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02/25/03

Ordinance No. 736, 2003

Amending CCC 9.28, to acknowledge and consent to the transfer and assignment of the Franchise to operate a television cable system from Northland Cable Properties Seven Limited Partnership to WaveDivision I, LLC.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

**Chapter 9.28**

**TELEVISION CABLE FACILITIES FRANCHISE  
(~~NORTHLAND CABLE PROPERTIES SEVEN LIMITED  
PARTNERSHIP~~)(WAVEDIVISION I, LLC)**

Sections:

- 9.28.010 Application for franchise.
- 9.28.020 Hearing on franchise.
- 9.28.030 Grant of franchise.
- 9.28.040 Reservation of rights.
- 9.28.050 Record of franchise.
- 9.28.060 Severability.
- 9.28.070 Effective date.

SOURCE:	ADOPTED:
Ord. No. 466, 1992	05/19/92

**9.28.010 Application for franchise.**

An application for a television cable facilities franchise to allow the location of certain utilities within certain County properties has been signed by ~~Northland Cable Properties Seven Limited Partnership~~ WaveDivision I, LLC or an authorized representative thereof. The approved application is attached hereto as Exhibit A and is by this reference expressly incorporated herein.

**9.28.020 Hearing on franchise.**

The Board of Clallam County Commissioners (Board) has conducted a public hearing in regard to the application for franchise. Public notice of the hearing was given by posting notices in three (3) public places in Port Angeles, the county seat of Clallam County, at least fifteen (15) days before the date fixed for the hearing and by publishing a like notice two (2) times in the official newspaper of the County not less than five (5) days before the date fixed for the hearing. The notice stated the name(s) of the applicant; a description of the County property by reference to section, township, and range; and the time and place fixed for the hearing.

**9.28.030 Grant of franchise.**

The Board deems it to be to the public interest to grant the franchise as described in the attached Exhibit A.

**9.28.040 Reservation of rights.**

The franchise granted by this chapter shall be subject to the power of eminent domain and the right of the Board or the people acting for themselves through the initiative or referendum to repeal, amend, or modify the franchise in the interest of the public.

**9.28.050 Record of franchise.**

This chapter shall be recorded with the County Auditor.

**9.28.060 Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted irrespective of the fact that any one or more other sections, subsections, paragraph, sentences, clauses, or phrases be declared invalid or unconstitutional.

**9.28.070 Effective date.**

This chapter shall take effect ten (10) days after adoption.

ADOPTED this 25<sup>th</sup> day of February 2003.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Excused Absence

Stephen P. Tharinger, Chair

M.C. Chapman

Michael C. Chapman

Howard V. Doherty, Jr.

Howard V. Doherty, Jr.

ATTEST:

Trish Perrott

Trish Perrott, Clerk of the Board

**Chapter 9.28**  
**Exhibit A**

PRIVATE UTILITIES FRANCHISE

Granted by Clallam County Board of Commissioners  
to  
Northland Cable Properties Seven Limited Partnership  
A Washington Corporation

This franchise to construct, extend, connect, repair, maintain, operate and remove cable television facilities over, under, along, across and upon the county roads within Clallam County is granted to Northland Cable Properties Seven Limited Partnership a Washington Corporation ("Grantee") upon the following express terms and conditions:

1. **DEFINITIONS:** The term "county roads" or "roads" as used herein shall include, but not be limited to, all county roads, avenues, viaducts and bridges located in Clallam County.
2. **ANNEXATION:** Whenever any of the roads as designated in this franchise shall fall within a city or town limits by reason of subsequent incorporation or annexation, or become annexed or otherwise fall under the jurisdiction of the State of Washington, then all the rights and privileges herein granted shall terminate in respect to said roads so incorporated or annexed; but this franchise shall continue in force and effect in respect to all roads not so incorporated or annexed.
3. **POWERS:** The Grantee shall have the right and authority to enter over, under, along, across and upon the above-mentioned roads for the purpose of construction, extension, connection, repair, maintenance, operation and removal of facilities as authorized herein in conformity with such county, state and federal codes, regulations and standards, as now enacted or hereafter amended, governing such facilities.
4. **TERM:** The franchise granted by this ordinance shall last for a term of twenty (20) years from the date of this grant, unless terminated for reasons of material noncompliance with the terms of this franchise, by either party, upon 180 days written notice to the non-terminating party.
5. **PERMITS:** Before any work is done by the Grantee under this franchise, it shall first file with the Director of the Clallam County Department of Public Works (hereinafter the Director) an application for a permit to do such work, accompanied by design drawings in triplicate, showing the position, location, and type of facility sought to be constructed, extended, connected, repaired, maintained, operated or removed, showing the relative positions to existing roads and property lines. Such prints shall generally be submitted on 30" x 30" paper. Where drawings to a scale of one inch equals 50 feet are in existence, either in the records of the county or the Clallam County PUD, and are available to grantee, the submitted prints shall be of that scale; otherwise, the scale shall be one inch equals 200 feet. Such drawings shall give an accurate, graphic representation of the locating of existing utility structures and shall contain or be accompanied by a drawing showing the location by cross section of the utility improvement to be installed by grantee. The location of these utilities and the roadway shall be drawn in such a manner that identification in the field is possible. The Director shall either approve and issue the permit, approve subject to conditions, or reject the application. If the application is rejected, the Director shall provide the Grantee, in written form, with an explanation of the reasons that the application was rejected. The approval of any such permit shall be processed in a timely manner and shall not be unreasonably withheld.

Permits shall not be required for work performed by Grantee's personnel and contractors and equipment relating to the following, provided that no obstruction, improvement or construction is located so as to constitute a hazard to motor or pedestrian traffic:

A. Tree trimming and brushing, unless the vegetation in need of trimming or brushing is the subject of a "no trim" agreement between Clallam County and the property owner, his heirs, successors or assigns, where the vegetation is located; provided, that Grantee shall be entitled to rely upon records maintained by Clallam County to determine the existence and locations of any "no trim" agreements.

B. Maintenance repairs where no damage to the road or its appurtenances will occur.

C. Installation of customer service laterals from existing lines where no damage to the road or its appurtenances will occur.

D. Emergency work provided that Grantee shall notify the Director of the nature and scope of said emergency work as soon thereafter as possible but in no event later than forty-eight (48) hours after commencement of said emergency work and shall provide the Director, if requested to do so, with as-built drawings which are consistent with the requirements for permit drawings hereunder.

6. COMPLIANCE WITH LAW AND STANDARDS: The Grantee shall construct, extend, connect, repair, maintain, operate and remove its facilities at its own risk. The Director shall inspect said construction, extension, repair, maintenance or removal to determine whether the construction, extension, repair, maintenance or removal materially or adversely impacts the county road. Approval by the Director of the construction, extension, repair, maintenance or removal shall not be construed as an approval of the nature, extent, quality or workmanship of the Grantee's work and shall be construed to mean nothing other than that the Grantee's work does not materially adversely impact the physical characteristics of the county road. The location of all the Grantee's facilities, their depth below or height above the surface of the ground or grade of any road, and their lateral location in relation to the road centerline shall be in compliance with all county, state and federal codes, regulations and standards. The Grantee shall at all times insure that its construction, extension, connection, repair, maintenance, operation and removal of its facilities does not diminish the safety of the public using, or in proximity to, county roads.

7. RECORDS: Grantee shall at all times keep at its principal place of business full and complete plans, maps and records showing the location of all franchise facilities located over, under, along, across or upon the roads. Grantee shall file with the Director on or before the first Monday of February of each year, a current map or set of maps drawn in the same manner as design drawings as set forth in Paragraph 5 of this franchise showing the location of all franchise facilities installed over, under along, across or upon the roads within the limits of Clallam County during the previous calendar year. Said map or set thereof shall be provided in reproduction quality mylar, or alternatively, if the Grantee elects to provide non reproducible copies, then a reasonable number of additional copies shall be available to Clallam County, if requested, with no cost to Clallam County. This paragraph shall apply only to work done by the Grantee subsequent to the effective date of this franchise. In the event that the Grantee shall have previously filed a drawing setting forth the location of the franchise facilities, in accordance with Paragraph 5, the Grantee shall not be required to file an additional map of the franchise facilities pursuant to the provisions of this paragraph.

8. RESTORATIONS: The Grantee shall leave all roads in as good and safe condition in all respects as they were before the commencement of such work by the Grantee, its officers, agents, contractors or employees, or when such condition has met with the approval of the Director.

In case of any damage to said roads or their appurtenances, including, but not limited to, turnouts, gutters, ditches, wood or concrete walks, drain pipes, hand or embankment rails, bridges, trestles, wharfs or landings or to the property of third parties, resulting from any work performed or failed to be performed by the Grantee, the Grantee agrees to immediately repair said damage at its own cost and expense to the

satisfaction of the Director. Clallam County may at any time, do, order and have done, any and all work considered necessary to restore to a good and safe condition any such roads or appurtenances left by the Grantee, its officers, agents, contractors, or employees in a condition different from that which existed prior to the work; and the Grantee, on demand, shall pay to the County all costs of such construction or repair and of doing such work; provided, that Clallam County shall have first made written demand upon the Grantee to perform the work necessary to return the road or appurtenances to the condition which they existed prior to the work by the Grantee, and the Grantee shall have failed, for a period of forty-eight (48) hours after receipt of such written demand, to commence the work necessary to return the road or appurtenance to its pre-existing condition. Provided further, that in the event it is reasonably determined by Clallam County that an emergency exists, which requires immediate restoration, then the county may perform such work, and the Grantee shall pay all reasonable costs thereof.

9. **HOLD HARMLESS:** The Grantee shall defend and indemnify Clallam County, its officers, agents, and employees, and any and all other public agencies and their members, officers, agents and employees, against any and all claims, demands, suits, actions, damages, expenses and costs, including a reasonable attorney fee, for injury to or death of any person or any damage to any property caused by the fault of the Grantee, as defined in RCW 4.22.015, as now enacted or hereafter amended, its officers, agents, contractors or employees, by any manner whatsoever, in the construction, extension, connection, repair, maintenance, operation or removal of its facilities, or arising out of the exercise of any right or privilege under this franchise.

The Director shall notify Grantee, in writing, as soon as practicable after the presentation of any claims, demands, suits, actions, damages, expenses or costs (collectively "claims") made or accrued against the County on account of any fault on the part of Grantee. Failure by the Director to notify Grantee properly in accordance with the foregoing of any such claims against the County shall not release Grantee from its obligation to defend or indemnify the County unless Grantee can establish that it has been materially prejudiced by such failure.

Approval by the County pursuant to Paragraph 5 of this franchise shall be no defense for avoidance of this covenant.

10. **CONCURRENT POWERS:** The construction, extension, connection, repair, maintenance, operation or removal of the Grantee's facilities shall not preclude Clallam County, its officers, agents, contractors or employees from blasting, grading or doing other necessary road work contiguous to the Grantee's facilities, provided that the Grantee shall have ten (10) days written notice of said blasting, excavating or embanking in order that the Grantee may protect its facilities.

If, at any time, Clallam County, deeming it advisable to improve any of its roads by, including, but not limited to, grading, regrading, paving, altering, repairing, realigning, widening or draining, the Grantee, upon following written notice by Clallam County, shall at its own expense, except as detailed below, promptly so raise, lower or move its facilities to allow Clallam County to complete its road improvements and to conform to such improved roads and the County shall in no way be held liable for any damages to Grantee that may occur by reason of the County's improvements or by the exercise of any rights so reserved in this section or grant, except as a result of negligence or fault on the part of the County. Said notice shall indicate the date by which the Grantee is required to raise, lower or move its facilities which date shall be no earlier than 10 days after delivery of the notice. Failure of the Grantee to raise, lower or move its facilities by the date set forth in the written notice shall entitle Clallam County to liquidated damages in the amount of One Hundred (\$100.00) Dollars per day for each day of noncompliance.

The Grantee shall raise, lower or move its facilities at the County's expense if the Grantee shall have prior easement or right-of-use rights, or as otherwise agreed to between the parties.

11. **FRANCHISE NOT EXCLUSIVE:** This grant or privilege shall not be deemed or held to be an exclusive franchise. It shall in no manner prohibit Clallam County from granting other franchises of a like nature for other public or private purposes over, under, along, or upon any of the county roads and shall in no way prevent or prohibit Clallam County from using any of said roads or affect its jurisdiction over them or any part of them, with full power to make all necessary changes, relocation, repairs, maintenance, etc., as it deems fit. It is the intent of the parties that no such grant of authority by the County shall be made on terms and conditions less stringent or burdensome than those contained herein. Within thirty (30) days following the final enactment of any other cable television franchise ordinance or other similar grant of authority concerning cable television, Grantee shall review such instrument and notify the County of any terms and/or conditions that are less stringent or burdensome than those contained herein, and upon such notification this Ordinance shall automatically be deemed to have been amended to include any of such less stringent or burdensome terms and/or conditions. The County shall not be obligated, but shall endeavor in good faith to keep Grantee informed of any proceedings concerning the grant of another cable television franchise ordinance or similar grant of authority concerning cable television.

12. **ASSIGNMENT:** Except for assignment or hypothecation for security purposes, Grantee shall not have the right to assign the franchise or otherwise transfer it in any manner whatsoever, or sell, lease, license or permit others to use or transfer in any manner whatsoever any interest in all or any part of its facilities that are installed or operated hereunder, except on prior written approval of the Board of Clallam County Commissioners, which consent shall not be unreasonably withheld.

13. **FORFEITURE:** The franchise may be forfeited, at the option of the County, upon failure or violation by Grantee to observe the material terms and conditions set forth herein. Forfeiture may be exercised only following written notice to Grantee of failure to observe the terms and conditions hereof, detailing the breach of this franchise with specificity, followed by Grantee's failure or refusal to eliminate or correct such failure or to commence correction of such within 120 days. In the event of any failure or violation, the County may bring suit in the manner provided by law for the forfeiture of the franchise without the necessity of resorting to procedures in quo warranto, and the exercise of such remedy of forfeiture shall not preclude exercise of any other right or remedy given to the County by law, whether exercised concurrently or subsequently.

14. **ABANDONMENT:** Grantee may at any time abandon the rights and authority granted hereunder, provided that six (6) months prior written notice of intention to abandon is given to the Board of County Commissioners and provided further that all roads occupied by Grantee's facilities are restored to that condition existing immediately before such facilities were removed.

15. **AMENDMENTS:** Clallam County reserves for itself the right at any time upon forty-eight (48) hours notice to the Grantee to change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any local, state or federal law or regulation or recognized engineering practice relating to the public welfare, health, safety, or highway design as may hereinafter be adopted or recognized.

16. **MONUMENT REFERENCE:** Before any work is performed under this franchise, the Grantee shall reference all monuments and markers of every nature relating to subdivision plats, highways, and all other surveys that are affected by such work. The reference points shall be so located that they will not be disturbed during the Grantee's operations under this franchise. The method of referencing these monuments or other points to be referenced shall be approved by the Director before placement. The replacement of all such monuments or markers disturbed during the Grantee's operation shall be made as expeditiously as conditions permit and as directed by the Director. The cost of monuments or other markers lost, destroyed, or disturbed and the expense of replacement of approved monuments shall be borne by the Grantee. Said reference of monuments shall be performed by a surveyor licensed by the State of Washington or such other person authorized by state law to prepare and file a survey.

17. **REMOVAL:** Except as otherwise provided herein, within six (6) months after the use of any facilities has been permanently discontinued or this franchise expires or is otherwise terminated, Grantee shall forthwith

remove its facilities from the roads. Grantee shall restore such roads to that condition existing immediately before such facilities were removed; provided that such property shall not be removed if the Director shall reasonably determine that such removal will cause unreasonable damage to such roads and provided further, that should the Director request that any facilities be allowed to remain in place for the use of the County, then such facilities shall not be removed, and title thereto shall be transferred to the County at fair market value. The Director may, at his discretion, permit any other facilities to be abandoned in place, provided that Grantee shall submit to the Director an instrument transferring to the County ownership of such facilities. In the event that the Grantee does not forthwith remove its facilities as required herein, Clallam County reserves the right to effect such removal and assess all reasonable costs associated therewith against the Grantee. Upon presentation of an invoice, the Grantee shall pay the amounts stated therein to Clallam County.

18. **ADDITIONAL POWERS:** This franchise shall be subject to the power of eminent domain and the right of the Board of Clallam County Commissioners or the people acting for themselves through the initiative or referendum to repeal, amend, or modify the franchise in the interests of the public.

19. **ENFORCEMENT:** In the event that either party seeks judicial enforcement of any term of this agreement, the substantially prevailing party in any litigation shall be reimbursed by the other party for all disbursements and costs incurred, including reasonable attorney's fees and expert witness fees.

20. **COMPENSATION:** In consideration for the granting of this franchise, Grantee shall pay Clallam County an amount equal to five per cent (5%) of the gross receipts collected by company for all of its system services to customers served by this franchise. The compensation shall be paid on or before the 15th day of August and February for the preceding six month period and compensation shall commence January 1, 1993. With each payment, Grantee shall furnish the county with a financial report showing the basis for grantee's computation, separately showing all sources of revenue, in a written statement, under oath, executed by an officer of the company, verifying the amount of gross receipts of company within the areas served by this franchise for the period covered by the payment. The franchise fee paid pursuant to this paragraph shall be in lieu of any and all other taxes and payments to be required of the Grantee by the county, except as may be otherwise specified in this franchise agreement.

21. **INSURANCE:** Grantee shall maintain in full force and effect during the term of this franchise public liability and property damage insurance in the following amounts:

Bodily injury, including death  
\$1,000,000 per person  
\$2,000,000 per occurrence

Property damage  
\$1,000,000 per occurrence

Clallam County, its officers, and employees shall be named as co-insureds and a certificate of insurance establishing coverages, limits of coverage and insureds shall be provided to Clallam County within thirty (30) days after acceptance of this franchise. Failure to provide a certificate of insurance to Clallam County or to maintain insurance as required herein shall constitute failure of consideration and this franchise shall be void and a nullity provided that Clallam County shall have first given written notice to Grantee of its failure to provide insurance, and Grantee shall not, within thirty days of the receipt of such notice, have corrected the deficiency.

22. **PERFORMANCE BOND:** Grantee shall furnish an executed bond in substantially the form furnished by Clallam County and signed by an approved surety in the amount of Twenty-five Thousand (\$25,000.00) Dollars. This bond shall be conditioned upon the faithful performance of the Grantee's responsibilities hereunder. The bond shall provide that the surety agrees to protect and indemnify Clallam County against

any direct or indirect loss claimed by reason of failure of the Grantee to faithfully perform its responsibilities hereunder.

In the event that Grantee shall request a permit to perform construction, pursuant to Paragraph 5, which will involve the Grantee's affecting, as the result of the process of construction, maintenance or removal of facilities, roadways or appurtenances of Clallam County, and the total aggregate sum to repair such roadways or facilities from the disruptions caused to those facilities by the proposed work of the Grantee exceeds the amount of Twenty-five Thousand (\$25,000.00) Dollars, then the Director, in issuing a permit for such work, may require the Grantee to provide an additional performance bond in an amount not to exceed 125% of the Director's reasonable estimate of the costs and damages which might accrue to Clallam County by reason of the Grantee's failure to properly perform the proposed work. Such a performance bond shall be conditioned in the same manner as provided for the above referenced performance bond.

23. INFLATION CALCULATION: The dollar amounts fixed in paragraphs 10, 21 and 22 shall be increased annually and the dollar amount fixed on the anniversary date of this franchise, based upon the Consumer Price Index published by the Bureau of Labor Statistics of the U.S. Department of Labor for the City of Seattle, Washington. The Consumer Price Index for the City of Seattle, Washington for the month of execution of this franchise shall be the "base index number" and a corresponding Consumer Price Index number for the same month of the year the increase is being calculated shall be the "current index number." The current index number shall be divided by the base index number. From the quotient thereof, there shall be subtracted the integer "1," the decimal shall be deleted and any resulting positive number shall be determined to be the percentage of increase from the dollar amount stated in this franchise.

24. SEVERABILITY: If any article, section, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the franchise or any of the remaining portions.

25. ACCEPTANCE. The undersigned hereby accepts all the rights and privileges of the above granted franchise, subject to all of the terms, conditions, stipulations and obligations contained herein, provided, that the Grantee, by accepting this franchise, does not waive its ability to contest the validity of any repeal, amendment or modification of this franchise by the County, pursuant to Paragraphs 4, 15 and 18.

26. NOTICE: Any notice required to be given by grantor by this franchise shall be given by notice to the president and general counsel of Northland Cable Properties Seven Limited Partnership, A Washington Limited Partnership, 1201 Third Avenue, Suite 3800, Seattle, WA 98101, and the resident manager of Northland Cable, 725 East First Street, Port Angeles, WA 98362, or to such other individuals as may be substituted for these three individuals or at such other addresses as may be designated from time to time. Any notice required to be given by grantee by this franchise shall be given by notice to the director of the Department of Public Works of Clallam County, 223 East 4th Street, Port Angeles, Washington 98362, or to such other individuals as may be substituted for this individual or at such other addresses as may be designated from time to time.

27. EFFECTIVE DATE CLAUSE: This franchise shall take effect on the 29th day of May, 1992.

DATED this 19th day of May, 1992.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Lawrence Gaydeski  
Dorothy Duncan  
Dave Cameron

NORTHLAND CABLE PROPERTIES SEVEN LIMITED PARTNERSHIP, A WASHINGTON LIMITED PARTNERSHIP  
BY: Northland Communications Corporation



ITS: General Partner  
BY: Jim A. Penney  
Its: Vice President

## ASSIGNMENT AND ASSUMPTION

This ASSIGNMENT AND ASSUMPTION (this "Assignment and Assumption") is made as of March 10, 2003, by and between NORTHLAND CABLE TELEVISION, INC., ("Assignor"), and WAVEDIVISION III, LLC, a Washington limited liability company ("Assignee").

### RECITALS

A. This Assignment and Assumption is entered into pursuant to the terms of the Limited Liability Company Interest Purchase and Sale Agreement dated as of October 28, 2002 (the "Purchase Agreement") by and between Assignor and Assignor's predecessor in interest, Wave Division Networks, LLC, a Washington limited liability company ("Wave").

B. Subject to and in accordance with the terms of the Purchase Agreement, Assignee is assuming the Assumed Liabilities.

C. Capitalized terms not otherwise defined in this Assignment and Assumption shall have the meanings given to such terms in the Purchase Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing promises, the transactions contemplated by the Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as set forth below.

#### **Section 1. Contribution of the Franchise**

Assignor shall and does hereby assign, convey, transfer, grant and contribute to Assignee, free and clear of all Encumbrances other than Permitted Encumbrances, all of Seller's right, title and interest in the franchise embodied in Ordinance No. 465, dated May 19, 1992 (the "Franchise"). The effective date of this assignment shall be the date first set forth above (the "Effective Date").

## **Section 2. Assumption of the Franchise**

Assignee hereby assumes and agrees to observe, comply with, and perform all franchisee's obligations under the Franchise to the extent they relate or arise after the Effective Date. Assignee does not assume or have any responsibility for any liabilities or obligations associated with the Excluded Assets, any of the Retained Liabilities or any other liabilities or obligations not included as part of the Assumed Liabilities.

## **Section 3. Representations and Warranties**

The assignments granted pursuant to this Assignment and Assumption shall not in any way limit, expand or supplement any of the representations and warranties made in the Purchase Agreement with respect to the Franchise. Assignor makes and restates to Assignee and Wave, as a third party beneficiary, that all of the representations and warranties contained in the Purchase Agreement, including without limitation those contained in Section 5 of the Purchase Agreement, are, if specifically qualified by materiality, true in all respects and, if not so qualified, are true in all material respects, subject to the limitations set forth in the Purchase Agreement regarding the survival of, and the liability for breach of, such representations and warranties. Assignor further covenants that it will execute and deliver such documents as may be necessary to further evidence and effect the sale, transfer, conveyance, contribution and assignment of any of all of Assignor's right, title and interest in and to the Franchise.

## **Section 4. Miscellaneous**

### **4.1 Further Documents**

Each party shall, from time to time, execute such documents as the other party may reasonably request in order to carry out the purpose and intent of this Assignment and Assumption.

### **4.2 Governing Law**

This Assignment and Assumption shall be governed by the laws of the State of Washington without regard to the conflicts of laws or rules of any other jurisdiction.

### **4.3 Counterparts**

This Assignment and Assumption may be executed in any number of counterparts, provided each of the parties hereto executes at least one counterpart. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

**4.4 Attorneys' Fees**

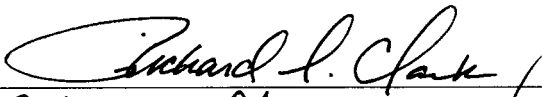
Section 12.2 of the Purchase Agreement shall apply to any action or suit based upon or arising out of this Assignment and Assumption.

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption effective as of the date first written above.

Assignor:

NORTHLAND CABLE TELEVISION, INC.

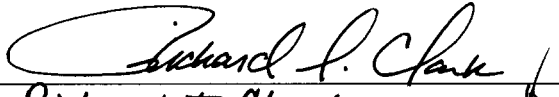
By:

  
Name: Richard I. Clark  
Title: Executive Vice President

Assignee:

WAVEDIVISION III, LLC

By:

  
Name: Richard I. Clark  
Title: Executive Vice President

STATE OF Washington )  
 ) ss.  
COUNTY OF King )

The foregoing instrument was acknowledged before me on this 6<sup>th</sup> day of March, 2003, by Richard I. Clark known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Northland Cable Television, Inc., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Karen Elizabeth Love  
Karen Elizabeth Love

Print Name: \_\_\_\_\_  
Notary Public in and for the State of Washington  
residing at Kenmore, WA  
My commission expires: 04-19-03

STATE OF Washington )  
 ) ss.  
COUNTY OF King )

The foregoing instrument was acknowledged before me on this 6<sup>th</sup> day of March, 2003, by Richard I. Clark known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said WaveDivision III, LLC, a Washington limited liability company, and that he executed the same as the act of such company for the purposes and consideration therein expressed, and in the capacity therein stated.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Karen Elizabeth Love  
Print Name: Karen Elizabeth Love  
Notary Public in and for the State of Washington  
residing at Kenmore, WA  
My commission expires: 04-19-03