

**RESTATED AND RENEWAL  
CABLE TELEVISION LICENSE  
FOR  
THE TOWN OF BARNSTABLE,  
MASSACHUSETTS**

**Restated Term:**

July 15, 2008 – December 30, 2009

**Renewal Term:**

December 31, 2009 – December 30, 2019

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## **ARTICLE 1**

### **DEFINITIONS**

#### **SECTION 1.1 - DEFINITIONS**

For the purpose of this Renewal License, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the “Cable Act”), and Massachusetts General Laws Chapter 166A (M.G.L.c.166A), as amended from time to time, unless otherwise defined herein.

(a) Access Channel - shall mean a Licensee-owned video programming channel which Licensee makes available to the Issuing Authority and/or the Access Corporation without cost for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools and educational, institutional and other non-profit organizations, subject to and in accordance with 47 U.S.C. 531 and the terms herein.

(b) Access Corporation - shall mean the entity designated by the Issuing Authority for the purpose of operating and managing the use of Public Access funding, equipment and channels on the cable television system in accordance with this Renewal License and 47 U.S.C. 531.

(c) Affiliate or Affiliated Person - shall mean a Person that owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(d) Basic Cable Service – shall mean the lowest tier of service which includes the retransmission of local television broadcast signals.

(e) Cable Act – shall mean the Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 Stat. 2779 (1984), 47 U.S.C. 521 et. seq., amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, Public Law No. 102-385 and the Telecommunications Act of 1996, Public Law No. 104-458, 110 Stat. 56 (1996) and as may be further amended.

(f) Cable Division – shall mean the Cable Television Division of the Massachusetts Department of Telecommunications and Cable established pursuant to Massachusetts General Laws Chapter 166A (M.G.L. Chapter 166A).

(g) Cable Service – shall mean the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service subject to and in accordance with the federal Cable Act definition of Cable Service.

(h) Cable Television System or Cable System – shall mean the facility owned, constructed, installed, operated and maintained by Licensee in the Town of Barnstable, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designated to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services; or (d) an open video system that complies with section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

(i) Channel – shall mean a portion of the electromagnetic frequency spectrum, which is used in a cable system and which is capable of carrying a television channel.

(j) CMR – shall mean the Code of Massachusetts Regulations.

(k) Drop – shall mean the coaxial cable that connects a home or building to the Subscriber Network.

(l) Effective Date – shall mean July 15, 2008.

(m) FCC – shall mean the Federal Communications Commission or any successor governmental entity.

(n) Franchise Fee – shall mean the payments to be made by the Licensee to the Issuing Authority, the Town of Barnstable and or any other governmental subdivision, such as an Access Corporation, which shall have the meaning as set forth in Section 622(g) of the Cable Act.

(o) Gross Annual Revenues – shall mean the revenue received by the Licensee from the operation of the Cable System in the Town of Barnstable for the provision of Cable Service(s) including, without limitation: the distribution of any Cable Service over the Cable System; Basic Service monthly fees; any and all Cable Service fees and/or cable service charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; interest collected on Subscriber fees and/or charges; all Commercial Subscriber revenues; Converter, remote control and other equipment rentals, and/or leases or and/or sales; Gross Annual Revenues shall also include the Gross Revenue of any other Person which is derived directly from or in connection with the operation of the Cable System for the provision of Cable Service to the extent that said revenue is derived, through a means which has the effect of avoiding payment of License Fees to the Town that would otherwise be paid herein. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of Affiliates and/or Persons received from the operation of the Cable System for the provision of Cable Service over the Cable System and not the gross revenues of any such Affiliates and/or Persons itself, where unrelated to the operation of the Cable System for the provision of Cable Service. Gross Annual Revenues shall not include fees on Subscriber fees, any fee, tax or assessment imposed or assessed on services furnished by the Licensee and paid to any governmental entity and collected by the Licensee on behalf of such entity. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with Generally Accepted Accounting Principles; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

(p) Headend – shall mean the electronic control center of the Cable System containing equipment that receives, amplifies, filters and converts incoming Signals for distribution over the Cable System.

(q) Hub or Hubsite – shall mean a sub-Headend, generally located within a cable television community, use of which may include, but not be limited to, Signal processing or switching.

(r) Issuing Authority – shall mean the Town Manager of the Town of Barnstable, Massachusetts, or the lawful designee thereof.

(s) License or Renewal License – shall mean the Restated Cable Television License and Renewal Cable Television License granted herein and any amendments or modifications in accordance with the terms herein.

(t) Licensee – shall mean Comcast of Massachusetts I, Inc., or any successor or transferee in accordance with the terms and conditions in this Renewal License.

(u) License Fee – shall mean the payments to be made by the Licensee to the Issuing Authority, the Town of Barnstable and or any other governmental subdivision, which shall have the meaning as set forth in M.G.L.c. 166A, § 9.

(v) Multichannel Video Programming Distributor – shall mean a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.

(w) Outlet – shall mean an interior receptacle that connects a television set to the Cable Television System.

(x) Person – shall mean any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Issuing Authority.

(y) Public, Educational and Government (PEG) Access Programming – shall mean non-commercial programming produced by any Barnstable residents or organizations, schools and

government entities and the use of designated facilities, equipment and/or channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal License.

(z) Public, Educational and Governmental (PEG) Access Channel – shall mean a video channel designated for non-commercial use by the Issuing Authority, the public, and educational institutions such as public or private schools and colleges, but not “home schools.”

(aa) Public Buildings – shall mean those buildings owned or leased by the Issuing Authority for municipal government administrative purposes, and shall not include buildings owned by Issuing Authority but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

(ab) Public Way – shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Issuing Authority in the Town of Barnstable, which shall entitle the Licensee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Issuing Authority within the Town of Barnstable for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Licensee to the use thereof for the purposes of installing, operating, and maintaining the Licensee’s Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

(ac) Signal – shall mean any transmission of electromagnetic or optical energy which carries Programming from one location to another.

(ad) Standard Installation – shall mean the standard one hundred twenty-five foot (125’) aerial Drop connection to the existing distribution system.



(ae) Subscriber – shall mean a Person or user of the Cable System who lawfully receives Cable Service with the Licensee’s express permission.

(af) Subscriber Network – shall mean the trunk and feeder signal distribution network over which video and audio signals are transmitted to Subscribers.

(ag) Town – shall mean the Town of Barnstable, Massachusetts.

(ah) Video Programming or Programming – shall mean the programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(ai) Video Return Line – shall mean the dedicated, separate fiber or coaxial cable run providing Signal transport for PEG Access Video Programming from a specific site within the Town to the Licensee’s Headend or Hubsite, where the signal is then switched to the appropriate PEG Access Channel.

(aj) Video Return Line Connection – shall mean the fiber run that currently connects the node located at each Video Return Line location to Licensee’s Headend or Hubsite.

## **ARTICLE 2**

### **GRANT OF RENEWAL LICENSE**

#### **SECTION 2.1 - GRANT OF RENEWAL LICENSE**

(a) Pursuant to the authority of M.G.L. c. 166A, and the Cable Act the Issuing Authority hereby grants a non-exclusive Renewal License to Comcast of Massachusetts I, Inc., a Delaware Corporation, authorizing and permitting Licensee to construct, operate and maintain a Cable Television System in the Public Way within the municipal limits of the Town of Barnstable. Nothing in this License shall be construed to prohibit the Licensee from offering any service over its Cable System that is not prohibited by federal or state law.

(b) This Renewal License is granted under and in compliance with the Cable Act and M.G.L.c. 166A, and in compliance with all rules and regulations of the FCC and the Cable Division in force and effect during the period for which this Renewal License is granted.

(c) Subject to the terms and conditions herein, the Issuing Authority hereby grants to the Licensee the right to construct, upgrade, install, operate and maintain a Cable Television System within the Public Way.

#### **SECTION 2.2 - TERM: NON-EXCLUSIVITY [SEE M.G.L.c. 166A §3(d) and 13]**

This license shall be in effect for the period of July 15, 2008 through December 30, 2009, as an amended (restated) license and then, without interruption, from December 31, 2009 through December 30, 2019 as a renewal license.

#### **SECTION 2.3 - POLE AND CONDUIT ATTACHMENT RIGHTS [SEE M.G.L.c. 166 §22-25]**

Pursuant to M.G.L.c. 166, §22-25, permission is hereby granted to the Licensee to attach or otherwise affix including, but not limited to cables, wire, or optical fibers comprising the Cable

Television System to the existing poles and conduits on and under public streets and ways, provided the Licensee secures the permission and consent of the public utility companies to affix the cables and/or wires to their pole and conduit facilities and provided that in those situations where a new grant of location is required, Licensee shall obtain a grant of location, to the extent required by law. By virtue of this License the Issuing Authority grants Licensee equal standing with power and telephone utilities in the manner of placement of facilities on Public Ways.

#### **SECTION 2.4 - RENEWAL** [SEE M.G.L.c. 166A §13]

(a) In accordance with the provisions of federal law, M.G.L.c. 166A, § 13 and applicable regulations, this Renewal License shall be subject to additional renewals for the periods not to exceed ten (10) years or such other periods as allowed by law.

(b) In accordance with applicable law, any such renewal or renewals shall be upon mutual written agreement by the Licensee and the Issuing Authority and shall contain such modified or additional terms as the Licensee and the Issuing Authority may then agree.

(c) The term of the Restated Cable Television License is July 15, 2008 through December 30, 2009. The term of the Renewal License is for ten (10) years from December 31, 2009 through December 30, 2019.

#### **SECTION 2.5 - RESERVATION OF AUTHORITY**

Nothing in this Renewal License shall (A) abrogate the right of the Issuing Authority to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or bylaws/ordinances of general applicability and not specific to the Cable Television System, the Licensee, or this License, or (C) be construed as a waiver or release of the rights of the Issuing Authority in and to the Public Ways. Any conflict between the terms of this Renewal License and any present or future exercise of the municipality's police and regulatory powers shall be resolved by a court or other State agency of appropriate jurisdiction.

## **SECTION 2.6 - NON-EXCLUSIVITY OF 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 streets, or portions thereof, for the construction, upgrade, installation, operation or maintenance of a Cable System within the Town of Barnstable; or the right of the Issuing Authority to permit the use of the Public Ways and places of the Town for any purpose whatsoever. The Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses.

(b) In the event an application for a new cable television license is filed with the Issuing Authority, proposing to serve the Town, in whole or in part, the Issuing Authority shall, upon request of Licensee, serve a copy of such application upon any existing Licensee or incumbent cable operator by registered or certified mail or via nationally recognized overnight courier service within a reasonable time thereafter.

(c) 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 including, but not limited to: franchise fees; insurance; system build-out requirements; performance bonds or similar instruments; public, education and government access channels and support; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. To the extent allowed by applicable law(s), the grant of any additional cable television license(s) shall be on equivalent terms and conditions as 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 or amended 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. The Issuing Authority shall

convene a public hearing on such issue, within not more than thirty (30) days of receipt of a hearing request from the Licensee. Along with said written request, the Licensee shall provide the Issuing Authority with written reasons and reasonable evidence for its belief. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to demonstrate, with reasonable evidence 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 reasonably requested.

(ii) Should the Licensee demonstrate, and the Issuing Authority find, 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 make equitable amendments to this Renewal License within ninety (90) days.

(d) 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.

## **ARTICLE 3**

### **SYSTEM SPECIFICATIONS AND CONSTRUCTION**

#### **SECTION 3.1 - AREA TO BE SERVED** [SEE M.G.L.c. 166A §3(a)]

(a) The Licensee shall make Cable Service available to every residential dwelling unit within the Town where the minimum density is at least twenty (20) dwelling units per aerial mile and forty (40) dwelling units per underground mile, and Cable Service likewise shall be extended where such density standard is met proportional to portions of line extensions of less than a full mile; providing however, that such dwelling units are within one (1) mile of the existing Cable System and the Licensee is able to obtain from property owners any necessary easements and/or permits in accordance with the Cable Act. Notwithstanding the foregoing, any existing street or area that is already wired and receiving cable service on the Effective Date of this License, shall continue to receive cable service regardless of the density of households in such already wired street or area. During the term of this License, however, if any such previously wired street or area becomes subsequently more difficult to service because of newly imposed physical obstacles, or the rescinding of private easements, or the construction of public facilities, or other non-preexisting physical or legal impediments, then the Licensee may, in its discretion, apply the foregoing density requirement in the provision of Cable Service. The Licensee shall make service available to multiple dwelling units (MDU) where economically feasible and providing that the Licensee is able to obtain from the property owners any necessary easements, permits and agreements to provide service to said MDU. Subject to the density requirement, Licensee shall offer Cable Service to all new homes or previously unserved homes located within one hundred twenty-five aerial feet (125') of the Licensee's distribution cable. For non-Standard Installations the Licensee shall offer said service within ninety (90) days of a Subscriber requesting such for aerial installations and one hundred eighty (180) days, weather permitting, of a Subscriber requesting such for underground installations. With respect to areas of the Town which are

currently served by Licensee from a contiguous cable television system or currently unserved but could be served by abutting town(s) served by Licensee, Licensee shall have the option to serve such areas from its cable television system in such abutting town.

(b) Installation costs shall conform with the Cable Act. Any dwelling unit within one hundred twenty-five feet (125 ft.) aerial of the distribution cable shall be entitled to a Standard Installation rate. Installations of more than one hundred twenty-five feet (125 ft.) aerial or any underground installation shall be provided at a rate established by the Licensee in accordance with applicable federal and state laws.

(c) Provided Licensee has at least ninety (90) days' prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame. If a substantial quantity of cable is required for a large subdivision and said quantity is not in stock, the Licensee shall be allowed additional time for said installation. The Issuing Authority, or its designee, shall exercise reasonable efforts to have the Planning Board and developers give timely written notice of trenching and underground construction to the Licensee. In the initial opening of residential subdivision trenching, Comcast shall not be responsible for the digging and back-filling of all trenches to the extent that this is consistent with the treatment of other companies with respect to subdivision trenching.

### **SECTION 3.2 – LINE EXTENSION POLICY**

(a) Consistent with Section 3.1 above, the Cable Television System shall be extended automatically, at the Licensee's sole cost and expense, to any and all areas of the Town's Public Ways containing twenty (20) dwelling units or more per aerial mile or forty (40) dwelling units or more per underground mile of Cable System plant or fractional proportion thereof in non-underground housing development areas of the Town.

(b) The Cable Television System shall be further extended to all areas in the Town that do not meet the requirements of Section 3.1(a) above upon the request of dwelling unit owners in such areas and based upon the following cost calculation:

$$(C/LE) - (CA/P) = SC$$

- \* C equals the cost of construction of new plant from existing Cable System plant;
- \* LE equals the number of dwelling units requesting service in the line extension area and who subsequently pay a contribution in aid;
- \* CA equals the average cost of construction per mile in the primary service area;
- \* P equals the twenty (20) dwelling units per aerial or forty (40) dwelling units per underground mile of plant; and
- \* SC equals the per dwelling unit contribution in aid of construction in the line extension area.

(c) The Issuing Authority shall make its best efforts to provide the Licensee with written notice of the issuance of building permits for planned housing developments in the Town.

### **SECTION 3.3 --LINE EXTENSION PROCEDURES**

Any dwelling unit owner located in an area of the Town without Cable Television Service may request such service from the Licensee. In areas meeting the requirements of Section 3.2 (a) and (b) above, the Licensee shall extend service to the area subject to weather, Force Majeure, and the performance of make ready. In those areas with less than twenty (20) dwelling units per aerial or (40) dwelling units per underground mile, the Licensee shall, within thirty (30) days following a request for service, conduct a survey to determine the number of homes in the immediate area and shall inform each participating dwelling unit of the contribution in aid of construction (see Section 3.2 (b) above) that will be charged.



### **SECTION 3.4 - SUBSCRIBER NETWORK**

The Licensee shall maintain a Cable Television System, fully capable of carrying a minimum bandwidth of 750MHz.

### **SECTION 3.5 - SUBSCRIBER NETWORK CABLE DROPS [SEE M.G.L.c. 166A §5(e)]**

(a) The Licensee shall maintain the existing active Drops, Outlets and Basic Cable Service, at no charge to the Town, to each Public Building, public school, police and fire stations, public libraries and other Public Buildings as designated by the Issuing Authority within the Town, listed in **Exhibit A** attached hereto, provided such are considered to be a Standard Installation.

(b) Upon written request from the Issuing Authority, the Licensee shall provide one (1) Standard Installation, Drop, Outlet and Basic Cable Service at no charge to all new Public Buildings and other Town owned Public Buildings, along the distribution cable subject to the limitations set forth above. The Issuing Authority or its designee shall consult with a representative of the Licensee to determine the appropriate location for each Outlet prior to requesting that the Licensee install the free service.

(c) Nothing in this Section shall require the Licensee to move existing Drops or Outlets, as listed in **Exhibit A**, or install an additional Drop or Outlet at no charge to any municipal or Town owned or leased Public Building which already have a Drop or Outlet.

### **SECTION 3.6 - PARENTAL CONTROL CAPABILITY**

(a) Pursuant to applicable law, upon request, and at no separate, additional charge, the Licensee shall provide Subscribers with the capability to control the reception of any channel on the Cable Communications System.

(b) The Issuing Authority acknowledges that the parental control capability may be part of a converter box and the Licensee may charge Subscriber for use of said box.

**SECTION 3.7---EMERGENCY ALERT OVERRIDE CAPACITY**

The Licensee shall comply with the FCC's Emergency Alert System ("EAS") regulations.

## **ARTICLE 4**

### **TECHNOLOGICAL AND SAFETY STANDARDS**

#### **SECTION 4.1 - SYSTEM MAINTENANCE [SEE M.G.L.c. 166A §5]**

(a) In installing, operating and maintaining equipment, cable and wires, the Licensee shall avoid damage and injury to trees, structures and improvements in and along the routes authorized by the Issuing Authority, except as may be approved by the Issuing Authority if required for the proper installation, operation and maintenance of such equipment, cable and wires.

(b) The construction, maintenance and operation of the Cable Television System for which this Renewal License is granted shall be done in conformance with all applicable laws, bylaws/ordinances of general applicability, codes and regulations, including but not limited to OSHA, the National Electrical Safety Code, and the rules and regulations of the FCC as the same exist or as the same may be hereafter changed or amended.

(c) Operating and maintenance personnel shall be trained in the use of all safety equipment and the safe operation of vehicles and equipment. The Licensee shall install and maintain its equipment, cable and wires in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.

(d) All structures and all equipment, cable and wires in, over, under, and upon streets, sidewalks, alleys, and public rights of ways of the Town, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.

(e) The Signal of any Broadcast station or other Channel, including PEG Access Channels, carried on the Cable Television System shall be carried without material degradation in quality at all subscribing locations within the limits imposed by the technical specifications of the Cable System, the production quality of the PEG Access Programming, and as set forth by the FCC. The Cable System shall be operated and maintained so as to comply with the technical standards set forth in the FCC's rules and regulations as they apply to cable television systems.

(f) Upon written notice from the Issuing Authority, the Licensee shall remedy a general deficiency with respect to the technical standards described herein within three (3) months of receipt of notice and a safety deficiency within forty-eight (48) hours of receipt of notice and shall notify the Issuing Authority when the deficiency has been corrected.

#### **SECTION 4.2 - REPAIRS AND RESTORATION** [SEE M.G.L.c. 166A §5(g)]

Whenever the Licensee takes up or disturbs any pavement, sidewalk or other improvement of any public right of way or public place, the same shall be replaced and the surface restored in as good condition as possible as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs, and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of the Licensee to comply within the time specified, the Issuing Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by the Licensee upon written demand by the Issuing Authority. However, prior to such repair or restoration the Town should submit a written estimate to the Licensee of the actual cost of said repair or restoration.

#### **SECTION 4.3 - CABLE LOCATION**

(a) In all areas of the Town where all of the transmission and distribution facilities of all public or municipal utilities are installed underground, Licensee shall install its Cable System underground provided that such facilities are actually capable of receiving the Licensee's cable and other equipment without technical degradation of the Cable System's signal quality.

(b) In all areas of the Town where public utility lines are aerially placed, if subsequently during the term of the Renewal License such public utility lines are required by local ordinance or State law to be relocated aerially or underground, Licensee shall similarly relocate its Cable System if it is given reasonable notice and access to the public and municipal utilities facilities at

the time that such are placed underground. In the event that the Town develops and implements an underground project for which it plans to utilize Town funds to reimburse utilities for the cost of said undergrounding, it shall include the Licensee's cost in any planning to equitably disburse available Town funds to reimburse the Licensee, if said Town funds are from a source which may legally be made available to Licensee.

(c) Provided Licensee has at least ninety (90) days' prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame. If a substantial quantity of cable is required for a large subdivision and said quantity is not in stock, the Licensee shall be allowed additional time for said installation. The Issuing Authority, or its designee, shall exercise reasonable efforts to have the Planning Board or developers give timely written notice of trenching and underground construction to the Licensee. In the initial opening of residential subdivision trenching, Comcast shall not be responsible for the digging and back-filling of all trenches to the extent that this is consistent with the treatment of other companies with respect to subdivision trenching.

(d) Nothing in this Section shall be construed to require the Licensee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

#### **SECTION 4.4 - TREE TRIMMING [SEE M.G.L.c. 166A §5(a)]**

The Licensee shall have authority to trim trees upon and overhanging public streets, alleys, sidewalks and ways and places of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables and equipment of the Licensee, in accordance with MGL c. 87 and any Town bylaws/ordinances and regulations.

#### **SECTION 4.5 – PLANT MAPS**

The Licensee shall maintain a complete set of plant maps of the Town, which will show those areas in which its facilities exist. The plant maps will be retained at Licensee's primary place of business and will be available to the Issuing Authority for inspection by the Issuing Authority upon written request. In the event Town municipal officials require access to information in such maps for public safety and reasonable right-of-way management purposes, Licensee shall make available access to said maps for Town review and inspection during normal business hours and at a location within Barnstable County.

#### **SECTION 4.6 - BUILDING MOVES [SEE M.G.L.c. 166 §39]**

(a) In accordance with applicable laws, the Licensee shall, at its sole expense, upon the written request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of the building(s). The Licensee shall be given not less than thirty (30) days' advance written notice to arrange for such temporary wire changes.

(b) In either case, the Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement.

#### **SECTION 4.7 - DIG SAFE [SEE M.G.L.c. 82 §40]**

The Licensee shall comply with all applicable "dig safe" provisions pursuant to M.G.L.c. 82, § 40.

#### **SECTION 4.8 - DISCONNECTION AND RELOCATION [SEE M.G.L.c. 166 §39]**

(a) The Licensee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street, or other Public Right of Ways, or remove from any street or any other Public Ways and places, any of its property as required by the Issuing Authority or its

designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any Town department acting in a governmental capacity.

(b) In requiring the Licensee to protect, support, temporarily disconnect, relocate or remove any portion of its property, the Issuing Authority shall treat Licensee the same as, and require no more of Licensee, than any other similarly situated utility.

(c) In either case, the Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement.

#### **SECTION 4.9 - EMERGENCY REMOVAL OF PLANT**

(a) If, at any time, in case of fire or disaster in the Town, it shall be necessary in the reasonable judgment of the Issuing Authority to cut or move any of the wires, cable or equipment of the Cable Television System, the Town shall have the right to do so without cost or liability, provided however that, wherever possible, the Issuing Authority gives Licensee written notice and the ability to relocate wires, cable or other equipment.

(b) In either case, the Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement. All cable operators or public or municipal utility companies shall be treated alike if reimbursed for such costs by the Town to the extent similar treatment is consistent with the requirements of said insurance or government programs for reimbursement, if any.

#### **SECTION 4.10 – PROHIBITION AGAINST RESELLING OF SERVICE**

No Person shall resell, without the express prior written consent of the Licensee, any Cable Service, program or signal transmitted over the Cable System by the Licensee.

## **ARTICLE 5**

### **PROGRAMMING**

#### **SECTION 5.1 - BASIC CABLE SERVICE**

The Licensee shall make available a Basic Cable Service tier to all subscribers in accordance with 47 U.S.C. 534.

#### **SECTION 5.2 - PROGRAMMING**

(a) Pursuant to 47 U.S.C. 544, the Licensee shall maintain the mix, quality and broad categories of Video Programming as set forth in **Exhibit B**. Pursuant to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of the Licensee.

(b) Licensee shall comply with 76.1603(c)(3)(i)(b) of the FCC Rules and Regulations as well as 207 CMR 10.02 of the Massachusetts Cable Television Division Rules and Regulations regarding notice of programming changes.

#### **SECTION 5.3 - CONVERTER BOX, REMOTE CONTROLS**

The Licensee shall allow Subscribers to purchase remote control devices which are compatible with the converter installed by the Licensee, if any, and allow the use of remotes. The Licensee takes no responsibility for changes in its equipment or services that might render inoperable the remote control devices acquired by Subscribers.

#### **SECTION 5.4 - STEREO TV TRANSMISSIONS**

All Broadcast Signals that are transmitted to the Licensee's Headend in stereo shall be transmitted in stereo to Subscribers.



## **SECTION 5.5 – CABLE CHANNELS FOR COMMERCIAL USE**

Pursuant to 47 U.S.C. 532, the Licensee shall make available channel capacity for commercial use by persons unaffiliated with the Licensee. Rates for use of commercial access channels shall be negotiated between the Licensee and the commercial user in accordance with federal law. Upon request, Licensee shall provide interested persons a copy of its current leased access policy with current rates and terms for commercial leased access.

## **ARTICLE 6**

### **PEG ACCESS CHANNEL(S) AND SUPPORT**

#### **SECTION 6.1 - PEG ACCESS CHANNEL(S)**

(a) Use of channel capacity for public, educational and governmental (“PEG”) access shall be provided in accordance with federal law, 47 U.S.C. 531, and as further set forth below. Licensee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. A PEG access user – whether an individual, educational or governmental user – acquires no property interest in any Access Channel by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use. Licensee shall not exercise editorial control over any public, educational, or governmental use of channel capacity, except Licensee may, to the extent permitted by law, refuse to transmit any public access program or portion of a public access program that contains obscenity or other unlawful programming or nudity pursuant to Section 611 of the Cable Act, however, the parties acknowledge that it is their intention that the Issuing Authority’s Access Designees and/or individual producers have primary responsibility for the content of the Access Channels, and it is also their intention that the Licensee shall consult and coordinate appropriate action with the Issuing Authority’s Access Designee prior to affecting the transmission of any Access program. The Issuing Authority, or its Access Designee subject to Issuing Authority oversight and control consistent with applicable law, shall be responsible for developing, implementing, interpreting and enforcing rules for PEG Access Channel use which shall insure that PEG Access Channel(s) and PEG Access equipment will be available on a non-discriminatory basis. The parties acknowledge that with respect to the Access Channels, the Issuing Authority may exercise such control by imposing such terms and conditions as may reasonably and lawfully be required by the Issuing Authority.

(b) Licensee shall continue to designate four (4) channels for Public, Educational, and Governmental (PEG) Access Video Programming provided by the Issuing Authority or its designee(s), educational access Video Programming provided by the Issuing Authority, its designee(s) or Cape Cod Community College, and governmental video programming provided by the Issuing Authority through the period ending December 30, 2009. Thereafter, Licensee shall provide three (3) PEG Access Channels. A PEG Access Channel may not be used to cablecast programs for profit, for political candidate fundraising, or for partisan political or commercial fundraising in any fashion. Unused capacity may be utilized by Licensee subject to the provisions set forth in subsection (c) below.

(c) In the event the Issuing Authority or other PEG access user elects not to fully program its Channel(s), Licensee may reclaim any unused time on those channels subject to and in accordance with 47 USC 531(d)(1)(2).

## **SECTION 6.2 - PEG ACCESS PROVIDER**

Beginning on the Effective Date, the access provider(s) shall provide services to PEG Access Users and the Town as follows, subject to such requirements as may lawfully be implemented or adopted by the Issuing Authority:

- (1) Schedule, operate and program the PEG Access channels provided in accordance with Section 6.3 below;
- (2) Manage the annual funding, pursuant to Section 6.4 below;
- (3) Purchase, maintain and/or lease equipment, with the funds allocated for such purposes in Section 6.4 below;
- (4) Conduct training programs in the skills necessary to produce PEG Access Programming;
- (5) Provide technical assistance and production services to PEG Access users;
- (6) Establish rules, procedures and guidelines for use of the PEG Access Channels;

- (7) Provide publicity, fundraising, outreach, referral and other support services to PEG Access users;
- (8) Assist users in the production of Video Programming of interest to Subscribers and issues, events and activities; and
- (9) Accomplish such other tasks relating to the operation, scheduling and/or management of the PEG Access Channels, facilities and equipment as appropriate and necessary.

### **SECTION 6.3 - PEG ACCESS CABLECASTING**

(a) In order that PEG Access Programming can be cablecast over Licensee's PEG Access Channel(s), all PEG Access Programming shall be modulated, then transmitted from an origination location listed in **Exhibit C** ("Video Return Line Locations") to the Licensee-owned Headend or Hub on a Licensee-owned channel made available, by Licensee, without charge, to the Town for its use.

(b) Licensee shall continue to provide and maintain the existing Video Return Lines to be utilized by the Issuing Authority, its designees and/or Town departments. Said Video Return Lines shall be capable of transmitting PEG Access Programming from those municipal and school buildings, Cape Cod Community College and from the Access Corporation Public Access studio, identified in **Exhibit C** and returned over the Subscriber Network.

(c) Licensee shall continue to provide an activated Video Return Line Connection to the buildings listed in **Exhibit C**, without charge(s) to the Town.

(d) The Video Return Lines shall continue to be interconnected with the Subscriber Network at the Headend. The Licensee shall provide and maintain all necessary switching and/or processing equipment located at its Hub or Headend in order to switch Signals carrying PEG Access Programming from the locations listed in **Exhibit C** to the designated Licensee-owned Subscriber Network PEG Access Channels.

(e) The Licensee shall own, maintain, repair and/or replace any Licensee-owned Headend or Hub audio or video signal processing equipment. The Town and/or PEG access provider shall own, maintain, repair and/or replace studio or portable modulators and demodulators. Licensee may require access to the Town and/or Access Corporation or other Access designee owned modulator(s) for the purpose of testing and/or adjusting output levels of the modulator(s) and Licensee shall test and adjust the output levels if reasonably needed, however, Licensee may require the Access Corporation or School Department, or other Access designee, as applicable, to first test and determine if end-user equipment is the source of apparent signal problems, if any.

(f) In the event the Issuing Authority identifies a new municipal or public building to be connected to a Video Return Line, the Issuing Authority shall pay the Licensee for all costs of construction of said Video Return Line including a reasonable return on investment. The Licensee shall discuss the location of each Video Return Line Connection with the appropriate officials in each building, prior to the installation of such Video Return Line Connection. The Issuing Authority shall designate such officials in writing to the Licensee.

(g) The Licensee shall continue to have the sole responsibility for maintaining the Video Return Line for the term of this Renewal License, except for equipment not directly under its control or ownership. The demarcation point between the Licensee's Signal transport responsibilities and the PEG Access Signal shall be at the input to the Video Return Line Connection. The Licensee shall be responsible for all necessary inspections and performance tests of the Video Return Lines in accordance with 47 CFR §76.601.

#### **SECTION 6.4 – PEG ACCESS SUPPORT**

(a) From the Effective Date until August 15, 2008, Licensee shall provide a Franchise Fee payment to the Issuing Authority, or its designee, for Governmental and Educational Access purposes, equal to three percent (3%) of its Gross Annual Revenues, less applicable License Fees

and assessments for any state or other governmental agencies, payable December 1, 2008. Beginning August 15, 2008, Licensee shall provide Franchise Fee payments to the Issuing Authority, or its designee, for Governmental and Educational Access purposes, equal to three and three-quarters percent (3.75%) of its Gross Annual Revenues, less applicable License Fees and assessments for any state or other governmental agencies. Said Franchise Fee payments shall be used for, among other things, salary, operating and other cable related expenses related to Governmental and Educational Access programming operations, equipment and/or facilities or institutional network (i-net) operations for municipal building interconnection, equipment and/or facilities, and such i-net related or functionally equivalent facilities, services and equipment provided by the Town, including the development and implementation of the foregoing. Said three and three-quarters percent (3.75%) Governmental and Educational Access Franchise Fee payments shall be made to the Issuing Authority, or its designee, on a quarterly basis. Said Franchise Fee of 3.75%, may be increased or decreased during the term of this License in accordance with the provisions of Section 6.4(c) below. The first payment shall be made on December 1, 2008 for the period of July 1, 2008 through September 30, 2008. Thereafter, Licensee shall provide payments based on revenues from the preceding calendar quarter, as follows:

<b><u>QUARTER</u></b>	<b><u>DUE</u></b>
January 1 – March 31	June 1
April 1 – June 30	September 1
July 1 – September 30	December 1
October 1 – December 31	March 1

The final payment shall be made on March 1, 2020 for the period of October 1, 2019 through December 30, 2019. The payments pursuant to this Section 6.4(a) may be used by the Issuing Authority or its lawful designees for governmental and educational access purposes and/or Video Return Lines or other cable-related purposes. The Town and/or its designated Access Corporation shall not use the payments for commercial purposes or to compete with the Licensee's businesses, and shall not give any portion of the payment(s) to a competing third party. Of the foregoing

payments of 3.75% of Gross Annual Revenues, during the Amendment period expiring on December 30, 2009, three quarters of one percent (0.75%) shall be allocated for Educational Access operations and facilities, the expenditure of which shall be as determined by and under the control of the School Department or its Educational Access designee(s), subject to the School Department's prior consultation with the Cable Advisory Committee regarding said expenditure of three quarters of one percent (0.75%), and subject further to the approval of the Issuing Authority prior to said expenditure of three quarters of one percent.

(b) In the period between the Effective Date and December 30, 2009, Licensee shall pay Franchise Fee payments to the Access Corporation, on a quarterly basis, equal to one and one quarter percent (1.25%) of its Gross Annual Revenues. The Town and/or its designated Access Corporation shall not use the payments for commercial purposes or to compete with the Licensee's businesses, and shall not give any portion of the payment(s) to a competing third party. During such period, the Access Corporation shall continue to carry out its responsibilities for the Public Access Channel in accordance with the agreement found in **Exhibit D** of this License. In the event that the Issuing Authority and the Access Corporation terminate such agreement prior to December 30, 2009, the Issuing Authority shall so notify the Licensee within thirty (30) days of termination. The Access Corporation may apply each year, during this period, for an additional one quarter of one percent (0.25%) of Licensee's Gross Annual Revenues to the Issuing Authority by demonstrating to the Issuing Authority that it has raised funds equal to such 0.25% from sources other than the Licensee. The Issuing Authority may disburse such 0.25% match, at its discretion.

(c) From the period beginning December 31, 2009 through the expiration of this Renewal License, Gross Annual Revenues shall be allocated and payable to said Access Corporation and/or such other Access Designee(s) as directed by the Issuing Authority to Licensee in writing, with any change in payment allocation (with respect to said 1.25% of Gross Annual Revenue) to be effective within ninety (90) days of the Issuing Authority's notification to Licensee. The quarterly payment schedule shall be as follows:

**QUARTER**

**DUE**

January 1 – March 31	June 1
April 1 – June 30	September 1
July 1 – September 30	December 1
October 1 – December 31	March 1

In the event the Issuing Authority directs the Licensee to increase the percentage of the Franchise Fee payable to the Access Corporation, in accordance with this provision, to a percentage greater than 1.25% of Licensee's Gross Annual Revenues, the percentage of the Franchise Fee payable to the Issuing Authority under Section 6.4(a) shall be reduced by that percentage. In the event the Issuing Authority directs the Licensee to decrease the percentage of the Franchise Fee payable to the Access Corporation, in accordance with this provision, to a percentage less than 1.25% of Licensee's Gross Annual Revenues, the percentage of the Franchise Fee payable to the Issuing Authority under Section 6.4(a) shall be increased by that percentage. The reallocation of the Franchise Fee by written notification from the Issuing Authority to the Licensee, in accordance with this provision, shall occur not more than once during the term of this License.

(d) All such payments pursuant to this Section 6.4 will be accompanied by a Revenue Reporting Form, a sample attached as **Exhibit E**, showing, with reasonable itemization, Gross Annual Revenues. In the event of an inconsistency between said form and the definition of Gross Annual Revenues in Article 1, the definition shall control the determination of revenues.

## **SECTION 6.5 – REPORT OF DISBURSEMENTS**

(a) Annually, on or before February 15<sup>th</sup>, the Issuing Authority, or its designee, shall submit to the Licensee a written report showing actual disbursements made of the funds provided by the Licensee on behalf of the access corporation, pursuant to Article 6 herein. The Access Corporation shall be responsible for submitting such report to Licensee with respect to any disbursements it receives.



(b) Said report shall explain in detail the allocation of funds, a justification of the use of the funds, and any operating interests of the various entities, if any, using the PEG Access facilities.

(c) If upon review of the report, the Licensee finds that any use of the funds by the access provider have been inappropriately related to PEG Access, the Licensee may submit a written request for a hearing before the Issuing Authority. After such hearing, the Issuing Authority shall submit a written response to the Licensee stating its assessment of the use of funds. If the Issuing Authority and Licensee agree that funds have not been used appropriately, the Issuing Authority shall take the necessary measures to assure future funds are expended appropriately.

(d) If upon receipt of a subsequent report, the Licensee determines that the use of funds again have not been appropriate, the Licensee may, in writing, request another hearing before the Issuing Authority. Providing the Issuing Authority finds in accordance with the Licensee's determination, the Issuing Authority shall direct the Licensee to withhold an amount of PEG Access support and or PEG Access capital payments, an amount corresponding to the subject of the dispute, until such a time safeguards are in place to assure the appropriate use of the funds.

(e) If following the Licensee's second request for the Issuing Authority's remedial action, the Issuing Authority disagrees with the Licensee, regarding the inappropriate use of funds, the matter may be referred to the Cable Division, or its successor, upon written request of the Licensee, or to such other arbiter as may be agreeable to the parties.

## **SECTION 6.6 - THIRD PARTY RIGHTS**

The Issuing Authority and the Licensee herein acknowledge and agree that the Access Corporation is not a party to this Renewal License and that any provision herein that may affect the Access Corporation are not intended to create any rights on behalf of the Access Corporation.

## **SECTION 6.7 - PROGRAMMING EXCLUSIVITY AND NON-COMPETITION**

The Issuing Authority, or its designee, agrees that it will not use its designated PEG Access channels, equipment, funding, or other facilities to provide for-profit commercial services which have the effect of competing with the Licensee's business. In addition, any video programming produced under the provisions of this Article 6 shall not be commercially distributed to a competing Multichannel Video Programmer without the written consent of Licensee.

## **SECTION 6.8 – INTERCONNECTION WITH COMPETING CABLE LICENSE**

In the event a License is issued by the Issuing Authority to a competing Licensee, the competing Licensee may not connect its system to the current Licensee's system for purposes of obtaining the PEG channels without the prior written consent of the Licensee.

## **ARTICLE 7**

### **CUSTOMER SERVICE AND CONSUMER PROTECTION**

#### **SECTION 7.1 - CUSTOMER SERVICE**

The Licensee shall comply with all customer service regulations of the FCC (including but not limited to 47 CFR §76.1603 and 47 CFR 76.309) as they exist or as they may be amended from time to time. Likewise, the Licensee shall comply with the customer service regulations promulgated by the Cable Division as they exist or as they may be amended from time to time.

#### **SECTION 7.2 - CONSUMER COMPLAINT PROCEDURES [SEE M.G.L.c. 166A §10]**

Complaints by any Person as to the operation of the Cable System may be filed in writing with the Cable Division or with the Issuing Authority, each of which shall within ten (10) days forward copies of such complaints to the other. The Issuing Authority and the Cable Division shall be notified by the Licensee on forms to be prescribed by the Cable Division not less than annually, of the complaints of subscribers received during the reporting period and the manner in which they have been met, including the time required to make any necessary repairs or adjustments.

#### **SECTION 7.3 - SUBSCRIBERS' ANTENNAS - SWITCHING DEVICES [SEE M.G.L.c. 166 §5(h)]**

The Licensee shall not remove any television antenna of any Subscriber but shall, at the Licensee's actual cost, plus reasonable rate of return, offer an adequate switching device to allow the Subscriber to choose between cable television and non-cable reception.

**SECTION 7.4 - SERVICE INTERRUPTIONS [SEE M.G.L.c. 166A §5(1)]**

In the event that the Licensee's service to any Subscriber is completely interrupted for twenty-four (24) or more consecutive hours, the Licensee will grant such Subscriber a pro rata credit or rebate upon request, on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or at its option, apply such credit to any outstanding balance then currently due. In the instance of other individual Subscriber service interruptions, credits shall be applied as described above after due notice to the Licensee from the Subscriber.

**SECTION 7.5 - SUBSCRIBER TELEVISION SETS [SEE M.G.L.c. 166A §5(d)]**

The Licensee shall not engage directly or indirectly in the business of selling or repairing television sets; provided however that the Licensee may make adjustments to television sets in the course of normal maintenance.

**SECTION 7.6 - PROTECTION OF SUBSCRIBER PRIVACY**

The Licensee shall comply with all applicable federal and state privacy laws and regulations, including 47 U.S.C. 551 and regulations adopted pursuant thereto.

**SECTION 7.7 – MONITORING [SEE 47 USC 551]**

Neither the Licensee nor its designee nor the Issuing Authority nor its designee shall, without a court order, tap, monitor, arrange for the tapping or monitoring, or permit any person to tap or monitor, any cable, line, signal, input device, or Subscriber Outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber or user, unless otherwise required by applicable law, provided, however, that the Licensee may conduct system-wide or individually addressed “sweeps” solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, billing for pay services or monitoring channel usage in a manner not inconsistent with the Cable Act. The Licensee shall

report to the affected parties any instances of monitoring or tapping of the Cable Television System, or any part thereof, of which it has knowledge, whether or not such activity has been authorized by the Licensee. The Licensee shall not record or retain any information transmitted between a Subscriber or user and any third party, except as required for lawful business purposes.

#### **SECTION 7.8 – POLLING [SEE 47 USC 551]**

No poll or other upstream response of a Subscriber or user shall be conducted or obtained, unless: 1) the program of which the upstream response is a part contains an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response, and 2) the program has an informational, entertainment or educational function which is self-evident. The Licensee or its designees shall release the results of upstream responses only in the aggregate and without individual references.

#### **SECTION 7.9 – PROPRIETARY INFORMATION**

Notwithstanding anything to the contrary set forth in this License, the Licensee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature subject to and in accordance with applicable law. The Issuing Authority agrees to treat any information disclosed by the Licensee as confidential and only to disclose it to those employees, representatives, and agents of the Issuing Authority that have a need to know in order to enforce this License and who shall agree to maintain the confidentiality of all such information. The Licensee shall not be required to provide Subscriber information in violation of 47 U.S.C. 551 or any other applicable federal or state privacy law. For purposes of this Section, the terms “proprietary or confidential” include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Licensee to be competitively sensitive. In the event that the Issuing Authority receives a

request under a state “sunshine,” public records or similar law for the disclosure of information the Licensee has designated as confidential, trade secret or proprietary, the Issuing Authority shall notify Licensee of such request and cooperate with Licensee in opposing such request. Notwithstanding the foregoing and pursuant to the resolution of any appeal process, the parties agree to be bound by any final applicable legal orders or rulings of any Court of competent jurisdiction, or of the Public Records Division of the Secretary of the Commonwealth, or of the Department of Telecommunications and Cable, with respect to the public record status of any document filed with the Town.

#### **SECTION 7.10 - EMPLOYEE IDENTIFICATION CARDS**

All of the Licensee’s employees, including repair and sales personnel, entering private property shall be required to carry an employee identification card issued by the Licensee.

#### **SECTION 7.11 – CUSTOMER SERVICE OFFICE**

Licensee shall maintain a customer service office in the Town and operate such office during normal business hours through the period ending December 30, 2009. Thereafter, Licensee may, at its sole discretion, continue to operate said office or implement other alternatives. If pursuant to the foregoing, Licensee exercises its discretion to not operate a customer service office in the Town of Barnstable, it shall provide reasonable alternative means of providing customer service, such that customer service needs will be met expeditiously with respect to matters such as bill payment, answering of subscriber questions, and return or exchange of equipment through other Licensee services, including, but not limited to, online services or other area customer service offices as needed.

## **ARTICLE 8**

### **PRICES AND CHARGES**

#### **SECTION 8.1 - PRICES AND CHARGES**

(a) All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Licensee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations [47 U.S.C. 543]. Before any new or modified rate, fee, or charge is imposed, the Licensee shall follow the applicable FCC and State notice requirements and rules and notify affected Subscribers, which notice may be by any means permitted under applicable law. Nothing in this Renewal License shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or retaining Subscribers.

(b) The Issuing Authority acknowledges that under the 1992 Cable Television Consumer Protection and Competition Act, certain costs of Public, Educational and Governmental ("PEG") Access and other license/franchise requirements, may be passed through to the Subscribers in accordance with federal law.

## **ARTICLE 9**

### **REGULATORY OVERSIGHT**

#### **SECTION 9.1 - INDEMNIFICATION**

The Licensee shall indemnify, defend and hold harmless the Issuing Authority, its officers, employees, departments and agents from and against any liability or claims, including without limitation claims or liability resulting from property damage or bodily injury (including accidental death), or other claims that arise out of the Licensee's construction, operation, maintenance or removal of the Cable System, including, but not limited to, reasonable attorney's fees and costs, provided that the Issuing Authority shall give the Licensee timely written notice of its obligation to indemnify and defend the Issuing Authority within the timely receipt of a claim or action pursuant to this Section. If the Issuing Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Issuing Authority.

#### **SECTION 9.2 - INSURANCE**

(a) The Licensee shall carry insurance throughout the term of this Renewal License and any removal period pursuant to M.G.L.c. 166A, § 5(f) with an insurance company authorized to conduct business in Massachusetts satisfactory to the Issuing Authority protecting, as required in this Renewal License, the Licensee and listing the Town as an additional insured, against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of its Cable System. The amount of such insurance against liability for damage to property shall be no less than One Million Dollars (\$1,000,000) as to any one occurrence. The amount of such insurance for liability for injury or death to any person shall be no less than One Million Dollars (\$1,000,000). The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000) in umbrella form. Policy



will contain a provision that the Issuing Authority will receive thirty (30) days' written notice prior to any cancellation.

(b) The Licensee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of One Million Dollars (\$1,000,000). Policy will contain a provision that the Issuing Authority will receive thirty (30) days' written notice prior to any cancellation.

(c) All insurance coverage, including Workers' Compensation, shall be maintained throughout the period of this Renewal License. All expenses incurred for said insurance shall be at the sole expense of the Licensee. Policy will contain a provision that the Issuing Authority will receive thirty (30) days' written notice prior to any cancellation.

(d) The Licensee shall provide Issuing Authority with certificate(s) of insurance for all policies required herein upon expiration of policies.

### **SECTION 9.3 - PERFORMANCE BOND**

(a) The Licensee has submitted and shall maintain throughout the duration of this Renewal License and any removal period pursuant to M.G.L.c. 166A, § 5(f) a performance bond in the amount of Twenty-five Thousand Dollars (\$25,000) running to the Town with a surety company satisfactory to the Issuing Authority to guarantee the following terms:

- (1) the satisfactory completion of the installation and operation of the Cable System in the time schedule provided herein and otherwise of M.G.L.c. 166A, § 5(a), (m) and (n);
- (2) the satisfactory restoration of pavements, sidewalks and other improvements in accordance with M.G.L.c. 166A, § 5(g);
- (3) the indemnity of the Town in accordance with M.G.L.c. 166A, § 5(b);
- (4) the satisfactory removal or other disposition of the Cable System in accordance with M.G.L.c. 166A, § 5(f); and

(5) to guarantee the substantial compliance with the material terms of this License.

(b) The Licensee shall not reduce the amount or cancel said bond, or materially change the terms of said bond from the provisions of Section 9.3(a) herein without the Issuing Authority's prior written consent. The Issuing Authority shall not unreasonably withhold its consent.

#### **SECTION 9.4 - LICENSE FEES**

(a) During the term of the Renewal License the annual License Fee payable to the Issuing Authority shall be the maximum allowable by law, per Subscriber served as of the last day of the preceding calendar year, payable on or before March 15th of the said year. Pursuant to M.G.L.c. 166A, §9, this fee is currently fifty cents (\$.50) per Subscriber, but not less than Two Hundred Fifty Dollars (\$250) annually.

(b) In accordance with Section 622(b) of the Cable Act, the Licensee shall not be liable for a total financial commitment pursuant to this Renewal License and applicable law in excess of five percent (5%) of its Gross Annual Revenues; provided, however, that said five percent (5%) shall also include (i) the PEG Access Annual Support (Section 6.4) and (ii) any amounts included in the term "Franchise Fee" pursuant to Section 622(g)(1) of the Cable Act), but shall not include the following: (i) interest due herein to the Issuing Authority because of late payments; and (ii) any other exclusion to the term "Franchise Fee" pursuant to Section 622(g)(2) of the Cable Act.

(c) All payments by the Licensee to the Town pursuant to this Section shall be made payable to the Town and deposited with the Town Treasurer or such other department of the Town as may be lawfully designated by the Issuing Authority unless otherwise agreed to in writing by the parties.

## **SECTION 9.5 - REPORTS**

(a) The Licensee shall file annually with the Cable Division on forms prescribed by the Cable Division, a sworn statement of its revenues and expenses for official use only. In addition, the Licensee shall also file with the Cable Division, a financial balance sheet and statement of ownership which shall be supplied upon written request of the Issuing Authority. These requirements shall be subject to the regulations of the Cable Division.

(b) In addition, the Licensee shall maintain for public inspection all records required by the FCC and as specified in 47 CFR §76.305 in the manner prescribed therein.

## **SECTION 9.6 - EQUAL EMPLOYMENT OPPORTUNITY**

The Licensee is an Equal Opportunity Employer and shall comply with applicable FCC regulations with respect to Equal Employment Opportunities.

## **SECTION 9.7 - REVOCATION OF LICENSE**

The License issued hereunder may, after due written notice and hearing per Section 9.8 (Notice and Opportunity to Cure), be revoked by the Issuing Authority or the Cable Division for any of the following reasons:

(a) For false or misleading statements in, or material omissions from, the application submitted under M.G.L.c. 166A, § 4;

(b) For failure to file and maintain the performance bond as described in Section 9.3 (Performance Bond) or to maintain insurance as described in Section 9.2 (Insurance);

(c) For repeated violations, as determined by the Cable Division, of commitments of the Licensee as set forth in M.G.L.c. 166A, § 5(j);

(d) For repeated failure, as determined by the Cable Division, to maintain signal quality pursuant to the standards provided for by the FCC and/or Cable Division;

- (e) For any transfer or assignment of the Renewal License or control thereof without consent of the Issuing Authority in violation of Section 9.11. herein;
- (f) For repeated failure of the Licensee to comply with the material terms and conditions herein and set forth in and required by M.G.L.c. 166A, § 5, or of the terms of its license;
- (g) For failure to complete construction in accordance with the provisions of the Renewal License.

## **SECTION 9.8 - NOTICE AND OPPORTUNITY TO CURE**

In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any or several provisions of this Renewal License, except as excused by Force Majeure, the Issuing Authority shall notify the Licensee in writing, by certified mail, of the provision or provisions which the Issuing Authority believes may have been in default and the details relating thereto. The Licensee shall have thirty (30) days from the receipt of such notice to:

- (a) respond to the Issuing Authority in writing, contesting the Issuing Authority's assertion of default and providing such information or documentation as may be necessary to support the Licensee's position; or

- (b) cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Licensee shall report to the Issuing Authority, in writing, by certified mail, at forty-five (45) day intervals as to the Licensee's efforts, indicating the steps taken by the Licensee to cure said default and reporting the Licensee's progress until such default is cured.

- (c) In the event that (i) the Licensee fails to respond to such notice of default; and/or (ii) the Licensee fails to cure the default or to take reasonable steps to cure the default within the required forty-five (45) day period; the Issuing Authority or its designee shall promptly schedule a public hearing no sooner than fourteen (14) days after written notice, by certified mail, to the Licensee. The

Licensee shall be provided reasonable opportunity to offer evidence, question witnesses, if any, and be heard at such public hearing.

(d) Within thirty (30) days after said public hearing, the Issuing Authority shall issue a written determination of its findings. In the event that the Issuing Authority determines that the Licensee is in such default, the Issuing Authority may determine to pursue any lawful remedy available to it.

(e) In the event that (i) the Issuing Authority fails to issue a written reply within 30 days accepting or rejecting Licensees' response pursuant to 9.8(a) above; (ii) the Issuing Authority fails to issue a written acknowledgement after Licensee's notice that it cured said default pursuant to 9.8(b) above; and/or (iii) the Issuing Authority fails to schedule a public hearing no later than thirty (30) days of having sent a written notice consistent with Section 9.8(c) above and/or (iv) the Issuing authority fails to issue a written determination with thirty (30) days after the public hearing pursuant to Section 9.8(d) above, then the issue of said default against the Licensee by the Issuing Authority shall be considered null and void.

## **SECTION 9.9 - TRANSFER OR ASSIGNMENT**

This Renewal License or control hereof shall not be transferred or assigned without the prior written consent of the Issuing Authority, which consent shall not be arbitrarily or unreasonably withheld. The consent of the Issuing Authority shall be given only after a hearing upon written application therefor on forms prescribed by the Cable Division. Pursuant to 207 CMR 4.01(2), a transfer or assignment of a license or control thereof between commonly controlled entities, between affiliated companies, or between parent and subsidiary corporations, shall not constitute a transfer or assignment of a license or control thereof under M.G.L.c.166A Section 7. Under 207 CMR 4.00, an "affiliated company" is any person or entity that directly or indirectly or through one or more intermediaries, controls, is controlled by, or is under common control with another person or entity. The application for consent to an assignment or transfer

shall be signed by the Licensee and by the proposed assignee or transferee or by their representatives, evidence of whose authority shall be submitted with the application. Within thirty (30) days of receiving a request for consent, the Issuing Authority shall, in accordance with State and FCC rules and regulations, notify the Licensee in writing of the additional information, if any, it requires to determine the legal, financial, technical and managerial qualifications of the transferee or new controlling party. If the Issuing Authority has not taken action on the Licensee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed given.

#### **SECTION 9.10 - REMOVAL OF SYSTEM**

The parties shall be subject to applicable state and federal laws regarding removal and abandonment of the Cable System including but not limited to 47 U.S.C. 547 and M.G.L. Ch. 166.

#### **SECTION 9.11 - INCORPORATION BY REFERENCE**

(a) All presently and hereafter applicable conditions and requirements of federal, state and local laws, including but not limited to M.G.L.c. 166A, and the rules and regulations of the FCC and the Cable Division, as they may be amended from time to time, are incorporated herein by reference, to the extent not enumerated herein. All such general laws, rules, and regulations, as amended, shall control the interpretation and performance of this Renewal License to the extent that any provision of this Renewal License conflicts with or is inconsistent with such laws, rules or regulations.

(b) Should the Commonwealth of Massachusetts, the federal government or the FCC require the Licensee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Issuing Authority and the Licensee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

## **SECTION 9.12 - NO THIRD PARTY BENEFICIARIES**

Nothing in this Renewal License is intended to confer third-party beneficiary status on any member of the public to enforce the term of this Renewal License.

**ARTICLE 10**  
**MISCELLANEOUS**

**SECTION 10.1 - SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or other portion of this Renewal License is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**SECTION 10.2 - FORCE MAJEURE**

If for any reason of force majeure the Licensee is unable in whole or in part to carry out its obligations hereunder, said Licensee shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this License, the term "force majeure" as used herein shall have the following meaning: 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; tornados; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts, arrests; civil disturbances; explosions; partial or entire failure of utilities; unavailability of materials and/or essential equipment, environmental restrictions or any other cause or event not reasonably within the Licensee's control.



### **SECTION 10.3 - NOTICES**

(a) Every notice to be served upon the Issuing Authority shall be delivered or sent by certified mail (postage prepaid) to the following address or such other address as the Issuing Authority may specify in writing to the Licensee.

Town of Barnstable  
Attn: Town Manager  
367 Main Street  
Hyannis, MA, 02601

(b) Every notice served upon the Licensee shall be delivered or sent by certified mail (postage prepaid) to the following address or such other address as the Licensee may specify in writing to the Issuing Authority.

Comcast Cable Communications, Inc.  
Attn: Vice President of Government Affairs  
440 Myles Standish Blvd.  
Taunton, MA 02780

with copies to:

Comcast Cable Communications, Inc.  
Attn: Government Affairs  
676 Island Pond Road  
Manchester, NH 03109

Comcast Cable Communications, Inc.  
Attn: Government Affairs  
One Comcast Center  
Philadelphia, PA 19103

(c) Delivery of such notices shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

### **SECTION 10.4 - ENTIRE AGREEMENT**

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed without written amendment.

## **SECTION 10.5 - CAPTIONS**

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

## **SECTION 10.6 - WARRANTIES**

The Licensee warrants, represents and acknowledges that, as of the Effective Date of this Renewal License:

- (a) The Licensee is duly organized, validly existing and in good standing under the laws of the State;
- (b) 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 date of execution of this Renewal License, to enter into and legally bind the Licensee to this Renewal License and to take all actions necessary to perform all of its obligations pursuant to this Renewal License;
- (c) This Renewal License is enforceable against the Licensee in accordance with the provisions herein; and
- (d) There is no action or proceedings pending or threatened against the Licensee which would interfere with performance of this Renewal License.

## **SECTION 10.7 - APPLICABILITY OF RENEWAL LICENSE**

All of the provisions in this Renewal License shall apply to the Town, the Licensee, and their respective successors and assigns.

## **SECTION 10.8 – JURISDICTION**

Jurisdiction and venue over and dispute or judgment rendered pursuant to any Article herein shall be in a court of appropriate venue and subject matter jurisdiction located in the Commonwealth of Massachusetts, or upon appeal, other competent court or agency, and the parties by this instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit arising in connection with the entry of such judgment.

WITNESS OUR HANDS AND OFFICIAL SEAL, THIS 15<sup>th</sup> DAY OF

July 2008

**TOWN OF BARNSTABLE,  
MASSACHUSETTS**

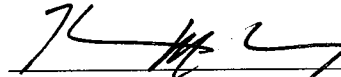
By:



\_\_\_\_\_  
John Klimm, Town Manager  
Issuing Authority

**COMCAST OF MASSACHUSETTS I, INC.**

By:



\_\_\_\_\_  
Kevin M. Casey  
President  
NorthCentral Division

## **EXHIBIT A**

### **PUBLIC BUILDINGS ON THE CABLE SYSTEM**

#### **Public School Buildings:**

1.	BARNSTABLE HIGH SCHOOL	744 W MAIN ST
2.	BARNSTABLE MIDDLE SCHOOL	895 FALMOUTH RD
3.	BARNSTBLE SCHOOL DEPT	230 SOUTH ST
4.	BARNSTABLE/W. BARNSTABLE SCHOOL	2463 MAIN ST
5.	CENTERVILLE ELEMENTARY SCHOOL	658 BAY LN
6.	COTUIT ELEMENTARY SCHOOL	140 OLD OYSTER RD
7.	HORACE MANN CHARTER SCHOOL	730 OSTERVILLE RD
8.	HYANNIS WEST ELEMENTARY SCHOOL	549 W MAIN ST
9.	HYANNIS EAST ELEMENTARY SCHOOL	165 BEARSES WAY
10.	MARSTONS MILLS ELEMENTARY SCHOOL	2095 MAIN ST
11.	MARSTONS MILLS EAST HORACE MAN PUBLIC CHARTER SCHOOL	760 OSTERVILLE/WEST BARNSTABLE RD
12.	OSTERVILLE BAY SCHOOL	99 W BAY RD
13.	OSTERVILLE ELEMENTARY SCHOOL	350 BUMPS RIVER RD
14.	SCHOOL COTUIT ELEMEN	599 MAIN ST
15.	STURGIS CHARTER SCHOOL	427 MAIN ST

#### **Municipal Buildings:**

1.	BARNSTABLE DPW	800 PITCHERS WAY
2.	BARNSTABLE POLICE DEPT	1200 PHINNEYS LN
3.	BARNSTABLE CMTY YOUTH CN	135 SOUTH ST
4.	BARNSTABLE FIRE DEPT	3249 MAIN ST
5.	BARNSTABLE HIGHWAY DEPT	382 FALMOUTH RD
6.	CENTERVILLE FIRE STATION	1875 FALMOUTH RD
7.	CENTERVILLE LIBRARY	585 MAIN ST
8.	COTUIT FIRE	64 HIGH ST
9.	COTUIT LIBRARY	871 MAIN ST
10.	COUNCIL ON AGING	198 SOUTH ST
11.	FIRE BARNSTABLE	2160 ROUTE 149
12.	HYANNIS FIRE DEPT	95 HIGH SCHOOL RD
13.	HYANNIS LIBRARY	401 MAIN ST
14.	MARSTONS MILLS FIRE DEPT	270 ROUTE 149
15.	MARSTONS MILLS LIBRARY	2160 MAIN ST
16.	OSTERVILLE FIRE STATION	999 MAIN ST
17.	OSTERVILLE LIBRARY	43 WIANNO AVE
18.	POLICE BARNSTABLE	507 MAIN ST
19.	STURGIS LIBRARY	3090 MAIN ST
20.	TOWN HALL BARNSTABLE	367 MAIN ST
21.	W BARNSTABLE FIRE DEPT	1633 MAIN ST
22.	WHELDEN MEMORIAL LIBRARY	2401 MEETINGHOUSE WAY

## **EXHIBIT B**

### **PROGRAMMING**

Licensee shall provide the following broad categories of Video Programming:

- News Programming;
- Sports Programming;
- Public Affairs Programming;
- Children's Programming;
- Entertainment Programming; and
- Local Programming.

**EXHIBIT C**

**VIDEO RETURN LINE LOCATIONS**

Public School Buildings:

BARNSTABLE HIGH SCHOOL	744 West Main Street
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Municipal Buildings:

BARNSTABLE TOWN HALL	367 Main Street
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Other Buildings Approved by The Issuing Authority:

TILDEN ARTS CENTER	
CAPE COD COMMUNITY COLLEGE	2240 Iyannough Road, West Barnstable
CAPE COD COMMUNITY TELEVISION, Inc.	307 Whites Path, South Yarmouth

## **EXHIBIT D**

### **ACCESS CORPORATION AGREEMENT**

*Please see the following pages.*



**AGREEMENT BETWEEN**  
**CAPE COD COMMUNITY TELEVISION CORPORATION**  
**MEDIAONE**  
**and**  
**TOWN OF BARNSTABLE**

**ARTICLE I DEFINITIONS**

For the purposes of this agreement the following words, terms phrases and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Access Corporation" means Cape Cod Community Television Corporation, which represents and warrants it is the nonprofit, tax exempt eligible corporation designated by the Issuing Authority to manage and operate public access in the Town pursuant to 47 U.S.C. 531.
2. "Access Programming" means programs on the public access channels. It must be noncommercial within the standards for underwriting applicable to the Public Broadcasting Service (PBS) or the standards necessary to maintain its tax exempt status within the applicable regulations of the Internal Revenue Service and excludes political campaigning.
3. "Cable Advisory Committee" means the Cable Advisory Committee as designated and authorized by the Issuing Authority, if any, to be responsible for cable television regulation and municipal uses of cable television in the Town of Barnstable.

4. “Cable License” or “License” means the agreement effective on February 1, 1999 between the Town of Barnstable and MediaOne, authorizing MediaOne to construct, own, operate and maintain a cable television system in the Town of Barnstable.

5. “Channel” means a band of frequencies in the electromagnetic spectrum, or any other means of transmission (including without limitation, optical fibers or any other means new available or that may become available), which is capable of carrying a composite video signal.

6. “Commercial Program” means programming from which revenue is derived, by any party, and programming the purpose of which is to conduct trade or commerce. It shall not include programming supported by underwriting grants or contributions of any kind.

7. “Downstream Channel” means a channel over which signals travel from the system headend to an authorized location within the system.

8. “Institutional Network” means the portion of the cable television system, separate from the subscriber network, designed to deliver and receive programming or other services to or from the Licensee and on the Network.

9. “Issuing Authority” The Town Manager of Barnstable executing this Agreement, as it is a part of the License incorporated therein.

10. “Licensee” MediaOne, or its authorized transferee.

11. “Political Campaigning” means programs which, in whole or in part, promote political candidates during their election campaigns. It shall not include programs which in whole or in part, provide equal opportunities for all political candidates campaigning for a particular office, nor shall it include bona fide newscasts interviews, news documentaries, or on-the-spot coverage of news events.

12. **"Public Access"** means channel space and time as well as production and post-production equipment, facilities and training available free of charge to any person living in Barnstable or working for an organization in Barnstable, on a first come, first-served, nondiscriminatory basis.
13. **"Public Access Facility"** means the location from which the Access Corporation may operate the public access function.
14. **"Public Institution"** means any government institution or other not-for-profit institution organized and located in the Town of Barnstable.
15. **"Upstream Channel"** means a channel over which signals travel from an authorized location to the cable system headend.

## **ARTICLE II OBLIGATIONS OF LICENSEE**

### **Section 1 Annual Operating Funds: Schedule of Payments: Capital Funds**

License shall provide the Access Corporation with annual operating grants and Capital Funds in accordance with the License.

These annual funds shall be used by the Access Corporation for salaries, operating and other expenses connected with public access programming and operations.

### **Section 2 Public Access Facility**

Licensee shall provide origination capability to the Public access Facility such that programs may be transmitted upstream to the Headend and then downstream on the access channels on the subscriber network.

### **Section 3 System Design**

Licensee shall maintain headend switching equipment to process the upstream signals from the Public Access Facility and to place such signals on the designated access cable channels. Other than this automatic switching, Licensee shall not have further switching obligations. The Access Corporation will, however, be responsible for scheduling and transmitting public access programming on these channels. Licensee shall not be responsible for the quality of the upstream channel prior to origination.

### **Section 4 System Maintenance of Channels**

Licensee shall monitor the downstream public access channel(s) for technical quality and shall ensure that they are maintained at standards commensurate with those which apply to the cable system's commercial channels; provided, however, that this section shall not require Licensee to guarantee the technical quality of access users' productions.

**Section 4 (a) Public Access Channel(s)**

Licensee shall provide one dedicated channel to the Access Corporation for use on the subscriber network. If Licensee upgrades its cable plant to 1 GHZ or greater of capacity, if such channel, over a period for one year, is programmed with locally produced, non-duplicative, non-alpha numeric video programming, 90% of the time between the hours of 10 AM and 10 PM on weekdays, and 9:00 AM – 5:00 PM on Saturdays, Licensee shall provide an additional channel on the subscriber network to the Access Corporation.

**Section 5 Access Information for Subscribers**

Upon four months notice, Licensee shall insert in its monthly billing statements to Barnstable subscribers one page of promotional public access announcements at least one time per year, at a time to be determined by Licensee providing that the announcements are delivered to Licensee by the Access Corporation on a timely basis. This material shall be prepared and printed by the Access Corporation at its own expense; and Access Corporation shall bear full responsibility and liability for the contents of said announcements. Any additional postage which may be required to mail said billing statements as a result of the insert, shall be the sole financial responsibility of the Access Corporation.

## **ARTICLE III OBLIGATIONS OF THE ACCESS CORPORATION**

### **Section 1 Public Access Use: Operating Rules and Procedures**

The Access Corporation shall be solely responsible for the management and operation of Public Access and public access programming on the cable system in the Town of Barnstable, including training, quality of originated signals, (except as described in Section II.4) scheduling the public access channels and managing the access facilities, equipment, acquisition and maintenance in the Public Access Facility. The Access Corporation shall, within six (6) months following the execution of this agreement, promulgate a set a access operating rules and procedures which ensure that training, equipment, facilities and access channel time be available to residents of or any organizations serving the Town of Barnstable. These rules shall ensure the right to use designated channels, facilities and equipment on a nondiscriminatory, first-come, first-served basis subject to the terms of this agreement and subject also to Access Corporation's goal of establishing regularity in programming. Access user compliance with such rules shall be monitored by the Access Corporation. The Access Corporation shall furnish a copy of such rules to the Licensee within thirty (30) days of their adoption and shall provide Licensee with amendments to such rules throughout the term of this Agreement.

### **Section 2 Programming**

Editorial discretion and the content of programming and the liability therefor placed on the access channels operated by the Access Corporation shall solely reside in and be the sole responsibility of the Access Corporation. Notwithstanding the foregoing, the Access Corporation programming shall be designed to achieve the purposes set forth in the Access Corporation's Articles of Incorporation and Bylaws and shall consist of Access Programming as defined in the License and the Access Corporation shall avoid competition on a subsidized bases with Licensee.

To these ends:

a. The Access Corporation shall not sell to a third party any proprietary interest that the Access Corporation may have in any programming without first offering Licensee the exclusive right to purchase such interest by matching the best good-faith offer tendered in writing by the third party;

b. All liability, license and copyright fees associated with the programming produced by the Access Corporation or placed on the access channel shall be the sole responsibility of the Access Corporation.

### **Section 3 Coverage of Regional News and Events**

Upon request of the Issuing Authority, the Access Corporation shall reasonably cover events and issues of a regional nature.

### **Section 4 Logs**

The Access Corporation shall keep a log of all access programming transmitted on the public access channels and the names and addresses of all access producers. The logs will be available for public inspection and retained for no less than two years.

### **Section 5 Indemnification**

The Access Corporation shall indemnify and hold harmless the Licensee and shall, in its rules for public access, require every access user to indemnify both Licensee and the Access Corporation and hold each of them harmless against any claims arising out of any program or program material produced and/or cablecast, including but not limited to claims in the nature of libel, slander, invasion of privacy or publicity rights, noncompliance with applicable laws, license fees and unauthorized use of copyrighted material.

**Section 6 Insurance**

a. The Access Corporation shall carry insurance indemnifying Licensee, the Town of Barnstable and itself from and against any and all claims and liability for injury or damage to persons or property due to risk or peril caused by the use of access equipment or facilities managed by the Access Corporation, and shall name both Licensee and the Town of Barnstable additional insureds. Such insurance shall not be less than five hundred thousand dollars (\$500,000.00) for bodily injury or death to any one person or property damage resulting from any one occurrence. The Access Corporation shall insure all public access equipment for theft, loss and damage.

b. The insurance policy required under paragraph (a) above shall contain the following endorsement: It is hereby understood and agreed that this policy shall not be canceled or materially changed until thirty (30) days after receipt by the Town and Licensee, by certified mail, of one (1) copy of a written notice of such intent.

**Section 7 Informational and Annual Reports**

The Access Corporation shall provide an annual report of its finances and operations to its members, the Barnstable Cable Advisory Committee, the Issuing Authority and Licensee by April 15 for the previous calendar year. At any time during the term of this Agreement, upon the reasonable request of the Town or the Licensee, the Access Corporation shall provide such further information as may be reasonably requested to document the expenditure of funds in the performance of the Access Corporation pursuant to this agreement. The Access Corporation shall, at the discretion of the Issuing Authority, participate in performance evaluation sessions concerning its compliance with the terms and conditions of this Agreement.



**Section 8 Maintenance of Equipment**

The Access Corporation shall maintain its equipment to insure the reasonable technical quality of its origination signals and so that public access users are insured reasonable quality of the production equipment they use to produce programs

**Section 9 Expansion of Board of Directors**

Within ninety (90) days of the execution of this agreement, the Access Corporation shall amend its By-laws to expand its Board of Directors by one member, such member to be designated by the Issuing Authority.

## **ARTICLE IV TOWN OF BARNSTABLE**

### **Section 1 Designation of Access Corporation Under the License**

The Town of Barnstable, through its Issuing Authority, shall maintain the designation of Cape Cod Community Television Corporation as the Access Corporation throughout the term of the License. Should Cape Cod Community Television substantially breach its obligation under the materials terms of this Agreement, then, after notice and an opportunity to cure, the Issuing Authority and the Licensee, shall have the right to agree upon a new organization to receive the designation as Access Corporation. In no event shall Licensee be designated as the Access Corporation, nor shall it have the responsibility to provide public access services during any period in which a replacement Access Corporation has not been designated by the Issuing Authority. Pursuant to M.G.L. Chapter 166A and applicable federal law, the Issuing Authority has entered into this Agreement (Schedule 5.1 of the License) in its capacity of carrying out its cable licensing obligations and its participation in this Agreement is derived from and confined to such obligations.

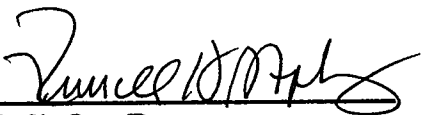
**ARTICLE V TERMINATION****Section 1 Termination**

This agreement shall terminate on the earliest date of either the expiration of the current License; or the adjudication of the bankruptcy of the Access Corporation; or such time as the Access Corporation ceases to be a nonprofit corporation under the laws of the Commonwealth of Massachusetts; or at such time as Licensee and the Town of Barnstable institute a license amendment removing the Access Corporation's designation as having sole responsibility for public access under the License, pursuant to Article IV Section 1 of this Agreement, or at such time as this License is amended pursuant to Article II Section 2.6 of License.

**Section 2 Termination by License Amendment**

Should this Agreement be terminated as a result of an amendatory action of the License by Licensee and the Town of Barnstable, all equipment acquired through the Capital Funds made available through the License shall be deeded to either Licensee or a newly designated Access Corporation, at the Issuing Authority's direction, within ninety (90) days of termination of this Agreement.

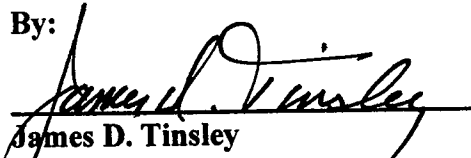
Agreed to this 12<sup>th</sup> of Feb, 1999



**MediaOne By**  
Russell H. Stephens  
Senior Vice President

**Town of Barnstable**

By:

  
James D. Tinsley  
Town Manager  
Access Corporation

## EXHIBIT E

### GROSS ANNUAL REVENUES REPORTING FORM

(This form is for informational purposes and may change in a manner consistent with the federal definition of Cable Service and as reasonably needed to report the revenues to be included in the definition of Gross Annual Revenues as set forth in Article 1 above.)

#### COMCAST

##### TOWN OF BARNSTABLE

Period: [enter period of which payment is based]

#### Totals

##### **Totals by Service:**

Basic Service Revenue	\$ [enter amount]
Other Cable Service Revenue	\$ [enter amount]
Pay Service Revenue <sup>1</sup>	\$ [enter amount]
Other Unregulated Revenue <sup>2</sup>	\$ [enter amount]
Digital Revenue	\$ [enter amount]
Subtotal:	\$ [enter subtotal]

##### **Totals by Non Service:**

Franchise Fees	\$ [enter amount]
Less Bad Debt Expense / Add Bad Debt Recovery	\$ [enter amount]
Subtotal:	\$ [enter subtotal]

Total Gross Revenue \$ [enter total]

License Fee (%)	\$ [enter % of total]
Franchise Fee Due	\$ [enter total due]

<sup>1</sup> – Pay Service includes, but is not limited to, all Pay Channels and Pay Per View Movie/Event revenue.

<sup>2</sup> – Other Unregulated includes, but is not limited to, converter, remote, installation, TV Guide, wire maintenance and other misc. billing adjustments.

Authorized Comcast Representative:

\_\_\_\_\_

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