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An ordinance providing for and approving the transfer of the cable television franchise in the *Twn of Cloverdale, Indiana* (the "Franchise Authority") granted pursuant to the Ordinance, Ordinance No. 2-85 dated 10/8/85, (the "Franchise Ordinance"); amending the Franchise Ordinance in certain respects; providing the publication of the caption; and providing the effective date of the transfer.

**WHEREAS**, by the Franchise Ordinance, and previously approved assignments of the Franchise Ordinance by the Franchise Authority (if applicable), Regional Cable TV (USA) Inc, ("Regional"), has been granted the authority to operate a cable television system in the Town of Cloverdale; and

**WHEREAS**, Regional has requested that the Franchise Authority approve the proposed transfer and assignment of the Franchise Ordinance by Regional to NewPath Communications, L.C., ("NewPath") and the Franchise Authority is willing to consent to such transfer and assignment.

**NOW, THEREFORE, BE IT ORDAINED BY THE FRANCHISE AUTHORITY:**

**Section 1. Transfer of Franchise Ordinance.** Pursuant to the Franchise Ordinance, consent and approval is hereby granted by the Franchise Authority for the transfer and assignment of the Franchise Ordinance by Regional to NewPath. The presiding officer of the Franchise Authority or his designate is hereby authorized to execute the Consent to Assignment attached hereto as Annex 1.

**Section 2. Ordinance Affirmed.** All terms and provision of the Franchise Ordinance shall continue in full force and effect. As set forth in the Consent to Assignment, the Franchise Authority consents to the grant by NewPath of a security interest in the Franchise Ordinance to its lenders to secure indebtedness or other obligations incurred by NewPath with respect to the cable television system to be operated by NewPath pursuant to the Franchise Ordinance.

**Section 3. Effective Date.** The transfer of the Franchise Ordinance shall be effective upon the closing of the sale by Regional to NewPath of the cable television facilities. NewPath shall notify the Franchise Authority of the transfer of the Franchise Ordinance within thirty (30) days of such closing, and provide therewith a copy of the Assignment and Assumption of Franchise by which the Franchise Ordinance was transferred and assigned by Regional to NewPath.

**Section 4. Inconsistency.** In the event any of the terms and provisions of any other ordinance or regulation of the City are inconsistent with the terms and provisions of this Ordinance, the terms and provisions of this Ordinance shall govern and control.

**Section 5. Publication.** The Town/City/Township/County Clerk , as applicable, is hereby directed to publish and caption of this Ordinance in an appropriate local official newspaper and to comply otherwise with all applicable notice requirements of law.

Passed and approved on this 20<sup>th</sup> day of August, 1996.

Franchise Authority TOWN OF CLOVERDALE  
By: Lonnie Brumfield, President  
Print: LONNIE BRUMFIELD

ATTEST: Patti Truar

Print: PATTI TRUAR  
Title: CLERK - TREASURER  
(i.e. Clerk, Supervisor, etc.)

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ANNEX 1  
CONSENT TO ASSIGNMENT

The **Town of Cloverdale, Indiana** (the "**Franchise Authority**") hereby consents to the Assignment and Assumption of Franchise between NewPath Communications, L.C. ("Buyer"), and Regional Cable TV (USA) Inc., ("Seller"), attached hereto as Exhibit 1 (the "Assignment and Assumption of Franchise"), which provides for the transfer and assignment by the Seller to Buyer of the cable television franchise of the Town of Cloverdale granted by an Ordinance No. 2-85 , dated 10/8/85 , (the "Franchise") in the matter and form set herein.

The Franchise Authority further consents (i) to NewPath's Communications, L.C. collateral assignment of, or grant of a security interest in, the Franchise to NewPath Communications, L.C. lenders to secure indebtedness or other obligations which may be incurred by NewPath Communications, L.C. with respect to the cable television system to be operated by NewPath Communications, L.C. pursuant to the Franchise; and (ii) to the exercise by such lenders of their rights as secured parties in and to the Franchise in the event of a default by NewPath Communications, L.C. in the payment of its indebtedness or the performance of its obligations secured by such security interest; provided, though, that nothing contained herein shall constitute a waiver of any rights of the Franchise Authority to approve any subsequent transfer or assignment of the Franchise.

The Franchise Authority hereby confirms that said cable television Franchise is valid and binding and in full force and effect, that Seller is the present franchisee thereunder and,

The Franchise Authority understands that the execution of the Assignment and Assumption of Franchise by Buyer and Seller, and the assumption by Buyer of the Franchise shall agree to abide all terms, conditions and provisions of the cable television franchise are contingent upon, and shall occur at the time of, the consummation of the Purchase Agreement referred to in the Assignment and Assumption of Franchise. The consent to assignment shall also be contingent upon receipt by the Franchise Authority of a fully executed document citing the Buyer's agreement to faithfully perform and carry out all terms, conditions and provisions of the cable television franchise.

Dated: August 20, 1996

By: Jonnie Brumfield  
Title: Town Council President  
(i.e. Mayor, Township Supervisor, Chairman )

ATTEST:

Patti Hux  
Title Clerk-Measurer  
(i.e. City Clerk)

# ASSIGNMENT AND ASSUMPTION OF FRANCHISE

THIS ASSIGNMENT AND ASSUMPTION OF FRANCHISE is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 1996, by and between NewPath Communications, L.C., ("Buyer") and Regional Cable TV (USA) Inc., ("Seller").

WHEREAS, Buyer and Seller are parties to that certain Asset Purchase Agreement dated March 28 1996 (The "Purchase Agreement"), providing for the sale, transfer, assignment, and conveyance to Buyer of the Assets (as defined in the Purchase Agreement"), relating to the operation of those certain cable television systems serving certain counties, cities and towns, as listed in Schedule A to the Purchase Agreement, located in the States of Iowa, Illinois, Indiana, Michigan, Ohio, Kentucky and Missouri, in accordance with and subject to the terms and conditions set forth therein, and

WHEREAS, Seller is the holder of the cable television franchise granted by the Town of Cloverdale, Indiana, pursuant to the *Ordinance, dated 10/8/85*, (the "Franchise"); and

WHEREAS, in the purchase Agreement it was agreed, subject to the granting of the necessary consents by the Town of Cloverdale, that upon consummation of the Purchase Agreement, Seller would transfer and assign the Franchise to Buyer, and Buyer would assume the Franchise; and

WHEREAS, the Town of Cloverdale, Acknowledges and Accepts and consents to such transfer and assignment by Seller, and such assumption by Buyer and of the Franchise.

NOW, THEREFORE, in consideration of the payment by Buyer of the purchase price pursuant to the Purchase Agreement, and in accordance with the terms of the Purchase Agreement, Buyer and Seller agree as follows:

1. **Assignment.** Seller does hereby sell, assign, and transfer to Buyer all of Seller's right, title and interest in and to the Franchise.
2. **Assumption.** Buyer, and its successors and assigns, shall hold all of Seller's right, title, and interest in the Franchise, and shall assume and pay, discharge and perform, all the obligations and liabilities of seller arising during the time period on and after the date thereof under the terms of the franchise.
3. **Miscellaneous.** This Agreement and Assumption is subject to and controlled by the terms of the Purchase Agreement. This Assignment and Assumption may be executed in one or more counterparts, and all such counterparts shall constitute one and the same instrument. Any capitalized term not defined herein shall have the meaning given to such term in the Purchase Agreement.

IN WITNESS THEREOF, Buyer and Seller have caused this Assignment and Assumption to be duly executed as of the date first written above.

## **BUYER**

NewPath Communications, L.C.

By: \_\_\_\_\_  
Name: Jay Eliason  
Title: President

## **SELLER**

Regional Cable TV (USA) Inc.

By: \_\_\_\_\_  
Name: Paul W. Scott  
Title: Vice President

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