

FRANCHISE AGREEMENT
AND
AMENDMENT TO CABLE ORDINANCE #5-94

Between the Township of Franklin, located in the County of Erie and Commonwealth of Pennsylvania, with a mailing address of 10411 Route 98, Edinboro, PA (hereinafter "Township" or "Grantor" or "Board"),

- AND -

Coaxial Cable Television Corporation, a Pennsylvania corporation with a mailing address of 220 West Plum Street, Edinboro Mall, Edinboro, PA 16412 (hereinafter "Coaxial" or "Grantee").

WHEREAS, the Township of Franklin has enacted the Cable Ordinance of the Township of Franklin; and

WHEREAS, Coaxial Cable Television Corporation has applied for a non-exclusive franchise;

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby in accordance with the Pennsylvania Uniform Written Obligations Act, agree as follows:

I. **GRANT OF AUTHORITY**

The Township does hereby grant to Coaxial Cable Television Corporation a non-exclusive franchise co-extensive with the boundaries of Franklin Township to engage in the business of operating and providing a community cable television system throughout the entire Township of Franklin and for that purpose, the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all

extensions thereof, and additions thereto in the Township of Franklin, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Township of Franklin of a cable television system for the inception, sale, and distribution of television and radio signals or other lawful services by Coaxial to subscribers for a fee subject to the terms and conditions and provisions contained in this Agreement and the Ordinance. This franchise is granted pursuant to the Cable Ordinance of the Township of Franklin. Coaxial hereby acknowledges that it will comply with all of the provisions, terms and conditions of the Cable Ordinance except as modified by this Agreement.

Coaxial shall procure when reasonably possible and economically feasible any and all easements, rights-of-way, covenants, grants, certificates of approval and permits which may be required from any private persons or corporations or other entities, from any federal, state, municipal or other governmental authority and from the utility companies presently operating in the Township of Franklin for or in connection with the placing, maintaining or using of the attachments and the television cable herein referred to for the granting of this right-of-way, use or lease.

The Township reserves the right to grant a similar use in said streets, rights-of-way, easements and public ways to any other qualified person.

II. TERM OF FRANCHISE

The term of this Franchise Agreement shall be for fifteen (15) years commencing on the date of the final execution of this Agreement.

III. FRANCHISE FEES

During the term of this franchise, Coaxial agrees to make quarterly payments of five (5%) percent of its annual gross revenues received from subscribers within the Township, with the term "annual gross revenues" defined to include any and all compensation, fees, charges, or receipts obtained from the provision of Cable Services to subscribers by the Grantee except that "annual gross revenues" shall not include:

a) The amount of any refunds, credits, or other payments made to subscribers or users;

b) Any taxes on services furnished by the grantee imposed directly or indirectly on any subscriber or user by any municipal corporation, political subdivision, state, or other governmental unit and collected by the grantee for the governmental unit;

c) Receipts for the sale or transfer of tangible property;

d) Receipts for the sale or transfer of the system, or any part thereof;

e) Receipts by the grantee from subscribers and other sources outside the Township of Franklin;

- f) Any revenues received from a home shopping or other similar channel as well as any and all other revenues which are not received directly from the subscriber;
- g) All installation or reconnection charges, collection or late charges, service charges and administrative charges, and charges for additional outlets;
- h) Revenues from advertising insertions or community bulletin board channel.
- i) Revenues from remote controls or any other equipment which the grantee may from time to time make available to subscribers.

With each quarterly payment of franchise fees, Coaxial shall provide the Township with a statement of the revenues upon which the calculation of franchise fees is based. Upon request, Coaxial shall provide the Township with access to the information necessary to verify the computation of the franchise fee. Coaxial need not provide any other or further information. The right of the Township to audit the books of Coaxial is limited to that information pertaining to the operation of the system within the Township and the Township is not entitled to reimbursement of expenses upon discovery of an irregularity unless the irregularity is material. (Material for this purpose being an irregularity which results in an underpayment in a calendar year to the Township of twenty (20%) percent or more.)

Franchise fees shall be passed on to the subscriber as

permitted by law.

No alternative user charge as described in Section 54 of the Cable Ordinance of the Township of Franklin may be imposed during the term of this agreement.

IV. CONSULTANTS

The parties recognize that the Township has the right at any time to retain consultants in connection with the Cable Ordinance or this Agreement. The Township shall be entitled to reimbursement for the cost of retaining consultants only when the Township obtains prior written agreement from Coaxial to pay any or all of the monies expended to retain consultants or other experts.

V. ASSIGNMENTS AND/OR TRANSFERS

The parties hereby acknowledge that the assignment or transfer of franchise is governed by Section 56 of the Cable Ordinance of the Township of Franklin. The provisions of Section 56 governing assignment or transfer of franchise shall not be applicable where any transfer involves twenty-five (25%) percent or less of the voting rights of Coaxial or a sale of twenty-five (25%) percent or less of the cable television system (based on the system's net worth), or the sale or transfer of less than a majority of the cable television system's property or assets located within the Township. In any other event, written consent of the Board pursuant to Section 56 of the Ordinance shall be required only if the Board is provided with written notice of the proposed transfer

and the Board notifies Coaxial within ten (10) days of the receipt of said written notice of the Board's intention to exercise its right under Section 56 to consent to the transfer. Coaxial shall not be required to produce financial information or any other information pertaining to any parent or affiliate or subsidiary or stockholder of Coaxial in connection with any assignment or transfer. An assignee or transferee of stock in Coaxial need not execute any affidavits or assume any obligations or liabilities.

VI. PERFORMANCE AND OTHER REVIEWS

It is hereby agreed that the Board may but need not conduct performance reviews as outlined in Section 61 or other reviews (for example, see Section 8 of the Cable Ordinance). In the event the Board does elect to conduct a performance or other review, Coaxial agrees to cooperate by providing information needed to conduct the review, provided, however, that financial information to be provided shall be limited solely to financial information pertaining to the operation of the system within the Township. It is further agreed that Coaxial need not prepare any written status report or other documentation other than what Coaxial maintains in its normal course of business. Except as provided in Section IV, above (CONSULTANTS), Coaxial need not pay any of the costs of any performance or other review. To the extent that the Ordinance permits the Board to list areas in which Coaxial's performance needs improvement and require that said improvements take place, said Ordinance shall be applicable only to the extent that the

Board has sought and received authority to regulate rates and/or services from the Federal Communications Commission and only in situations wherein the Board can establish that Coaxial is in violation of a specific provision of this Agreement or the Ordinance.

VII. RENEWAL OF FRANCHISE

The parties hereto agree that franchise renewals shall be conducted in accordance with the requirements of the Cable Act of 1984, as amended, as same shall be applicable at the time of any renewal. Any application or proposal for renewal shall be in conformity with the Cable Act of 1984, as amended by the Cable Act of 1992, and as amended and/or supplemented by applicable federal statute or FCC regulation. Except by mutual agreement, an application or proposal for renewal need not specify any information beyond that required by the Cable Act of 1984, as amended by the Cable Act of 1992 and as amended or supplemented by any future federal statutes or FCC regulations.

VIII. INDEMNITY AND LIABILITY INSURANCE

Coaxial agrees to indemnify the Township, its Board, officers, agents, servants, employees and consultants as provided by Section 14 of the Cable Ordinance of the Township of Franklin, provided, that said obligation to defend, indemnify, protect, save harmless and exempt shall not apply to the negligence of the Township, its Board, officers, agents, servants, employees and consultants.

IX. BOOKS, REPORTS AND RECORDS

This subject matter is governed by Section 18 and following sections of the Cable Ordinance of the Township of Franklin. The Township and Coaxial hereby agree as follows with respect to books, reports, records and other information to be submitted to the Board.

Reports required or requested by the FCC or other federal or state agency shall also be submitted to the Board only when said report(s), data or other information pertain to the operation of the cable system within the Township of Franklin and only upon request of the Board.

The Board may request an annual report from Coaxial no later than 120 days after the conclusion of Coaxial's calendar year. Said report may include at the request of the Board (1) a statement summarizing the prior year's activities and the development and expansion of the cable system, (2) a statement of income from subscribers within the Township of Franklin, (3) a statement of current costs of construction, and (4) a statement with respect to complaints. The report and/or statement need not be audited nor need any report or statement be certified as correct by an independent certified public accounting firm. At the expense of the Township or the Board, the Township or the Board may audit those records pertaining solely to revenues from operations of the cable system within the Township of Franklin.

It is further specifically agreed by the parties that Coaxial shall not under any circumstances be required to provide any

financial information or any other information pertaining to any parent or affiliate or subsidiary or stockholder of Coaxial.

Upon request, Coaxial shall provide the Board with a list of the municipalities which have awarded Coaxial a franchise to provide cable television service. Information pertaining to other programming service or data service owned or acquired or provided by the grantee need not be provided nor need the grantee provide any information pertaining to any parent or any affiliate or any subsidiary or any stockholder of the grantee.

The right of the Board to review records is limited to those records pertaining to revenues from subscribers within the Township and operations within the Township.

X. CONSTRUCTION AND MAINTENANCE OF FACILITIES WITHIN THE TOWNSHIP

The Township and Coaxial hereby acknowledge that the density of residences within the Township of Franklin is substantially less than the density of residences in other municipalities wherein Coaxial maintains a franchise. Accordingly, it is hereby agreed that Coaxial need not extend cable television service to any group of residences currently existing or which may exist at any time in the future except as Coaxial shall determine to extend service in the discretion of Coaxial. Coaxial agrees to meet with the Board or its representatives at any time to discuss appropriate extensions of the franchisee's plant and/or facilities.

Notwithstanding the above, Coaxial hereby agrees that within a period of twelve (12) months from the date upon which this

Franchise Agreement is executed (provided, however, that should Coaxial experience delays in obtaining any necessary permits or in obtaining necessary supplies or equipments or facilities or sufficient construction crews, said period shall be extended by the length of the period of delay thus created) it will construct the facilities necessary to provide cable television service to homes located along the following portions of roadways located within the Township:

1. Route 98 from the southern boundary of the Township to Old State Road.
2. Eureka Road from the southern boundary of the Township to West Stancliff Road.
3. Silverthorn Road from the southern boundary of the Township to West Stancliff Road.
4. Fry Road from the southern boundary of the Township to West Stancliff Road.
5. Crane Road from Fry Road to Ivoray Road.
6. New Road from Eureka Road to Route 98.
7. Old State Road from Fry Road to Ivoray (Gudgeonville) Road.

Coaxial further agrees to use all best efforts to construct the necessary facilities within twenty-four (24) months to West Stancliff from Eureka to Route 98, Route 98 from Old State to West Stancliff, Falls Road, Francis Road from Falls Road to Brooks Road, and Mohawk Road from Crane Road to Francis Road.

It is agreed that the engineering analysis and system

architecture referred to in Section 40 and the system construction schedule required by Section 41 of the Cable Ordinance of the Township of Franklin need not be provided but Coaxial hereby agrees to meet and confer with the Board to discuss any planned installation.

It is understood by the parties that the master headend to serve the Township of Franklin shall be located within Cambridge Springs Borough or at such other location as may be determined by Coaxial in the future whether within or outside the boundaries of the Township of Franklin. It is also understood by the parties that the offices of Coaxial are presently located in the Borough of Edinboro and shall continue to be located in the Borough of Edinboro or at such other location as may be determined by Coaxial in the future whether within or outside the boundaries of the Township of Franklin and that Coaxial need not maintain a place of business within the Township of Franklin.

The requirement of Section 35(H) shall be applicable solely to overhead cable of Coaxial.

Coaxial shall be deemed in compliance with Section 35(J) upon compliance with the requirements of the Pennsylvania One Call System as set forth in 73 P.S. §176 et seq., as amended.

The period of notice referenced in Section 35(K) and Section 35(M) shall be ten (10) working days.

The construction, installation, maintenance and repair of the cable television system to be constructed by Coaxial shall comply with all requirements and standards of applicable federal, state,

and local law and regulations. To the extent any provision of Section 38 of the Cable Ordinance of the Township of Franklin shall be inconsistent with or require something other than applicable federal, state, and local law and regulations, said provision of Section 38 shall be inapplicable.

It is also understood by the parties that the requirements of Section 43 (System Design) shall be inapplicable. Coaxial agrees to otherwise comply with all requirements of federal, state, or local law pertaining to system design.

The requirements of Section 44(A)(1)(b) and (c) shall not be so interpreted so as to require the installation of facilities in the event the landlord, tenant, and coaxial cannot agree as to which parties shall bear the cost of installation or pay just compensation for use of the property.

Coaxial retains the discretion to determine when the cable television system within the Township of Franklin shall be activated to two-way communications.

XI. PUBLIC, EDUCATIONAL OR GOVERNMENTAL CHANNELS AND COMMERCIAL CHANNELS (SECTIONS 50 AND 51 OF THE CABLE ORDINANCE)

Coaxial shall provide such channels for public, educational or governmental use and for commercial use as are required under the Cable Act of 1984, as amended by the Cable Act of 1992 and as the same may be amended or supplemented by statute, regulations or law.

Coaxial shall not be required to construct, acquire, or maintain production equipment or studio facilities or other

equipment or facilities for public, educational, or governmental channels or commercial channels.

XII. INSTITUTIONAL NETWORK

Coaxial shall provide one outlet to each municipally owned building, fire station, police station, and public school that is passed by its cable. Said outlets shall be conventional viewing outlets of the types supplied to subscribers and shall be supplied without installation charges or monthly service charge. If more than one outlet is requested at any of the said locations, Coaxial shall install same at its normal service charge. In no event, however, shall this provision be used to supply outlets for individual use such as but not limited to college dormitory rooms.

XIII. CUSTOMER SERVICE AND RELATED REQUIREMENTS

The parties hereto acknowledge that the subject matter of the following sections of the Cable Ordinance of the Township of Franklin are covered by provisions of federal statutes and regulations of the FCC and that Coaxial shall be required only to adhere to the minimum standards required by federal statutes and the FCC and Coaxial shall be deemed to be in compliance with all requirements of the following sections if Coaxial is in compliance with the minimum standards of the FCC: Section 24 (Customer Service Requirements), Section 25 (Information Available to Potential Subscribers, Actual Subscribers, and Users), Section 26 (Resolution of Complaints), Section 27 (Refunds), Section 28 (Service Requests

and Calls), Section 29 (Office Hours and Telephones of Franchisee), Section 30 (Input Selective Switches), Section 31 (Billing Practices), Section 32 (Disconnection of Service), Section 33 (Protection of Subscriber Privacy), Section 47 (Permits and Licenses), Section 48 (Signal Reception Standards), Section 49 (Subscriber Viewing Standards).

XIV. SUCCESSORS IN INTEREST

This Agreement and the permission hereby granted and the conditions hereof shall be binding on the successors and assigns of the parties.

XV. CONFLICT OR INCONSISTENCY WITH ORDINANCE

In the event of any conflict or inconsistency or ambiguity or discrepancy or variation between this Agreement and the Cable Ordinance of Franklin Township as said Ordinance currently reads or as it may be amended or modified or supplemented or any other cable ordinance which may be enacted in the future, the provision(s) which is(are) contained in this Agreement shall be deemed to be operative and controlling. This Agreement is entered into pursuant to Section IX of the Cable Ordinance of the Township of Franklin. To the extent necessary to implement to the terms of this Agreement, the Cable Ordinance of the Township of Franklin shall be deemed amended upon the vote of the Supervisors of the Township of Franklin to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

TOWNSHIP OF FRANKLIN

BY: *Benjamin J. Sotek* (SEAL)
Benjamin J. Sotek
Chairman

ATTEST:

BY: *Bonnie J. Bernhardt* (SEAL)
Bonnie J. Bernhardt
Secretary

COAXIAL CABLE TELEVISION
CORPORATION

BY: *Michael Mead* (SEAL)
Michael Mead,
President

ATTEST:

BY: *Edward M. Mead* (SEAL)
Edward Mead,
Secretary

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