

STATE OF MAINE
TOWN OF CAPE ELIZABETH, MAINE

RENEWAL CABLE TELEVISION FRANCHISE ISSUED TO
TIME WARNER ENTERTAINMENT COMPANY, L.P.

INTRODUCTION

WHEREAS, Time Warner Entertainment Company, L.P., doing business as Time Warner Cable New England, (hereinafter "Franchisee" or "Time Warner Cable") is the duly authorized holder of a franchise to operate a Cable System in the Town of Cape Elizabeth, Maine (hereinafter the "Town").

WHEREAS, there has been an opportunity for public comment, and both parties conducted ascertainment regarding the future cable-related needs of the community, as required by Section 626(h) of the Cable Communications Policy Act;

WHEREAS, the Town Council, as the Franchising Authority, finds that the renewal of Franchisee's franchise is appropriate in light of its past performance and its renewal proposal with the parties having negotiated a mutually beneficial renewal framework as set forth in this Renewal Franchise;

NOW THEREFORE, after due and full consideration, the Franchising Authority and Franchisee agree that this Renewal Franchise is issued upon the following terms and conditions, as set forth herein.

ARTICLE 1
DEFINITIONS

Section 1.1 - DEFINITIONS

For the purpose of this Franchise, the following words, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Access Channel - A video programming channel which Franchisee makes available to the Franchising Authority without cost to the User or Town for the purpose of transmitting non-commercial programming by Town department and agencies, schools and educational, institutional and other non-profit organizations, subject to and in accordance with 47 U.S.C. 531 and the terms herein.

Access Designee: The entity or entities, or person(s) as may be designated by the Franchising Authority, and pursuant to the terms herein, for the purpose of operating and managing the Access channel on the cable television system in accordance with 47 United States Code 531 and the terms herein.

Cable Communications Policy Act of 1984 ("CCPA" or "Cable Act"): Public Law No. 98-549, 98 Stat. 2779 (1984), amending the Communications Act of 1934, and effective on December 29, 1984, as further amended by the Cable Television Consumer Protection and Competition Act of 1992, Public Law No. 102-385 106 Stat. 1460 (1992) and the Telecommunications Act of 1996, Public Law No. 104-458, 110 Stat. 56 (1996).

Cable Service: The transmission to subscribers of video programming or other programming services, together with subscriber interaction, if any, which is required for the selection or use of such programming which Franchisee may make available to subscribers generally, in accordance with the Cable Act.

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.

Channel: A band of frequencies in the electromagnetic spectrum, or any other means of transmission (including without limitation, optical fibers or any other means now available or that may become available), which is capable of carrying a composite video signal

Town: The Town of Cape Elizabeth, Maine, a body corporate and politic located in Cumberland County in the State of Maine.

Downstream Channel: A channel over which signals travel from the Cable System headend to an authorized recipient of programming.

Effective Date:

FCC: The Federal Communications Commission, or any successor agency.

Franchisee: Time Warner Entertainment Company, L.P., doing business as Time Warner Cable New England, or any successor or transferee in accordance with the terms and conditions in this Franchise.

Franchising Authority: The Town Council of the Town of Cape Elizabeth, Maine.

Gross Annual Revenues: All revenue received by Franchisee from operation of the Cable System to provide Cable Service within the Town of Cape Elizabeth, including but not limited to subscriber cable service charges, installation revenues (including, among other things, reconnection and second set), equipment charges, advertising revenues as prorated to include those attributable to home shopping revenues and any other revenues from the operation of the cable television system to provide Cable Service in the Town of Cape Elizabeth; provided, however, that gross annual revenues shall not include franchise fees, and to the extent consistent with Generally Accepted Accounting Principles, adjustments to cash receipts and non-operating cash receipts for bad debts, refunds, credit adjustments, returned checks and asset sales when such sales do not occur in the ordinary course of business.

Leased Access Channel: Any channel available for lease for programming by persons other than Franchisee subject to and in accordance with 47 U.S.C. 532.

Local Origination: Local programming produced by the Franchisee and/or its staff.

Public Ways: The surface of, as well as the spaces above and below, any and all public streets, avenues, alleys, highways, boulevards, concourses, driveways, bridges, tunnels, parkways and ways that are in the nature of streets and roads or any other easements or rights of way dedicated for compatible uses, and other publicly owned real ways within or belonging to the Town now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose without generally applicable legally required permits, or that the Franchisee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

Upstream Channel: A channel over which signals travel over the Cable System to the headend from a remote point of origination.

ARTICLE 2 FRANCHISE TERM

This Franchise shall commence upon the effective date of _____ and shall expire fifteen years thereafter on _____ unless renewed, revoked or terminated sooner as herein provided. The agreement shall automatically extend for five (5) additional years unless one party notifies the other that it does not wish to extend at least six (6) months prior to the expiration date.

ARTICLE 3 SYSTEM DESIGN, CONSTRUCTION AND OPERATION

Section 3.1 - AREA TO BE SERVED

(a) The area to be served shall continue to be the entire Town of Cape Elizabeth and franchisee shall make service available to all unserved areas within the Town where

the density of homes is twenty (20) or more homes per mile as measured from franchisee's existing distribution system. Cable Service shall continue to be available on every street where dwellings currently have Cable Service available, provided that the Franchisee is able to obtain from property owners any necessary easements and/or permits in accordance with Section 621(a)(2) of the Federal Cable Communications Act of 1984 and on reasonable terms and conditions.

(b) Provided Franchisee has reasonable prior notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame.

Section 3.2 - SUBSCRIBER NETWORK

(a) The Franchisee shall continue to make available to all subscribers of the Town a minimum seven hundred fifty Megahertz (750 MHz) Cable System, fed by means of a fiber-optic transportation cable network, fully capable of carrying at least one hundred and ten (110) video channels in the downstream direction and return feed capability. Said 750 MHz Cable System shall be designed for not less than 550 MHz, or its equivalent, of video transmissions, with 200 MHz reserved for future digital or analog two-way transmissions, with the allocation of the analog and digital bandwidth within the 750 MHz may be subject to change at the discretion of the Franchisee.

(b) The Franchisee shall not remove any television antenna of any subscriber but shall offer a device to allow subscribers to choose between cable and non-cable television reception.

(c) The Cable System shall be technically capable of transmitting Town-specific access programming and Franchisee's commercial programming, provided however, Franchising Authority acknowledges it has no rights nor ability to mandate Franchisee's specific programming, however Franchising Authority reserves its rights with respect to access programming and such other programming as may be permitted by law.

Section 3.3 - SERVICE TO RESIDENTIAL DWELLINGS: STANDARD DROP

The Franchisee shall make its service available to residential (non-commercial) dwelling units in the service area in the Town regardless its geographical location, subject to Section 3.1 above. Installation costs shall be nondiscriminatory except that an additional charge for time and materials may be made for customized installation within a subscriber's residence or except when Franchisee is engaged in marketing promotions. Any dwelling unit within one hundred fifty feet (150 ft.) of the cable plant and capable of an aerial installation shall be entitled to a standard installation rate, however, Franchisee may reasonably charge subscribers for nonstandard and customized installations. Subscribers may be charged for drops in excess of the standard footage for materials and labor, and upon request, subscribers shall be provided an itemized cost estimate for the same prior to acceptance of the terms for such non-standard drop.

Section 3.4 - - SERVICE TO SCHOOLS AND PUBLIC BUILDINGS

(a) Franchisee shall provide, free of charge, one (1) drop, outlet and the Standard Service Package (for video) if said Standard Service Package is available in the community, to public, state accredited schools and municipal buildings along its cable routes located within 150 feet of the Cable System and capable of aerial installation or through access to a reasonably available and usable existing conduit system (where said existing conduit system is available at no charge) upon written request of the Franchising Authority.

(b) Any locations in schools in Cape Elizabeth and municipal buildings which have been wired by Franchisee for service and provided service at no charge or where service outlets were installed by Franchisee, shall continue to receive such activated outlets of service as already provided at no charge.

(c) All future newly constructed public, state accredited schools and municipal buildings shall be provided with the standard drop (referenced in Section 3.4(a)) for the Standard Service Package, subject to such Standard Service Package being available to the community, following consultation with the Town or its designee as to location.

(d) If necessary to receive the Standard Service Package, subject to said Standard Service Package being available within the community, Franchisee will continue to

provide a converter to existing classrooms having converters at no charge to the Town, however, in the event of vandalism, neglect or theft, the Town shall be responsible for replacing same.

Section 3.5 - STANDBY POWER

The Franchisee shall maintain a minimum of twenty-four (24) hours standby power at the headend facility. Upon written request by the Franchising Authority or by its designee, Franchisee shall furnish evidence to the Franchising Authority on an annual basis that such standby power has been tested annually and is in good repair.

Section 3.6 - TREE TRIMMING

In the installation, maintenance, operation and repair of the poles, cables wires and all appliances or equipment of the Cable System, the Franchisee shall avoid unnecessary damage to trees whether on public or private property in the Town and shall cut or otherwise prune such trees only to the least extent necessary. No cutting of trees on Town property shall occur except upon a permit in writing from the Town Tree Warden or other person designated by the Town or Department of Public Works (or Highway Department if applicable), provided that such permit is a requirement of general applicability and not specific to Franchisee or cable television operators. Franchisee shall make its best effort to secure the permission of the property owner prior to reasonable tree trimming, and in any event, shall be subject to generally applicable local ordinances or by-laws, if any, with respect to tree-trimming on public or private property.

Section 3.7 - UNDERGROUND WIRING OF UTILITIES

In areas of the Town having both telephone lines and electric utility lines underground, whether required by ordinance or not, Franchisee's cable and wires shall be installed underground. Franchisee shall comply with all applicable state and generally applicable municipal laws and regulations concerning "dig-safe" requirements and laws and ordinances of general applicability concerning street openings, street restoration, traffic management and other procedures and requirements pertaining to obtaining such street permits and permits that may be generally required for work or locating new plant

under, on or over the public way. In the event Franchisee is provided reasonable notice of the excavation or trenching of a public way for purposes of conduit and/or equipment installation, it shall be Franchisee's obligation to locate its conduit and equipment in said excavation or trench where possible (and other utilities, not including water and sewer, are subject to same obligation with respect to use of said excavation or trench), and in any event to respond in writing to such notice within twenty-one days as to whether such underground conduit and equipment locations are possible. If the Franchising Authority reimburses any other participating utility (other than water and sewer) for relocating its facilities, Franchisee shall be similarly reimbursed.

Section 3.8 - PEDESTALS AND VAULTS

In any cases in which vaults housing devices or pedestals or other street surface structures are to be utilized, in the Town Public Ways or within the Town public layout, such equipment must be in accordance with generally applicable Town or Public Works Department, or similar department, laws or regulations; at Town approved locations to be determined when Franchisee applies for applicable permits or authorizations, as may be authorized by the Town subject to requirements of general applicability. In any event, Franchisee will comply with Town ordinances or by-laws and regulations of general applicability with respect to the foregoing.

Section 3.9 - PRIVATE PROPERTY

Franchisee shall be subject to all generally applicable laws, ordinances or regulations regarding private property in the course of constructing, upgrading, installing, operating and maintaining the Cable System in the Town. Franchisee shall promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, upgrade, installation, operation or maintenance of the Cable System at its sole cost and expense.

Section 3.10 - RESTORATION TO PRIOR CONDITION

Whenever the Franchisee takes up or disturbs any pavement, surface, sidewalk or other improvement of any private way, Public Way or public place, it shall be replaced and the surface restored in as good condition as before entry as soon as possible, subject

to the approval and in accordance with the requirements of the Town 's Department of Public Works (or Highway Department if applicable) or their designee. If the Franchisee fails to make such restoration within a reasonable time, the Town may fix a reasonable time and notify the Franchisee in writing of the restoration required and the time fixed for performance. Upon failure of the Franchisee to comply within the time specified, the Town may cause proper restoration and repairs to be made and the reasonable expense of such work as itemized shall be paid by the Franchisee upon demand by the Town.

Section 3.11 - COOPERATION WITH BUILDING MOVERS

The Franchisee shall, upon thirty (30) days request of any person holding an appropriate permit issued by the Town, temporarily raise or lower its lines to permit the moving of any building or other structure, so long as other comparable utilities are subject to similar requirements. The expense of such raising or lowering shall be borne by party requesting such relocation unless otherwise mandated by applicable state or federal law.

Section 3.12 - RELOCATION OF FACILITIES

The Franchisee shall, at its expense, temporarily or permanently relocate any part of the Cable System when required by the Town for reasons such as traffic, public safety, street construction, installation of sewers, drains, water pipes, power or signal lines or setting of new or replacement utility poles. In this respect, the Franchising Authority shall treat Franchisee and other affected utilities in a non-discriminatory manner. If any utility (not including sewer and water) is reimbursed for such relocation, Franchisee shall be similarly reimbursed.

Section 3.13 - SERVICE INTERRUPTION; REBATES

Franchisee shall endeavor to interrupt service for the purpose of repairing, upgrading or testing the Cable System only during periods of minimum use, except when required for exigent technical reasons. Rebates for service interruptions shall be in

accordance with Section 7.5 of this Renewal Franchise and applicable law, including FCC customer service regulations.

Section 3.14 - CONSTRUCTION AND MAINTENANCE STANDARDS

(a) The Franchisee shall construct and operate a Cable System and render service to subscribers consistent with all generally applicable federal, state and local regulations during the term of this Franchise. In addition, the construction, maintenance and operation of the Cable System for which this Franchise is granted shall therefore be in conformance with, the applicable provisions of the National and Maine Electrical Codes, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Administration (OSHA) and the FCC. Upon written request of the Franchising Authority, copies of any technical performance tests that may be required under FCC rules and regulations shall be submitted to the Town.

(b) The Franchisee shall at all times keep and maintain in a safe condition and in good order and repair its structures, lines, equipment, and connections in, over, under and upon streets, sidewalks, alleys, and Public Ways and places of the Town, wherever situated or located.

Section 3.15 - RIGHT OF INSPECTION

(a) In the event the Franchising Authority reasonably suspects non-compliance with Cable System construction and maintenance terms of this Franchise, the Franchising Authority or its designee(s) shall have the right to inspect all construction, installation and/or upgrade work performed subject to the provisions of this Franchise and to make such tests as it shall deem necessary to ensure compliance with the terms and conditions of this Franchise and all other applicable law. Any such inspection shall be conducted at reasonable times upon reasonable notice to Franchisee except that inspection of cable wires in plain view on a Public Way shall not require any such notice so long as such inspection of facilities in plain view does not involve any touching of or contacting the facilities. Franchisee shall have the right to be present at any such inspection. Any such inspection shall not interfere with the Franchisee's operations.

(b) Any tests conducted by the Town shall be at the sole cost and expense of the Town and shall have the prior written approval of the Franchisee. In the event that such

tests or inspections find Franchisee in non-compliance with generally applicable construction and electrical codes, and other generally applicable requirements, Franchisee shall reimburse the Town's reasonable inspection costs from franchise fees that are owed pursuant to Article 5 of this Franchise.

Section 3.16 - EMERGENCY REMOVAL OF PLANT

If, at any time, in case of fire or emergency in the Town, it shall become necessary in the reasonable judgment of the Franchising Authority, Police or Fire Department or their lawful designee, to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the Cable System in the course of such fire or emergency, the Town shall have the right to do so at the sole cost and expense of Franchisee. Nothing herein shall limit Franchisee, where applicable, from seeking reimbursement under any applicable government program providing for reimbursement, including but not limited to Federal Emergency Management Agency ("FEMA") programs.

SECTION 3.17 – EMERGENCY AUDIO ALERT

The Subscriber Network shall comply with the FCC's and/or FEMA's Emergency Alert System ("EAS") regulations as applicable. The Franchisee shall, upon request of the Franchising Authority, test and report on the foregoing emergency communications capabilities and provide the Town with information as reasonably requested relative to emergency communications capabilities.

ARTICLE 4 RATES AND PROGRAMMING

Section 4.1 - INITIAL RATES

The initial rates for all programming, installation and equipment which are in effect on the Effective Date of this Franchise are listed in **Schedule 4.1** attached hereto. These rates are provided for informational purposes only and are subject to change at Franchisee's sole discretion pursuant to applicable law.

Section 4.2 - RATE RE-REGULATION

The Franchising Authority reserves the right to regulate rates for cable service to the extent such regulation is allowed at this time, or hereafter, under the applicable federal and state law.

Section 4.3 - PROGRAMMING CATEGORIES

Franchisee has offered and shall provide the following cable services:

- (1) the broad categories of broadcast stations, satellite services and other cable services set forth in **Schedule 4.3** attached hereto;
- (2) PEG Access channel required by Article 5 (Public, Community and Educational Access Programming) of this Franchise.

Section 4.4 - PROGRAMMING TIERS

The initial programming and services offered by Franchisee are listed in **Schedule 4.4**, attached hereto. This schedule of programming tiers is provided for informational purposes only and is subject to change at Franchisee's discretion, except with respect to provision of access channels and pursuant to applicable law.

Section 4.5 - LEASED ACCESS

Pursuant to the Cable Act, 47 U.S.C. 532 (b) (iii) (B), Franchisee will make available channel capacity for commercial use by persons unaffiliated with Franchisee. Upon request, Franchisee shall provide interested persons and the Franchising Authority a copy of its current leased access policy with current rates and terms for commercial leased access.

Section 4.6 - STEREO TV TRANSMISSIONS

All signals received by Franchisee in stereo shall be cablecast in stereo. Franchisee shall transmit signals in the format transmitted to Franchisee to provide close captioning in accordance with applicable federal law.

Section 4.7 - CHANNEL LINEUP Franchisee shall notify the Franchising Authority and subscribers, 30 days in advance, of each change in programming services involving deletion or addition of one or more channels where the giving of such notice is within its control and as set forth below. However, with respect to significant programming changes, advance notice may include 30 day advance notice by newspaper, bill insert/message or letter. In the event the channel lineup is changed during the term of the Franchise, Franchisee shall make available to any requesting subscriber an updated channel lineup and will mail same to them upon subscriber request.

Section 4.8 - REMOTE CONTROLS AND CONVERTERS/RECEIVERS

Franchisee shall allow subscribers to purchase, from parties other than the Franchisee, and to utilize remote control devices which are deemed compatible with the converter installed by Franchisee. Franchisee may require a separate reasonable charge for use of the remote control. As required by applicable law, Franchisee shall allow subscribers to purchase tuning (not descrambling) converters and/or receivers from parties other than the Franchisee if compatible with the Cable System.

ARTICLE 5

PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

Section 5.1 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

Public, educational and governmental (“PEG”) Access Programming and facilities and equipment shall be provided pursuant to the provisions of this Article 5, 47 U.S.C. s.531 and applicable laws.

Section 5.2 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS TO THE CABLE SYSTEM

(a) Public, educational and governmental access programming may be placed on the Town of Cape Elizabeth Cable System Access channel subject to rules established by the Franchising Authority. Such rules may condition access to the Franchising Authority’s equipment and facilities upon completion of a training program, or upon certification of proficiency by the Access Designee.

Section 5.3—ANNUAL OPERATING FUNDS; ACCESS FUNDING

- (a) The Franchising Authority may designate the franchise fee or a portion thereof under Section 7.8 of this License for access purposes including access designee use.
- (b) To facilitate municipal meetings and other municipal or educational access coverage, and coverage of other municipal meetings, Franchisee shall provide a capital grant in the amount of \$20,000 to contribute to the purchase of the equipment set forth in Schedule 5.3(b). Said capital grant will be passed through to subscribers in accordance with federal law. The equipment shall be purchased by the Town within ninety days of the franchise agreement effective date. Equipment allocated to the Town shall be owned by the Town.

Section 5.4—ACCESS CHANNELS AND FACILITY

Franchisee shall provide the Town with one Access channel on the subscriber network for the Town of Cape Elizabeth access uses. In the event each of the foregoing channels is programmed seventy-five percent (75%) of the time from ten a.m. to ten p.m. Monday

through Saturday for six consecutive months, Franchisee shall provide a second access channel which shall be digital. To be counted toward the program utilization formula triggering the second channel, only that access programming on the channel that is locally produced in Cape Elizabeth, original, full-motion video, non-duplicated, and non-character generated shall qualify. In the event either of the channels is programmed less than seventy-five percent (75%) of the time from ten a.m. to ten p.m. Monday through Saturday for six consecutive months, the second access channel shall revert to Franchisee.

Franchisee shall make available a digital box without charge to those customers that do not have a digital box and specifically request the same in order to view the access programming available on the digital channel. Said box shall permit the viewing of programming on the digital access channel with a signal quality comparable to that of any other digital channel except Licensee is not responsible for signal quality problems arising from production quality. If a customer that has obtained a box pursuant to the foregoing later subscribes to, or orders, a service that requires a box, a monthly charge shall be instituted for the box. In the event Franchisee's system becomes all digital, all access channels shall be digital.

The access channel shall be able to transmit upstream from Town Hall, 320 Ocean House Road. The Franchising Authority, through the Access Designee, if any, will be responsible for operations and programming of the Town's access channel.

Section 5.6—SYSTEM DESIGN

Franchisee shall maintain headend equipment to process the upstream signals from the remote origination site to place such signals on the designated education and municipal access cable channel. The Franchising Authority, or its Access Designee, if any, will, however, be responsible for scheduling and transmitting of access programming on the access channel. Franchisee shall not be responsible for the production quality of the access programming.

Section 5.7—SYSTEM MAINTENANCE OF CHANNEL

Franchisee shall monitor the access channel for technical signal quality and shall ensure that they are maintained at standards equal to those which apply to the cable system's commercial channels; provided, however, that this section shall not require Franchisee to have any responsibility for the production quality of access users' productions. Upon a Franchising Authority finding of significant signal quality problems, if any, Franchisee shall designate an engineer to investigate and report on same within 21 days of Franchising Authority request and to take reasonable steps to rectify signal quality problems, resulting from Franchisee's plant, if any.

Section 5.8- MISCELLANEOUS ACCESS MATTERS

The Franchising Authority and/or Access Designee may require any producer, user or programmer to assume individual responsibility for any Access program-based liability including, but not limited to, liability for copyright infringement or defamation, and to hold the Town, Franchisee and Access Designee harmless for same, subject to Cable Act and FCC requirements. The Franchising Authority reserves the right to adopt lawful operating rules with respect to implementation of the foregoing.

ARTICLE 6

SUBSCRIBER RIGHTS AND CONSUMER PROTECTION

Section 6.1 - CUSTOMER SERVICE

The Franchisee shall maintain a publicly listed, toll free, customer service number for the general purpose of serving customer needs including receiving and resolving complaints, including without limitation, those regarding service, equipment malfunctions or billing and collection disputes.

Section 6.2 - TELEPHONE ACCESS, INSTALLATIONS, OUTAGES AND SERVICE CALLS

Franchisee shall maintain a local, toll-free or collect call telephone access line, which will be available to its subscribers 24 hours a day, 7 days a week, with trained

customer service personnel, to receive and log service calls and complaints. Franchisee shall comply with the FCC standards regarding response to customer phone calls.

Franchisee's employees shall be informed how to respond in case of emergencies requiring standby technicians. Franchisee shall exercise diligent efforts to call on standby personnel when it is evident that the complaints received are indicative of a problem affecting three (3) or more subscribers. Franchisee agrees to be bound by the customer services obligations adopted by the FCC in 47 C.F.R. § 76.309(c), as they may hereafter be amended.

Pursuant to 47 C.F.R. §76.309(c)(1)(B), under Normal Operating Conditions, as defined, telephone answer time by a customer service representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. Said standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

A Subscriber shall receive a busy signal less than three (3%) of the time, measured on a quarterly basis, under normal operating conditions.

The Franchising Authority shall have the right to direct the Franchisee to submit a "busy study" from the telephone company which provides service to the Franchisee, if the quarterly reports do not clearly document that the Franchisee's telephone lines are accessible to Subscribers as required herein.

Section 6.3 CUSTOMER SERVICE CALL CENTERS

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

(b) In the event that the Franchisee does not maintain and operate its customer service call centers twenty-four (24) hours a day, seven (7) days a week, the Franchisee shall maintain a telephone answering service to handle Subscriber inquiries, complaints

and emergencies, and provide proper referral regarding billing and other subscriber information. All such after-hours calls shall be logged by the Franchisee. Said answering service shall (i) forward all inquiries and/or complaints to the Franchisee the morning of the next business day and (ii) inform each Subscriber calling that his or her complaint will be referred to the Franchisee's Customer Service Department for response. If requested by the subscriber, the Franchisee shall promptly contact the individual Subscriber to follow-up on his or her individual problem and/or inquiry.

Section 6.4 - INSTALLATION VISITS-SERVICE CALLS-RESPONSE TIME

(a) The Franchisee shall provide Cable Service(s), for new standard installations (not to exceed 150 aerial feet from the existing distribution system), to residents who request Service within seven (7) calendar days of said request.

(b) In arranging appointments for either Cable Television installation visits or service calls, the Franchisee shall offer to the resident or Subscriber in advance a choice of whether said installation visit or service call will occur during the following time blocks not to exceed four hours. Failure of the Franchisee through its own fault to install cable or make the service call as scheduled shall require the Franchisee to call the affected resident or Subscriber and schedule installation or service call on a priority basis mutually agreeable to the Franchisee and said resident or Subscriber, but in no case later than three (3) days following the initial installation or service call date, unless agreed to otherwise by said resident or Subscriber. The Franchisee shall promptly notify residents and Subscribers in writing or by telephone of their right to a priority cable installation or service call in the event that the Franchisee fails to make such scheduled call(s).

(c) The Franchisee shall make installation and service calls during normal business hours including some evening hours at least one night per week and/or some weekend hours per week.

(d) For all requests for service or repair that are received during Normal Business Hours, the Franchisee shall handle them on the same day, if possible, provided that said service complaint or request for service is received by 2:00 P.M.; provided, however, that in all instances, requests for service calls shall be responded to within forty-eight (48) hours of

said original call. Verification of the problem and resolution shall occur as promptly as possible.

(e) A Subscriber complaint or request for service received after Normal Business Hours, pursuant to Section 12.1 above, shall be acted upon the next business morning. At that time, they are to be handled as prescribed in (d) above for a request received at the start of business.

(f) The Franchisee shall ensure that there are stand-by technicians on-call at all times after Normal Business Hours.

(g) Service interruptions and system outages shall be responded to promptly by technical personnel, and in no event later than 24 hours after the interruption or outage becomes known

(h) The Franchisee shall remove all Subscriber Drop Cables, within fifteen (15) days of receiving a written request from a Subscriber to do so. The parties acknowledge such subscriber drop removal need not be done in the case of a routine disconnect.

Section 6.5 - MINIMUM SUBSCRIBER INFORMATION

Franchisee will provide all prospective subscribers with complete, clear and concise written information before consummation of any agreement for initial installation of cable service. Such sales materials shall clearly disclose the price and other information concerning Franchisee's lowest cost basic service. Such information shall include but not be limited to the following:

(a) All service and rates, deposits if applicable, installation costs, additional television set charges, service upgrade or downgrade charges, and relocation of cable outlet charges.

(b) Written information concerning billing and termination procedures, procedures for ordering changes in or termination of services, and all refund policies, including the availability of rebates or credits for loss of service.

(c) Written information concerning the availability of special equipment such as VCR kits, A/B switches, and lockboxes.

(d) Written information concerning privacy policies, pursuant to state and federal law.

(e) Written information concerning steps to take in the event of loss of service.

Section 6.6 - PARENTAL CONTROL

Upon request, the Franchisee shall provide subscribers with parental control capability to block the reception of individual channels on the Cable System, with charge for same in accordance with FCC equipment rate rules. The Franchising Authority acknowledges that the parental control capability may be part of a converter box and the Franchisee may charge subscriber for use of said box.

Section 6.7 - BILLING AND TERMINATION PROCEDURES

Franchisee will inform all prospective subscribers of complete information about rates and charges for different levels of services and service calls, billing and collection procedures, procedures for ordering changes in or termination of services before consummation of any agreement for installation of service.

Section 6.8 - VOLUNTARY DISCONNECTION OF SERVICE

Subscribers who request full disconnection of cable service shall not be responsible for further charges for such service upon actual termination of service or after seven (7) days notice to Franchisee, whichever occurs first. Franchisee shall make a good faith effort to disconnect service as soon as possible after requested to do so by a subscriber. A subscriber who requests full disconnection of cable service shall make a good faith effort to return all of his or her customer premises equipment to Franchisee's local business location or any other reasonable location Franchisee may designate. Subscribers may be charged for unreturned equipment.

Section 6.9 - BILLING DISPUTES

In the event of a bona fide billing dispute, Franchisee will resolve each dispute within fifteen (15) working days of receiving notification from the subscriber, except additional time shall be available where necessary based on the circumstances.

Section 6.10 - PROTECTION OF SUBSCRIBER PRIVACY

(a) Franchisee shall respect the rights of privacy of every subscriber and/or user of the Cable System and shall not violate such rights through the use of any device or signal associated with the Cable System, as hereafter provided.

(b) Franchisee shall comply with all privacy provisions contained in this Section and all other applicable federal and state laws including, but not limited to, the provisions of Section 631 of the Cable Communications Policy Act of 1984 and Title 18 United States Code Section 2520.

(c) 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 personal subscriber information is handled and protected strictly in accordance with this policy.

(d) Franchisee shall notify all third parties who offer cable services in conjunction with Franchisee, or independently over the Cable System, of the subscriber privacy requirements contained in this Renewal Franchise.

Section 6.11 - PRIVACY

Prior to the commencement of cable service to a new subscriber, and annually thereafter to all Cable System subscribers, Franchisee shall provide a comprehensive and easily understandable written document explaining Franchisee's practices regarding the collection, retention, uses, and dissemination of personal subscriber information, and describing Franchisee's policy for the protection of subscriber privacy. In addition, Franchisee and its agents or employees shall not disclose to any third party a subscriber's name or address without obtaining consent of the individual subscriber to the extent required by 47 USC 631 and any such disclosure shall be in accordance with 47 USC 551 or other applicable law.

Section 6.12 - INFORMATION WITH RESPECT TO VIEWING HABITS AND SUBSCRIPTION DECISIONS

Franchisee or its agents or its employees shall not make available to any third party, including the Town, information concerning the viewing habits, or subscription package decisions of any individual subscriber except as required by law.

Section 6.13 - SUBSCRIBER'S RIGHT TO INSPECT AND VERIFY INFORMATION

(a) Franchisee shall make available for inspection by a subscriber at a reasonable time and place all personal subscriber information that Franchisee maintains regarding said subscriber.

(b) A subscriber may obtain from Franchisee a copy of any or all of the personal subscriber information regarding him or her maintained by Franchisee. Franchisee may require a reasonable fee for making said copy.

(c) A subscriber or user may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of subscriber information shall be directed to Franchisee's Vice President of Government & Public Affairs.

Section 6.14 - EMPLOYEE IDENTIFICATION CARDS

All of Franchisee's employees, including repair and sales personnel, entering private property shall have a visible employee photo-identification card.

Section 6.15 - TECHNICAL AND CUSTOMER SERVICE STAFF LEVELS

Franchisee will employ enough service technicians and customer service representatives to meet its obligations under this Franchise.

Section 6.16 - NON-DISCRIMINATION

Franchisee shall not discriminate against any person in its solicitation, service or access activities, if applicable, on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the Town, sex, affectional preference,

disability, age, marital status, or status with regard to public assistance. Franchisee shall be subject to all other requirements of federal and state regulations concerning non-discrimination.

ARTICLE 7

FRANCHISE ADMINISTRATION

Section 7.1 - REGULATORY AUTHORITY

The Franchising Authority and/or its designee(s) shall be responsible for the day to day regulation of the Cable System. The Franchising Authority shall monitor and enforce Franchisee's compliance with the terms and conditions of this Renewal Franchise. The Franchising Authority shall notify Franchisee in writing of any instance of non-compliance and may direct that such non-compliance be corrected within thirty (30) days to the reasonable satisfaction of the Franchising Authority, unless a longer period is specified herein, or is mutually agreed upon by the Franchising Authority and Franchisee. Franchisee will notify the Franchising Authority's designee of any material changes contemplated for the delivery of service.

Section 7.2 - INDEMNIFICATION

(a) The Franchisee shall indemnify and hold the Town and its agents, harmless at all times during the term of this Franchise from any and all claims alleged to be caused by Franchisee's construction, installation, operation, or maintenance of any structure, equipment, wire or cable to be installed pursuant to the Franchise or exercise of any of its rights under this Franchise. Upon receipt of notice in writing from the Town, the Franchisee shall at its own expense defend any such actions or proceedings. Indemnified expenses shall include without limitation, all out-of-pocket expenses, such as attorney's fees.

(b) In order for the Town to assert its rights to be indemnified, defended, or held harmless, the Town must:

- (1) promptly notify Franchisee of any claim or legal proceeding which gives rise to such right;

- (2) the Town shall afford the Franchisee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding, unless, however, the Town , in its sole discretion, determines that its interests cannot be represented in good faith by the Franchisee in which event the Town shall be responsible for its own costs and further acceptance of any non-monetary settlement or term involving injunctive relief or orders affecting the Town shall be subject to Town's consent; and
- (3) the Town shall fully cooperate with the reasonable requests of the Franchisee in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subparagraph (2) above.

Section 7.3 - INSURANCE

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

- (b) The Franchisee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of One Million Dollars (\$1,000,000). Policy will contain a provision that the

Franchising Authority will receive thirty (30) days' written notice prior to any cancellation.

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

(d) The Franchisee shall provide Franchising Authority with certificate(s) of insurance for all policies required herein on an annual basis, if requested by the Town.

Section 7.4 - SERVICE INTERRUPTIONS

Franchisee shall provide credits for service interruptions in accordance with state and/or federal law.

Section 7.5 - PERFORMANCE EVALUATION SESSIONS

The Franchising Authority may at its discretion but not more than once a year, hold a performance evaluation session on or about the anniversary of the Effective Date of this Franchise. All such evaluation sessions shall be open to the public. The purpose of said evaluation sessions shall be to, among other things, review Franchisee's compliance to the terms and conditions of this Franchise, and hear comments, suggestions or complaints from the public. The Franchising Authority shall provide the Franchisee with thirty (30) days, advance written notice of such performance evaluation session. The Franchising Authority shall have the right to question Franchisee on any aspect concerning the construction, installation, operation or maintenance of the Cable System. During review and evaluation by the Franchising Authority, Franchisee shall fully cooperate with the Franchising Authority or its designee, and produce such documents or other materials as are reasonably requested by the Town and which are not considered proprietary by Franchisee. Franchisee shall notify its subscribers of all performance evaluation sessions by announcements on the Local Origination channel of its Cable System in the evening hours for at least five (5) consecutive days preceding

each such session, provided that Franchisee shall not be required to preempt its regularly scheduled access or Local Origination programming to air these announcements.

Section 7.6 - NON-PERFORMANCE BY THE FRANCHISEE

Failure of the Town to enforce the performance of any term of this Franchise shall not be deemed a waiver of its right to insist upon the subsequent performance of that term.

The Town may revoke this Agreement at any time prior to the date of expiration set forth herein upon a finding, made after thirty (30) days' notice of proposed revocation and a public hearing providing Franchisee an opportunity to be heard and present evidence, that the Franchisee has unreasonably failed to cure one or more of the following defects during a sixty (60) day period following written notice of such defect from the Town:

- (a) Material breach, whether by act or omission, of any the material terms or conditions of this Agreement, or
- (b) Insolvency of the Franchisee, or inability or unwillingness to pay its just debts when they accrue, or application by the Franchisee for adjudication as a bankrupt.

Any breach shall be excused if caused by an event of force majeure.

Section 7.7 - FRANCHISE FEE

Subject to applicable law, Franchisee shall pay the Franchising Authority an annual franchise fee of five percent (5%) of its Gross Annual Revenues which fee shall be due and payable on March 1 of each year for the previous calendar year. Payments by Franchisee under the provisions of this Section and other payments meeting the definition of franchise fees as set forth in 47 USC Section 542 shall, in combined total, not exceed, with respect to any calendar year, five percent (5%) of Franchisee's Gross Annual Revenues. Should Franchisee fail to timely make any payment under this Article 7, and should such failure continue for a period of 10 days from written notice thereof, then it shall additionally be charged interest which shall accrue from the date payment is due at

an annual rate not to exceed the prime rate of interest then current at the Chase Manhattan Bank of North America plus two percent. Payment of this interest charge shall not preclude any other remedy available to the Franchising Authority under applicable law.

Section 7.8 - SUBSCRIBER AND USER COMPLAINTS

Franchisee shall keep all written complaints it receives on file in its local business office in accordance with applicable state regulations, or three years, whichever is longer. Should state regulatory requirements for maintenance of complaint records be eliminated, then the Franchising Authority shall have the right to request Franchisee to reasonably maintain records of written and verbal complaints which it receives. The Franchising Authority or its designee shall have the right to examine, review and copy said complaints at its own expense during Franchisee's business hours upon reasonable notice.

Section 7.9 - SUBSCRIBER COMPLAINT REPORTS

- (a) Upon request, Franchisee shall not less than once every three months notify the Franchising Authority of complaints of subscribers received during the reporting period and the manner in which the complaints have been met, including the time required to make any necessary repairs or adjustments. Franchisee shall, in conjunction with the Franchising Authority, develop an acceptable form of complaint reporting.
- (b) Franchisee shall, within ten (10) days after receiving a Franchising Authority request, send a written report to the Franchising Authority with respect to any complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

Section 7.10 - QUALITY OF SERVICE

Where there exists credible evidence which, in the reasonable judgment of the Franchising Authority casts doubt upon the reliability or technical quality of cable service(s), after notice to Franchisee and an opportunity to cure, the Franchising Authority shall have the right and authority to require Franchisee to test, analyze and

report on the performance of the Cable System. Franchisee shall fully cooperate with the Franchising Authority in performing such testing.

The Franchising Authority may require said tests/inspections be supervised by a mutually agreed upon professional cable television engineer, at terms satisfactory to both the Town and Franchisee, who is not an employee or agent of the Franchisee of the Town.

Section 7.11 - SERVICE INTERRUPTION REPORT

Franchisee shall upon request submit to the Franchising Authority a list of all significant service interruptions.

Section 7.12 - FINANCIAL REPORTS

Upon request of the Franchising Authority, The Franchisee shall file annually with the Franchising Authority, a statement of the Town of Cape Elizabeth Gross Annual Revenues in accordance with Generally Accepted Accounting Principles, and the foregoing shall be provided within two months of the close of the calendar year. Such statements shall be sworn to by the person preparing same and by the supervising financial officer.

Section 7.13 - NUMBER OF SUBSCRIBERS

Upon request of the Franchising Authority, Franchisee shall file annually, but no more than once annually, with the Franchising Authority a report containing the number of subscribers within the Cape Elizabeth service area.

Section 7.14 - LINE EXTENSION REPORT

Upon request of the Franchising Authority, the Franchising Authority may require Franchisee to submit a report detailing the areas in the Town in which the Cable System has been extended during said reporting period, the dates of said extensions and the number of households capable of receiving cable service(s).

Section 7.15- NON-EXCLUSIVITY OF REMEDY

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

Section 7.16 – CABLE COMMITTEE

The Franchising Authority may appoint a Cable Television Committee and delegate to said Committee such functions as are lawful and customary.

**ARTICLE 8
GENERAL PROVISIONS**

Section 8.1 - TRANSFER AND ASSIGNMENT.

(a) The rights and privileges granted to the Franchisee by the Town under this Agreement shall not be assigned or transferred by the act of the Franchisee or by operation of law, without the consent of the Town, which shall not be unreasonably withheld or delayed. The granting, giving or waiving any one or more such consents shall not render unnecessary any subsequent consent or consents.

(b) The Franchisee shall promptly notify the Town of any actual change in, or transfer of, or acquisition by any other party of control of the Franchisee. The word "control" as used herein shall consist of actual working control in whatever manner exercised. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the Town may inquire into the legal, financial and technical qualifications of the prospective controlling party. Nothing in this section shall be deemed to prohibit a mortgage or pledge of the system plant, or any party thereof, for financing purposes. Notwithstanding anything herein to the contrary, no consent shall be required for a transfer to an entity controlling, controlled by, or under the same common control as Franchisee.

Section 8.2 - FRANCHISE AS CONTRACT UNDER SEAL

Upon its execution by the Franchising Authority and Franchisee this Franchise shall be deemed to constitute a contract under seal by and between Franchisee, on the one hand, and the Town of Cape Elizabeth, on the other hand.

Section 8.3 - ENTIRE AGREEMENT

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by instrument in writing executed by the parties.

Section 8.4 - CAPTIONS

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

Section 8.5 - SEVERABILITY

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

Section 8.6 - FORCE MAJEURE

If for any reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this Franchise, the term "force majeure" as used herein shall have the following meaning: strikes; acts of God; acts of public enemies, orders of any kind of the government of the United States of America or of the State of Maine or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots,

epidemics; landslides; lightning; earthquakes; fires, hurricanes; volcanic activity; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the disabled party.

Section 8.7 - NOTICES

Every notice to be served upon the Franchising Authority shall be delivered or sent by certified mail (postage prepaid) to Attn: Town Manager, Town of Cape Elizabeth, 320 Ocean House Road, Cape Elizabeth, ME 04107 or such other address as the Franchising Authority may specify in writing to the Franchisee. Every notice served upon the Franchisee shall be delivered or sent by certified mail (postage prepaid) to Time Warner Cable, Attn: Government Affairs, 118 Johnson Road, Portland ME 04102 with a copy to Time Warner Cable, Attn: Corporate Counsel, 290 Harbor Drive, Stamford, CT 06902 or such other address as the Franchisee may specify in writing to the Franchising Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of mailing or receipt.

Section 8.8 - REMOVAL OF ANTENNAS

Franchisee shall not remove any television antenna of any subscriber but shall, offer to said subscriber and maintain an adequate switching device to allow said subscriber to choose between cable and non-cable television reception.

Section 8.9 - SUBSCRIBER TELEVISION SETS

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

Section 8.10 - PUBLICATION

Franchisee shall, upon request of the Franchising Authority within thirty (30) days of the execution of this Franchise, print and distribute a maximum of five (5) copies of the Franchise.

Section 8.11 - JURISDICTION

Exclusive jurisdiction and venue over and dispute or judgment rendered pursuant to any Article herein shall be in a court of appropriate venue and subject matter jurisdiction located in the State of Maine, or upon appeal, other competent court or agency, and the parties by this instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit arising in connection with the entry of such judgment.

WITNESS OUR HANDS AND OFFICIAL SEALS, THIS ____ DAY OF _____, 2008.

TOWN OF CAPE ELIZABETH

By:

_____, its Town Manager

as duly authorized by the Franchising Authority hereof

This Franchise is hereby accepted by Time Warner Entertainment Company, L.P.

By:

_____, its Division President

TABLE OF SCHEDULES/EXHIBITS

Schedule 4.1	Initial Rates
Schedule 4.3	Broad Categories of Programming
	Sports
	News
	Weather
	General Entertainment (including movies)
	Documentary
	Arts/Cultural
	Children/Family Oriented
	Foreign Language
Schedule 4.4	Initial Program Services
Schedule 5.4b	Equipment Grant