

**CABLE TELEVISION FRANCHISE AGREEMENT**

**BETWEEN**

**THE TOWN OF HAMPDEN**

**AND**

**HAMPDEN TELEPHONE COMPANY INC.**

**d/b/a TDS**

## TABLE OF CONTENTS

	<b>Page</b>
1. DEFINITIONS.....	1
2. GRANT OF FRANCHISE - NON-EXCLUSIVE FRANCHISE.....	2
3. TERM .....	2
4. RENEWAL .....	2
5. FRANCHISE FEE .....	2
(a) Percent of Gross Subscriber Revenues .....	2
(b) Quarterly Payments.....	3
(c) Reasonable Access to Records.....	3
(d) In-Kind Cable Related Contributions .....	3
6. CUSTOMER SERVICE STANDARDS .....	3
7. DISCRIMINATORY PRACTICES PROHIBITED.....	4
8. CONSTRUCTION, OPERATION AND MAINTENANCE OF THE CABLE SYSTEM.....	4
(a) Applicable Standards .....	4
(b) Maintenance and Operations.....	4
(c) System Extensions .....	5
(d) Liability Insurance .....	5
(e) Workers' Compensation Insurance.....	5
9. INDEMNIFICATION.....	6
10. RIGHTS RESERVED BY THE GRANTOR.....	6
(a) Grantor Ordinances and Police Power .....	6
(b) Grantor Inspection .....	6
11. TRANSFER OF FRANCHISE AGREEMENT .....	6
12. OTHER FRANCHISES.....	6
(a) New Franchises.....	6
(b) Unfair Competition Modification .....	6
(c) Indemnification for Costs .....	7
(d) Non Discrimination.....	7
13. CHANGES IN LAW OR REGULATIONS.....	7

## TABLE OF CONTENTS

	<b>Page</b>
14. ENFORCEMENT AND TERMINATION OF FRANCHISE .....	7
(a) Notice of Violation .....	7
(b) Grantee’s Right to Cure or Respond .....	8
(c) Public Hearing .....	8
(d) Enforcement .....	8
(e) Revocation .....	8
15. FORCE MAJEURE .....	9
16. ENTIRE AGREEMENT .....	9
17. SEVERABILITY .....	9
18. RESERVATION OF RIGHTS .....	10
19. RIGHTS AND DUTIES OF GRANTEE UPON EXPIRATION OF FRANCHISE .....	10
20. NOTICE TO PARTIES .....	10
21. EFFECTIVE DATE .....	11

## CABLE TELEVISION FRANCHISE AGREEMENT

This Cable Television Franchise Agreement is between The Town of Hampden, Maine (hereinafter “Grantor”), and Hampden Telephone Company, a wholly owned subsidiary of TDS Telecommunications LLC, a wholly owned subsidiary of Telephone and Data Systems, Inc. (hereinafter “Grantee”).

### UNDERSTANDING

- A. Grantee owns and operates a telecommunications system serving the Grantor.
- B. Grantee desires to provide video service over its system.
- C. Pursuant to its authority under Title 30-A, Section 3008 of the Maine Revised Statutes, Grantor desires to grant a cable television franchise to Grantee.

Based on the above understanding, the Grantor and Grantee agree as follows:

### AGREEMENT

#### 1. Definitions

For purposes of this Franchise Agreement, the following definitions will apply: “Basic Cable Service” will mean the lowest priced, separately available tier of cable service that includes, at a minimum, retransmission of local broadcast signals.

“Cable Act” means Title VI of the Communications Act of 1934 as amended.

“Cable Service” will mean (a) The one-way transmission to subscribers of video programming, or other programming service, and (b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“Cable System” will mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within the Grantor.

“Facilities” will mean any distribution or transmission component of a Cable System, including cables, conduits, converters, splice boxes, cabinets, manholes, vaults, equipment, poles, drains, surface location markers, appurtenances, and related facilities located by Grantee in the Rights-of-Way.

“FCC” will mean the Federal Communications Commission.

“Franchise Area” will mean the area within the boundaries of the Grantor and will include any additions thereto by annexation or other legal means.

“Gross Subscriber Revenues” will mean all revenues of the Grantee received from the operation of the Cable System to provide Basic Cable Service to Subscribers within the Franchise Area, adjusted for nonpayment. Gross Subscriber Revenues will not include amounts collected for franchise fees, retransmission consent fees, taxes, deposits, refunds, credits, advertising or revenues from services not defined as Cable Services.

“Law” will mean any applicable state, federal and local law, ordinances and regulations.

“Rights-of-Way” will mean the space on, above or below the surface of the public streets, roads, highways, freeways, bridges, sidewalks, lanes, courts, ways, alleys, boulevards, and places including, without limitation, all public utility easements and public service easements now or hereafter within the Grantor’s jurisdiction.

“Subscriber” will mean any person, firm, corporation or other entity within the Franchise Area that elects to subscribe to the Cable Service provided by Grantee by or through Grantee’s Cable System and Facilities.

**2. Grant of Franchise - Non-Exclusive Franchise**

The Grantor grants to Grantee a non-exclusive franchise to operate a Cable System and to construct, maintain, extend and operate its Facilities, in, through, along, among, upon, across, above, over, under or in any manner connected with the Rights-of-Way for the purpose of providing Cable Services and other communications and information services throughout the Franchise Area of the Grantor subject to the system extension provisions of Section 9( c ) and for any other lawful purposes, subject to the terms and conditions of this Franchise Agreement and applicable law.

**3. Term**

The term of this Franchise Agreement will be for a period of fifteen (15) years from the Effective Date unless sooner terminated as provided in this Franchise Agreement.

**4. Renewal**

This Franchise Agreement may be renewed in accordance with the renewal provisions of the Cable Act and Title 30-A, Section 3010 of the Maine Revised Statutes.

**5. Franchise Fee**

**(a) Percent of Gross Subscriber Revenues**

Subject to subsection (d) of this Section 5, during the term of this Franchise Agreement and any extension thereof, Grantor may require Grantee to pay the Grantor an annual franchise fee in an amount not to exceed five percent (5%) of Gross Subscriber Revenues computed in accordance with Generally Accepted Accounting Principles (GAAP). Grantor shall provide Grantee with at least 90 days

written notice of its election to receive payment of a franchise fee and the percentage of the franchise fee. Grantor agrees that Grantee may reduce the amount of the franchise fee as required to offset certain charges or contributions to Grantor, as permitted under the Cable Act or FCC rules and regulations. Grantee will provide the Grantor with quarterly financial reports indicating the Gross Subscriber Revenues.

**(b) Quarterly Payments**

The franchise fee will be paid quarterly. Grantee will pay the franchise fee to the Grantor within forty-five (45) days of the last day of the calendar quarter for which a fee payment is due. In the event Grantee fails to pay the franchise fee to Grantor within ninety (90) days of the last day of the calendar quarter for which a fee payment is due, interest due on such fee shall accrue from the date due at one and one-half percent (1.5%) per month. Payment of interest accrued as provided in this section (b) shall be Grantor's sole remedy for any untimely payment of the franchise fee by Grantee.

**(c) Reasonable Access to Records**

Independent of the quarterly financial reports provided within subsection (a), Grantee will provide the Grantor with reasonable access to Grantee's records that serve as the basis for the Gross Subscriber Revenues from Cable Service as defined in this Franchise Agreement not more than once annually upon receipt of reasonable notice. Grantee will comply with all reasonable requests for information directly related to the calculation for Gross Subscriber Revenues in the performance of any audit. The Grantor will agree to appropriate protection for access to confidential or proprietary information.

**(d) In-Kind Cable Related Contributions**

Grantor will inform Grantee prior to the effective date of this Franchise Agreement as to whether the Grantor will require Grantee to provide the Free Services described in Section 6, subject to an offsetting reduction in the franchise fee payment due under Section 5(a).

**6. Free Services Provided to the Grantor**

Subject to Section 5(d), Grantee will provide, at no charge, one (1) service drop and Basic Cable Service at any of the Grantor administration locations listed on Exhibit A (the "Free Services"), provided said locations are located within 125 aerial feet of Grantee's Distribution Cable. The Grantor may not use the Free Services for commercial purposes and the Free Services may not be located in areas open to the public. The Grantor will take reasonable precautions to prevent any inappropriate use of or any loss or damage to Grantee's Cable System.

**7. Customer Service Standards**

Grantee will comply with the customer service standards promulgated by the FCC and contained within Title 30-A, Section 3010 of the Maine Revised Statutes, including applicable state and federal privacy laws and regulations.

Grantee will investigate and resolve complaints received from Subscribers in accordance with the processes described in Exhibit B to this Franchise Agreement.

## **8. Discriminatory Practices Prohibited**

Grantee will make its Cable Services available to all customers within the Cable System based on the terms of this Franchise Agreement without discrimination and will not give any person any preference or advantage not available to all persons similarly situated, provided that nothing contained herein will prevent Grantee from implementing credit, deposit and acceptance criteria.

## **9. Construction, Operation and Maintenance of the Cable System**

### **(a) Applicable Standards**

- (i) Grantee will ensure that the Cable System is constructed, operated, and maintained in accordance with all applicable laws, including safety codes. Grantee agrees to keep all Facilities in good and safe condition. If the Grantor finds that an unsafe condition exists with respect to all or any portion of the Cable System, it may order Grantee to make repairs, and Grantee will make all such repairs necessary to correct any such unsafe condition within a reasonable time frame.
- (ii) Grantee will locate the Cable System and associated Facilities within the Franchise Area so as to cause minimum interference with the proper use of the Rights-of-Way.
- (iii) All construction, alteration, or removal of Facilities will conform to any generally applicable requirements imposed by the Grantor incidental to plan approval of issuance of permits.
- (iv) Grantee will have the authority to trim trees upon and overhanging the Rights-of-Way so as to prevent the branches of such trees from coming in contact with Grantee's Facilities.
- (v) Grantee will temporarily raise or lower its wires to permit the moving of buildings at the request of any person holding a building-moving permit issued by the Grantor. The permit holder will pay the expense of such temporary raising or lowering of wires and the Grantee will have the authority to require such payment in advance. The permit holder will provide Grantee with not less than three (3) weeks advance notice to arrange for such wire changes.

### **(b) Maintenance and Operations**

In maintaining and operating the Cable System, Grantee will schedule any planned interruptions of service, including testing and maintenance interruptions, for the shortest time possible and when there will be a minimum number of Subscribers inconvenienced.

**(c) Public, Educational and Governmental Access Channels**

To the extent Grantor currently operates, or during the term of the Franchise commences to operate, a public, educational or governmental access channel (“PEG Channels”), Grantee will carry such PEG Channels in the manner required by the Cable Act and Maine law and applicable federal and state regulations. Grantee shall provide adequate access to facilities and equipment or financial support for PEG Channels necessary to meet the needs of the community. Grantee reserves the right to refuse to carry programming on PEG Channels that Grantee, in its sole discretion, reasonably believes contains obscenity.

**(d) System Extensions**

Grantee shall offer Cable Service at standard installation rates to all new homes or previously unserved homes located within 125 aerial feet of Grantee’s Distribution Cable.

Grantee shall make Cable Service available to every residential dwelling unit within 250 aerial feet of Grantee’s Distribution Cable where the minimum density is at least fifteen (15) residential dwelling units per aerial mile.

Any extension to potential subscribers whose homes do not meet the requirements outlined above will be made if the potential subscriber agrees to pay reasonable construction costs for such extension and non-standard installation (those in excess of 125 aerial feet or underground). Grantee shall, upon receipt of payment and pending any identified construction or other issues, offer Cable Service within thirty (30) days of a potential subscriber’s request for aerial installation and within sixty (60) days of a potential subscriber’s request for underground installation.

Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Franchise Area.

**(e) Liability Insurance**

Grantee will maintain in full force and effect for the term of the Franchise, at Grantee’s expense, a comprehensive liability insurance policy with the Grantor as an additional insured, written by a company authorized to do business in the Grantor’s State, protecting the Grantor against liability for loss, personal injury and property damage occasioned by Grantee’s operation of the Cable System. Such insurance will be maintained in an amount not less than \$500,000.00. Evidence in the form of a certificate of insurance will be provided to the Grantor upon request.

**(f) Workers’ Compensation Insurance**



The Grantee will obtain and maintain workers' compensation insurance for all Grantee's employees, in compliance with Maine law.

**10. Indemnification**

The Grantee agrees to indemnify, save and hold harmless, and defend the Grantor, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System in the Franchise Area provided that the Grantor will give the Grantee written notice of its obligation to indemnify the Grantor within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee will not indemnify the Grantor for any damages, liability or claims resulting from the Grantor's willful misconduct or negligence.

**11. Rights Reserved by the Grantor**

**(a) Grantor Ordinances and Police Power**

The Grantor may lawfully adopt and enforce and Grantee will be subject to Grantor's generally applicable, non-discriminatory, and competitively neutral local ordinances and regulations as may be determined by the Grantor to be in the interest of public health, safety, welfare, convenience or necessity.

**(b) Grantor Inspection**

Upon reasonable notice to Grantee, the Grantor may inspect construction or installation work performed by Grantee as reasonably necessary to ensure compliance with this Franchise Agreement and applicable law.

**12. Transfer of Franchise Agreement**

The Grantee's right, title, or interest in the Franchise will not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without written notice to the Grantor. No such notice will be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

**13. Other Franchises**

**(a) New Franchises**

This Franchise Agreement is non-exclusive. Grantee acknowledges the Grantor's rights to grant one or more competing franchises.

**(b) Unfair Competition Modification**

In the event that the Grantor grants any other entity a cable television franchise or other right to provide service in the Grantor comparable to the Cable Service

provided by Grantee the Grantor agrees that it will promptly amend the terms of this Franchise Agreement to ensure that the terms and conditions imposed on Grantee will be neither less favorable nor more burdensome than those governing any other such entity, so that one operator will not be granted an unfair competitive advantage over another.

**(c) Indemnification for Costs**

If another franchise or other right to provide Cable Service or other comparable services is authorized by the Grantor the Grantor will require the new franchisee to reimburse and hold harmless the Grantee from and against all costs and expenses incurred by or on behalf of the Grantee for strengthening poles, replacing poles, rearranging attachments, placing underground facilities, repairing cable cuts caused by the new franchisee, its contractors or subcontractors and all other costs, including those of the Grantor, the Grantee, and any utilities, required by inspections, make-ready and construction of such additional system.

**(d) Non Discrimination**

The Grantor agrees that any other franchise or other right to provide Cable Service or other comparable service authorized by the Grantor will be for the Grantor's entire territory with build-out requirements imposed to protect against discrimination consistent with federal and state law.

**14. Changes in Law or Regulations**

In the event any change to state or federal law occurring during the Term of this Franchise eliminates the requirement for any person desiring to construct, operate or maintain a Cable System in the Grantor to obtain a franchise from the Grantor for the construction, operation or maintenance of a Cable System, then, Grantee will have the right to terminate this Franchise Agreement and operate the Cable System under the terms and conditions established in applicable law. If Grantee chooses to terminate this Franchise Agreement pursuant to this provision, this Franchise Agreement will be deemed to have expired by its terms on the effective date of any such change in law, whether or not such law allows existing franchise agreements to continue until the date of expiration provided in any existing franchise. Furthermore, in the event any change to state or federal law occurring during the term of this Franchise materially alters the regime of cable franchising applicable to any entities desiring to construct, operate or maintain a Cable System in the Franchise Area in a way that reduces the regulatory or economic burdens for any such entity, then, the Grantor will amend this Franchise Agreement to similarly reduce the regulatory or economic burdens on Grantee. It is the intent of this section that Grantee will be subject to no more burdensome regulation or provided lesser benefits under this Franchise Agreement than any other entities that might construct, operate or maintain a Cable System in the Franchise Area.

**15. Enforcement and Termination of Franchise**

**(a) Notice of Violation**

In the event that the Grantor believes that the Grantee has not complied with any material term of the Franchise Agreement, the Grantor will informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor will notify the Grantee in writing of the exact nature of such alleged noncompliance.

**(b) Grantee's Right to Cure or Respond**

The Grantee will have thirty (30) days from receipt of the notice described above: (i) to respond to the Grantor contesting the assertion of such noncompliance; (ii) to cure such default; or (iii) in the event that, by the nature of such default, it cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

**(c) Public Hearing**

In the event that the Grantee fails to respond to the notice described above pursuant to the procedures set forth in (b) or in the event that the alleged default is not remedied within thirty (30) days or the date projected if it intends to continue its investigation into the default, then the Grantor will schedule a public hearing. The Grantor will provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

**(d) Enforcement**

Subject to applicable federal and state law, in the event the Grantor, after the hearing set forth in (c) above determines that the Grantee is in material default of any provision of the Franchise Agreement, the Grantor may (i) Commence an action at law for monetary damages or seek other equitable relief; or (ii) in the case of repeated or ongoing substantial non-compliance with a material term or terms of the Franchise Agreement, seek to revoke the Franchise in accordance with subsection (e) below.

**(e) Revocation**

Should the Grantor seek to revoke the Franchise after following the procedures set forth above, the Grantor will give written notice to the Grantee of its intent. The notice will set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee will have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Grantor has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing.

The Grantor will cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee will be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Grantor, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript will be made of such hearing.

Following the hearing, the Grantor will determine whether or not the Franchise will be revoked. If the Grantor determines that the Franchise will be revoked, the Grantor will promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Grantor to an appropriate court which will have the power to review the decision of the Grantor de novo. Grantee will be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Grantor.

The Grantor may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Grantor's rights under the Franchise in lieu of revocation of the Franchise.

## **16. Force Majeure**

The Grantee will not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Grantor and/or Subscribers.

## **17. Entire Agreement**

This Franchise Agreement constitutes the entire agreement between the Grantee and the Grantor and supersedes all other prior understandings and agreements oral or written. Any amendments to this Franchise Agreement shall be mutually agreed to in writing by the parties.

## **18. Severability**

If any Section, subsection or provision of this Franchise Agreement or its application to any person or circumstances is held invalid or is preempted, such invalidity or preemption will not affect other provisions, sections, subsections or applications of this Franchise Agreement.

**19. Reservation of Rights**

Acceptance of the terms and conditions of this Franchise Agreement will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Grantor acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws.

**20. Forbearance; Waiver**

Forbearance by either party in the exercise of any right or remedy provided within this Franchise Agreement may not require or limit the forbearing party's future ability to exercise such right or remedy. Forbearance or failure by either party to exercise any right or remedy provided within this Franchise Agreement may not be construed as a modification of this Franchise Agreement and no requirement, condition, right or remedy under this Franchise Agreement may be waived except in writing by the parties hereto.

**21. Rights and Duties of Grantee upon Expiration of Franchise**

Upon expiration of this Franchise Agreement, whether by lapse of time, by agreement between Grantee and the Grantor, or by termination, Grantee has the right to remove its Facilities within a reasonable time after such expiration or forfeiture.

**22. Headings**

As used within this Franchise Agreement, headings and numbers are informational only and are not intended to reflect the intent of the parties or to limit or expand the obligations, rights, or duties described within this Franchise Agreement.

**23. Notice to Parties**

Notices under this Franchise Agreement will be in writing and will be deemed given upon receipt by hand delivery, certified mail return receipt requested, or overnight courier to the following addresses:

To Grantor:

Town of Hampden

106 Western Avenue

Hampden, ME 04444

Attention: Town Manager

To Grantee:

TDS Telecommunication

525 Junction Road

Madison, Wisconsin 53717

Attention: Legal Department

A party may designate other addresses for providing notice by providing notice in writing of such addresses.

**24. Effective Date**

This Franchise Agreement will become effective upon adoption by the Grantor, subject to Grantee’s acceptance as set forth below.

9/19/2023 | 10:44 AM EDT

Adopted by the Town of Hampden this \_\_\_\_ day of \_\_\_\_\_, 2023

PASSED:

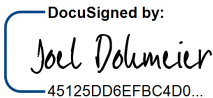
DocuSigned by:  
*Paula A. Scott*  
BFF6CEB12B33415...

ATTEST:

DocuSigned by:  
*Tammy Ewing*  
8A74DEED2E0942E...

ACCEPTED AND AGREED TO BY:

Hampden Telephone Company

By:   
45125DD6EFBC4D0...  
Joel Dohmeier

Title: Director – Government & Regulatory Affairs

9/19/2023 | 11:32 AM MDT

Date: \_\_\_\_\_

EXHIBIT A

FREE SERVICE LOCATIONS

Hampden Town Office, 106 Western Ave.

Hampden Public Safety Office, 106 Western Ave.

EXHIBIT B  
SUBSCRIBER COMPLAINT PROCEDURES

TDS will investigate and respond to written/email/web contact form complaints within three business days.

We offer customers a number of ways to get assistance and contact us, as follows:

For 24/7 Technical Support call 1-888-225-5837

For Sales & Account Questions call 1-888-220-2592

To chat or submit a web contact form visit: <https://tdstelecom.com/contactus.html>

For Help & Support additional information visit: <https://tdstelecom.com/support.html>