

AN ORDINANCE GRANTING A FRANCHISE TO COAXIAL COMMUNICATIONS OF SOUTHERN OHIO, INC., ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A COMMUNITY CABLE TELEVISION SYSTEM IN THE VILLAGE OF HAMERSVILLE, OHIO: SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE: PROVIDING FOR VILLAGE REGULATION AND USE OF THE SYSTEM: AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS AND TO DECLARE AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF HAMERSVILLE, THAT:

SECTION 1. Short Title. This contract shall be known and may be cited as the "Cable Television Contract".

SECTION 2. Definitions. For the purpose of this contract the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) (Grantor) is the Village of Hamersville.
- (2) "Company" is Coaxial Communications of Southern Ohio, Inc., the grantee of rights under this contract.
- (3) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (4) "Systems" shall mean the entire installation.

SECTION 3. Grant of Authority. There is hereby granted by the Village of Hamersville, Ohio, to the Company the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, and public ways, now laid out or dedicated, and all extensions thereof, and additions thereto, in the Village, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the Village of Hamersville, Ohio of a community cable television system for the interception, sale and distribution of television signals.

Company may assign its rights under this contract with the approval of the Council of the Village of Hamersville, for purposes of mergers, sale of tangible assets, or mortgaging assets. The consent of the Council of the Village of Hamersville shall not be unreasonably withheld.

SECTION 4. Company Liability-Idemnification. It is expressly understood and agreed by and between the Company and the Village that the Company shall save the Village harmless from all loss sustained by the Village on account of any suit from the construction, operation or maintenance on the part of the Company or its television system in the Village. The Village shall notify the Company immediately after the presentation of any claim or demand, either by suit or otherwise, made against the Village on account of any activity as aforesaid on the part of the Company. The Company shall carry and pay the cost of the following insurance in at least the amount indicated for each injury to or death of persons and injury to or destruction of property as a result of any accident arising out of the conduct of business or use of premises or any operations which are necessary or incidental thereto, and same to include the Village as a named insured.

- (A) One Million (\$1,000,000.00) Dollars blanket coverage to any one person or property for one accident.

SECTION 5. Service Standards. The Company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as set forth in this contract.

Notice of Interruption for Repairs. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the company shall do so at such times as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

SECTION 6. Company Rules. The Company shall have authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonable and necessary to enable the company to exercise its rights and perform its obligations under this Contract and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of any laws or rules of the State of Ohio, the United States or the Ordinances of the Village of Hamersville.

SECTION 7. Condition of Street Occupancy.

- (1) The Company's system, poles, wires and appurtenances shall be located, erected and maintained so that none of it shall endanger or interfere with the lives of persons, or interfere with any improvement that the Village may deem proper to make, or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges, or other public property.
- (2) Construction and maintenance of the transmission distribution system including house connections, shall be in accordance with the provisions of the National Electric Safety Code of the National Board of Fire Underwriters, prepared by the Nations Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable regulations of the Village affecting electrical installations which may be presently in effect or may be enacted by the Village. Installations and house drop hardware shall be uniform throughout the Village except the Company shall be free to charge their hardware and installation procedure as the art progresses.
- (3) Whenever the activities of the Company shall damage any surface, pavement or sidewalk, the Company shall at its expense restore all such surfaces, pavement or sidewalk to the satisfaction of the Village. In the event any street or way is altered by the Village requiring the alterations or removal of any part of the Company's system, the Company shall bear the cost of such alteration or removal. Such repairs shall be made forthwith by the Company. If repairs are not so made, then the Village shall have the option of making the repairs and charging the Company therefore.
- (4) The Village shall not be liable for damage to the Company's lines caused by its forces while in the conduct of its Village Affairs and the Company hereby releases the Village from all claims growing out of said damage.

SECTION 8. Free Connections and Service. Upon request, Company shall furnish, free of charge, outside connections and service, to all public schools located within the Village and to Village buildings when other connections are being made within a particular work area; provided, however, any and all inside wiring work shall be done at the expense of the school or Village, as the case may be and provided that a service cable runs in reasonable proximity to such building.

SECTION 9. Records and Reports. The Village shall have access at all reasonable hours to all of the Company's plans, relating to the property and the operation of the Company and to all other records required to be kept hereunder. The following records and reports shall be filed with the Village and in the local office of the Company.

- (1) Company Rules and Regulations. Copies of such rules, regulations, terms and conditions adopted by the Company for the conduct of its business.
- (2) Gross Revenue. An annual certified audit showing gross revenues received by the Company from its operations within the Village during the preceding year from the basic services.

SECTION 10. Terms of Contract. Upon continuing and complete performance by the Company of each and every term of this agreement the permission herein granted shall continue for a term of fifteen (15) years.

SECTION 11. Separability. If any section, subsection, sentence, clause, phrase or portion of this contract is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 12. Installation Schedule.

- (1) Permits, Licenses and Certificates. Within thirty (30) days after the acceptance of this Ordinance, Grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business including, but not limited to, utility joint-use attachment agreements and permits, licenses, authorizations and certificates to be granted by duly constituted local, state and federal governmental entities and regulatory agencies having jurisdiction over the installation and operation of the system.
- (2) Start of Construction. Within Sixty (60) days after obtaining all necessary permits, licenses, authorizations and certificates, and after completion of make-ready work by utility companies in connection with use of utility poles and facilities, Grantee shall commence construction and installation of its system within the Service Area subject to the conditions of the contract, and said work is to be finished by June 30, 1987..
- (3) Initial Rendering of Service. Service shall begin on June 30, 1987, provided, however, that the utility companies make their poles and facilities available to Grantee in a reasonable manner so as to meet this time schedule. The Village may grant a thirty (30) day extension for good cause shown.
- (4) Compliance. Failure of Grantee to commence and diligently pursue each of the foregoing requirements and to abide by and to complete each of the matters set forth herein shall be grounds for termination and repeal of this Ordinance; provided, however, Grantee shall notify the Village

Council as soon as reasonably possible of any major delay in meeting the construction schedule established under this Ordinance. Grantee shall not be held in default of this construction schedule if timely completion of any phase or construction is prevented despite Grantee's good faith efforts and because of circumstances beyond Grantee's control, such as Acts of God, war, riot, strikes, labor disturbances of Grantee or others and unavailability of materials. Furthermore, the Village Council, in its discretion, may extend the time for the commencement and completion of construction and installation for additional periods in the event Grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

SECTION 13. Penalties.

- (1) If the Company shall fail to comply with any of the provisions of this contract or default in any of its obligations in this agreement and shall fail, within sixty (60) days after written notice from the Village to correct such default or non-compliance, the Village may, at its option, forthwith terminate the rights granted under this contract. In the event that the Village terminates this agreement, in whole or in part, the Company shall within sixty (60) days remove its facilities, and in the event the Company does not remove its facilities within sixty (60) days, the Village may do so, the removal costs to be borne in any event, by the Company.
- (2) Failure to enforce or insist upon compliance with any of the terms or conditions of this agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

SECTION 14. Channels Available. The Company shall install a system capable of distributing thirty-six (36) channels.

SECTION 15. Activities Prohibited. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the cable, nor shall it interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Village. The Company shall not perform repair services to television sets and shall not permit any of its employees, installers, or servicemen to perform such services on their own.

SECTION 16. Contract Repealed. All contracts or parts of contracts in conflict with the provisions of this contract are hereby repealed.

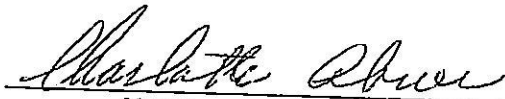
SECTION 17. Payments to the Village. The Company shall pay to the Village, in addition to any and all privilege licenses, and ad valorem taxes or other charges hereafter levied, ~~3%~~ of the gross revenues received by it within the Village during each year of operation under this contract. Gross revenues shall be considered as those revenues received from customers for basic service only. Payments to be made to the Village as provided herein shall be made on the basis of the customer count as determined quarterly and are to be paid quarterly. Company shall also pay to the Village the sum of \$4.50 per pole per year for the use of poles during the previous year. Payment to be made on April 1st of each year, first payment to be due in 1988.

SECTION 18. Bond. The Company shall deposit a bond in the amount of Five Thousand Dollars (\$5,000.00) with the Village Clerk as a performance bond. This bond shall be forfeited to the Village as liquidated damages if any of the provisions of this contract are not performed by the Company.

SECTION 19. Ordinance. The Mayor and Clerk are authorized to execute any contract required by Coaxial Communications of Southern Ohio, Inc., that complies with this Ordinance.

SECTION 20. Emergency Ordinance. This Ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village of Hamersville, Ohio, and for further reason that it is necessary in order for the work called for by this Ordinance to be completed, that the Ordinance go into effect at the earliest date provided for by law.

SECTION 21. Law Applicable. It is expressly understood that the rights and obligations of the Franchisor and Franchisee as expressed herein and in the Cable Franchise Agreement, are covered by applicable State and local laws and the Cable Communications Policy Act of 1984.



Mayor

Dated: _____

Clerk

The Company under this contract agrees to all its terms and conditions on this _____ day of _____, 1987.

Coaxial Communications of Southern
Ohio, Inc.

BY: _____