

**CABLE TELEVISION
FRANCHISE RENEWAL AGREEMENT**

TOWN OF WAWARSING

THIS AGREEMENT, executed in triplicate this 8th day of August, 2006, by and between the TOWN OF WAWARSING, (hereinafter referred to as the Municipality) by the Supervisor acting in accordance with the authority of the duly empowered local governing body, (hereinafter referred to as the Board) and TIME WARNER NY CABLE LLC, a New York General Partnership, organized and existing under the laws of the State of New York, the local place of business of which is currently located at 2 Industrial, Middletown, NY 10941, hereinafter referred to as "Time Warner Cable."

WITNESSETH

WHEREAS, Pursuant to the Town Law the Board has the exclusive power on behalf of the Municipality to grant franchises providing for or involving the use of the Streets (as defined in Section 1 hereof) and to give the consent of the Municipality to any franchisee for or relating to the occupation of the Streets; and

WHEREAS, Pursuant to the Communications Act of 1934, as amended, (the "Communications Act") the Board has the authority to grant cable television franchises and renewals thereof on behalf of the Municipality and whereas the Board and Time Warner Cable pursuant to said Federal Law and pursuant to applicable State laws and the regulations promulgated thereunder, have complied with the franchise procedures required of Municipalities and cable operators in the grant of cable television franchises or their renewal; and

WHEREAS, The Municipality has conducted negotiations with Time Warner Cable and has conducted one or more public hearings on Time Warner Cable's franchise renewal proposal affording all interested parties due process including notice and the opportunity to be heard; said deliberations included consideration and approval of Time Warner Cable's technical ability, financial condition and character; said public hearing also included consideration and approval of Time Warner Cable's plans for constructing and operating the cable television system; and

WHEREAS, Following such public hearings and such further opportunity for review, negotiations and other actions as the Board deemed necessary and that is required by law, the Board decided to renew Time Warner Cable's franchise as provided hereinafter; and

WHEREAS, The Board, in granting this franchise renewal, embodied in the agreement the results of its review and any negotiations with Time Warner Cable and has determined that said franchise agreement and Time Warner Cable respectively, fulfills and will fulfill the needs of the Municipality with respect to cable television service and complies with the standards and requirements of the New York State Public Service Commission ("NYSPSC");

NOW, THEREFORE, In consideration of the foregoing clauses, which clauses are hereby made a part of this franchise agreement, and the mutual covenants and agreements herein contained, the parties hereby covenant and agree:

SECTION 1 - DEFINED TERMS

Unless the context clearly indicates that a different meaning is intended:

- (a) "Basic Service" means any service tier which includes the retransmission of local broadcast signals.
- (b) "Board" means the Board of Trustees of the Municipality.
- (c) "Cable Television Service" means
 - (1) The one way transmission to Subscribers of Video Programming, or other programming service, and
 - (2) Subscriber interaction, if any, which is required for the selection or use of such Video Programming, or other programming service.
- (d) "Cable Television System" means a facility, consisting of a set of closed transmission paths, including (without limitation) fiber optic wires or lines, and associated signal generation, reception and control equipment that provides Cable Television Service to multiple subscribers within a community.
- (e) "Time Warner Cable" means Time Warner Cable Inc.
- (f) "Effective Date" of this agreement shall be that date subsequent to confirmation of the Franchise, by the New York State Public Service Commission ("NYSPSC") agreed to by the parties.
- (g) "Franchise" means the grant or authority given hereunder to Time Warner Cable to construct and operate a Cable Television System in the Municipality in accordance with the terms hereof.
- (h) "FCC" means the Federal Communications Commission, its designees and any successor thereto.
- (i) "Gross Subscriber Revenues" means all revenues received directly or indirectly by the franchisee for the specified period from the operation of the cable system to provide cable services in the Town. Gross Subscriber Revenue shall include revenue from cable modem service to the extent these services are deemed a cable service by applicable Federal or State Laws or by a Court of competent jurisdiction binding upon the Town and Time Warner Cable. Gross Subscriber Revenues shall not include excise taxes, late fees, bad debt, franchise fees or any other taxes which are imposed on the grantee or any subscriber by any governmental unit and collected by

the Grantee for such governmental unit.

- (j) "May" is permissive.
- (k) "Municipality" means the Town of Wawarsing. Wherever the context shall permit, Board, Council and Municipality shall be used interchangeably and shall have the same meaning under this Franchise.
- (l) "NYSPSC" means New York State Public Service Commission.
- (m) "Person" means an individual, partnership, association, corporation, joint stock company trust, corporation, or organization of any kind.
- (n) "Service Tier" means a category of Cable Television Service provided by Time Warner Cable over the Cable Television System for which a separate rate is charged for such category by Time Warner Cable.
- (o) "Shall" or "will" are mandatory.
- (p) "Streets" means the surface of, as well as the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks and public grounds and waters within or belonging to the Municipality.
- (q) "Subscriber" means any person lawfully receiving any Cable Television Service in the Municipality provided over the Cable Television System.
- (r) "Video Programming" means any and all programming services provided by, or generally considered comparable to programming provided by a television broadcast station.

SECTION 2 - CONSENT TO FRANCHISE AND CONDITION PRECEDENT

- (a) The Municipality hereby grants to Time Warner Cable the non-exclusive right to construct, erect, operate and maintain a Cable Television System and to provide Cable Television Service within the Municipality as it now exists and may hereafter be changed, and in so doing to use the Streets of the Municipality by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in, on, over, under, upon and across any and all said Streets such facilities (e.g., poles, wires, cables, conductors, ducts, conduits, vaults, pedestals, manholes, amplifiers, appliances, attachments and other property) as is deemed necessary or useful by Time Warner Cable, for the operation of its cable system. Additionally, the Municipality, insofar as it may have the authority to so grant, hereby authorizes Time Warner Cable to use any and all easements dedicated to compatible uses, such as electric, gas, telephone or other utility transmissions, for the purposes of erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in, on, over, under, upon and across such easements such facilities of the Cable Television System as is deemed necessary or useful by Time Warner Cable, for the operation of its cable system. Operation of this cable system shall be in

conformance with this Franchise Agreement, and all applicable federal, state and generally applicable and non-discriminatory local laws. Upon request by Time Warner Cable and at Time Warner Cable's sole expense, the Municipality hereby agrees to assist Time Warner Cable in gaining access to and using such easements.

- (b) Nothing in this Franchise shall limit the right of Time Warner Cable to transmit any kind of signal, frequency, or provide any type of service now in existence or which may come into existence and which is capable of being lawfully transmitted and distributed by those facilities owned and operated by Time Warner Cable. The provision by Time Warner Cable of any service other than cable service shall be subject to all applicable laws and regulations and to any right the Municipality may have to require fair and reasonable compensation for Time Warner Cable's use of the rights-of-way to provide such service, provided that such requirement is non-discriminatory and competitively neutral.
- (c) Without waiver or restriction of the rights available to the parties hereto under applicable law, this Franchise and the attachments hereto constitute the entire agreement between the parties and supersede any and all prior cable television agreements and other agreements or instruments by or between the parties hereto or their predecessors in interest as well as all rights, obligations and liabilities arising thereunder concerning or in any way relating to Cable Television Service.
- (d) In the event the Municipality grants to any other Person (being referred to as "Grantee" in the below quoted paragraph) a franchise, consent or other right to occupy or use the Streets, or any part thereof, for the construction, operation or maintenance of all or part of a cable television system or any similar system or technology, the Municipality shall insert the following language into any such franchise, consent or other document and/or promptly pass a resolution, conditioning the use of the Streets or any part thereof by any such Person, as follows:

"Grantee agrees that it will not move, damage, penetrate, replace or interrupt any portion of the Cable Television System of Time Warner Cable without the prior written consent of Time Warner Cable. Grantee shall indemnify Time Warner Cable against any damages or expenses incurred by Time Warner Cable as a result of any removal, damage, penetration, replacement or interruption of the services of Time Warner Cable caused by the Grantee." As used immediately above in the above quoted paragraph, the term "Time Warner Cable" shall mean Time Warner Cable Inc., as defined in this Franchise, and its successors, assigns and transferees.

- (e) This Franchise is non-exclusive. If the Town of Wawarsing grants a cable television franchise to another operator which provides greater benefits or imposes lesser burdens than this Franchise, the Town agrees to amend this Franchise to provide such greater benefits or lesser burdens.

As used in this Section, the phrase, "occupancy or use of Streets," or any similar phrase, shall not be

limited to the physical occupancy or use thereof but shall include any use above or below the Streets by any technology including but not limited to infrared transmissions.

SECTION 3 - APPROVAL OF COMPANY BY MUNICIPALITY

- (a) This Franchise is subject to and complies with all applicable Federal and State laws and regulations, including, without limitation, the rules of the NYSPSC concerning franchise standards. The Municipality hereby acknowledges and agrees that this Franchise has been entered into by it in accordance with and pursuant to the Communications Act of 1934, as amended, 47 U.S.C. Sec. 521 et seq. (hereinafter referred to as the "Communications Act"). The Municipality hereby represents and warrants that this Franchise has been duly entered into in accordance with all applicable local laws. The Municipality hereby acknowledges that it, by duly authorized members thereof, has met with Time Warner Cable for the purposes of evaluating Time Warner Cable and negotiating and consummating this Franchise.
- (b) In a full and public proceeding, affording due process, the Municipality has considered and approved Time Warner Cable's technical ability and character and has considered and found adequate Time Warner Cable's plans for constructing and operating the cable system.

SECTION 4 - FRANCHISE TERM

The term of this Franchise shall be ten (10) years, effective the date the New York State Department of Public Service approves the franchise agreement.

SECTION 5 - ASSIGNMENT OR TRANSFER OF FRANCHISE

- (a) Time Warner Cable shall not transfer this Franchise to any person, firm, company, corporation or any other entity without the prior written consent of the Municipality, which consent shall not be unreasonably withheld or denied.
- (b) In the event that the Municipality refuses to grant such consent, it shall set forth specific reasons for its decision in writing by municipal resolution.
- (c) Notwithstanding the above, this Section 5 shall not be applicable and no prior approval shall be required if Time Warner Cable shall transfer this Franchise to any of its principal partners, to any parent, subsidiary or affiliate of any of the principal partners of Time Warner Cable, or to any other firms or entities controlling, controlled, by or under the same common control as Time Warner Cable.

SECTION 6 - REVOCATION

- (a) The Municipality may revoke this Franchise and all rights afforded Time Warner Cable hereunder in any of the following events or for any of the following reasons:
 - (i) Time Warner Cable fails to pay within ten (10) business days of its due date any

undisputed franchise fees pursuant to this franchise agreement; or

(ii) Time Warner Cable fails to substantially comply or takes reasonable steps to comply with the material provision of this franchise agreement; or

(iii) Time Warner Cable is adjudged a bankrupt; or

(iii) Time Warner Cable knowingly and willfully attempts or does practice a material fraud or deceit in its securing of this Franchise.

(b) Prior to such revocation, the Municipality shall provide written notice to Time Warner Cable describing in reasonable detail the alleged violation so as to afford the Franchisee an opportunity to remedy the same. Time Warner Cable shall have 30 days subsequent to receipt of the notice in which to correct the violation or if such violation is of such a nature or character as to require more than 30 days within which to correct, such time period shall be extended, provided, however, Time Warner Cable has commenced corrective action within fifteen (15) days and thereafter exercises due diligence to correct the same. Time Warner Cable may notify the Municipality that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Time Warner Cable shall specify with particularity the matters disputed by Time Warner Cable and said notice shall stay the revocation. Upon receipt of said notice from Time Warner Cable, the Municipality shall, following no less than fifteen (15) days prior written notice to Time Warner Cable, schedule a Town Board meeting.

The Municipality shall hear Time Warner Cable's dispute at the Town Board meeting at which Time Warner Cable and public will be afforded a full and fair opportunity to be heard. The Town Board shall determine if Time Warner Cable has committed any of the violations as outlined in (i) through (iv) above and shall make written findings of fact relative to its determination. Time Warner Cable shall have the right to appeal any resolution setting forth a cause and reason for revocation to a state or federal district court as Time Warner Cable may choose and the revocation shall not become effective until any such appeal has become final or the time for taking such appeal shall have expired.

SECTION 7 - INDEMNIFICATION & INSURANCE

Time Warner Cable shall indemnify and save the Municipality harmless from any and all losses sustained by the Municipality by reason of any suit, judgment, execution, claim or demand whatsoever, including expenses, disbursements and reasonable attorney's fees, resulting from acts or omissions on the part of Time Warner Cable in the construction erection, operation, maintenance or repair of its Cable Television System within the Municipality pursuant to the exercise by Time Warner Cable of the franchise rights granted herein, and for this purpose, Time Warner Cable shall carry property damages and public liability insurance written by an insurance company licensed to do business in the State of New York in the amounts specified herein.

(a) Amounts of Insurance: The amounts of insurance required by the preceding paragraph, to be carried against liability owing to damage to property shall be One Million Dollars

(\$1,000,000) as to any one accident and not less than Two Million Dollars (\$2,000,000) in the aggregate in any one policy year, and against liability owing to injury to or death of persons One Million Dollars (\$1,000,000) as to any one person, and Two Million Dollars (\$2,000,000) as to any one accident. In the event that the Municipality, during the term of this franchise, requires generally a higher limit of insurance than provided herein, the amount of insurance shall be increased to the amounts generally required by the Town not to exceed annual CPI increases per year upon 60 days written notice from the Town to Time Warner Cable.

- (b) Town as Insured: The Municipality shall be named as an additional named insured in all insurance policies stipulated herein. All policies required hereunder shall include a provision that the insurance will not be cancelled for any reason (including non-payment) unless and until notice for such cancellation has been provided to the Municipality at least thirty (30) days prior to the intended date of cancellation.
- (c) Certificate of Insurance: Certificates evidencing insurance coverage required by this Franchise shall be filed with the Municipality within thirty (30) days of the effective date of the Franchise.
- (d) Worker's Compensation: Time Warner Cable shall carry such insurance as it deems necessary to protect it from claims made under the applicable New York State Worker's Compensation Laws.
- (e) Notification of Claims: The Municipality shall notify Time Warner Cable or its local representative within fifteen (15) business days in case of presentation to the Municipality of any claim, demand, suit or action of any type against the Municipality caused by Time Warner Cable. Time Warner Cable may appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against, or affecting Municipality, its officers, councilpersons, commissions, agents, or employees, and arising out of or pertaining to the exercise or the enjoyment of this Franchise or the granting thereof by the Municipality. Time Warner Cable shall have sole discretion to compromise, settle or defend said suits, actions or other legal proceedings.
- (f) Damage to Municipal Property: Any property of the Municipality damaged or destroyed by the installation or operation of the Cable Television System shall be promptly repaired or replaced by the Company and restored to a condition that existed prior to such damage.
- (g) Proper Notice: Notice or delivery of any documentation therefore enumerated shall be in accordance with the notice provisions of Section 20.

SECTION 8 - USE OF EXISTING POLES AND LOCATION OF UNDERGROUND FACILITIES

- (a) Time Warner Cable hereby agrees that when and wherever it deems it economical and reasonably feasible, it shall enter into agreements with telephone or electric or other utilities (collectively "utilities") for the use of said utilities' poles or conduit space whereby said utilities shall provide use of and access to said poles or conduit space by Time Warner Cable for Time Warner Cable's lines and other equipment. Notwithstanding the above, where necessary to service Subscribers

and where attachment to the pole(s) or conduit space of utilities is not economically reasonable or otherwise feasible, Time Warner Cable may erect or authorize or permit others to erect any poles or conduit space or any other facilities within the Streets of the Municipality pursuant to the issuance by the Municipality of any necessary authorizations which shall not be unreasonably withheld or delayed.

- (b) Subject to the provisions of sub-paragraph (c) below, in such areas of the Municipality where it or any sub-division thereof shall hereafter duly require that all utility lines be installed underground, Time Warner Cable shall install its lines underground in accordance with such requirement.
- (c) Notwithstanding the foregoing, if Time Warner Cable shall in any instance be unable to install or locate its wires underground, then the Municipality, on being apprised of the facts thereof, shall permit such wires to be installed above the ground even though other facilities in the area may be placed, or required to be placed, underground. However, any such permission shall be on such conditions as the Municipality may reasonably require.

SECTION 9 - RELOCATION OF PROPERTY

- (a) Whenever the Municipality shall require the relocation or reinstallation of any property of Time Warner Cable in or on any of the Streets of the Municipality as a result of the relocation or other improvements by the Municipality of any such Streets, it shall be the obligation of Time Warner Cable on written notice of such requirement to remove and relocate or reinstall such property as may be reasonably necessary to meet the requirements of the Municipality. In the event any other person, including a public utility, is compensated for similar relocation or reinstallation then in such case Time Warner Cable shall be similarly compensated.
- (b) Time Warner Cable shall, on request of a person holding a building or moving permit issued by the Municipality, temporarily raise or lower its wires or other property or relocate the same temporarily so as to permit the moving or erection of buildings. The expenses of any such temporary removal, raising or lowering of wires or other property shall be paid in advance to Time Warner Cable by the person requesting the same. Time Warner Cable shall be given in such cases not less than five (5) working days prior written notice in order to arrange for the changes required.

SECTION 10 - USE & INSTALLATION

- (a) Time Warner Cable or any person authorized by Time Warner Cable to erect, construct or maintain any of the property of Time Warner Cable used in the transmission or reception of Cable Television Service shall at all times employ due care under the facts and circumstances and shall maintain and install said property of Time Warner Cable in accordance with commonly accepted methods and principles in the cable television industry so as to prevent failures and accidents likely to cause damage or injury to members of the public. All Cable Television System equipment shall conform to those standards of the National Electrical Code and the National Board of Fire Underwriters which exist at the time said equipment is installed and

replaced.

- (b) Time Warner Cable agrees to install all Cable Television System equipment in a manner to reasonably minimize interference to be expected with the usual use of the Streets and in no event shall any such Cable Television System equipment be located so as to substantially and regularly interfere with the usual public travel on any Street of the Municipality. Time Warner Cable shall construct and maintain its cable system using materials of good and durable quality and shall perform all work involved in the construction, installation, maintenance and repair of the cable system in a safe, thorough and reliable manner. Time Warner Cable shall promptly repair or replace any municipal property damaged or destroyed by Time Warner Cable so as to restore it to serviceable condition.
- (c) Whenever Time Warner Cable or any person on its behalf shall cause any injury or damage to public property or Street, by or because of the installation, maintenance or operation of the Cable Television System equipment, such injury or damage shall be remedied as soon as reasonably possible after the earlier of notice to Time Warner Cable from the Municipality or after Time Warner Cable becomes aware of the same, in such fashion so as to restore the property or Street to serviceable condition. Time Warner Cable is hereby granted the authority to trim trees upon and overhanging the Streets of, and abutting private property, (i.e., in the public way) in the Municipality to the extent it reasonably deems necessary so as to prevent the branches or growths from coming in contact with the wires, cable and other equipment of Franchisee's Cable Television System.

SECTION 11 - CONTINUOUS SERVICE

Time Warner Cable shall continue to provide cable service to all subscribers who meet their obligations to Time Warner Cable with respect to such service. Time Warner Cable is expressly prohibited from abandoning any service to any area of the Town or any portion thereof without the written consent of the Town.

SECTION 12 - FRANCHISE AREA AND LINE EXTENSION

With respect to those parts of the Town which are not presently served as part of the Primary Service Area, service shall be extended in accordance with the rules of the Public Service Commission on line extension policy as set forth herein.

Primary Service Area shall include each of the following within the Franchised Area:

- (a) Those areas where cable television plant has been built without a contribution in aid of construction by subscribers;
- (b) Those areas, if any, where the Franchisee is obligated by the terms of its Franchise to provide cable television service without a contribution in aid of construction by subscribers;
- (c) Any area adjoining an area described in Sub-Section (a) or (b) of this Section 12 and which contains dwelling units at a minimum of 20 dwelling units per linear mile of aerial cable.

- (d) Any area adjoining an area described in Sub-Sections (a) and (b) of this Section 12 and which contains at least the same number of dwelling units per linear mile of aerial cable as is the average number of dwelling units per linear mile of cable in areas described in Sub-Sections (a) and (b) of this Section 12. The average is to be determined by dividing the number of dwelling units in areas described in Sub-Sections (a) and (b) of this Section 12 by the number of linear miles of cable in the same areas.

Line extension area shall be any area within the Franchised Area which is not the Primary Service Area.

Within five (5) years after the receipt of all necessary operating authorizations, Cable Service will be offered through the Franchise area to all subscribers requesting service in any Primary Service Area.

- (a) Service will not be denied to potential subscribers located in line extension areas who are willing to contribute to the cost of construction in accordance with the following formula:

$$\frac{C}{LE} - \frac{CA}{P} = SC$$

C equals the cost of construction for new plant; CA equals the average cost of construction per mile in the Primary Service Area; P equals the minimum number of dwelling units per mile which would require the Franchise to provide service in the Primary Service Area; LE equals the number of dwelling units requesting service in the line extension area; SC equals subscriber contribution in aid of construction in the line extension area.

- (i) Whenever a potential subscriber located in a line extension area requests a service, the Franchisee will, within thirty (30) days of the request, conduct a survey to determine the number of potential subscribers located in the line extension area and shall inform each of the potential subscribers of the contribution in aid of construction that may be charged. The franchisee may require pre-payment of the contribution in aid of construction. The Franchisee will provide line extensions within ninety (90) days after all necessary agreements, easements, and pole license have been issued, subject to special circumstances justifying a waiver by the Public Service Commission.
- (ii) The contribution in aid of construction shall be in addition to the installation rate set forth.
- (iii) During the five-year period commencing at the completion of a particular line extension, a pro-rata refund shall be paid to previous subscribers as new subscribers are added to the particular line extension; the amount of the refund, if any, shall be determined by application of the formula annually. The refunds shall be paid annually to subscribers, or former subscribers, entitled to receive them. The Franchisee shall not be required to provide refunds to any previous subscriber otherwise entitled to a refund, who is no longer at either the address where service was provided, or the billing address, and who has not informed the Franchise of the subscriber's address.

- (b) Service will be provide to any Person who demands service and who is located within 150 feet of aerial feeder cable, and the charge for the installation for any subscriber so situated will not be in excess of the installation charge specified.

SECTION 13 - OPERATION AND MAINTENANCE

- (a) Time Warner Cable shall contract and maintain its cable system using materials of good and durable quality and shall perform all work involved in the construction, installation, maintenance and repair of the cable system in a safe, thorough and reliable manner.
- (b) Time Warner Cable shall maintain and operate its cable television system at all times in compliance with the duly promulgated and lawful provisions of Section 896 of the Rules and Regulations of the NYSPSC and the technical requirements set forth by the FCC. Time Warner Cable shall maintain staffing levels and support equipment to assure that telephone inquiries are handled promptly in order to minimize busy signals and hold time. Time Warner Cable shall have, at all times, a person on call able to perform minor repairs or corrections to malfunctioning equipment of the cable system. Time Warner Cable shall respond to individual requests for repair service no later than the next business day. System outages, and problems associated with channel scrambling and switching equipment, shall be acted upon promptly after notification. Time Warner Cable shall maintain a means to receive repair service requests and notice of system outages at times when its business office is closed. The Municipality shall have the right and authority to request an inspection or test performed, all at the Municipality's expense. Time Warner Cable shall fully cooperate in the performance of such testing.
- (c) Time Warner Cable shall maintain the Cable Television System with the capacity of at least 750 Mhz. Time Warner Cable's Cable Television System shall only be placed in public rights of way or on private property after a duly authorized easement, license, authorization or permission has been obtained prior to construction on private property. Time Warner Cable shall provide the Municipality with advance notice of planned significant cable upgrades. All such construction and subsequent maintenance, repair, or improvement to said system shall use materials of good and durable quality and shall be performed in a safe, thorough, and reliable manner. Time Warner Cable shall construction, install, operate, and maintain its Cable Television System in accordance with industry standards for cable television.

SECTION 14 - RATES

Time Warner Cable shall not illegally discriminate against individuals in the establishment and application of rates and charges for Video Programming or other communication services available to generally all subscribers. Time Warner Cable shall comply with all notice requirements in the Federal Law pertaining to rates and charges for cable television service. Time Warner Cable shall comply with Section 895.1(e) of the rules and regulations of the NYS Public Service Commission.

SECTION 15 - SERVICE TO PUBLIC FACILITIES, ACCOUNTABILITY

PROVISIONS AND INSPECTION OF RECORDS

- (a) At the request of the Municipality, Time Warner Cable shall provide and maintain a single service outlet and basic service to any school, police station, public library, volunteer firehouse, volunteer ambulance and municipally owned building which is occupied for governmental purposes, provided the connection point is no further than two hundred feet (200') from the closest feeder line of the Cable Television System. All such connections shall be above ground except where all utility lines and cables in the area are underground. The Municipality shall not extend such service to additional outlets, without the express written consent of Time Warner Cable.
- (b) Municipality, upon reasonable notice and during normal business hours, shall have the right to inspect all books, records, maps, plans, financial statements and other like materials of Time Warner Cable which are pertinent to Time Warner Cable's compliance with the terms and conditions of this Franchise. Time Warner Cable shall maintain maps of suitable scale showing the location of headend, all trunk and distribution lines including amplifiers. Service drops need not be show. Upon written request, within thirty (30) days, Time Warner Cable shall allow the Town to inspect (at Time Warner Cable's facility) all such maps for the purpose of insurance compliance with this franchise.
- (c) Municipality and Time Warner Cable agree that Time Warner Cable's obligations hereunder are subject to any applicable law, including laws regarding the privacy of information regarding subscribers.
- (d) Municipality will maintain the confidentiality of any information obtained pursuant to this provision to the extent permitted by law, provided Time Warner Cable has advised Municipality of the confidential nature of the information. In the event that the Municipality receives request for the disclosure of such information with which it, in good faith, believes it must under law comply, then the Municipality will give Time Warner Cable notice of such request as soon as possible prior to disclosure in order to allow Time Warner Cable to take such steps as it may deem appropriate to seek judicial or other remedies to protect the confidentiality of such information.

SECTION 16 - PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS

Time Warner Cable shall comply with the standards for public, educational and governmental (PEG) access channels as set forth in Section 895.4 of the Rules of the NYSPSC. The Franchisee will maintain a return path from the existing site (Ellenville Central School, Maple Avenue, Ellenville).

Furthermore, within ninety days of the final approval of this Agreement Franchisee shall provide non-financial assistance to Franchisor in obtaining video equipment, sound equipment, and appropriate accessories to enable Franchisor to record and broadcast on the educational and government access channel, events of the Franchisor including, but not limited to meetings. In

the event a second channel is required in accordance with Section 895.4, the second channel shall be designated as an educational access channel as said defined in Section 895.4(a) (2). Furthermore, the designated educational access channel shall be administered and operated in accordance with the statutory requirements of section 895.4, by a committee appointed by the Franchisor consisting of one (1) representative of Franchisor, four (4) representatives from the Ellenville Central School District (the existing site for the return path) and one (1) representative from each of the remaining local school districts within the service area of the Franchise Agreement. It is further understood that the designation of two channels, one for education and one for governmental use, shall not preclude the use of either for either purpose, to satisfy programming demand. To the extent practicable, the channel number designation of the current PEG channels shall remain as numbered.

SECTION 17 - ADDITIONAL SUBSCRIBER SERVICES

- (a) Payment for equipment provided by Time Warner Cable to subscribers and the installation, repairs, and removal thereof shall be paid in accordance with Time Warner Cable's standard and customary practices and applicable rules and regulations of the FCC.
- (b) Notice of Time Warner Cable's procedures for reporting and resolving billing disputes and Time Warner Cable's policy and the subscribers rights in regard to "personally identifiable information," as that term is defined in Section 631 of the Communications Act, will be given to each subscriber at the time of such person's initial subscription to the Cable Television System services and thereafter to all subscribers as required by Federal or State law.
- (c) Time Warner Cable shall offer to, and shall notify in writing, the subscribers of the availability of locking program control devices which enable the subscriber to limit reception of obscene or indecent programming in the subscriber's residence.
- (d) In accordance with the applicable requirements of Federal and State laws, Time Warner Cable shall provide written notice of any increases in rates or charges for any Cable Television Service.
- (e) The Administrator, as the case may be, for the Municipality for this Franchise shall be Supervisor or Mayor of the Municipality. The Administrator is responsible for the continuing administration of the Franchise on behalf of the Municipality. All correspondence and communications between Time Warner Cable and the Municipality pursuant to this Franchise shall be addressed by Time Warner Cable to the Administrator.
- (f) It is agreed that all Cable Television Service offered to any subscribers under this Franchise shall be conditioned upon Time Warner Cable having legal access to any such subscriber's dwelling units or other units wherein such service is provided.
- (g) Time Warner Cable shall comply with the Customer Service Consumer Protection Standards set forth in Sections 890 and 896 of the Rules and Regulations of the NYSPSC.

- (h) At least once each year, Time Warner Cable shall provide notice to each subscriber of its procedures for reporting and resolving subscriber complaints in accordance with NYSPSC Rules and Regulations.

SECTION 18 - FRANCHISE FEES

- (a) Time Warner Cable shall pay the Municipality a franchise fee of five percent (5%) Gross Revenues from the provision of Cable Service in the Town, as defined herein and adjusted below. Time Warner Cable agrees to pay franchise fees on such receipts on a going forward basis effective the date of issues of an order from the NYSPSC.
- (b) There shall be applied as a credit against the Franchise Fee the aggregate of: (i) any taxes, fees or assessments of general applicability imposed on Time Warner Cable or any subscribers, or both, which are discriminatory against Time Warner Cable or any subscribers, (ii) any non-capital expenses incurred by Time Warner Cable in support of the PEG access requirements of this Franchise and (iii) any fees or assessments payable to the NYSPSC which when combined with all other fees and credits would exceed 5% of gross revenues. Time Warner Cable shall have the right to apply franchise fees paid as a credit against special franchise assessments pursuant to Section 626 of the New York State Real Property Tax Law.
- (c) Payment of the franchise fee shall be due quarterly. The payment schedule is as follows: For revenues received January 1 – March 31; due and payable by July 1. For revenues received April 1 – June 30: due and payable by October 1. For revenues received July 1 – September 30; due and payable by January 1. For revenues received October 1 – December 31: due and payable by April 1. Time Warner Cable shall submit to the Municipality, along with the payment of said fees, a report showing reasonable detail the basis for the computation thereof.

SECTION 19 - SEVERABILITY, GOVERNING LAW, POLICE POWERS REQUESTS FOR AUTHORIZATION AND NON-DISCRIMINATION

- (a) Should any provision of this Franchise be held invalid by a court or regulatory agency of competent jurisdiction, the remaining provisions of this franchise shall remain in full force and effect.
- (b) To the extent not inconsistent with or contrary to applicable federal law, the terms of this Franchise shall be governed and construed in accordance with the laws of the State of New York. The parties hereby acknowledge and agree that any provisions of this Franchise or any existing or future State or local laws or rules that are inconsistent with or contrary to any applicable Federal law, including the Cable Act, as the same may be amended, are and shall be prohibited, preempted and/or superseded to the extent of any inconsistency or conflict with any applicable Federal laws.
- (c) In addition to the provisions contained in this Franchise and in existing applicable ordinances, the Municipality may adopt such additional regulations as it shall find necessary in the exercise of its police power, provided, however, that such regulations are reasonable and not materially

in conflict with the privileges granted in this Franchise.

- (d) Time Warner Cable shall file requests for any necessary operating authorization with the NYSPSC and the FCC within sixty (60) days from the date the Franchise is awarded by the Municipality.
- (e) Time Warner Cable will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.
- (f) Review of Time Warner Cable's Performance: At any time during the Franchise term, but not more than bi-annually, at the written request of the Town or Time Warner Cable, the Town and Time Warner Cable shall participate in an overall review of Time Warner Cable's overall operations hereunder. Any changes in operational procedures suggested as a result of this review shall only be effective by mutual consent.

SECTION 20 - NOTICE

All notices required herein shall be in writing and shall be deemed delivered when received by United States certified mail, return receipt requested, or on the date of delivery to addressee when sent by express mail, or overnight, or hand delivered to the parties and locations as specified below. Both Time Warner Cable and Municipality may change where notice is to be given by giving notice to the other.

When notices sent to
Time Warner Cable:

Time Warner Hudson Valley Region
Director of Government Relations
2 Industrial Drive
Middletown, NY 10941
Telephone: (845) 692-5339
Facsimile: (845) 692-0901

When notices sent to
Municipality:

Town of Wawarsing
Town Supervisor
P.O. Box 671
108 Canal Street
Ellenville, NY 12428

SECTION 21 - FORCE MAJEURE

In no event, and notwithstanding any contrary provision in this Franchise, shall this Franchise be subject to revocation or termination, or Time Warner Cable be subject to penalty or prejudice or in any way liable for non-compliance with or delay in the performance of any obligations hereunder, where its failure to cure or take reasonable steps to cure is due to reason of strike, Acts of God, acts of public enemies, order of any kind of a government of the United States of America or of the State

or any of their departments, agencies, political subdivisions; riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of Time Warner Cable. Time Warner Cable shall not be deemed to be in violation or default during the continuance of such inability and Time Warner Cable shall be excused from its obligations herein during the course of any such events or conditions and the time specified for performance of Time Warner Cable's obligations hereunder shall automatically extend for a period of time equal to the period of the existence of any such events or conditions and such reasonable thereafter as shall have been necessitated by any such events or conditions.

SECTION 22 - RIGHTS OF ENFORCEMENT

Nothing contained in this Franchise is intended to or shall confer any rights or remedies on any third parties to enforce the terms of this Franchise.

SECTION 23 - FURTHER ASSURANCES

The Municipality shall, without further consideration, execute and deliver such further instruments and documents and do such other acts and things as Time Warner Cable may reasonably request in order to effect and confirm this Franchise and the rights and obligations contemplated herein.

SECTION 24 - INTEGRATION

This Franchise supersedes all prior negotiations between the parties hereto and shall be binding upon and inure to the benefit of the parties hereto and each of their respective successors and permitted assigns. This Franchise may be amended (except as otherwise expressly provided for herein) only by agreement in writing signed by duly authorized persons on behalf of both parties. To the extent required by State law, amendments hereto shall be confirmed or approved by the NYSPSC.

This Franchise may be executed in one or more counterparts, all of which taken together shall be deemed one (1) original.

The headings of the various Sections of this Franchise are for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Franchise.

The rights and remedies of the parties pursuant to this Franchise are cumulative and shall be in addition to and not in derogation of any rights or remedies which the parties may have with respect to the subject matter of this Franchise.

SECTION 25 - NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or any agency or employment relationship between the parties, and neither party is authorized to nor shall either party act toward any third parties or to the public in any manner which would indicate any such relationship with the other.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this 6th day of September, 2006.

TIME WARNER NY CABLE LLC

**MUNICIPALITY:
TOWN OF WAWARSING**

By: *Logan C. Wells*
Name

By: *James V. Polce* 8/8/2006
Name

Title: *VP General Manager*

Title: Supervisor, Town of Wawarsing