereof, the Franchisee fails to secure a discharge thereof or if the Franchisee shall voluntarily file any such petition or make an assignment for the benefit of creditors, or petition for or enter into an arrangement, the Franchisee shall notify the Franchising Authority of such fact within five (5) days of its occurrence. The term "bankruptcy" as used herein shall include an assignment for the benefit of creditors and a petition for rearrangement or other similar procedure.

9.0 DETERMINATION OF BREACH/REVOCATION

9.1 Determination of Breach.

9.1.1. It is the intent of the parties hereto to initially attempt to resolve disputes arising under this Franchise Agreement informally. In the event that such efforts are not successful, the Franchising Authority and the Franchisee shall follow the procedures set forth in Section 9.

9.1.2. In the event the Franchising Authority has reason to believe that the Franchisee has defaulted in the performance of any or several provisions of this Franchise Agreement, except as excused by force majeure, the Franchising Authority shall notify the Franchisee, in writing, of the provision or provisions that the Franchising Authority believes may be in default and the details relating thereto. The Franchisee shall have sixty (60) days from the date of receipt of such notice to:

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

(b) Cure any such default (and provide written evidence of the same), or, in the event that by the nature of the default, such default cannot be cured within such thirty (30) day period, to take responsible steps to cure said default and diligently continue such efforts until said default is cured. Upon written request, the Franchisee shall reply to the Franchising Authority, in writing, by certified mail, indicating the steps taken by the Franchisee to cure said default and reporting the Franchisee's progress until such default is cured.

(c) In the event that (i) Franchisee fails to respond to such notice of default; (ii) the Franchisee fails to cure the default or take reasonable steps to cure the default within the required thirty (30) day period or any reasonable extension of the cure period; or (iii) the Franchising Authority is not satisfied based on reasonable standards with (1) the Franchisee's response pursuant to paragraph (a) above or (2) the Franchisee's efforts to cure pursuant to paragraph (b) above, the Franchising Authority shall promptly schedule a public hearing no sooner than thirty (30) days after Franchisee's receipt of written notice sent by certified mail from the Franchising Authority. The Franchisee shall be provided a full and fair opportunity to offer evidence, to question any Person(s) offering testimony or other evidence and to be heard at such public hearing.

(d) Within thirty (30) days after said public hearing, the Franchising Authority shall determine whether or not the Franchisee is in default of any provisions of the Franchise Agreement. In the event that the Franchising Authority, after such hearing, determines that the Franchisee is in such default, the Franchising Authority

(i) shall issue a written decision containing its findings; (ii) provide the Franchisee a final opportunity to cure the default and (iii) if Franchisee fails to cure within the time frame set by the Franchising Authority, may determine to pursue any of the following remedies:

(1) commence an action for monetary damages;

(2) foreclose on all or an appropriate part of the security provided pursuant to Section 6.0 of this Agreement;

(3) revoke the Franchise subject to the requirements and limitations of Section 9.2 and Applicable Law; and/or

(4) invoke any other lawful remedy available as to the Franchising Authority

9.2 Revocation. In the event that the Franchisee fails to comply with any material provision of this Franchise Agreement or any rule, order or determination of the Franchising Authority made pursuant to this Franchise Agreement, the Franchising Authority may revoke the Franchise granted herein, subject to the procedures of Section 9.1 above and Applicable Law.

9.3 Franchisee Removal. If upon expiration, termination or revocation (collectively "Termination") of this Franchise Agreement, the Franchising Authority exercises its option to require Franchisee to remove the Cable System, upon failure of Franchisee to complete such removal within one (1) year of the effective date of such Termination or such additional time as is reasonably required to complete such removal, the Franchising Authority may deem any property not removed to have been abandoned, and title thereto shall vest in the Town, or the Town may remove such property at Franchisee's expense. Notwithstanding anything herein to the contrary, no removal of the Cable System shall be required and no transfer of title shall occur if Franchisee has initiated an action challenging the Termination in a court of competent jurisdiction and such action is not subject to a final order of the court with jurisdiction that is not subject to appeal.

9.4 Non-Exclusivity of Remedy. Except to the extent limited by Applicable Law, no decision by the Franchising Authority and/or the Franchisee to invoke a remedy under the Franchise Agreement or under any law, ordinance or regulations shall preclude the availability of any other such remedy.

10.0 FRANCHISE FEE

10.1 Franchise Fee. Franchisee shall pay to the Franchising Authority a Franchise Fee equal to zero percent (0%) of the Franchisee's Gross Annual Revenues. During the term of the Agreement, the Franchising Authority may increase the Franchise Fee percentage up to five (5%) percent provided such increase is adopted by way of a Resolution and a copy of such Resolution is provided to the Franchisee. Any change in the percentage of Franchise Fee will be effective 90 days following the adoption of the Resolution. Franchise Fee payments shall be used by the Franchising Authority for costs and expenses arising from, connected with or related to PEG Access programming, operations, facilities and equipment. However during the term of the Agreement, the Town shall have the right to increase the percentage of Franchise Fee up to a maximum of five (5%) percent. If an increase is put in place, the Franchise Fee payment shall be made on a yearly basis no later than sixty (60) days following the end of each calendar year. The Franchisee shall file with each yearly payment a statement certified by a duly authorized financial representative of the Franchisee documenting in reasonable detail the Gross Annual Revenue for that time period.

10.2 Franchise Fee Cap. In accordance with Section 622(b) of the Communications Act, the Franchisee shall not be required to pay a Franchise Fee in excess of five percent (5%) of its Gross

Annual Revenues, provided, however, that said five percent (5%) cap shall not include any payment made by Franchisee to the Franchising Authority that is excluded from the definition of "Franchise Fee" pursuant to Section 622(g) (2) of the Communications Act.

10.3 Late Payment. In the event the Franchise Fee(s) herein required are not tendered within thirty (30) days of the dates fixed in Section 10.1 above, interest due on such Franchise Fee(s) shall accrue from the due date at an annual rate of one percent (1%) above the prime rate of interest (at the Federal Reserve Bank of Boston or its successor).

10.4 Recomputation. Tender or acceptance of any payment 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 Franchising Authority may have for additional sums including interest payable under Section 10.3. All amounts shall be subject to audit and precomputation by the Franchising Authority, which shall occur in no event later than one (1) year after the Franchise Fees are tendered. If, after an audit and recomputation, the Franchising Authority determines, following the procedures established in Section 9 of this Agreement, that an additional payment is owed to the Franchising Authority, such payment shall be paid within forty five (45) days after such audit and recomputation unless Franchisee challenges the Franchising Authority's determination that additional Franchise Fees are owed in a court or administrative agency of competent jurisdiction such additional payment. The interest on such additional payment shall be charged from the due date at the rate of one percent (1%) above the prime rate of interest (at the Federal Reserve Bank of Boston or its successor), during the period that such additional payment is owed; provided, however, that there shall be no interest or late charge on any portion of disputed fees where there is a bona fide dispute as to the obligation to pay such fees, during the pendency of any such bona fide dispute.

10.5 Other Payment Obligations and Exclusions. The Franchise fee payments shall be in addition to and shall not constitute an offset or credit against any taxes which the Franchisee or any Affiliated Person shall be required to pay to the Town, the State or any federal agency or authority, as required herein or by Applicable Law; the payment of said taxes shall not constitute a credit or offset against the Franchise Fee payments, all of which shall be separate and distinct obligations of the Franchisee and each Affiliated Person. The Franchisee agrees that no such taxes shall be used as offsets against the Franchise Fee payments, and the Franchising Authority agrees that it will not assess or collect Franchise Fees from the Franchisee or any Affiliated Person in excess of the Franchisee Fee cap established by Applicable Law.

10.6 Subscriber Bill. Pursuant to Section 622(f) of the Cable Act, the Franchisee may designate that portion of Subscribers' monthly bills attributable to the Franchise Fee as a separate item on the bill. Nothing herein shall prevent Franchisee from separately itemizing any amount on Subscribers' monthly bills or providing any additional information or explanation on such bills consistent with Applicable Law.

11.0 PARENTAL CONTROL

11.1 Parental Control Devices. Franchisee shall make available to any Subscriber so requesting, for sale or rental, a "parental control device" which will permit the Subscriber, at his or her option, to eliminate comprehensible reception of one or more Channels of Cable Service or Pay Cable Channels. If the required device is in the Franchisee's inventory, it will be installed or made available to the requesting Subscriber within twenty (20) days of the request.

12.0 SEVERABILITY

12.1 Invalid Provisions. All terms and conditions of this Franchise Agreement are subject to Applicable Law. If any provision of this Franchise Agreement is held by any court or Federal or State agency of competent jurisdiction to be invalid due to a conflict with any Applicable Law now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any Applicable Law, said provision shall be considered a separate, distinct and independent part of this Franchise Agreement, and such holding shall not affect the validity and enforceability of all other provisions hereof, all of which shall remain in full force and effect for the term of this Franchise Agreement.

12.2 Renegotiation of Invalid Provision. Notwithstanding the foregoing, if any part of this Franchise Agreement is declared or found to be invalid by any court or federal or state agency of competent jurisdiction, such specific part declared or found to be invalid shall be renegotiated in good faith by the Franchisee and the Franchising Authority to restore the relative benefits and burdens of this Franchise Agreement subject to terms and conditions acceptable by both parties and consistent with Applicable Law. In the event that the law, rule or regulation that conflicted with the provision of this Agreement found invalid is subsequently repealed, rescinded, amended or otherwise changed, so that the provision of this Agreement that had been held invalid or modified is no longer in conflict with Applicable Law then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto. However, if said provision has been renegotiated, as provided for herein, the parties may agree in writing to retain any such renegotiated provision in force rather than reverting back to the original provision, provided that there is no conflict between said renegotiated provision and any such law, rule or regulation allowing the original provision to be reinstated.

13.0 OPERATIONS

13.1 Availability. The Cable System shall be so designed and constructed as to provide Cable Service pursuant to Section 2.3 hereof.

13.2 Non-Discrimination. Franchisee shall not discriminate against Subscribers or other residents of the Town in the delivery of Cable Services in violation of the Constitution of either the United States or the State, or in violation of any rule, regulation, statute, or ordinance of the Town, the State or the United States.

13.3 Protection of Subscriber and User Privacy.

13.3.1. The Franchisee, the Franchising Authority and the Town shall comply with all Subscriber privacy requirements of Applicable Law.

13.3.2. The Franchisee shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that "personally identifiable information," as defined by Section 631 of the Communications Act, is handled and protected in accordance with this policy.

13.3.3. Any poll or upstream response of a Subscriber shall only be conducted or obtained consistent with Applicable Law.

13.4 Distribution of Subscriber Information. Nothing herein shall preclude the use of such subscriber information by the Franchisee, its employees and agents in the ordinary course of business, provided that such use is in accordance with Applicable Law.

13.5 Monitoring. The Franchisee shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes and in accordance with Applicable Law.

13.6 Subscribers Right To Inspect and Verify Information

13.6.1. The Franchisee shall make available to a Subscriber for review all "personally identifiable information," as defined by Section 631 of the Communications Act, that the Franchisee maintains regarding said Subscriber at a reasonable time and at a convenient place designated by the Franchisee. A Subscriber shall be provided a reasonable opportunity by Franchisee to correct any error in such "personally identifiable information."

13.6.2. A Subscriber questioning the accuracy, completeness, retention, actual or alleged use or dissemination of any "personally identifiable information" regarding the Subscriber may direct such questions or related inquiries to the Franchisee's customer service manager or other employee designated by Franchisee to handle such matters.

13.7 Commercial Establishments. The Franchisee shall be required to make Cable Service available to any commercial establishments in the Town, upon the parties being able to reach a reasonable agreement regarding the terms and costs of initial installation and service in accordance with Section 2.3 of this Franchise Agreement. Pursuant to programming contracts, some residential networks may not be available to commercial subscribers.

14.0 **DELEGATION**

14.1 Franchising Authority Delegation. The Franchising Authority may delegate to any Town official, employee, agency or commission the authority to exercise any of the Franchising Authority's rights and authority hereunder which may lawfully be so delegated. Franchising Authority will notify Franchisee in writing of any such delegation.

15.0 **GOVERNING LAW/JURISDICTION AND VENUE**

15.1 Compliance With Law. This Franchise Agreement shall be governed by, and be subject to Applicable Law, including, but not limited to the Communications Act, all applicable FCC rules and regulations, and the laws and regulation of the State. The Franchising Authority and Franchisee shall comply with all such Applicable Law.

15.2 Jurisdiction and Venue. The Franchising Authority, the Town and Franchisee shall be subject to the jurisdiction of the courts of the State in any suit arising out of this Franchise Agreement. Venue over any dispute, action or suit shall be in the Merrimack County Superior Court in

Concord, New Hampshire or the United States District Court for the District of New Hampshire in Concord, New Hampshire, and the parties agree to subject themselves to the personal and subject matter jurisdiction of said Courts for the resolution of any such dispute, action or suit.

16.0 CONSTRUCTION

16.1 Design. The Franchisee shall maintain a 2-way residential Cable System utilizing addressable technology, and cable and electronics capable of transmitting a bandwidth of 860 MHz, providing a minimum of 75 channels in the downstream direction and 4 channels in the upstream direction.

16.1.1. Emergency Power. The Cable System shall incorporate equipment capable of providing standby power for the Headend and the Cable System, including all sub-headends and nodes, for a minimum of four (4) hours upon failure of the power furnished by the utility company.

16.1.2. Emergency Alert System. Franchisee shall comply with the Emergency Alert System requirements of the FCC

16.2 General Construction Requirements. In the construction, reconstruction, maintenance and repair of the Cable System, Franchisee shall utilize materials of good and durable quality and shall perform or cause to be performed all work so associated with the Cable System in a safe, thorough and reliable manner. Notwithstanding the foregoing Franchisee makes not representations or warranties to the said material's good and durable quality, and will not be in breach of this Franchise Agreement if the said materials are not of good and durable quality.

16.2.1. Compliance with Laws and Regulations. All work, including all working conditions and facilities, associated with the construction, operation, maintenance, repair and removal of the Cable System shall comply with (i) Applicable Laws and (ii) the National Electrical Code, National Electrical Safety Code, the National Cable Television Association Standard Code, and the National Safety Code.

16.2.2. Safe Condition. All Cable System facilities and equipment, regardless of location and construction status, shall be kept and maintained in safe condition.

16.2.3. Town's Rights. The Town reserves the right upon five (5) business days advance written notice to Franchisee to inspect all construction and installation work and to make such tests as it shall deem necessary to ensure compliance with Applicable Laws and codes and with provisions of this Franchise Agreement, and may request corrections of any perceived violations. Franchisee has the right to dispute such corrections in accordance with the dispute resolution provisions of this Franchise Agreement. All inspections and tests conducted by the Franchising Authority shall be performed in such manner as to not unnecessarily interfere with the Cable System or Cable Service. Upon completion of any such tests performed by the Town, the Town shall provide Franchisee with the results of the tests and the methods used to perform the tests. If the Town believes certain remedial actions must be taken by Franchisee, the Town and Franchisee shall meet within thirty (30) days of Franchisee's receipt of the Town's report to discuss the results of the tests performed and any proposed remedial action requested by the Town. Any remedial taken by Franchisee shall be made by the Franchisee at its sole cost.

16.2.4. Restoration of Damage. Franchisee, at its sole expense, shall restore all damage to property, both public and private, caused by the construction, operation, maintenance or repair of the Cable System, so as to return the damaged property to a condition reasonably the same as before the damage was done.

(a) Such restoration shall be made as soon as practicable after completion of work necessitating the restoration, and shall be done in a manner approved by the owner or tenant in possession.

(b) In no event shall such restoration be made later than thirty (30) days, weather permitting, after Franchisee's receipt of notification from the owner of the property so damaged unless otherwise mutually agreed by Franchisee and the property owner; provided, that if any such damage involves (i) curbs, sidewalks or driveways, the damage shall be repaired to the satisfaction of the Town (curbs and sidewalks) or the owner or tenant in possession of the property (driveways) within thirty (30) days; or (ii) streets, water-mains, storm or sanitary sewers, or other public facilities, such damage shall be repaired to the Town's satisfaction within seventy two (72) hours. If Franchisee fails to make such restoration on a timely basis, the Franchising Authority may fix a reasonable time for such restoration and repairs and shall notify Franchisee in writing of the restoration and repairs required and time fixed for performance hereof. Upon failure of Franchisee to comply within the specified time period, the Town may cause proper restoration and repairs to be made and the reasonable expense, not to include prevailing wages, of such work shall be paid by Franchisee upon demand by Town.

16.2.6. Identification. Franchisee shall ensure that all of its vehicles are clearly identified to the general public as being associated with Franchisee, and that all of its employees, and the employees of any agents or contractors who enter upon private property wear an employee identification card issued by Franchisee, which card shall bear a picture of said employee and shall be worn in a conspicuous place. Franchisee shall also notify the Town of any hazards created by the Franchisee within the public right of ways, and such notice shall be provided as soon as commercially reasonable after the Franchisee became reasonably aware of the incident but in no case longer than 24 hours after having been reasonably made aware of the hazard.

16.2.7. Public Ways Hazards. Any openings or obstructions in streets or other municipal or public property made by Franchisee shall be guarded and protected at all times by the placement of adequate barriers, fences, boarding or other protective devices, and lighting as needed, at the sole expense of Franchisee.

16.2.8 Non-Interference With Public Safety Radio Systems. The Cable System and any facilities utilized in connection therewith, either on public or private property, shall be installed and operated in such a manner as not to cause interference with the operation of any public safety radio systems operated by or for the Town. If Franchisee has caused such interference, the Franchisee shall take reasonable action to correct and remove the interference consistent with Applicable Law.

16.3 Location of Physical Facilities.

16.3.1. Cable Location. Insofar as practicable, the distribution system (trunk and feeder cable) shall run along public rights-of-way.

(a) Where the cable or wire facilities of the public utilities are installed underground, Franchisee shall install its cable distribution system underground. Vaults and pedestals shall be appropriately landscaped and located as close as practicable to other utility facilities, and in compliance with applicable laws and regulations. All such vaults, pedestals and related equipment shall be shown on the Cable System maps available for inspection by the Franchising Authority. If the Franchisee no longer provides service to an underground area, Franchisee shall remove all such vaults, pedestals and related equipment upon request of the Town.

(b) In all areas where power and/or telephone lines are aerially placed, if subsequently during the term of this Franchise Agreement both such utility lines are relocated underground, Franchisee shall similarly relocate its cable distribution system underground at its sole expense. If the Town subsidizes the power and/or telephone companies to relocate their facilities underground, the Town shall subsidize the Franchisee to the same extent.

16.3.2. Location of Construction. All lines, cables and distribution structure, and equipment, including poles and towers, erected, installed or maintained by Franchisee within the Town shall be located so as not to obstruct or interfere with the proper use of Streets and Public Ways or with the rights of property owners who abut any of the said Streets and Public Ways. For installation of its Cable System, in the streets and public rights-of-way, the Franchisee shall use existing poles, posts, and other similar structures of any public utility that may be available to the Franchisee to the extent practicable. The Franchisee shall be responsible for making all arrangements and agreements with utility companies for joint use of their facilities. Franchisee shall not place new poles, towers or other obstructions in streets or public ways, or relocate existing poles, towers or other obstructions, without first obtaining the Franchising Authority's approval through established permit procedures now or hereafter placed in effect, including with regard to the location, height, type, and other pertinent aspects of the structure, which approval shall not be unreasonably withheld, delayed or conditioned. Franchisee shall have no vested right in any location, and such construction shall be removed by Franchisee at its own cost and expense whenever it restricts or obstructs or interferes with the operation or location or any future operation or location of said Streets or Public Ways.

16.3.3. Removal and Relocation. The Franchising Authority shall have the power at any time to order and require the Franchisee to remove or relocate any of its property, including any pole, wire, cable, conduits, fixtures or other structure, machinery or equipment located within a Street or Public Way that is dangerous to life or property or needed to be removed or relocated by reason of traffic conditions, public safety, street construction, change or establishment of a Public Way or Street, change of the grade of a Public Way or Street, or the construction of any public improvement or structure by or for the Town or Town department. Removal or relocation made necessary by a danger to life or property shall be completed within seventy-two (72) hours of Franchisee's receipt of a written request to take such action. All other removal or relocation orders shall be in writing and shall provide the Franchisee with a minimum of forty-five (45) days to complete said action. In the event that Franchisee, after notice, fails or refuses to act within a reasonable time, the Franchising Authority shall have the power to remove or relocate the same. All work shall be performed in compliance with the Town's standards and specifications. If the Town subsidizes the power and/or telephone companies to relocate their facilities, the Town shall subsidize the Franchisee to the same extent.

16.3.4. No Interference. Franchisee shall not place fixtures above or below ground

where the same will interfere with any gas, electricity, telephone fixtures, water hydrants, or other utility use, and all such fixtures placed in or upon any street shall be so placed as to comply with all requirements of the Town or other applicable authority, and fully comply with local regulations, including zoning ordinances. Nothing herein shall be interpreted as to limit Franchisee's ability to use existing underground or other conduits commonly shared by existing utility users.

16.3.5. Temporary Relocation. Franchisee shall, on request of any Person holding a permit issued by the Town or other appropriate authority, temporarily move its fixtures to permit the moving or erection of buildings or other objects, with the expense of any such temporary removal to be paid in advance by the Person requesting same, and Franchisee shall be given reasonable written notice to arrange for such temporary relocation.

16.3.6. Tree Trimming. Franchisee shall have the authority to trim any public shade trees upon and overhanging the Town's Streets or Public Ways to the minimum extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of Franchisee; provided that, except for incidental trimming done by Franchisee's employees in the ordinary course of performing their cable installation duties, any trimming of significant portions of tree's or removal thereof done by Franchisee shall be subject, in all respects, to the Town's prior approval. In performing tree trimming, Franchisee shall employ best management practices, shall use its best efforts to avoid any unnecessary damage or injury to trees, and shall comply in all respects with any Town ordinances and/or regulations governing tree trimming including RSA 231:172, 157 and 158.

16.3.7. Drops. In areas where the cable distribution is located underground, Drop connections to the Subscriber's structure shall be underground; in other areas the Drop connections shall be aerial unless the Subscriber requests underground installation and elects to pay the cost thereof.

(a) Insofar as practicable, Franchisee shall adhere to the Subscriber's desire with regard to point of entry of the Drop connection into the structure.

(b) Within the Subscriber's structure, Drop or cable runs shall be made as unobtrusively as possible.

(c) Each Drop shall be grounded at the Subscriber's structure, or, at Franchisee's option, at the water utility service point for the Subscriber's structure or at such other location as may be specified in the National Electrical Safety Code or such other applicable code or law.

16.3.8. Zoning and Building Codes. Any and all construction performed by or under the auspices of Franchisee, and any and all facilities used or operated by Franchisee, shall comply with all applicable zoning and building ordinances, codes or laws of the Town. It is the responsibility of the Franchisee to seek and obtain all permits and authorizations required by applicable law.

16.3.9. Contractors, Subcontractors and Affiliates. All contractors, subcontractors and affiliates of Franchisee must be properly licensed under all applicable federal, state and local laws and regulations.

16.3.10. Completion of Work by Town. Upon failure of Franchisee to commence,

pursue or complete any work required by law or by the provisions of this Franchise Agreement in any Street or other public place within the time prescribed and to the satisfaction of the Town, the Town may, at its option, cause such work to be done with reasonable expenditures therefore and Franchisee shall pay to the Town the cost thereof, but not to include prevailing wages, in the itemized amounts reported by the Town to the Franchisee within thirty (30) days after receipt of such itemized report.

17.0 ACCESS CHANNELS, FACILITIES AND EQUIPMENT

17.1 Access Channels.

17.1.1. PEG Access Channels.

(a) The Franchisee shall continue to make available on the portion of the Cable System serving the Town one (1) Access Channel for the exclusive use by the Town or its designee(s) solely for noncommercial public, educational and/or governmental (PEG) programming.

(b) At the time that the first Access Channel is programmed on average fifty percent (50%) of each day for a minimum of six (6) consecutive months with non-duplicated, noncommercial PEG programming (the "Minimum PEG Programming Requirement"), the Town may at any time after the initial twelve (12) months of the term of this Agreement request Franchisee to provide one additional PEG Access Channel. Such Access Channel usage shall be demonstrated by programming logs for the relevant time periods that have been certified as to their accuracy and completeness by an authorized representative of the Town. Within ninety (90) days of Franchisee's receipt of the Town's written request for a second Access Channel, the Town shall schedule a public hearing to review and evaluate the public interest in receiving and utilizing a second Access Channel. At such public hearing residents of the Town, as well as any organizations and businesses operating within the Town, may provide comments and other information relevant to the need for and public interest in receiving, utilizing and financing the use of a second Access Channel.

(c) Within ninety (90) days after its acceptance that the Minimum PEG Programming Requirement under subsection (b) of this Section 17.1.2 for the first Access Channel clearly has been met and that significant public interest has been clearly demonstrated for receiving and utilizing a second Access Channel, Atlantic Broadband shall make available on the portion of the Cable System serving the Town one (1) additional Access Channel for the exclusive use by the Town or its designee(s) solely for noncommercial public, educational and/or governmental (PEG) programming, subject to the following conditions: (i) the continued availability of this second Access Channel shall be conditioned on the Town or its designee(s) continuing to meet the Minimum PEG Programming Requirement on the first Access Channel during each subsequent six month period for the remaining term of this Agreement, as demonstrated by programming logs certified as to their accuracy and completeness by an authorized representative of the Town and submitted to Franchisee within thirty (30) days of the completion of each six month period; (ii) the Minimum PEG Programming Requirement for the first Access Channel may not be satisfied with programming that duplicates or is time-shifted programming produced for the second Access Channel; (iii) for each six-month period after obtaining the second Access Channel, the Town or its designee(s) shall satisfy the Minimum PEG Programming Requirement on the second Access Channel, as demonstrated by programming logs certified as to their accuracy and completeness by an authorized representative of the Town and submitted to Franchisee within thirty (30) days of the completion of each six-month period; provided, however, the Minimum PEG Programming Requirement for the second Access

Channel may not be satisfied with programming that duplicates or is time-shifted programming produced for the first Access Channel. If the Town or its designee(s) fail to meet the requirements and conditions established in this subsection (c), then, in Franchisee's sole discretion, Franchisee may reclaim the use of the second Access Channel for a minimum period of one (1) year, after which the Town may again request a second Access Channel pursuant to the requirements under Section 17.1.1(b) of this Agreement.

17.1.2. Use. The Franchising Authority or its designee(s), shall have the exclusive use of the Access Channel(s) to provide noncommercial PEG programming. Use of Public Access Channel(s) shall be subject to the requirements of this Agreement, the Communications Act and such rules as the Franchising Authority or its designee(s) may adopt. All such PEG Access Channel(s) shall be included in the Basic Service tier. There shall be no charge by the Franchisee for the use of the PEG Access Channel(s).

17.1.3 Location of Access Points and Access Channel(s).

(a) Franchisee shall continue to provide the current Access Points that are currently in place as of the Effective Date of this Agreement.

(b) Franchisee shall not move or otherwise relocate the PEG Access Channel(s) unless it (i) provides advanced written notice to the Franchising Authority and Subscribers of no less than thirty (30) days; and (ii) assists the Town (and, if applicable, the Town's designees) in reasonably advertising and promoting over the Cable System any such channel changes. Nothing above shall restrict the Franchisee from placing the Access Channel(s) on channel position(s) selected in its sole discretion.

17.1.4. Access Channel Maintenance. In compliance with FCC standards, the Franchisee shall monitor the Access Channel(s) for technical quality and shall ensure that such Access Channel(s) are maintained to standards commensurate with those which apply to the Cable System's commercial channels; provided, however, the Franchisee is not responsible for the content and technical quality of any Access Programming or the composite baseband signal delivered by the Franchising Authority to the Access Points.

17.2 Access Cablecasting. Franchisee shall transmit any PEG programming satisfying the requirements of Section 17.1.2 over the Access Channel(s) in accordance with the provisions this Section 17.2 of this Franchise Agreement. The Franchisee shall, if requested by the Franchising Authority, discuss in good faith any difficulties that arise regarding cablecasting of PEG Access Channels and programming.

17.3 Capital Funding For PEG Access Facilities and Equipment/Training. Within thirty (30) days of Franchisee's receipt of the Franchising Authority's written notice required under Section 17.1.2(a) of this Agreement, Franchisee shall pay to the Franchising Authority a one-time capital grant in the amount of five thousand dollars (\$5000.00) to be used by the Town for PEG facilities and equipment. The Franchising Authority shall determine the use and distribution of these PEG Access capital funds consistent herewith. Franchisee maintains its right to itemize any Capital Funding as outlined under Applicable Law.

18.0 RESEVERED

19.0 PERFORMANCE STANDARDS

19.1 Technical Standards. All signals carried on the Cable System shall be transmitted to Subscribers without material degradation, in respect to the quality of signals received by the Franchisee, and with a quality no less than that prescribed by rules and regulations of any Federal or State regulatory agency having jurisdiction, including but not limited to the FCC. Anything contained in this Franchise Agreement to the contrary notwithstanding, the technical specifications, operation and performance of the Cable System shall, at minimum, conform at all times to the specifications established by any Federal or State regulatory agency having jurisdiction thereof, and such specifications existing on the Effective Date hereof, whichever is of the higher quality.

19.2 Performance Testing. If Franchisee's annual performance monitoring and testing, conducted pursuant to requirements of the FCC's cable television technical regulations (*i.e.*, 47 C.F.R. §76.601 *et seq.*), demonstrate that the Cable System transmissions do not meet the prescribed standards, upon completion of any necessary repairs or adjustments to the Cable System the performance monitoring and testing shall be repeated for all segments of the Cable System that do not meet such prescribed standards. Upon written request of the Franchising Authority, Franchisee shall submit a copy of any report prepared covering the second test. Nothing herein shall be construed to require Franchisee to provide reports relating to technical problems discovered in the course of Franchisee's routine maintenance testing, except as may be specifically requested by Franchising Authority, in writing, in each instance. Franchisee shall provide and keep accurately calibrated test equipment on hand at all times for the testing of all services and operational standards outlined in this Franchise Agreement.

19.3 Written Report to Franchising Authority. Upon advanced written request and where there exist evidence which, in the reasonable judgment of the Franchising Authority, casts doubt upon the reliability or technical quality of Cable Services or the Cable System, the Franchising Authority shall, in its discretion, cite specific facts which cast such doubts in a written notice to the Franchisee. The Franchisee shall submit a written report to the Franchising Authority setting forth in detail its explanation of the alleged problem and proposing measures for resolution of such problems where appropriate.

20.0 MAINTENANCE AND REPAIR/INSTALLATION AND SERVICE CALLS

20.1 Maintenance Policy. Franchisee shall promulgate and adhere to a preventative maintenance policy directed toward optimizing the reliability (mean-time-between-malfunctions) and maintainability (mean-time-to-repair) of the Cable System with respect to its delivery of service to Subscribers at or above the performance standard set forth herein. Whenever it is necessary to interrupt service for the purpose of making repairs, adjustments, installations or other maintenance activities, Franchisee shall do so at such time as will cause the least inconvenience to Subscribers.

20.2 Repair. Franchisee shall maintain a repair department comprised of qualified technicians, service vehicles and equipment to provide prompt and efficient repair service within the parameters set forth below.

20.2.1. Notice. In an emergency, Franchisee shall give notice as is reasonable in the

circumstances. Notice given on the Channels on the Basic Service tier shall be considered sufficient.

20.2.2. **Repair Procedure.** Franchisee shall have a toll free, local listed telephone number so that requests for repairs or adjustments can be received at any time, twenty-four (24) hours per day/seven (7) days per week.

20.2.3. **Subscriber-Owned Equipment Excluded.** The requirements for maintenance and repair shall not apply to Subscriber television or radio receivers or other Subscriber-owned equipment.

20.3 **Rebate for Service Loss.** For every loss of Service of which Franchisee becomes aware in excess of twenty-four (24) continuous hours, Franchisee shall grant a *pro rata* rebate of the regular monthly charge to each Subscriber so affected upon request. The credit shall be prorated by multiplying the applicable monthly service rate by a fraction whose numerator equals the number of days (or portion thereof) of the outage and whose denominator equals the number of days in the month of the outage. In no case shall the refund be less than twenty-four (24) hours' credit. For purposes of this paragraph, loss of Basic Service shall be considered a Subscriber's receipt of less than two-thirds of the respective available Channels, and loss of pay cable service shall be considered the loss of signal on any pay Channel. Franchisee shall make such rebate no later than thirty (30) days after the loss of Service, but may, if it so elects, make such rebate by way of a credit on the affected Subscriber's next bill.

20.4 **Records.** Franchisee shall maintain records of all written complaints regarding quality of service, equipment malfunctions, and billing procedure, and similar matters that could reasonably require action on the part of the Franchisee. Such records shall show the date of receipt of all such customer complaints, identifying the Subscriber (by name, address and telephone number) but not to violate confidentiality provisions of Applicable Laws, the nature of the complaint and the date action was taken by Franchisee in response thereto, together with a description of such action. Franchisee shall also maintain a record of all whole or partial system outages, including the date, approximate time and duration, type and probable cause of each outage, except for outages caused by routine testing or maintenance. To the extent consistent with Applicable Law, such records shall be maintained for a period of one (1) year and shall be made available to Franchising Authority upon its prior written request.

20.5 **Installation and Service Visits.** Time Windows. The Franchisee shall ensure that flexible hours are available to customers for installation and service visits. Installation time periods offered for such visits shall include four (4) hour windows throughout the business day and some weekend hours. Service visits are scheduled at the convenience of the customer during normal business hours and reasonable evening and weekend hours.

21.0 COMMENCEMENT OF SERVICE TO SUBSCRIBERS

21.1 **Time of Installation.** Service to any Subscriber served by a standard aerial Drop shall commence by not later than seven (7) business days after service is requested; service to any Subscriber served by a standard underground Drop shall commence by no later than forty-five (45) days after service is requested unless additional time is required by severe weather or other circumstances outside of Franchisee's control. Franchisee shall exert every reasonable effort to commence service to a Subscriber served by a non- standard Drop as expeditiously as possible. A

standard Drop, for which the Subscriber shall be charged Franchisee's standard installation fee, is a Drop running not more than one hundred and twenty-five (125) feet from feeder cable (the cable connected to the trunk cable, from which Cable Service is distributed to the Cable Drop) to the Subscriber's structure; provided, that any installation which requires Franchisee to cross a street underground shall be considered a non-standard installation. An aerial Drop in excess of one hundred and twenty-five (125) feet in length from the feeder cable shall be considered a non-standard installation, for which the Subscriber may be charged the Franchisee's direct cost for time and materials for that portion in excess of one hundred and twenty-five (125) feet in length of standard drop wire.

22.0 SUBSCRIBER RATES AND CHARGES/PROGRAMMING

22.1 Rate or Service Discriminations. Special Classifications. Franchisee shall not subject any Person to any prejudice or disadvantage, preference or advantage in connection with rates, charges, service facilities, rules or regulations. Nothing herein shall prohibit (i) the establishment of a graduated scale of rates for classified schedules to which any subscriber within such classification shall be entitled; and (ii) the use of Subscriber credit history by the Franchisee to determine if an advance deposit by a Subscriber is required for the services and equipment to be provided to the Subscriber.

22.2 Free Service to Public Buildings.

22.2.1 Cable Service to Public Buildings. Franchisee shall provide one courtesy cable outlet of Basic Service and the analog Cable Programming Service tier, or its digital equivalent in the event such analog tier is no longer offered, including the appropriate digital adapter if necessary, to each public school, library and municipal building currently being provided with Cable Service on the Effective Date of this Agreement outlined in Exhibit 1. Should the distance be greater than one hundred and twenty-five (125) feet, the institution may pay Franchisee all direct incremental costs incurred to accomplish the installation in excess of one hundred and twenty-five (125) feet in length of standard drop wire. Except as otherwise provided herein, there shall be no charge for the Basic Service, Cable Programming Service tier, or its equivalent, or for installation thereof. Franchisee will provide the necessary digital equipment for one outlet to each such free Drop site if needed to receive the Basic Service tier or the analog Cable Programming Service tier or its digital equivalent as specified above. Any additional converters shall be made available at Franchisee's standard lease rates.

22.2.2 Verification of Location of Outlets. Prior to the installation of Cable Service pursuant to this Section 22.3, the Franchisee shall verify the location of each connection with the proper officials of each of the institutions entitled to such free Drop, Outlet, Converter, Basic Service connection prior to installation. If existing outlets are required to be relocated and/or additional outlets are requested for a specific municipal or school building, the Town shall be responsible for any direct, incremental costs of installing the additional wiring and outlets, and Franchisee shall provide the Basic Service and Cable Programming Service to such additional outlets at no charge.

22.3 Rate and Programming Changes.

22.3.1 Consistent with the requirements of Applicable Law, Franchisee shall give the Franchising Authority and each Subscriber at least thirty (30) days advance written notice of any change in Subscriber rates or charges. Notice to Subscribers of rate changes shall be sufficient if by mail, posted

on the applicable website, or as otherwise permitted by Applicable Law. At the time of initial subscription, Franchisee shall provide each Subscriber with a detailed explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate cable service. Subscribers shall have at least thirty (30) days from receipt of notification of any rate increase to either downgrade service or terminate altogether without any charge, provided such termination is consistent with then applicable Residential Subscriber Agreement or other special promotions terms and conditions. Consistent with the requirements of Applicable Law, Franchisee shall give the Franchising Authority and each Subscriber prior written notice of any change, including additions and deletions, or change in programming channel position, in the programming carried on the Cable System, as well as any retiring of such programming, and any other changes in the Cable Services offered by Franchisee. Notice to Subscribers of such changes shall be sufficient if by mail, posted on the applicable website, or as otherwise permitted by Applicable Law. Franchisee agrees to use its best efforts to provide a wide diversity of programming options to its Subscribers and to maintain programming that is at least as diverse as the programming currently offered, as reflected or posted on the applicable website

22.3.2 **Notice of Rate and Programming Changes.** All rates and charges associated with the provision of Cable Service shall be published. A written schedule of all such rates currently in effect, including special and promotional rates, shall be available and obtainable in person, by mail upon request during business hours at the Franchisee's business, or online.

(a) At least once each calendar year, the Franchisee shall provide to each Subscriber a complete schedule of (i) all Cable Services offered and the programming offered, (ii) rates and charges for each Cable Service and equipment provided by the Franchisee and (iii) programming Channel positions on the Cable System. Such information shall also be provided to all new Cable Service Subscribers prior to installation or commencement of service.

(b) Such information shall be written in plain English and shall include, but shall not be limited to, the following: all services, tiers and rates, required deposits, if applicable, installation costs, additional television set installation charges, service upgrade or downgrade charges, stolen or lost converter charges, charges for parental control devices and for connecting Subscribers personal equipment to the Cable System.

22.4 Billing Practices, Information and Procedures.

22.4.1. Subscriber Notice. At the time of initial subscription and annually thereafter, Franchisee shall provide all Subscribers, consistent with Applicable Law, written information describing billing and collection procedures, procedures for ordering changes in or termination of Cable Services, and refund policies. Such information shall be provided to Subscribers in easy-to-understand language. Said written information shall be provided to existing Subscribers as outlined by the FCC.

22.4.2 Billing Procedures. Franchisee billing procedures shall be as follows:

(a) The Franchisee shall bill all Cable Service Subscribers in a uniform, non-discriminatory manner, regardless of a Subscriber's level of Cable Service. The bill shall have a specific due date.

(b) Upon initiation of Cable Service and prior to the due date of each bill, the Franchisee shall provide all Subscribers with an itemized bill that contains, at a minimum, the following information:

(i) A list of each Cable Service or package received for that particular billing period;

(ii) The rate or charge for each Cable Service or package received;

(iii) The period of time over which said Cable Services are billed; and

(iv) The total charges due for the monthly period, separate from any previous balance due.

(c) Subscribers shall have thirty (30) days from the due date of a bill in which to register a complaint or dispute concerning said bill.

(d) In the event that a bona fide Subscriber billing dispute arises regarding Cable Services, Franchisee shall make a good faith effort to resolve each dispute within fourteen (14) working days of receiving written notification of said dispute from the Subscriber. If said dispute is not or cannot be settled within fourteen (14) working day period, the Franchisee shall notify, and deliver to, the affected Subscriber its proposed resolution of the dispute within two (2) business days of the expiration of said fourteen (14) day period. If the dispute cannot be resolved within the fourteen (14) day period, the Franchisee, in its response to the Subscriber, must explain why the dispute cannot be resolved within that period along with its proposal to resolve the dispute.

(e) Late charges, if applied, shall be consistent with Applicable Law.

22.4.3 Pro-Rated Service. 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 thirty (30) days of such termination.

22.4.4 Rebate for Service Loss. Rebates due Subscribers as a result of loss of service, pursuant to Section 20.3 hereof, shall be made to the affected Subscribers by Franchisee either by direct payment or by appropriate credit entry on the next subsequent billing.

22.4.5 Disconnection for Non-Payment. Franchisee shall have the right to disconnect a Subscriber for failure to pay an overdue account; provided that:

(a) Franchisee billing practices and policy statement set forth the conditions under which an account will be considered overdue;

(b) At least fifteen (15) days prior to the proposed disconnection, Franchisee mails to the Subscriber an initial written notice of intent to disconnect for delinquency in payment; and

(c) The Subscriber's account is at least thirty (30) days delinquent at the

time said initial notice is mailed.

23.0 CUSTOMER SERVICE

General Customer Service. Franchisee shall comply with any and all customer service standards provided under New Hampshire law, Federal law, FCC regulations, including those regulations found at 47 C.F.R. §76.3091 and as promulgated by the cable industry (such as NCTA standards), as well as with the provisions of this Franchise Agreement. To the extent of any difference or conflict in the requirements of this Franchise Agreement, State and federal law, FCC regulations and/or cable industry standards, the strictest of such standards shall govern. Franchisee shall maintain a payment location that is conveniently located and shall be open during normal business hours as defined by the FCC Customer Service Standards.

23.1 Telephone Availability. During non-business hours, Franchise shall maintain a toll free telephone number for subscriber use for service, billing and general inquiries.

23.2 Subscriber Solicitation Procedures.

23.2.1 Upon request, the Franchisee shall provide all prospective Subscribers with complete, clear and concise written information concerning all Cable Services and related rates. Such information shall include, but not be limited to, the following:

(a) All levels of Cable Services and rates, deposits if applicable, installation costs, additional television set charges, service upgrade and/or downgrade charges and relocation of cable Outlet charges;

(b) Detailed written information concerning billing and collection procedures, procedures for ordering changes in or termination of services, and all refund policies;

(c) Detailed written information concerning the Franchisee's privacy policies, pursuant to State and federal law.

23.2.2 Upon request Franchisee or its sales agent shall provide the following information to a prospective Subscriber contacted via telemarketing:

(a) A description of each level of Cable Service in detail;

(b) A description of the lowest cost Cable Service in an objective manner; and

(c) A price quotation summary for the prospective customer of what the total bill could be expected to be for requested Cable Service.

23.2.3 Emergency Communication. At least one Person in responsible charge of Franchisee 's operation shall be available by local telephone during such hours as the business office is closed, and the telephone number of such Person shall be supplied in advance to the Franchising Authority and the Town's police, fire and public works departments.

24.0 SUBSCRIBER COMPLAINTS

24.1 Franchisee Response. Franchisee shall receive all Subscriber complaints at its business office serving the Town and shall handle all such complaints promptly but in no event later than as set forth below.

24.1.1. Billing Complaints. In the case of a Subscriber billing complaint, Franchisee shall respond to the Subscriber by no later than five (5) business days following receipt of the complaint.

24.1.2. Service Complaints. In the case of a service complaint not requesting repair or adjustment, Franchisee shall respond to the Subscriber within five (5) business days following receipt of the complaint.

24.2 Unresolved Complaints. Franchisee shall establish a procedure for handling Subscriber complaints and shall provide Subscribers, at the time of initial subscription and annually thereafter, a written summary of the procedure established for resolving Subscriber complaints. If Franchisee and the Subscriber cannot reach a satisfactory resolution of the dispute within sixty (60) days after Franchisee's receipt of the Subscriber's complaint, then both the Franchisee and the Subscriber may pursue any other remedy available to such party under Applicable law.

24.3 Subscriber Complaint Records and Log. The Franchisee shall keep a record or log of all written complaints received regarding the technical quality of Cable Service, equipment malfunctions, billing procedures, and employee relations with Subscribers. Such records shall be maintained by the Franchisee for a period of one (1) year. Such record or log shall contain the following information for each complaint received: (i) date, time and nature of complaint; (ii) name, address, telephone number of complainant; (iii) investigation of the complaint; (iv) manner and time of resolution of the complaint and (v) if the complaint regards equipment malfunction or the quality of Cable Service reception, a record of the corrective steps taken, with the nature of the problem stated. The Franchisee shall make the record or log of such complaints available to the Franchising Authority upon its advanced written request during normal business hours for on sight review subject to the requirements and limitations of Applicable Law, including applicable privacy laws.

25.0 RECORDS, REPORTS, INFORMATION AND INVESTIGATIONS

25.1. Maintenance and Access. Franchisee shall at all times maintain complete and accurate books of account and records of its business and operations and all other records as required by this Franchise Agreement.

25.2 Court and Regulatory Agency Reports and Filings.

25.2.1. Franchisee shall, upon Franchising Authority's written request, submit to the Franchising Authority, public copies of all pleadings, applications, reports, communications and documents of any kind except tax returns, confidential or proprietary information and Franchisee's Comments in FCC proposed rulemaking proceedings, submitted by Franchisee or any Parent of Franchisee to, as well as copies of all decisions, correspondence and actions by, any Federal, State and local courts, regulatory agencies and other government bodies relating to its cable television

operations which may have some appreciable impact on this Franchise or Franchisee's Cable System serving the Town.

25.2.2. In the event that either the Franchisee or the Franchising Authority requests from any federal or State agency or commission a waiver or advisory opinion relating to the Cable System's operation in the Town, it shall immediately notify the other party in writing of said waiver or advisory opinion.

25.3 Other Reports. In addition to the reports herein elsewhere required, the Franchising Authority shall have the right to require the submission of such other reports as it deems necessary to review Franchisee compliance with the terms of the Franchise Agreement.

25.4 Investigations and Inquiries. Cooperation The Franchise Authority shall cooperate fully and faithfully with any applicable lawful investigation, audit, or inquiry conducted by any other governmental agency.

26.0 MISCELLANEOUS

26.1 Amendment or Modification. This Franchise Agreement shall not be amended or modified except by written agreement executed in the same manner as this Franchise Agreement.

26.2 Notices. Notices required to be sent to the Town shall be in writing and shall be delivered by hand (with proof of delivery), or shall be sent by certified mail, return receipt requested, in either case to:

Board of Selectmen
Town of Pittsfield
85 Main Street
Pittsfield, New Hampshire, 03263

Notices to Franchisee shall be in writing to:

Atlantic Broadband (NH-ME), LLC
VP & General Manager
9 Apple Road
Belmont, NH 03220

With a copy to

Atlantic Broadband
SVP & General Counsel
2 Batterymarch Park
Suite 205
Quincy, MA 02169

26.3 Periodic Review. The Franchisee, if requested in writing by the Franchising Authority, shall

attend a review no more often than once every three (3) years for the purpose of identifying the cable-related community needs and interests and/or reviewing the performance of the Franchisee under the Franchise Agreement. The Franchising Authority shall provide Franchisee at least sixty (60) days advance written notice of the time and place of such public meeting and provide Franchisee with an opportunity to be heard. The public shall be afforded appropriate notice and opportunity for comment. Within four (4) months of such meeting, either party may provide the other with a written copy of its findings. Based on the findings, the Franchisee and the Franchising Authority may mutually agree to amend this Franchise Agreement. Nothing in this Section shall limit any rights that the Franchising Authority may have to conduct additional hearings and/or compel the Franchisee's attendance at such hearing(s). Nothing in this Section shall limit or be construed as a waiver of Franchisee's rights under Applicable Law or this Franchise Agreement.

26.4 Effect on Prior Franchise Agreements. This Franchise Agreement shall supersede any prior franchise agreements between the parties. Immediately upon the Effective Date of this Franchise Agreement, all prior franchise agreements, including the current Agreement and any and all extensions thereof, shall terminate and shall have no further force and effect.

26.5 Failure to Enforce Provisions; No Waiver of Rights. Neither the Franchise Authority nor the Franchisee shall be excused from complying with any of the terms and conditions of this Franchise Agreement due to the failure of the other party upon one or more occasions to insist upon or to seek compliance with any such terms or conditions. No course of dealing between the Franchisee and the Town or Franchising Authority, nor any delay on the part of either party in exercising any rights hereunder, shall operate as a waiver of any such rights of either party or acquiescence in the actions of the other party in contravention of such right, except to the extent expressly waived by the party entitled to the performance or expressly provided for in this Franchise Agreement. No decision by either party to invoke any remedy under this Franchise Agreement or under any statute, law or ordinance shall preclude the availability of any other such remedy.

26.6 Force Majeure. The Parties shall not be responsible for any delay or failure to perform their obligations under this Franchise Agreement if doing so is prevented by Act of God, flood, storm, fire, explosions, strikes, riots, wars whether or not declared, insurrections, epidemics, or any law, rule or act of any court of competent jurisdiction or instrumentality of government, as long as said act or event is not caused by the party seeking the protection of this force majeure provision. The party invoking section will take immediate and diligent steps to comply with the obligations under the Franchise Agreement as soon as reasonably possible under the circumstance without endangering the health or safety of the employees or property, or the health or safety of the Town or the public, or their property. In the event that any such delay in performance or failure to perform affects only part of the party's capacity to perform, the party shall perform to the maximum extent it is able to do so in as expeditious a manner as possible.

26.7 Notice to Other Party of Legal Action. Except for (i) enforcing any damages pursuant to Section 9.1.2(d)(ii) above, and/or (ii) in any case where the Franchising Authority, the Town and/or the Franchisee may lose any right(s) that such party may otherwise have, including, but not limited to, injunctive relief, in the event that such party intends to take legal action against the other for any reason, such moving party shall first (i) give the other party reasonable notice that an action may be filed, (ii) meet with the other party, if practical, before it files any such action, and (iii) negotiate the issue which is the subject of any proposed legal action, in good faith with the other party. Nothing in this

Section 28.8 shall be deemed to limit the Towns' (including Franchising Authority's) or the Franchisee's right to seek appropriate court relief in a court of competent jurisdiction.

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

27.0 REPRESENTATIONS AND WARRANTIES

27.1 Franchisee Warranties. Franchisee warrants, represents and acknowledges that, as of the Execution Date of this Franchise Agreement.

27.1.1 The Franchisee is duly organized, validly existing and in good standing under the laws of the State of Delaware and is in good standing under the laws of the State of New Hampshire, and is in good standing and legally authorized to do business in the State.

27.1.2 The Franchisee has the requisite power and authority under Applicable Law and its bylaws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors, Members, or other governing body, and has secured all consents which are required to be obtained as of the execution date of this Franchise Agreement, to enter into and legally bind Franchisee to this Franchise Agreement and to take all actions necessary to perform all of its obligations pursuant to this Franchise Agreement.

27.1.3 The execution, delivery and performance of the terms and conditions of the Franchise Agreement by the Franchisee will not conflict with, result in any material breach of any provision of, or constitute a material default under any agreement, instrument, charter or bylaw to which the Franchisee is a party or by which it is bound, in any such case in a manner which substantially and adversely affects the Franchisee's ability to perform its obligation under this Franchise Agreement.

27.1.4 This Franchise Agreement is enforceable against Franchisee in accordance with the provisions herein; and

27.1.5 There is no action or proceedings pending or threatened against Franchisee which would interfere with Franchisee's performance of its obligations under this Franchise Agreement.

27.2 Franchising Authority and Town Warranties. Franchising Authority and the Town each warrants, represents and acknowledges that, as of the Execution Date of this Franchise Agreement:

27.2.1 It has the requisite power and authority under Applicable Law and its bylaws and other organizational documents, is authorized by resolutions of its governing body, and has secured all consents and authorizations that are required to be obtained as of the execution date of this Franchise Agreement, to enter into and legally bind it to this Franchise Agreement and to take all actions necessary to perform all of its obligations pursuant to this Franchise Agreement.

27.2.2 The execution, delivery and performance of the terms and conditions of the Franchise Agreement by it will not conflict with, result in any material breach of any provision of, or constitute a material default under any agreement, instrument, charter or bylaw to which it is a party or by which it is bound, in any such case in a manner which substantially and adversely affects its ability to perform its obligation under this Franchise Agreement.

27.2.3 This Franchise Agreement is enforceable against it in accordance with the provisions herein; and

27.2.4 There is no action or proceedings pending or threatened against it which would interfere with its performance of its obligations under this Franchise Agreement.

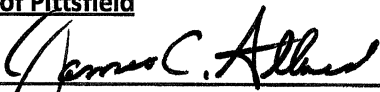
28.0 FINAL RESOLUTION

The agreement expressed herein, in writing, constitutes the entire agreement between the parties, and supersedes all prior agreements, proposals, oral statements of any kind, and no oral statement shall add to or supersede any of its provisions.

(Signature Page to Follow)

IN WITNESS HEREOF the parties have caused this to be executed by their duly authorized representatives this 9th day of Oct. 2018:

Town of Pittsfield

By: 

Print: James C. Allard

Title: Chair Board of Selectmen

Date: 9 OCT 2018

Atlantic Broadband (NH-ME), LLC

By: 

Print: Leslie J. Brown

Title: SVP & General Counsel

Date: 11-2-18

Exhibit 1
Courtesy Cable Connection Locations

Pittsfield Town Hall	85 Main Street
Pittsfield Library	41 Main Street
Pittsfield Police	59 Main Street
Pittsfield Fire	33 Catamount Road
Pittsfield Public Works	36 Clark Street
Pittsfield Elementary School	34 Bow Street
Pittsfield Middle High School	23 Oneida Street
Waste Water Treatment Facility	127 S. Main Street
BCEP Solid Waste Facility	115 Laconia Road