

**FRANCHISE AGREEMENT**

By and Between the  
**CITY OF CARIBOU, MAINE**

and

**TIME WARNER CABLE**

**JULY 1, 1996**

**RENEWAL  
FRANCHISE GRANTED BY  
THE CITY OF CARIBOU, MAINE  
TO  
TIME WARNER CABLE**

THIS AGREEMENT entered into this 1st day of July, 1996 by and between the CITY OF CARIBOU, a municipal corporation organized and existing under the laws of the State of Maine (hereinafter referred to as "City"), and TIME WARNER CABLE (Formerly Paragon Cable) a partnership duly organized under the laws of the State of Maine with a place of business at 272 Main Street, Caribou, Maine (hereinafter referred to as the "Company"),

**WITNESSETH**

WHEREAS, the City and Company entered into an agreement dated July 1, 1981 pursuant to which the Company has constructed and operated a cable television system in the City; and

WHEREAS, the municipal officers in furtherance of their statutory authorization to contract for the granting of a non-exclusive franchise to construct, operate and maintain a cable television system in the City, and in accordance with the CATV Ordinance of the City, wish to renew by contract such franchise to the Company; and

NOW, THEREFORE, the parties hereto agree in consideration of the promises, mutual covenants and other good and valuable consideration as follows:

## **1. DEFINITIONS**

Where used within this contract, unless the context clearly indicates otherwise, the following words and terms shall have the meaning indicated below:

- a. "Community Antenna Television System", hereinafter referred to as "CATV System" or "system", means a system of coaxial and/or fiber optic cables or other electrical conductors and transmission equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and other communications services and transmit them to subscribers for a fee.
- b. "Company" is the said Time Warner Cable, a Maine Partnership organized as Time Warner Cable having its principal office at 272 Main Street, Caribou, Maine, 04736, a subsidiary of Time Warner Cable Inc., a duly organized and existing Delaware corporation having its principal offices at 300 First Stamford Place, Stamford, Ct. 06092-6732, or any person who succeeds it in accordance with the provisions of this Franchise.
- c. "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- d. "Potential Subscriber Residence" is any year-round single-family dwelling unit including dwelling units within multi-family buildings.
- e. "City Council" shall mean the City Council of Caribou or an official

authorized to administer the terms, provisions and regulations of this franchise.

## 2. GRANT OF FRANCHISE

The City hereby renews the Company's franchise, right, privilege, authority and easement for a period of fifteen (15) years from the effective date hereof, renewal for an additional ten (10) year period as provided herein, unless sooner terminated pursuant to the provisions of this Franchise, to acquire, construct, erect, suspend, install, renew, maintain, repair, replace, extend, enlarge and operate throughout the City in, upon, along, across, above, over and under the streets, alleys, easements, public ways and public places as now laid out or dedicated, and all extensions thereof and additions thereto in the City, a system of poles, wires, cables, underground conduits, trenches, conductors, amplifying equipment, manholes, fittings, and any and all other fixtures, appliances and appurtenances necessary for the installation, maintenance and operation in the City of a cable television (CATV) system, and to make connections to subscribers to the system, either separately or in the conjunction with any public utility maintaining the same in the City. This Franchise shall further include the right, privilege, easement, and authority to construct, erect, suspend, install, lay, renew, repair, maintain and operate such poles, wires, cables, underground conduits, manholes, ducts, trenches, fixtures, appliances and appurtenances for the purpose of distribution to inhabitants within the limits of the City. The said rights are granted herein by the City after due consideration and approval of the legal, character, financial, technical, and other qualifications of the Company.

The City reserves the right to grant franchises to other telecommunications companies at its discretion. The City hereby warrants that to the extent allowable by applicable law it will require franchises to be procured by all other multiple channel video providers who offer service to any Caribou resident. If the City grants a cable franchise to anyone other than the Company, to the extent that the franchise is in whole or in part inconsistent with such other cable franchise, then, at the Company's option, the Company's franchise shall be automatically amended or conformed in whole or in part at the Company's sole discretion, as the case may be so that it is no less favorable than the most favorable franchise granted to any other entity.

### 3. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall at all times during the life of this Franchise be subject to all lawful exercise of the police power by the City and to such reasonable regulation by the City as the City shall hereafter provide. The Company shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business including those of the Federal Communication Commission (FCC) and will comply with the Equal Employment Opportunity Act.

### 4. EFFECTIVE DATE AND TERM

a. Initial Term and Extension. This Franchise shall take effect and be in full force from and after the 1st day of July, 1996, immediately following the expiration of the current agreement, and said Franchise shall continue in full force and effect for a term of fifteen (15) years upon the terms and conditions as herein set forth. An option for renewal for an additional ten (10) year

period may be exercised by the Company by giving the City notice in writing of its election to exercise this option, which notice shall be given not less than one (1) year nor more than two (2) years prior to the expiration of the term of this Franchise, provided that any such renewal shall be upon conditions mutually acceptable to both parties after public proceedings affording due process. This Franchise, when accepted by the Company, shall be and become a valid and binding contract between the City and the Company, but this Franchise shall be void unless the Company shall, within sixty (60) days after execution of the same by the City, file with the City Council of the City of Caribou a fully executed original copy of this Franchise.

#### 5. EXTENSION OF SYSTEM WITHIN CITY BOUNDARIES

a. Extensions to the initial cable television system will be provided to contiguous areas whenever the average density of such additional contiguous areas is either forty (40) residential units per mile, or twenty (20) subscribers per mile who sign two-year irrevocable service agreements. In any event, if a group of residents, who would be served by an extension, whose density in the contiguous area is less than forty (40) residential dwelling units per mile, or twenty (20) subscribers per mile, desire service and present a request for service to the Franchisee, the Franchisee will prepare a cost estimate of the extension through the contiguous area and divide the cost by the normal density of twenty (20) subscribers per mile to establish the normal unit extension cost. It will then divide the same cost estimate by the density per mile in the contiguous area of those requesting service to establish the actual unit extension cost. The difference between the actual unit extension costs and the normal unit extension costs shall become a special installation fee.

The Franchisee shall construct such extension if persons requesting the service agree to pay such special installation fee and sign irrevocable service agreements for a two-year period. The Franchisee shall construct such extension within six (6) months provided there is no delay caused by acts of God, force majeure, labor strikes or other circumstances beyond the reasonable control of the Franchisee.

b. In the event the Franchisee constructs such an extension where subscribers pay a special installation fee calculated as outlined in paragraph (a) above, the Franchisee shall maintain separate records on each such extension for a period of three (3) years after its completion. During such three (3) year period, as additional subscribers caused by any such extension request cable service, they shall pay a special installation fee equal to one-half of the original special installation fee charged to the original subscribers. The amount as received by the Franchisee shall be returned to the original subscribers received on a cumulative amount equal to one-half the original special installation fee. The refund to original subscribers may be made in the form of a credit against their normal service charges at the option of the Franchisee.

#### G. LIABILITY AND INDEMNIFICATION

a. The Franchisee shall pay all damages and penalties which the City may legally be required to pay as a result of granting this franchise. These damages or penalties shall include, but not be limited to, damages arising out of the installation, operation or maintenance of the cable television system, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter. This provision includes, but is not

limited to, actions brought by subscribers to the cable television system.

(b) Franchisee shall provide and pay for any legal defense of the City with regard to all actions mentioned above and shall have the right to defend, settle or compromise any such actions; and the City shall fully cooperate therein.

(c) Franchisee shall maintain, throughout the terms of its franchise, liability insurance in companies acceptable to the City sufficient to cover such indemnification, and naming as insured the City and the Franchisee with minimum limits of \$500,000 on account of bodily injuries to or death of one person, \$1,000,000 on account of bodily injuries to or death of more than one person as a result of any accident or disaster, and \$500,000 on account of damage to property, and it will further deposit the policy or policies of such insurance along with certificates thereof with the City within 30 days of execution of this Franchise Agreement. The Franchisee shall further deposit with the City evidence of the renewal of said policies on or before each anniversary date of the execution of this Franchise Agreement during the term of the franchise.

## 7. SERVICE STANDARDS AND REQUIREMENTS

(a) The Franchisee shall construct, operate and maintain the cable television system subject to the supervision of the City and in strict compliance with all laws, ordinances, rules and regulations affecting the system.

(b) The cable television system, and all parts thereof, shall be subject to periodic inspection by the City.

(c) The Franchisee shall not initiate any construction, reconstruction or relocation of the cable television system, or any part thereof, including but



not limited to the setting of poles within the streets, without written permits issued by the City. In any permit so issued, the official authorized by the City Council may impose such conditions and regulations as a condition of the granting of the same as are necessary for the purpose of protecting any structures in the streets and for the proper restoration of such streets and structures, and for the protection of the public and continuity of pedestrian and vehicular traffic. Nothing herein shall be construed to require the Franchisee to obtain additional authorization to erect, maintain or install new and/or old equipment on poles presently utilized by the Franchisee, or on poles subsequently replaced, relocated or otherwise erected by a duly authorized utility company(s).

(d) The City Council may, from time to time, issue such reasonable rules and regulations concerning the construction, operation and maintenance of the cable television system as are consistent with provisions of this Franchise Agreement.

(e) The City Council may require that any part or all of the cable television system should be improved or upgraded by the Franchisee within a reasonable time thereafter (including, without limitation, the increasing of channel capacity, the furnishing of improved equipment and the institution of two-way transmission): provided such improvement or upgrading of the system is found to be economically feasible. For the purpose of this subsection, a finding of economic feasibility shall mean a finding that the capital costs to the Franchisee of such improvement or upgrading can reasonably be amortized over the then remaining life of the franchise without substantially affecting the Franchisee's rate of return, or other measure of profitability agreed to by Franchisee and the City.

## 8. INTERRUPTION OF SERVICE

- a. Whenever it shall be necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its subscribers and, unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its subscribers.
- b. When for any reason service is interrupted in its entirety, unless by Act of War or Act of God, for a period of more than twenty-four (24) consecutive hours after notification by the subscriber in any one month, the subscribers affected by such interruption shall be entitled to a pro-rata credit on the following month's service charge.
- c. In the event of any such interruption of service whether planned or unforeseen, the Company shall proceed with due diligence and restore service as quickly as possible under the circumstances.

## 9. EDUCATIONAL SERVICES

- a. Time Warner Cable shall offer service connections at one outlet in 100% of the public schools (Grade K-12) passed by its cable systems. Such connections will be made free of charge and as promptly as possible to all such schools requesting connections. If any internal wiring installation is requested to serve additional outlets in such schools, it will be provided at Time Warner Cable's Cost of materials and labor at the applicable Hourly Service Charge; provided, however, that such internal wiring will be provided without charge if Time Warner Cable is able to coordinate with other comparable electrical wiring installation in cases of new construction

or substantial rehabilitation of existing schools. Basic Service Tier and Customer Product Service Tier service will be provided to each outlet in such schools free of any charges.

(b) Time Warner Cable shall offer service connections, including any requested internal wiring for additional outlets, at Cost to any private Secondary School, as defined by, and which receives funding pursuant to, Title 1 of the Elementary and Secondary Education Act of 1965, 20 U.S.C. ss 241a et seq., and which is passed by its cable systems. Basic Service Tier and Customer Product Service Tier service will be provided to each outlet in such schools free of any charges.

(c) Time Warner Cable will provide a free monthly educational program listing to each connected school. Additional copies of such program listings will be provided, if requested by a school, at Cost. Such educational program listing will identify and describe programming on the Time Warner Cable system that is appropriate for use in the classroom and will provide suggested curriculum support ideas.

## 10. MUNICIPAL SERVICES

a. Franchisee shall provide one local origination channel designated for public access on a first come, non-discriminatory basis. The public access channel will be available to public, education, government and any other users.

b. The Franchisee shall provide at its expense facilities and equipment necessary to originate local programming. The Franchisee shall provide one local origination channel for that purpose.

c. The Franchisee shall provide at its expense, one cable hook-up for each

municipal building at no charge.

## **11. CONDITIONS ON CONSTRUCTION**

Any extensions of the System and any relocation of any portion of the System within the limits of any public ways of public lands of the City, shall conform with the following requirements:

- a. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners whose land may adjoin any of the said streets, alleys, or other public ways and places.
- b. Poles or other wireholding structures may be located by the Company on public land only upon approval by the City Council with regard to location, height, type and any other pertinent aspects.
- c. In case of disturbance of any streets, sidewalk, alley, public way, or paved area, the Company shall, at its own cost and expense and in a manner approved by the City's appropriate authority, replace and restore such street, sidewalk, alley, public way, or paved area in as good condition as before the work involving such disturbance was done.

## **12. CONDITIONS ON STREET OCCUPANCY**

- a. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade, alignment or rerouting of any street, sidewalk, alley, or other public way, the Company, upon reasonable notice by

the City shall remove, relay, and relocate its poles, wires, cable, underground conduits, manholes, and other fixtures at its own expense.

b. The Company shall have the authority, under the supervision of the City's appropriate authority, to trim trees upon and overhanging of streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company.

c. The Company shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The Company shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire change.

### 13. SAFETY REQUIREMENTS

a. The Company shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failure and accidents which are likely to cause damage, injuries, or nuisances to the public.

b. The Company shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of all federal, state and local ordinances, codes, laws and regulations which are applicable.

c. All structures and all lines, equipment, and connections in, or over, under and/or upon the streets, sidewalks, alleys, and public ways or places of the City wherever situated or located, shall be kept and maintained at all

times in a safe, suitable, substantial condition, and in good order and repair.

#### 14. SUBSCRIBER FACILITIES

The Company's conduct with respect to installation fees and other subscriber facilities shall be consistent with applicable regulation of the FCC, as the same way be amended from time to time.

#### 15. PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED

The Company shall have the right to establish different classification of service for residential and commercial users. In its rates, charges, service, service facilities, rules, regulations and any other respect, the Company shall not make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, within the same classifications of service.

#### 16. NEW DEVELOPMENTS

It shall be the policy of the City to amend this Agreement liberally, upon application of the Company, when necessary to enable the Company to take advantage of any technological developments in the field of transmission of telecommunications signals and related services which will afford it an opportunity more effectively, efficiently, or economically to serve its customers.

#### 17. FRANCHISE FEE

- a. As compensation for this franchise in consideration of permission to use

the streets and public ways of the City for the construction, operation, maintenance and reconstruction of the cable television system, the Franchisee shall pay to the City an amount equal to three percent of the Franchisee's gross annual receipts from all sources attributable to the operations of the franchise within the City, including but not limited to pay cable, and any lump sum connection fees.

b. Payments to the City under this provision shall be computed annually for the preceding year. Each annual payment shall be due and payable no later than April 30 of each year. On or before January 30 of each year the Franchisee may pay to the City an amount equal to the franchise fee paid in the preceding calendar year; such amount to be adjusted on or before April 30 to reflect actual gross receipts received during the preceding calendar year. The adjusted fee shall not exceed the maximum franchise fee established in this provision. Each payment shall be accompanied by a report showing the basis for the computation and such other relevant material as required by the City Council.

c. Nothing in this section shall be interpreted as relieving the Franchisee of local taxes.

#### 18. CITY RIGHTS IN AGREEMENT

a. The right is hereby reserved to the City to adopt, in addition to the provisions contained herein and in existing applicable agreements, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with applicable law or the rights herein granted.

b. The City shall have the right subject to any and all applicable Federal and State laws, during the life of this Franchise, to install and maintain free of charge upon the poles of the Company any wire or pole fixtures necessary for a police alarm system, or traffic control system on the condition that such wire and pole fixtures do not interfere with the CATV operation of the Company.

#### 19. FORFEITURE OF AGREEMENT

If the Company shall fail to comply with any of the provisions of this grant or shall default in any of its undertakings or obligations hereunder and shall fail within sixty (60) days after receipt of written notice from the City to correct such default or non-compliance, then the City shall have the right, after a full and complete 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 the Company shall not be sufficient grounds for revocation.

#### 20. LOCATION FOR PAYMENTS; COMPLAINTS

The Company will arrange for a location within the City where payments can be made. Upon reasonable notice, the Company shall expeditiously investigate and resolve complaints regarding the quality of service, equipment malfunctions and similar matters. The City may adopt procedures for the investigation and resolution of complaints related to the operation of the company's cable television system and the City Manager shall have the primary obligation for administration and implementation of such procedure. At the time of initial subscription, each



subscriber shall be notified of the above procedure for reporting and resolving complaints related to the operations of the cable system.

**21. MODIFICATION BY REASON OF STATUTES AND GOVERNMENT REGULATIONS:**

If, at any time, any sections of this agreement conflict with operation under or compliance with any federal or state statutes or with regulations of the Federal Communications Commission, or any other State of Federal agency with regulatory power over the Company as it is operated, said sections shall, at that time, be altered so as to conform with said statute or regulation. The remainder of the agreement shall not be changed except as necessary to comply with the above.

**22. ASSIGNMENT; CHANGE OF CONTROL**

This agreement is binding upon the Company, its successors and assigns. The Company shall notify the city of any substantial change in its ownership or financial condition.

**23. SEPARABILITY**

If any section, subdivision, sentence, clause, phrase or portion of this Franchise 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.

**24. TRANSFER OF AGREEMENT**

The Company shall not transfer or assign any rights under this Agreement to another person without prior written approval of the City, which approval shall not be unreasonably withheld. Any such transfer or assignment shall be in writing, which shall include an express acceptance of all terms and conditions of this Agreement by the transferee or assignee. In addition, a duly executed copy of the acceptance shall be filed with the City prior to the effective date of such transfer or assignment. Any assignment or transfer without prior written consent shall constitute a material breach of this Agreement, which may result in the revocation of the Franchise. In making such a determination of whether to approve or reject a transfer or assignment, the City may consider the following:

- a. The experience of the proposed transferee or assignee;
- b. The financial, technical and legal qualifications of the proposed transferee or assignee;
- c. If requested by the City, submittals from the proposed transferee or assignee, on what if any changes it intends to make in the operation and maintenance of the present cable company;
- d. The corporate connection, if any, between the Company and the proposed transferee or assignee; and
- e. Any other aspect of the proposed transferee's or assignee's background which could affect the health, safety, and welfare of the citizenry of the City as it relates to the operation of the cable system.

Upon written request by the City, the transferor shall provide an attested statement that a transfer of the franchise has been effectuated.

The provisions of this Section 24 shall not apply in the event of a transfer or assignment to any person in which Time Warner Inc. has a greater controlling interest, if the transferee or assignee is at least as strong financially and technically

as the transferor or assignor. In order to consummate such transfer or assignment to such a person, the Company shall only be required to provide the City with at least thirty (30) days notice of the transfer or assignment and provide such information as the City may reasonably request regarding the financial and technical capability of the transferee or assignee.

## 25. NOTICES

All notices, reports or demands required to be given under this Agreement shall be deemed to be given when delivered personally to the person(s) designated below, or delivered by the United State mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to which notice is being given as follows:

If to the City:           City Manager  
                                  City of Caribou  
                                  Municipal Building  
                                  25 High Street  
                                  Caribou, Maine 04736

If to the Company: Time Warner Cable Company  
                                  272 Main Street P.O. Box 719  
                                  Caribou, Maine 04736-0719  
                                  Attention: General Manager

## 26. INTEGRATED FRANCHISE

This Agreement contains the full and complete understanding between the parties and supersedes all prior agreements and understandings whether written or oral pertaining thereto, and cannot be modified except by written instruments signed by the appropriate officers or official, of the parties. Each of the parties acknowledges that no representation or promise not expressly contained in this Agreement has been made by other party or by any agent, employees or representatives thereof.

IN WITNESS WHEREOF, THE CITY OF CARIBOU has caused this Franchise to be duly executed in its name by its City Council, and its corporate seal is hereunto duly affixed, and TIME WARNER CABLE, has caused this Franchise to be duly executed in its name and behalf by Barry D. McCrum, General Manager, all being duly authorized to act in their respective capacities, as of the day first above written.

THE CITY OF CARIBOU

*Lee C. Conroy*  
*David Conroy*  
*Philip R. Bennett, Jr*  
*Richard H. Fortin*  
*Gregg Baulerod*  
*Danny Couriveau*

WITNESS

TIME WARNER CABLE

*Barry D. McCrum*  
BARRY D. MCCRUM,  
GENERAL MANAGER