

Regis. A. Maxfield

Contract and Franchise
Between the Town of Loudon
and
Continental Cablevision of New England, Inc.

COPY

Pursuant to the authority of RSA 53-C of the Laws of New Hampshire, the BOARD OF SELECTMEN OF THE TOWN OF LOUDON hereby grants a non-exclusive Cable Television Franchise to CONTINENTAL CABLEVISION OF NEW ENGLAND, INC. ("Continental") for the purpose of authorizing and permitting said Franchisee to construct, operate and maintain a Cable System and to provide any lawful telecommunications service within the corporate limits of the TOWN OF LOUDON.

Subject to the terms and conditions herein, the Board of Selectmen hereby grants to Continental, as Franchisee, the right to construct, operate and maintain a cable television communications system which may include optical fibers in, under, over, along, across and upon streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town of Loudon within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way, for the purpose of reception, transmission, amplification, origination, distribution or redistribution of audio, video, digital and other impulses in accordance with the laws of the United States of America and the State of New Hampshire.

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Section 1: Definitions

"Basic Service" Any service tier which includes the retransmission of local television broadcast signals.

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

"Cable Act" The Cable Communications Policy Act of 1984.

"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 (as defined in the Cable Act) which includes video programming and which is provided to multiple subscribers within the Town.

"CPI" The Consumer Price Index for all urban consumers (CPI-U) Boston, Mass., and compiled by the U.S. Department of Labor, Bureau of Labor Statistics.

"FCC" The Federal Communications Commission.

"Franchise" An initial or renewed authorization issued by a municipality as the franchising authority to construct, operate and maintain a cable system.

"Franchisee" Continental Cablevision of New England, Inc.

"Headend" The electronic center through which broadcast and cablecast signals are electronically translated or modified for distribution over the cable system.

"Premium Service" An optional additional program service provided to subscribers for which a separate rate is charged.

"Service Tiers" A category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

"Subscriber" Any person who lawfully receives service from the cable system.

"Town" The Town of Loudon, New Hampshire.

Section 2: Term of Franchise

- A. The term of this Franchise shall be for a period of twenty (20) years commencing from the date of execution hereof; subject however, to all the provisions of RSA 53-C and other applicable Federal and State statutes (as such statutes may from time to time be amended) and subject, further, to the

continued performance by Continental, of all the conditions and terms set forth herein.

- B. Thereafter this Franchise may be renewed for additional terms of twenty (20) years in accordance with existing federal law. In the event no law exists governing the renewal of a cable television franchise, the Board of Selectmen shall renew the Franchise after a public hearing, provided Continental's performance has substantially complied with the material terms of this Franchise and applicable law.

Section 3: Service Area; Line Extensions

- A. Cable service shall be provided to dwellings and buildings passed by the cable system in the Service Area, in existence on the date this agreement is executed and requesting cable service within Loudon provided that Continental is able to obtain from property owners any necessary easements and/or permits at no cost. The Service Area is defined on the map attached hereto and made a part hereof as Exhibit "A". Construction of the system in the Service Area shall begin within two (2) weeks following the completion of utility make-ready. Continental shall use its best efforts to work with the utilities involved in the make-ready process to ensure timely completion of the required work. The Service Area as defined herein shall be completed and energized no

later than four (4) months after the start of construction unless delay is for good cause, such as weather, availability of construction crews and materials, timely performance of make-ready by utilities and the ability to obtain all necessary easements, rights of way, and permits. Continental shall secure all necessary permits prior to beginning construction.

- B. At least once every three (3) years after execution of this Franchise, Continental shall review the number of new dwellings constructed within the Town to determine the economic and technical feasibility of extending the Cable System to serve additional permanent, year round residential dwellings within the Town. Continental shall not be required to extend the Cable System unless it, in its reasonable discretion, determines that it is economically and technically feasible to do so and there are at least twenty (20) homes per aerial mile of cable or twenty five (25) homes per underground mile of cable measured from the nearest cable feeder line. Continental shall commence construction of any such line extensions as soon as practicable thereafter, taking into account weather, performance of make-ready, availability of construction crews and materials, and the ability to obtain all necessary easements and rights of way.

Section 4: Construction Standards

All construction will be in compliance with the National Electrical Safety Code and applicable by-laws of the Town of Loudon.

Section 5: Pole Attachment and Placement

A. Pursuant to RSA 231:161, Continental shall have the right to use existing poles and underground conduit on public streets and ways for its cables, wires, optical fibers and other facilities comprising the Cable System.

No new poles shall be installed by Continental or its agents within the Town unless and until the location and placement thereof shall have been approved by the Board of Selectmen.

B. Continental shall obtain rights under agreements with the appropriate utilities, or the successors or assigns of said utilities, to attach to poles or to use conduits and pipes of said utilities.

Section 6: Insurance

Continental shall maintain in full force and effect at all times, liability insurance insuring the Town in the following minimum amounts:

- A. One million dollars (\$1,000,000) for bodily injury or death to any one (1) person within a total limit, and of three million dollars (\$3,000,000) for bodily injury or death resulting from any one (1) accident.

- B. One million dollars (\$1,000,000) for property damage resulting from any one (1) accident.

Section 7: Service Interruptions

In the event that Continental's service to any Subscriber is interrupted for twenty-four (24) or more consecutive hours, Continental will, after notice, grant such Subscriber a pro rata credit or rebate, on a daily basis, of that portion of the service charge which represents lost viewing time during the next consecutive billing cycle, or at its option, apply such credit to any outstanding balance then currently due. Credits will be applied as described above after due notice to Continental from the Subscriber.

Section 8: Complaints, Area Office

- A. Continental shall maintain a customer service office within the Concord area, open during normal business hours, and a twenty four (24) hour line which Subscribers may call so that prompt maintenance service shall be available. Continental shall give each new subscribing household a notice of complaint procedures and listing Continental's telephone number.
- B. Upon reasonable notice, Continental shall expeditiously investigate and resolve complaints regarding the quality of service, equipment malfunctions and similar matters.
- C. Continental shall respond to all service calls within twenty-four (24) hours and correct malfunctions as promptly as possible. A serious system malfunction will be serviced as soon as possible after its discovery. For these purposes Continental shall maintain in the Concord area an office sufficiently staffed in order to provide adequate and prompt service to its Subscribers.

Section 9: Transfer and Assignment

This Franchise or any control thereof shall not be transferred or assigned without sixty (60) days notice and prior written consent of the Board of Selectmen, which consent shall not be arbitrarily or unreasonably withheld or delayed.

Section 10: Quality of Signal and Service

Continental shall supply service of adequate quality to its subscribers and shall continue to maintain its stationary facilities and transmission equipment in such condition so as not to constitute a hazard to the safety or health of the public. Continental shall maintain signal quality equal to or better than the technical specification required by Federal Communication Commission regulations.

Section 11: Cable Drops, Outlets and Service

- A. Continental shall, at no cost to the Town, provide and maintain one (1) cable drop, outlet and Basic Service for all public buildings along the cable route and within three hundred (300) feet of the feeder cable. Additional free drops will be provided to any Town property along the cable route as reasonably requested in writing by the Board.

- B. The Board of Selectmen or its designee shall consult with the appropriate individuals to determine the appropriate location of each drop prior to requesting that Continental install the free service.

Section 12: Tree Trimming

Continental shall have authority to trim trees upon, and overhanging, streets, alleys, sidewalks and public ways and places of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables and equipment of the Cable System.

Section 13: Performance Bond

- A. Continental shall submit and maintain throughout the duration of the Franchise, a performance bond running to the Town with a company surety satisfactory to the Town and authorized to do business in the State of New Hampshire to guarantee the following terms:

- (1) the satisfactory completion of the cable installation in the time schedule provided herein;

- (2) the satisfactory restoration of pavements, sidewalks and other improvements in accordance with this Agreement;
- (3) the satisfactory operation of the System in compliance with the material terms and conditions of this Agreement;
- (4) the satisfactory removal or other disposition of the System.

B. During the period of construction and following a reasonable period of satisfactory operation as determined by the Board of Selectmen, this bond shall be in the amount of one hundred thousand dollars (\$100,000).

C. Once cable service is available throughout the initial Service Area, the bond shall be reduced to ten thousand (\$10,000) dollars. Said bond shall be maintained throughout the life of the Franchise and shall be renewed upon renewal of this Franchise Agreement.

Section 14: Default

If Continental shall substantially fail to comply with any of the material terms and conditions of this Franchise and shall fail within sixty (60) days after receipt of written notice from the Town to correct such default or non-compliance, or such longer time as may be granted by the Town, then the Town shall have the right, after notice and a public hearing, to revoke any or all rights and privileges granted hereunder. Provided, however, that default or non-compliance resulting from factors beyond the reasonable control of Continental shall not be sufficient grounds for revocation.

Section 15: Legal Compliance

Continental shall comply with all state and federal laws and regulations, as they exist or may be amended from time to time, which regulate the use, operation and/or franchising of the cable television industry.

Section 16: Rates

The Cable Communications Policy Act of 1984, Section 623, and regulations of the Federal Communications Commission (FCC) currently prohibit regulation of cable television rates and

charges where, as in Loudon, adequate competitive alternatives exist as defined by the FCC. In the event of a change in the law or regulations which permit rate regulation, the Town and Continental agree that such regulation shall be accomplished by limiting Continental's right to increase its basic subscriber service by five percent (5%) or by an amount not exceeding the Consumer Price Index measured from the date such rate regulation commences, whichever is greater.

Any increase in Basic service which is not otherwise permitted by law and which exceeds the Consumer Price Index shall be approved by the Board of Selectmen.

Nothing contained in this Section shall be construed as waiving any rights Continental or the Town currently have, or in the future may have, pursuant to federal or state law or regulations.

Section 17: Equal Protection Provision

In the event the Issuing Authority grants an additional cable television franchise or franchises, such franchise(s) shall not contain terms and conditions more favorable or less burdensome than those contained herein.

Any such additional franchise(s) shall be granted on the condition that such franchisee(s) shall indemnify and hold harmless Continental from and against all costs and expenses

incurred in strengthening poles, rearranging attachments, placing underground facilities, and all other costs (including those of the Town and Continental), incident to inspections, make-ready, and construction of an additional Cable System in the franchise area.

Section 18: Separability

If any section, paragraph, term or provision of this Franchise is determined to be 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 any other section, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this franchise, any renewal or renewals thereof.

WITNESS OUR HANDS AND OFFICIAL SEALS,
THIS 11 DAY OF February, 1992

TOWN OF LOUDON BY:

Mary Ann Steele
Selectman

Reg. A. Maxfield
Selectman

Raymond C. Cummings
Selectman

ACCEPTED BY:

CONTINENTAL CABLEVISION OF
NEW ENGLAND, INC.

BY: H. Franklin Anthony
H. Franklin Anthony
Senior Vice President and
Regional Manager

