

**CABLE TELEVISION RENEWAL LICENSE**

**GRANTED TO**

**Cablevision of Massachusetts, Inc.**

**The Honorable Charles J. Manca  
Mayor  
CITY OF GARDNER, MA**

**November 9, 1999**

## TABLE OF CONTENTS

|            |  | <u>Page</u> |
|------------|--|-------------|
| Section 1  | Definitions  | 2           |
| Section 2  | Grant of Renewal License                                     | 8           |
| Section 3  | Non-Exclusivity of Renewal License                           | 9           |
| Section 4  | Term   | 12          |
| Section 5  | Institutional Network  | 14          |
| Section 6  | Cable Modem Service  | 15          |
| Section 7  | Police And Regulatory Powers                                 | 14          |
| Section 8  | Public, Educational & Governmental<br>Access PEG Programming | 15          |
| Section 9  | PEG Access Channels  | 18          |
| Section 10 | Construction and Installation                                | 21          |
| Section 11 | Conditions of Occupancy of Sidewalks<br>and Streets          | 22          |
| Section 12 | Compliance with Applicable Laws                              | 23          |
| Section 13 | Indemnification of City                                      | 23          |
| Section 14 | Insurance  | 24          |
| Section 15 | Removal of Facilities  | 25          |
| Section 16 | Operation, Service and Management<br>of System               | 25          |
| Section 17 | Line Extension Procedures for Residential<br>Subscribers     | 26          |
| Section 18 | Line Extension for Commercial Establishments                 | 26          |

## TABLE OF CONTENTS (cont'd)

|            |                                | <b><u>Page</u></b> |
|------------|--------------------------------|--------------------|
| Section 19 | Restoration of Damage          | 26                 |
| Section 20 | Subscription Rates             | 27                 |
| Section 21 | Performance Bond               | 28                 |
| Section 22 | Consumer Complaint Procedure   | 30                 |
| Section 23 | Transfer                       | 30                 |
| Section 24 | Termination of Renewal License | 32                 |
| Section 25 | Free Connections               | 33                 |
| Section 26 | Parental Control               | 33                 |
| Section 27 | License Fees                   | 33                 |
| Section 28 | Reports of Information         | 34                 |
| Section 29 | Equal Opportunity Employer     | 34                 |
| Section 30 | Force Majeure                  | 34                 |
| Section 31 | Governing Law                  | 35                 |
| Section 32 | Miscellaneous Provisions       | 35                 |

## **TABLE OF EXHIBITS**

|           |  |
|-----------|--|
| Exhibit A | Current Channel Lineup                                 |
| Exhibit B | Current Rate Card                                      |
| Exhibit C | FCC Subpart K  |
| Exhibit D | FCC Customer Service Standards                         |
| Exhibit E | Municipal Buildings and Schools<br>I-Net Drops         |
| Exhibit F | Emergency Permit Procedures                            |
| Exhibit G | Cable Division (207 CMR 10.00 et seq)                  |
| Exhibit H | FCC (67 CFR 76.309)                                    |
| Exhibit I | Buildings to Receive Free connections to Basic Service |

AGREEMENT made as of the 9th day of November 1999 between the MAYOR OF THE CITY OF GARDNER, MASSACHUSETTS (the "City"), as Issuing Authority for the renewal of the cable television license(s) pursuant to M.G.L chapter 166A and CABLEVISION OF MASSACHUSETTS, INC., successor in interest to A-R Cable Investments, Inc. ("Licensee"), having its principal office at 1111 Stewart Ave., Bethpage , New York 11714.

WHEREAS, Licensee has applied to the Issuing Authority for a renewal of its license granting it the right to construct and operate a cable television and telecommunications system within the geographical boundaries of the City; and

WHEREAS, Licensee is providing cable television service to the City pursuant to a renewal license dated August 3, 1999, which incorporates the terms and conditions of the license agreement effective April 4, 1988 granted to Adams-Russell Co., Inc., predecessor-in-interest to Licensee (the "Existing Franchise"); and

WHEREAS, pursuant to M.G.L. Chapter 166A, as amended, the City is authorized to grant one or more non-exclusive, revocable cable television renewal licenses to construct, upgrade, operate and maintain a Cable Television System within the City; and

WHEREAS, the City has determined that it is in the best interests of the City to grant a non-exclusive Renewal License to Licensee.

NOW, THEREFORE, in consideration of the mutual conditions and covenants contained herein:

IT IS MUTUALLY AGREED AS FOLLOWS:

**1. Definitions:**

For the purposes of this Renewal License, the following terms, phrases, words, abbreviations and their derivations shall have the meanings given herein. The word "shall" is always mandatory and not merely directory.

(a) "Access" or "Access Cablecasting". Cablecasting on the Cable System's public, educational, governmental non-commercial access channels.

(i) "Government Access Channel". A channel or portion thereof, allocated for non-commercial use by the City.

(ii) "Educational Access Channel". A channel, or portion thereof, allocated for the carriage of non-commercial educational access programs.

(iii) "Public Access Channel". A channel, or portion thereof, allocated for free, dedicated, and nondiscriminatory non-commercial use by the public.

(b) "Affiliate". Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Licensee.

(c) "Area Outage". An Area Outage occurs when cable or equipment thereto is damaged, fails or otherwise malfunctions (collectively called "malfunctions"), and three (3) or more subscribers receiving services from that section of cable or that equipment receive unusable or no service as a result of that malfunction.

(d) "Basic Service". Any service tier which includes the retransmission of local television broadcast signals.

(e) "Broadcast". Over-the-air transmission by a radio or television station.

(f) "Cable Act". Public Law No. 98-549, 98 Stat. 2779 (1984), amending the Communications Act of 1934, and effective on December 29, 1984, as further amended by the Cable Television Consumer Protection and Competition Act of 1992, Public Law No. 102-385 106 Stat. 1460 (1992) and the Telecommunications Act of 1996, Public Law No. 104-104, 110 Stat. (1996).

(g) "Cablecast". Programming transmitted over the Cable System.

(h) "Cable Modem". A device which allows high-speed data access (such as access to the Internet) via a coaxial, fiber, hybrid fiber coaxial or equivalent, network.

(i) "Cable Modem Service". Internet-based or other data services provided via a Cable Modem.

(j) "Cable Programming Services". Video Programming distributed over a Cable Television System that is not included in Basic Service and for which the operator does not charge on a per channel or per program basis.

(k) "Cable Service". The one-way transmission to Subscribers of Video Programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(l) "Cable Television System" or "Cable System". 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 license area.

(m) "Cable Division". The Cable Division of the Massachusetts Department of Telecommunications & Energy.

(n) "Downstream Channel". A channel for signals traveling from the Headend to a Subscriber's location.

(o) "Drop". The cable that connects each home or building to the feeder line of the Cable System.

(p) "Execution Date of Renewal License". November 9, 1999

(q) "FCC". The Federal Communications Commission.

(r) "Gross Annual Revenues". Consideration of any form or kind derived by the Licensee and/or its Affiliates from the carriage of Signals over the Cable Television System including, without limitation: the distribution of any Cable Service over the System; excluding, if applicable, Cable Modem Service; Basic Service monthly fees; all Premium Service and Pay-Per-View revenues; all other Service fees; installation, reconnection, downgrade, upgrade and any similar fees; all late charge revenues; all service and repair call revenues; all commercial Subscriber revenues; fees paid on Subscriber fees; fees paid for channels designated for commercial use; Converter, remote control and other cable television equipment rentals, and/or leases or and/or sales; all home-shopping service(s) revenues; and advertising revenues. In the event that an Affiliate is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by an Affiliate for said Affiliate's use of the Cable System for the carriage of advertising. Gross annual revenues shall also include the Gross Revenue of any other Person which is derived directly or indirectly from or in connection with the operation of the System to the extent that said revenue is derived, through a means which has the effect of avoiding payment of License Fees to the City that would otherwise be paid herein. It is the intention of the parties hereto that Gross Annual Revenues shall only include such consideration of Affiliates and/or Persons relating to Signal carriage over

the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to such Signal carriage.

(s) "Headend". The electronic center of the Cable System through which Broadcast and cablecast Signals are electronically translated and/or modified for distribution over the Cable System.

(t) "Institutional Network" ("I-Net"). Dedicated channel capacity on the Subscriber Network, or separate cable trunk consisting of a fully-activated Upstream and Downstream Channel, said channel for the non-commercial use of the City and/or its departments and designees.

(u) "Issuing Authority". The Mayor of the City of Gardner, MA.

(v) "Licensee". Cablevision of Massachusetts, Inc. or any successor or transferee in accordance with the terms and conditions in this renewal license.

(w) "License Fees". The payments made by Licensee to the City of Gardner, which shall have the meaning as set forth in Section 622(g) of the Cable Act and M.G.L. Chapter 166A.

(x) "Modulator". The electronic equipment required to combine video and audio Signals and convert them to radio frequencies (RF) for distribution over the Cable System.

(y) "Outlet". An interior receptacle, generally mounted in a wall, that connects a Subscriber's television set to the Cable System.

(z) "P.E.G. Access". Public, Educational and Government Access.

(aa) "Person". Any person, firm, partnership, association, corporation, company or other entity of any kind.

(bb) "Premium Programming". Optional additional Programming services for which a per program or per channel fee is charged.

(cc) "Public Ways or Streets". The surface of, as well as the spaces above and below, any and all public streets, avenues, alleys, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements or any other easements or rights of way dedicated for compatible uses, and public grounds and/or waters and all other publicly owned real property within or belonging to the City now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the City that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the City greater than those already possessed by the City.

(dd) "Renewal License". The non-exclusive Cable Television License to be granted to the Licensee by this instrument.

(ee) "Signal". Any transmission of electromagnetic or optical energy which carries Programming from one location to another.

(ff) "Subscriber". Any person lawfully receiving service from the Cable System.

(gg) "Two-way Capability". The ability to transmit audio, video and digital Signals upstream and downstream on the Cable System.

(hh) "Upstream Channel". A channel for signals traveling from Subscriber and/or other originating points on the Cable System to a Headend or sub-Headend.

(ii) "Video Programming or Programming". Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **2. Grant of Renewal License:**

The Issuing Authority hereby grants to the Licensee a non-exclusive Renewal License for the term set forth in Section "4" ("Term") below, to construct, reconstruct, maintain and operate in, upon, along, across, above and under the present and future Public Ways and streets, sidewalks, alleys, utility easements, public land and places in the City, all necessary apparatus including but not limited to poles, wires, cables, underground conduits, manholes and other cable conductors and fixtures necessary for the maintenance and operation in the City of a Cable

Television and telecommunications System for the purpose of reception, transmission, collection, amplification, origination, sale, distribution and redistribution of audio, video, digital and other forms of Signals to Subscribers both within and beyond the limits of the City.

**3. Non-Exclusivity of Renewal License:**

(a) This Renewal License shall not affect the right of the Issuing Authority to grant to any other Person a license or right to occupy or use the Public Ways or Streets, or portions thereof, for the construction, upgrade, installation, operation or maintenance of a Cable Television System within the City of Gardner; or the right of the Issuing Authority to permit the use of the Public Ways and places of the City for any purpose(s) whatsoever. The Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses.

(b) The grant of any additional cable television license(s) shall not be on terms more favorable or less burdensome than those contained in this Renewal License. The grant of any additional cable television license(s) shall be at the sole discretion of the Issuing Authority.

(i) In the event that the Licensee believes that any additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome than those contained in this Renewal License, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue. Along said written request, the Licensee shall provide the Issuing Authority with written reasons for its belief. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to

demonstrate that any such additional cable television license(s) are on terms more favorable or less burdensome than those contained in this Renewal license. The Licensee shall provide the Issuing Authority with such financial or other relevant information as is requested.

(ii) Should the Licensee demonstrate that any such additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome than those contained in this Renewal License, the Issuing Authority shall enter into discussions with the Licensee, in good faith, for the purpose of making equitable amendments to this Renewal License.

(iii) The Licensee shall not request, or receive, amendments in connection with any services, facilities, funding and/or fee requirements in this Renewal License that have been satisfied as of the date of the public hearing in Section 2 (b) (i) above.

(c) The issuance of additional license(s) shall be subject to applicable federal law(s), and M.G.L. Chapter 166A and applicable regulations promulgated thereunder.

(d) In the event that a Multichannel Video Programming Provider, which is not in any way an Affiliate of the Licensee, hereafter provides Programming to residents of the City, and is not required by applicable law to be licensed by the Issuing Authority, and to the extent that the Licensee reports to the Issuing Authority, in writing, that the providing of such Programming of such Multichannel Video Programming Provider is causing a measurable loss of video revenues

to the Licensee, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue.

(i) Along with said written request, the Licensee shall provide the Issuing Authority with a written basis and written reasons for its determination of such measurable loss of video revenues. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to present the basis and the reasons for its determination. The Licensee shall provide the Issuing Authority with such financial and other relevant information as is reasonably requested.

(ii) Should the Licensee demonstrate that the Programming of such Multichannel Video Programming Provider is causing a measurable loss of video revenues to the Licensee, the Issuing Authority shall enter into discussions with the Licensee, in good faith, for the purpose of making equitable amendments to this Renewal License.

(iii) The Licensee shall not request, or receive, amendments in connection with any services, facilities, funding and/or fee requirements in this Renewal License that have been satisfied as of the date of the public hearing in Section 2 (d) (i) above.

(iv) As of the Execution Date of this Renewal License, the parties hereto agree that any potential Multichannel Video Programming Provider(s), which are not in any

way an Affiliate of the Licensee, and are currently providing Programming to residents in the City, are causing no measurable loss of video revenues to the Licensee.

**4. Term:**

The term of this Renewal License shall be for a period of ten (10) years commencing on the Execution Date of this Renewal License.

**5. Institutional Network:**

The Licensee shall make available an Institutional Network (“I-Net”) linking the municipal and community buildings listed in Exhibit A, attached hereto and made a part hereof. The Licensee shall reserve one (1) Downstream Channel and one (1) Upstream Channel on the I-Net, which shall be allocated by the Issuing Authority for non-commercial Public, Educational, and/or Government uses. Licensee at its own cost and expense may provide a separate Institutional Network with the technical capability of the Institutional Network described above.

Said I-Net channel(s) shall be capable of video and data transmission, but not simultaneously, between designated public buildings. Designated users shall be able to transmit to other institutions using a Modulator. Said Upstream and Downstream institutional Channels, as described above, shall be made available to the City and designated public institutions free of charge.

The Licensee shall provide, free of charge, one (1) Outlet to those public buildings and public institutions along its cable routes, designated by the City and listed in Exhibit B, attached hereto and made a part hereof. The City may request additional Outlets for new public buildings and public institutions along the route of the existing residential network. Any subsequent I-Net connections will be completed within ninety (90) days after a request from the Issuing Authority. Licensee shall discuss the location of each connection with the proper official(s) in each of the buildings/institutions designated to receive a Drop, prior to the installation of such a Drop.

Licensee shall install, at its sole cost and expense, eleven (11) upstream Origination Points identified in Exhibit E and one additional Origination Point for the City Hall Annex for a total of eleven (11) locations.

In order that Upstream channel transmissions can emanate from said eleven (11) upstream points, Licensee shall purchase and provide the City with up to four (4) Modulators. Licensee shall consult with the Issuing Authority and/or his or her designee concerning the specifications of the Modulators prior to purchasing them for the City. The estimated cost of the Modulators is One Thousand Dollars (\$1,000.00) each, for a total cost of Four Thousand Dollars (\$4,000.00). The City shall own the Modulators and be responsible for their maintenance and repair. The Licensee agrees that it shall not pass-through the costs of purchasing said Modulators in its subsequent rate filings.

All remote Video Programming shall be modulated, then transmitted to the Headend to facilitate routing to the appropriate location. All switching shall be done by Licensee at its sole

cost and expense. Licensee shall provide a reasonable amount of free technical advice to I-Net Users concerning I-Net transmission and interface devices such as Modulators, decoders, switches, Modems and Converters.

Licensee shall have the sole responsibility for maintaining the I-Net, excluding the Modulators and decoders, for the term of this Renewal License, including all necessary inspections and performance tests. Nothing in this Renewal License shall be interpreted to obligate or require Licensee either to provide any services on the I-Net, or to provide any equipment or facilities, other than those explicitly required herein or necessary to provide activated channel capacity for the operation of the I-Net. The City shall have the sole responsibility for the development and all future applications of said I-Net.

**6. Cable Modem Service:**

Upon the availability of Cable Modem Service within the City, (on other than a test basis in the City), Licensee shall provide one (1) free Cable Modem and one (1) free installation to a City supplied computer and free monthly Cable Modem Services for one (1) computer in each public school located within the City of Gardner.

**7. Police and Regulatory Powers:**

Nothing contained herein shall in any way be deemed to limit the right of the City to adopt, in addition to the provisions of this Renewal License and existing applicable ordinances,

such additional regulations as it shall find necessary for the safety and welfare of the public in the exercise of its reasonable police power, provided, however, that such regulations are of general applicability to all similar users of the Public Ways within the City.

**8. Public, Educational and Governmental Access (PEG) Programming:**

(a) The Licensee shall provide One Hundred Twenty Five Thousand Dollars (\$125,000) for the purpose of purchasing PEG Access equipment as follows:

Licensee shall provide a check for \$62,500.00 to the City within 60 days of Execution of the Renewal License. Licensee shall provide another check to the City for \$62,500.00 by February 1, 2000. In the event that payments required to be made herein are not tendered within 20 days of its due date, interest due on such required payments shall accrue from the date due and be paid to the City at the annual rate of two percent (2%) above the Prime Rate at BankBoston.

(i) In no case shall the \$125,000.00 equipment payment(s) be counted against either the annual PEG Access payment, pursuant to Section 6.4 supra, or any License Fee payment, required by Section 6(c) herein, or any other fees or payments required by applicable law.

(ii) The payments in paragraph (a) shall be made directly to the City, as directed by the Issuing Authority.

(iii) In the event that payments required to be made herein are not tendered on or before the dates fixed herein, interest due on such required payments shall accrue twenty (20) days from the date due and be paid to the City at the annual rate of two percent (2%) above the Prime Rate.

(iv) Licensee reserves the right to pass through up to \$116,000.00 of the \$125,000.00 to Subscribers in subsequent rate filings, in accordance with applicable rate regulation.

(b) Licensee agrees to provide technical assistance for access users.

(c) In continuing support of the PEG Access Licensee shall provide a payment to the Issuing Authority in the amount of three percent (3%) of its Gross Annual Revenues, as defined, for PEG Access purposes starting in Year One (1) of this Renewal License. Said amount shall be used for, among other things, salary, operating and other related expenses connected with PEG Access programming and operations. Said 3% PEG Access payments shall be made to the Issuing Authority on an annual basis, payable on March 15<sup>th</sup> of each year. The first 3% payment shall be made on March 15, 2000 for the previous year.

(d) The City will provide a report on the expenditures of these funds by March 1, in each year of the Renewal License term for the prior calendar year. Licensee reserves the right to pass through the access payments to Gardner Subscribers in subsequent rate filings in accordance with applicable state and federal rate regulations, with the exception of the first \$35,000.00 of funding in each of the ten (10) years of the renewal term.

(e) The Licensee shall file with each such payment a statement certified by the Licensee's chief financial officer or other authorized Person documenting, in reasonable detail, the total of all Gross Annual Revenues of the Licensee during the preceding twelve (12) month period. If the Licensee's total annual payment to the City was less than 3% of its Gross Annual Revenues for the previous year, it shall pay any balance due to the City no later than its next subsequent payment. The Licensee shall complete the Gross Revenues Form, attached hereto as Exhibit C, and submit said Form to the City with each annual payment.

(f) Consistent with Section 622(h) of the Cable Act, any Person, including a Leased Access User, who or which distributes any Service over the Cable System for which charges are assessed to Subscribers but not received by the Licensee, shall pay the City an amount equal to three percent (3%) of such Person's Gross Annual Revenues. The Licensee shall notify any such Person of this 3% payment requirement and shall notify the City of such use of the Cable System by such Person(s).

(g) In the event that the payments required herein are not tendered within 20 days of the due date, interest due on such payments shall accrue from the date due at the rate of two percent (2%) above the Prime Rate at BankBoston.

(h) Tender or acceptance of any payment shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the City may have for additional sums. Not more than once a year, upon reasonable

advance notice, the Issuing Authority and/or an independent certified public accountant hired by the Issuing Authority shall have the right to inspect any records relating to Gross Annual Revenues, as defined herein, in order to establish the accuracy of the payments tendered hereunder. If, after such inspection, an additional payment is owed, such payment shall be paid within thirty (30) days after any recomputation. If Licensee overpaid, the amount of such overpayment shall be credited against the next due payment.

(i) The Licensee shall not engage in any program censorship or any other control of the content of the PEG Access Programming on the Cable System, except as otherwise required or permitted by applicable law.

(j) There shall be no charges to the City and/or PEG Access Users for use of the PEG Access facilities and/or services required herein. In the event that applicable state and/or federal laws and/or regulations allow the Licensee to externalize, line-item and/or otherwise pass-through any new PEG Access costs to Subscribers, the Licensee may only do so, including, but not limited to, the computation, collection, interest paid on and/or allocation of any such costs, strictly in compliance with said laws and/or regulations.

(i) If requested to do so by the Issuing Authority, the Licensee shall provide a written explanation of any externalized, line-itemed and/or passed-through such PEG Access costs. Unless agreed to otherwise, the Licensee shall provide said written explanation to the Issuing Authority, in writing, within twenty-one (21) days of a request to do so by the Issuing Authority.

**9. PEG Access Channels**

(a) No later than the Execution Date of this Renewal License, the Licensee shall make available to the City one (1) full-time Downstream Channel and one (1) full-time Upstream Channel for PEG Access purposes.

(b) No later than the completion of the upgrade/rebuild for the Subscriber Network, pursuant to Section 10(a) infra, and upon request of the Issuing Authority, the Licensee shall make available to the City a second (1) full-time Downstream Channel and a second (1) full-time Upstream Channel for PEG Access purposes.

(c) Said PEG Access Channels shall be used to transmit PEG Access Programming to Subscribers without charge to the City, and shall be subject to the control and management of the Issuing Authority and/or his or her designee(s).

(d) The Licensee shall provide the Issuing Authority, when feasible, 30 days advance notice of a change of channel location for any PEG Access Channel(s).

(e) The Licensee shall monitor the PEG Access Channels for technical quality and shall ensure that they are maintained at standards commensurate with those which apply to the Cable System's commercial channels. The City and/or his or her designee(s) shall be responsible for the picture quality of all PEG Access Programming.

(f) In order that the City and/or its designee(s) can cablecast its Programming over the PEG Access Downstream Channels, all PEG programming shall be modulated, then transmitted from any location with Origination Capability, as listed in Exhibit D hereto, to the Cable System Headend or Hub, on one of the I-Net Upstream Channels made available, without charge, to the Issuing Authority and/or his or her designee(s) for their use.

(g) The Licensee shall provide the City and/or its designee(s) with the capability to ensure that said Programming is properly switched, either manually or electronically, to the appropriate Downstream Channel, in an efficient and timely manner. At the Headend or the Hub, said Access Programming shall be retransmitted in the downstream direction on one of the Downstream PEG Access Channels. The Licensee shall not charge the Issuing Authority, his or her designee(s) and/or the City for such switching responsibility. The Licensee and the Issuing Authority shall negotiate in good faith any difficulties that arise regarding cablecasting of PEG Access Programming.

(h) The Licensee shall provide and maintain all necessary processing equipment in order to switch Upstream Signals from the City and/or its designee(s) to the designated Downstream Access Channel. Nothing herein shall require the Licensee to provide end-user equipment.

**10. Construction and Installation:**

(a) Licensee shall rebuild or upgrade the Cable System to provide a Cable System with a capacity of a minimum of 110 channels (the "Upgraded System") no later than December 31, 2001. The Upgraded System shall have the capacity for carrying audio, text, data or video Signals.

(b) No construction, installation or relocation of the System or any part thereof, within the Public Ways, shall be commenced until the required written permits have been issued by the proper City officials, except in emergency situations in which case Licensee shall be subject to the emergency permit procedures set forth in Exhibit F attached hereto and made a part hereof. As a condition of any permits so issued, such officials may impose such conditions and regulations, as are necessary for the purpose of protecting any structures in such streets, proper restoration of such streets and structures, protection of the public or the continuity of pedestrian or vehicular traffic. The Issuing Authority shall endeavor to expedite the issuance of such permits.

(c) The Upgraded System shall have emergency battery sources and status monitoring equipment in order to maintain service in the event of power supply failure or loss. All utility safety regulations shall be followed to prevent the emergency power supplies or standby generators from powering nonfunctioning utility lines.

(d) Licensee shall construct, install and maintain an Emergency Alert System to permit the Issuing Authority to override all audio channels during emergencies, in accordance with FCC regulations.

**11. Conditions of Occupancy of Sidewalks and Streets:**

(a) All Public Ways and streets and sidewalks disturbed or damaged in the construction or maintenance of said Cable System and other appurtenances and all other property damaged or destroyed by Licensee shall be promptly repaired or replaced by Licensee at its sole cost and expense in accordance with City specifications and to the City's reasonable satisfaction. In the event that repairs to the Public Ways have not commenced within 24 hours of the City's notifying Licensee of such damage, or in the event Licensee has not made diligent efforts to promptly complete such repairs, the City shall have the right to repair the damaged property and bill Licensee the City's cost of such repairs.

(b) Licensee shall have the right and authority, to remove, trim, cut, and keep clear trees and bushes upon and overhanging all Public Ways and streets, alleys, easements, public utility easements, sidewalks, and public places in the City so as to keep the same clear of its poles wires, cables, conduits, and fixtures. In complying with this section, Licensee shall avoid all unnecessary damage and injuries to trees, structures and improvements in and along the routes authorized by the City. The Licensee shall be subject to M.G.L. Chapter 87.

(c) If any time during the term of this Renewal License the City shall lawfully elect to alter or change any street, alley, easement, or other Public Way requiring the relocation of the facilities of Licensee, then in such event, Licensee, at its expense, upon at least thirty (30) days written notice by the City, shall, to the extent necessary to accommodate the change, remove, relay and relocate its facilities.

(d) Licensee shall, upon the request of any Person wishing to move a building or other similar large object, temporarily raise or lower its wires to permit such moving. Licensee shall be given adequate notice in order to arrange for such temporary wire changes. The City and Licensee shall each promptly notify the other upon receipt of notice from any third party that he or she plans to move a building or other similar large object. Responsibility for the costs of such moving shall be in accordance with applicable law.

**12. Compliance with Applicable Laws:**

This Renewal License is subject to all applicable federal, state and local laws, rules and regulations as of the Execution Date hereof.

**13. Indemnification of City:**

Licensee hereby agrees to indemnify and hold harmless the City, its officers, agents, and employees for and from any and all claims, losses, costs, expenses, demands, and judgments (including but not limited to reasonable legal fees and expenses) and any other liability for which the City can or may be held liable either directly or indirectly by reason of and/or arising out of

the installation, construction, operation and/or maintenance of the Cable system herein authorized, and it is a condition of this Renewal License that the City shall not and does not, by reason of the Renewal License granted herein, assume any liability whatsoever either to Person, Persons and/or property on account of same, provided that Licensee shall have no liability from claims arising out of or resulting from the gross negligence or recklessness of the City, its officers, agents or employees. Upon receipt of notice in writing from the City, Licensee shall at its own expense defend any action.

**14. Insurance:**

Licensee shall file and maintain with the City throughout the term of this Agreement, a certificate of insurance issued by a company authorized to do business in the Commonwealth of Massachusetts, reasonable and satisfactory to the City, evidencing Licensee's insurance with respect to the installation, construction, maintenance and operation of the cables, appurtenant devices thereto, and building connections herein authorized in the following amounts: (1) for bodily injury including death in (a) the minimum amount of \$1,000,000 for any one Person, or occurrence, and an umbrella policy in the minimum amount of \$5,000,000; (2) for property damage in the minimum amount of \$1,000,000; (3) for automobile liability in the minimum amount of \$5,000,000; (4) workers compensation, including disability benefits and any other legally required benefits in statutory amounts. Licensee shall name the City as an additional insured. Such certificate of insurance shall contain an endorsement stipulating that the coverage's afforded by the policies shall not be canceled or modified, without thirty (30) days

prior notice to the City. Such endorsement shall not change Licensee's obligation hereunder to maintain continuous insurance coverage as described above.

**15. Removal of Facilities:**

Upon expiration, termination or revocation of this Renewal License, Licensee, at its sole cost and expense and upon direction of the City, shall remove its Cable System and appurtenant devices constructed or maintained as authorized herein, unless otherwise authorized by applicable law, rules or regulations.

**16. Operation, Service and Maintenance of System:**

(a) Licensee shall construct its Cable System using materials of good and durable quality and all work involved in the construction, installation, maintenance and the repair of the Cable System shall be performed in a safe, thorough and reliable manner.

(b) All technical specifications and the operation of the Cable System shall at all time conform to the specifications established by the FCC, the National Electrical Safety Code and any State regulatory agency with jurisdiction.

(c) The Signal of any television or radio station carried on the Cable System shall be carried without material degradation in quality within the specifications as set by the FCC. The Cable System shall be operated so that there will be no interference with television reception, radio reception, telephone communications, or other installations which are now installed and in use by the City or any public utility serving the City.

**17. Line Extension Procedures For Residential Subscribers:**

The Cable System shall be extended automatically, at the Licensee's sole cost and expense, from existing Cable System plant to any and all areas of the City containing twenty five (25) residential homes per mile of aerial Cable System plant for 35 residential homes of underground Cable System Plant or fractional proportion thereof. This density standard shall not apply to seasonally occupied dwelling units or units for which the provision of Cable Service would require the Licensee to incur unusual construction or easement costs.

**18. Line Extension For Commercial Establishments:**

Licensee shall make cable television service(s) available to any commercial establishments in the City; provided, however, that Licensee shall provide service to such commercial establishments upon reaching a reasonable agreement regarding terms and costs of initial installation, including any line extension costs, at the sole expense of such commercial establishments.

**19. Restoration of Damage:**

Licensee, at its sole cost and expense, shall restore all damage to public property caused by the construction, operation, maintenance and/or repair of the Cable System. Such restoration shall be made promptly, but in no case as soon as practicable after completion of work necessitating the restoration, and shall be done in a manner approved by the City. In no event shall such restoration be made later than ten (10) days, weather permitting, after Licensee's receipt of notification from the City unless otherwise mutually agreed by Licensee and the City; provided, that if any such damage involves pavements, curbs, sidewalks, driveways, water mains, storm or sanitary sewers or other public facilities, the damage shall be repaired to the City's satisfaction within 48 hours. In the event that the aforesaid repairs to public property have not commenced within 48 hours of the City's notifying Licensee of such damage, or Licensee has not made diligent efforts to promptly complete such repairs, the City shall have the right to repair the damaged property and bill Licensee, for the City's cost.

**20. Subscription Rates:**

(a) Subscription to Cable Services herein authorized shall be wholly voluntary and optional to the residents of the City.

(b) Licensee shall notify the City and all Subscribers of any change in Subscriber rates, and any substantial change in Programming or channel positions, thirty (30) days prior to its implementation.

(c) The rates for Basic Service, as well as the rates for equipment, including Converters, remotes and additional Outlets, may be increased only in accordance with the Cable Act, and any orders of the FCC, the Cable Division, or any other agency or body with legal jurisdiction to do so.

(d) All other rates may be increased, at the option of Licensee, upon 30 days advance notice to the City.

(e) Licensee shall provide all senior citizens resident in the City, age 62 years and older, and are head of their household, who purchase Licensee's Family Cable or equivalent service package, (see Exhibit A) but who do not purchase any Premium packages or other discounted packages, with a two dollar (\$2.00) per month discount.

**21. Performance Bond:**

(a) Performance Bond. Licensee shall obtain and maintain during the entire term of the Renewal License, at its sole cost and expense, and file with the City, an irrevocable performance bond, to guarantee the faithful performance by Licensee of all of its obligations under this Renewal License. Such performance bond shall be in the amount of \$50,000.00 during the period of cable system construction, and \$10,000 at all other times.

(b) Conditions. The performance bond shall provide, but not be limited to, the following conditions:

(i) There shall be recoverable by City, jointly and severally from the principal and surety, any and all penalties due to City and any and all damages, losses, costs and expenses suffered or incurred by City resulting from the failure of Licensee to comply with one or more provisions of the Renewal License subject to the provisions in Section 24(b) infra.

(ii) Not less than thirty (30) days' prior notice to City shall be provided of Licensee's intention to cancel, materially change, or not to renew the performance bond. Such notice shall not change Licensee's obligation hereunder to maintain a continuous performance bond as described above.

(c) Upon completion of the rebuild of the System in accordance with Section 7 herein, Licensee may reduce the amount of the bond to \$10,000.00.

(d) Forfeiture. The total amount of the bond shall be forfeited in favor of the City in the extent:

(i) Licensee abandons the cable system or any part thereof at any time during the term of the franchise.

- (ii) There is any change in ownership of the cable system except in compliance with state law.

**22. Consumer Complaint Procedure.**

Licensee agrees to abide by the following terms and conditions and the customer service provisions of the rules and regulations promulgated by the Cable Division (207 CMR 10.00 et seq) and the FCC (47 CFR 76.309), attached hereto as Exhibits G and H respectively, regarding its operations continuously throughout the term of this Renewal License.

(a) Payment Center. Licensee shall continue its contract with a business in the City to serve as a payment center. In the event that the current contract with the payment center is terminated, Licensee shall make a good faith effort to enter into a contract with another business located within the City for the purpose of serving as a payment center.

(b) Telephone. Licensee shall provide City residents with a local or toll free telephone number for calling the Licensee's customer service department.

**23. Transfer:**

(a) Pursuant to M.G.L. c. 166A, Section 7, neither this Renewal License, nor control thereof, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of any Person, company and/or other entity holding such Renewal License to any other Person, company and/or other entity without the prior written consent of the Issuing Authority, which consent shall not be arbitrarily or unreasonably withheld. Such consent shall be given only after a hearing upon a written application therefor on forms as may be prescribed by the Cable Division and the FCC. An application for consent to a transfer or assignment, if required, shall be signed by the Licensee and by the proposed transferee or assignee or by their representatives, evidence of whose authority shall be submitted with the application.

(b) In considering a request to transfer control of this Renewal License, the Issuing Authority may consider such factors as the transferee's financial qualifications, management and technical expertise, character qualifications, experience in the cable industry, performance in other communities and any other criteria allowable under law.

(c) The consent or approval of the Issuing Authority to any assignment or transfer of the Renewal License granted to the Licensee shall not constitute a waiver or release of the rights of the City in and to the Public Ways and Streets or any other rights of the City under this Renewal License, and any such transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Renewal License.

(d) The Licensee shall promptly notify the Issuing Authority of any action requiring the consent of the Issuing Authority pursuant to this Section 23.

(e) The Licensee shall submit to the Issuing Authority an original and one (1) copy, unless otherwise directed, of the application and FCC Form 394 requesting such transfer or assignment consent.

(f) The consent of the Issuing Authority shall be given only after a public hearing to consider the written application for transfer.

(g) Any proposed controlling or owning Person or transferee approved by the Issuing Authority shall be subject to all the terms and conditions contained in this Renewal License.

**24. Termination of Renewal License:**

(a) In addition to all other rights reserved to the City under this Renewal License, or by law, and not in substitution thereof, the City reserves the right to terminate this Renewal License, in the sole discretion of the Issuing Authority in the event that Licensee shall be in default of or fail to comply with any material term, condition, requirement or limitation contained in this Renewal License.

(b) Licensee shall not be declared in default of any provision contained herein unless Licensee shall have been notified by the City, in writing, of the condition or act for which a violation is alleged. Licensee shall have a period of thirty (30) days in which to cure such

condition or act, or in the event that by its nature, the condition or act cannot be cured within such thirty (30) day period, to take reasonable steps to cure such condition or act. Thereafter a default shall be declared only by the Issuing Authority after publication of public notice, the giving of notice to Licensee and the granting to Licensee of an opportunity to be heard.

**25. Free Connections:**

(a) Free installation and free Basic Service to one (1) Outlet shall be provided to each municipal office building, police station, fire station, library and school within the City along Licensee's Cable System route (hereinafter singly or collectively referred to as the "Premises"). A list of such buildings is set forth in Exhibit I. In cooperation with Licensee, and in accordance with Licensee's technical specifications, such Premises may install additional Outlets within the Premises at their own cost. In such event, there shall be no monthly Basic Service charge for the additional Outlets.

(b) Except where a different period of time may be specifically set forth above, Licensee shall provide all hardware and services referred to in paragraph (a) above within six (6) months of the Execution Date, or, with respect to newly constructed Premises, within six (6) months of a request for connection.

**26. Parental Control:**

Licensee shall make available to any Subscriber so requesting, a "parental guidance" or "lockout device" which will permit the Subscriber, at his or her option, to eliminate comprehensible reception of any or all of the Pay Cable channels. Licensee may charge a reasonable amount for this device, in accordance with applicable laws..

**27. License Fees:**

(a) The annual License Fee payable to the City shall be Fifty Cents per Subscriber, with the minimum of Two Hundred Fifty Dollars. The annual payments of such License Fee shall be based upon the number of Subscribers listed on the books of the Licensee as of December 31 of each year during the term of the Renewal License and shall be payable on or before March 31 of each year during the term of the License.

(b) Accompanying the annual payments to the City, the Licensee shall submit a report listing the calculation of the amount of those payments. The Issuing Authority may elect, upon the City's receipt of said payments and report, at its own expense and upon reasonable advance notice, to audit the accounts of the Licensee from which the amounts have been derived, for the preceding year and/or the current year.

**28. Reports of Information:**

Licensee shall provide annual reports to the City for system proof of performance tests, customer complaints, outages and telephone answer rate reports on a regional basis, and the gross annual revenues reporting form. Licensee shall also notify the City, on forms prescribed by the Cable Division, of complaints of Subscribers received during the reporting period and the manner in which the complaints have been met, including the time required to make necessary repairs or adjustments.

**29. Equal Opportunity Employer:**

Licensee shall not refuse to hire or employ, nor will it bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges or employment, because of age, race, creed, color, national origin or sex.

**30. Force Majeure:**

If by reason of force majeure either party is unable is whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation of default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: strikes, acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Massachusetts or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots, epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods;

washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the disabled party.

**31. Governing Law:**

The terms of this Renewal License, and any subsequent amendments hereto, are subject to applicable federal, state and local law, the rules and regulations of the FCC and any other applicable regulatory body with appropriate jurisdiction. Licensee will comply with all applicable laws, rules and regulations.

**32. Miscellaneous Provisions:**

a) Entire Agreement. This Renewal License contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

b) Captions. The captions to sections throughout the Renewal License are intended solely to facilitate reading and reference to the sections and provisions of the Renewal License. Such captions shall not affect the meaning or interpretation of the Final License.

c) Separability. If any section, sentence, paragraph, term or provision of the Final License is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any State or federal regulatory agency having jurisdiction thereof, such

determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which shall remain in full force and effect for the term of the Renewal License.

d) Acts or Omissions of Affiliates. During the term of the Renewal License, the Licensee shall be liable for the acts or omission of its Affiliates while such Affiliates are involved directly or indirectly in the construction, upgrade, installation, maintenance or operation of the Cable System as if the acts of omissions of such Affiliates were the acts or omissions of the Licensee.

e) Renewal License Exhibits. The Exhibits to the Renewal License, attached hereto, and all portions thereof, are incorporated herein by the reference and expressly made a part of the Renewal License.

f) Warranties. The Licensee warrants, represents and acknowledges that, as of the Execution Date of the Renewal License:

(i) The Licensee is duly organized, validly existing and in good standing under the laws of the State;

(ii) The Licensee has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has

secured all consents which are required to be obtained as of the Execution Date of the Renewal License, to enter into and legally bind the Licensee to the Renewal License and to take all actions necessary to perform all of its obligations pursuant to the Renewal License;

(iii) The Renewal License is enforceable against the Licensee in accordance with the provisions herein, subject to applicable State and federal law;

(iv) There is no action or proceedings pending or threatened against the Licensee which would interfere with its performance of the Renewal License;

(v) Pursuant to Section 625(f) of the Cable Act, as of the Execution Date, the performance of all terms and conditions in the Renewal License is commercially practicable.

g) Applicability of Renewal License. All of the provisions in the Renewal License shall apply to the City, the Licensee, and their respective successors and assignees.

h) Notices.

(i) Every notice to be served upon the Issuing Authority shall be delivered, or sent by certified mail (postage prepaid) to the Mayor, City of Gardner, City Hall, 95 Pleasant Street, Gardner, Massachusetts 01440, with one (1) copy to the City Counsel, or

such other address as the Issuing Authority may specify in writing to the Licensee. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given 2 days after mailing.

(ii) Every notice served upon the Licensee shall be delivered or sent by certified mail (postage prepaid) to Cablevision, 28 Travis Street, Boston, Massachusetts 02134, or such other address as the Licensee may specify in writing to the Issuing Authority with a copy to Cablevision, 1111 Stewart Avenue, Bethpage, New York 11714, Attention: Legal Department. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given 2 days after mailing.

(iii) Whenever notice of any public hearing relating to the Cable System is required by law, regulation or the Renewal License, the Licensee shall publish notice of the same, sufficient to identify its time, place and purpose, in a newspaper of general publication sold in the City of Gardner once in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the day of any such hearing.

(i) No Recourse Against the Issuing Authority. In accordance with Section 635(A)(a) of the Cable Act, the Licensee shall have no recourse whatsoever against the Issuing Authority, the City and/or its officials, boards, commissions, committees, advisors, designees, agents, and/or its employees other than injunctive relief or declaratory relief, arising out of any provision or requirements of the Renewal License or because of enforcement of the Renewal License.

(j) The City hereby reserves to itself, as authorized by applicable law or regulation, to intervene in any suit, action or proceeding involving the Renewal License, or any provision in the Renewal License.

(k) Term. All obligations of the Licensee and the Issuing Authority set forth in the Renewal License shall commence upon the execution of the Renewal License and shall continue for the term of the Renewal License except as expressly provided for otherwise herein.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement as of the date first above written.

**CITY OF GARDNER**

By: S/Charles J. Manca

Date: 11-9-99

**CABLEVISION OF MASSACHUSETTS, INC**

By: S/ Kathleen Mayo

Title: RVP

Date: 11-9-99

## **EXHIBIT A**

**EXHIBIT B**

## **EXHIBIT C**

## **EXHIBIT D**