



September 17, 2021

***Via Email***

Board of Selectmen  
Town of Berkley  
1 North Main Street  
Berkley, MA 02780

***Re: Town of Berkley – Cable Television Renewal License***

Dear Chairman and Members of the Board:

Attached is the fully executed Cable Television Renewal License between the Town of Berkley and Comcast which will commence on October 1, 2021.

Please feel free to contact me at [Michael\\_Galla@cable.comcast.com](mailto:Michael_Galla@cable.comcast.com) should you have any questions.

Sincerely,

*Michael Galla*

Michael Galla, Sr. Manager  
Government Relations

cc: Attorney William Solomon (via email)  
Shonda Green – MA DTC  
Denise Mason – Comcast Manager of Government & Regulatory Affairs (via email)  
Comcast Corporate Franchising (via email)  
Comcast Division Franchising and Finance (via email)

**CABLE TELEVISION**

**RENEWAL LICENSE**

**GRANTED TO**

**Comcast Cable Communications Management, LLC**

**Granted By**

**THE BOARD OF SELECTMEN**

**TOWN OF BERKLEY  
MASSACHUSETTS**

**Renewal Term**

**October 1, 2021 – September 30, 2031**

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## **RENEWAL LICENSE**

### **INTRODUCTION**

WHEREAS, Comcast Cable Communications Management, LLC (hereinafter "Licensee"), is the duly authorized holder of a renewal license to operate a cable television system in the Town of Berkley, Massachusetts (hereinafter the "Town"), said license having commenced on June 22, 2011;

WHEREAS, Licensee filed a timely written request for a renewal of its license by letter in conformity with the Cable Communications Policy Act of 1984 ("Cable Act");

WHEREAS, there has been an opportunity for public comment, as required by Section 626(h) of the Cable Act;

WHEREAS, The Board of Selectmen as Issuing Authority finds that Licensee has complied with the terms of its previous license;

WHEREAS, the Issuing Authority has determined that the financial, legal, and technical ability of Licensee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and desires to enter into this Renewal License with Licensee for the construction and continued operation and maintenance of its Cable System on the terms and conditions set forth herein; and

NOW THEREFORE, after due and full consideration, the Issuing Authority and Licensee agree that this non-exclusive Renewal License is issued upon the following terms and conditions:

## **ARTICLE 1**

### **DEFINITIONS**

#### **SECTION 1.1 – DEFINITIONS**

For the purpose of this Renewal License, the following words, terms, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word shall be always mandatory and not merely directory.

(a) Access - shall mean the right or ability of any Berkley resident and/or any Persons affiliated with a Berkley institution to use designated Public, Education and Government (“PEG”) access facilities and equipment and/or PEG Access Channels of the Cable Television System, subject to the conditions and procedures established for such use by the Town and/or its designee.

(b) Access Provider or PEG Access Designee – shall mean any entity designated in writing by the Issuing Authority for the purpose of operating and managing the use of Public, Educational and Governmental Access funding, equipment, facilities and channels for the production and broadcast of PEG Access programming on the Cable Television System, in accordance with this Renewal License and 47 U.S.C. 531, including, but not limited to the Town itself and/or an access corporation or entity, as determined by the Issuing Authority.

(c) Affiliate or Affiliated Person – When used in relation to any Person, shall mean another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such 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 Service or Service – shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(g) Cable Television System or Cable System – shall mean the facility owned, constructed, installed, operated and maintained by Licensee in the Town of Berkley, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the Town, 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; (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.

(h) Downstream Channel – A channel over which signals travel from the Cable System Headend or hub-site to an authorized recipient of Programming.

(i) DTC – shall mean the Massachusetts Department of Telecommunications and Cable established by Chapter 25C, Section 7 of the Massachusetts General Laws ("M.G.L.") and Chapter 19 of the Acts of 2007 or its successor.

(j) Drop – shall mean the coaxial cable or fiber that connects a home or building to the feeder cable of the Subscriber Network.

(k) Educational Access Channel: A specific channel on the Cable System owned and made available by the Licensee to the Issuing Authority, the Berkley Public Schools and/or the Access Provider, as determined by the Issuing Authority, to present non-commercial educational programming and information to the public.

(l) Effective Date – shall mean October 1, 2021.

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



(n) Franchise Fee – shall mean the payments to be made by Licensee to the Town of Berkley and/or its designee(s), which shall have the meaning as set forth in Section 622(g) of the Cable Act.

(o) Government Access Channel – A specific channel on the Cable System owned and made available by the Licensee to the Issuing Authority and/or the Access Provider, as determined by the Issuing Authority, for the presentation of government-related and other non-commercial programming and/or information to the public.

(p) Gross Annual Revenues – shall mean the revenues received by the Licensee and/or its Affiliates derived from the operation of the Cable System to provide Cable Service, accrued in accordance with generally accepted accounting principles (GAAP) in the United States, and shall include, without limitation: the revenues derived from the distribution of any Cable Service over the Cable System; Basic Service monthly fees and all other Cable Service fees; any and all Cable Service fees and/or charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar charges; all digital Cable Service revenues; fees paid on all Subscriber fees (“Fee-on Fee”); all Commercial Subscriber Cable Service revenues (including bulk account revenues); Pay Cable, Premium Services and Pay-Per-View revenues; video on demand Cable Services; converter, remote control and other Cable Service-related equipment rentals and/or leases or sales; fees paid for channels designated for commercial use; home shopping revenues; and advertising revenues. In the event that an Affiliate and/or any other Person is responsible for advertising, advertising revenues for purposes herein shall be deemed to be the pro-rata portion of the advertising revenues accrued by such Affiliate or other Person for use of the Cable System in the Town for the carriage of advertising. 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 to the extent that said revenue is derived through a means which has the effect of avoiding payment of Franchise Fees to the Town that would otherwise be paid herein. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with GAAP; 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.

(q) 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.

- (r) Issuing Authority – shall mean the Board of Selectmen of the Town of Berkley, Massachusetts, or the lawful designee thereof.
- (s) Licensee – shall mean Comcast Cable Communications Management, LLC or any successor or transferee in accordance with the terms and conditions in this Renewal License.
- (t) License Fee – shall mean the payments to be made by Licensee to the Town of Berkley and the Commonwealth of Massachusetts, which shall have the meaning as set forth in M.G.L. c. 166A, § 9.
- (u) Normal Business Hours – shall mean those hours during which most similar businesses in Berkley are open to serve customers. In all cases, Normal Business Hours must include some evening hours and at least one night per week and/or some weekend hours.
- (v) Outlet – shall mean an interior receptacle that connects a television set to the Cable Television System.
- (w) Pay Cable or Premium Services – shall mean programming delivered for a fee or charge to Subscribers on a per-channel or group-of-channels basis.
- (x) Pay-Per-View – shall mean programming delivered for a fee or charge to Subscribers on a per-program or per-event basis.
- (y) PEG – The acronym for “public, educational and governmental”.
- (z) PEG Access Channel – A video channel which the Licensee owns and is made available for use by the Town and/or its designee(s) without charge for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools, educational, institutional and similar organizations.
- (aa) PEG Access User – shall mean a Person utilizing the Cable Television System, including any related facilities for purposes of production and/or transmission of PEG Access Programming, as opposed to utilization solely as a Subscriber.
- (ab) PEG Access Programming – shall mean non-commercial programming produced by any Berkley residents or organizations, schools or government entities and the use of designated channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal License.
- (ac) 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 or Town.

(ad) Prime Rate – shall mean the prime rate of interest as reported by the Federal Reserve or its successor, however, if a prime rate is reported by the Federal Reserve Bank of Boston it shall be the “Prime Rate” for purposes of this Renewal License.

(ae) Public, Educational and Governmental (PEG) Access Channel – shall mean a video channel which the Licensee shall make available to the Town of Berkley and designees of the Town of Berkley, including Access Users without charge, for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools, educational, institutional, similar organizations and others.

(af) Public Access Channel – A specific channel on the Cable System owned and made available by the Licensee to the Issuing Authority and/or the Access Provider, as determined by the Issuing Authority, for use by Berkley residents and organizations and others wishing to present non-commercial programming to the public.

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

(ah) Renewal License or License – shall mean this Renewal License and any amendments or modifications in accordance with the terms herein.

(ai) Standard Definition (SD) PEG Access Channels – shall mean a PEG Access Channel in the standard definition display format for digital television transmissions.

(aj) Standard Installation – shall mean the installation which can be completed using a Drop of up to one hundred fifty feet (150') aerial or underground.

(ak) State – The Commonwealth of Massachusetts.

(al) Subscriber – shall mean any Person, firm, corporation or other entity who or which contracts with the Licensee for or lawfully receives, Cable Service provided by the Licensee.

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

(an) Town – shall mean the Town of Berkley, Massachusetts.

(ao) Trunk and Distribution System – shall mean that portion of the Cable System for the delivery of Cable Services, but not including Drop Cable(s) to Subscriber's residences.

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

## **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 Cable Communications Management, LLC, 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 Berkley.

(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 DTC 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 Licensee the right to construct, upgrade, install, operate and maintain a Cable Television System within the Public Way.

#### **SECTION 2.2 - TERM: NON-EXCLUSIVITY**

This non-exclusive Renewal License shall be for a period of ten (10) years, commencing on October 1, 2021 through midnight September 30, 2031.

#### **SECTION 2.3 - RENEWAL**

(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 Licensee and the Issuing Authority and shall contain such terms as Licensee and the Issuing Authority may then agree.

#### **SECTION 2.4 - 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/regulations of general applicability and not specific to the Cable Television System, 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. In the event of any conflict between this License and any Town bylaw or regulation that is not generally applicable, this License shall control. In the event of any conflict between this License and any Town bylaw or regulation which is generally applicable, the bylaw or regulation shall control, subject to challenge as to legality of the bylaw or regulation. Nothing in this Section 2.6 shall be deemed to prohibit the right of the Licensee to challenge the legality of a Town bylaw or regulation.

## **SECTION 2.5 - 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 Public Ways or streets, or portions thereof, for the construction, upgrade, installation, operation or maintenance of a Cable Television System within the Town of Berkley; or the right of the Issuing Authority to permit the use of the Public Ways and places of the Town for any purpose(s) whatsoever. The Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses.

(b) The grant of any additional cable television license(s) shall be at the sole discretion of the Issuing Authority.

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

(ii) Should the Licensee demonstrate that any such additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome than those contained in this Renewal License, the Issuing Authority shall negotiate, in good faith, equitable amendments to this Renewal License within a reasonable time.

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

(d) In the event 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 serve a copy of such application upon the Licensee by certified mail or via nationally recognized overnight courier services within a reasonable time thereafter.

(e) In the event that the Licensee believes that in the future another Licensee which has been granted a cable television license in the Town, has been provided relief by the Issuing Authority from a material obligation(s) of its license, which may include amendments to the license, that causes said other cable television license to be more favorable or less burdensome than this Renewal License, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue. Along with said written request, the Licensee shall provide the Issuing Authority with written reasons for its belief. The Licensee shall provide the Issuing Authority with such financial or other relevant information as is requested. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to demonstrate that such relief causes said other cable license to be favorable or less burdensome than this Renewal License. Should the Licensee demonstrate that any such relief causes said other cable television license to be more favorable or less burdensome than the Renewal License, the Issuing Authority shall consider and negotiate, in good faith, equitable amendments to this Renewal License.

## **SECTION 2.6 – POLICE AND REGULATORY POWERS**

By executing this Renewal License, the Licensee acknowledges that its rights are subject to the powers of the Town and its right to adopt and enforce generally applicable by-laws in the lawful exercise of its police powers to the extent permitted by applicable law, with respect to the safety and welfare of the public. The Licensee shall comply with all applicable federal and State laws and regulation, and Town bylaws and lawful regulations, provided such Town bylaws and regulations are not specific to this License, the Licensee and/or Cable System. Nothing in this Section 2.6 shall be deemed to prohibit the right of the Licensee to challenge the legality of a Town by-law or regulation.

## **SECTION 2.7 – REMOVAL OR ABANDONMENT**

Upon termination of this Renewal License by passage of time or otherwise, unless (1) the Licensee has its license renewed for another term or (2) the ownership of the Cable Television System is transferred to another Person with written approval by the Issuing Authority in accordance with applicable law and pursuant to Section 2.8 below or (3) unless otherwise operating under the terms of this Renewal License as allowed by applicable law, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and other appurtenances from the Public Ways and shall restore the areas to their original condition as is reasonably possible and as soon as reasonably possible. If such removal is not complete within six (6) months of such termination, the Issuing Authority may deem any property not removed as having been abandoned. Upon written request of the Licensee, the Issuing Authority may waive this requirement for good cause shown. Notwithstanding the foregoing, under 47 USC Sec. 541(b)(3)(C) the Issuing Authority may not order the Licensee or any affiliate thereof (i) to discontinue the provision of a telecommunications service, or (ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of the Licensee or its affiliate to obtain a cable franchise or cable franchise renewal with respect to the provision of such telecommunications service.

## **SECTION 2.8 – TRANSFER OF THE RENEWAL LICENSE**

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



License, unless otherwise provided by applicable federal or State law. An “affiliated company” is any Person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person or entity.

(b) Pursuant to applicable State and federal law, as may be amended, in considering a request to transfer control of the Renewal License, the Issuing Authority shall consider the transferee's financial capability, management experience, technical expertise and legal ability to operate a Cable System under the existing license and may consider any other criteria allowable under applicable law or regulation.

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

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

(e) The consent of the Issuing Authority shall be given only after a public hearing to consider the written application for transfer. Unless otherwise allowed by applicable law(s), the Issuing Authority shall make a decision on said written application within one hundred and twenty (120) days of receipt of said application. After 120 days, the application shall be deemed approved, unless said 120-day period is extended in writing by mutual agreement of the parties pursuant to applicable law.

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

## **SECTION 2.9 – EFFECT OF UNAUTHORIZED TRANSFER ACTION**

(a) Any transfer of the Cable System without the Licensee and the transferee complying with Section 2.8 above shall be null and void, and shall be deemed a material breach of this Renewal License.

(b) If the Issuing Authority denies its consent to any such action and a transfer has nevertheless been effected, the Issuing Authority may revoke and terminate this Renewal License, unless such transfer is otherwise allowable by applicable law.

(c) The grant or waiver of any one or more of such consents shall not render unnecessary any subsequent consent or consents, nor shall the grant of any such consent constitute a waiver of any other rights of the Town.

### **ARTICLE 3**

#### **SYSTEM SPECIFICATIONS AND CONSTRUCTION**

##### **SECTION 3.1 - AREA TO BE SERVED**

The Licensee shall make its Cable Services available to all residents of the Town provided that the Licensee is able to obtain any necessary easements, permits and/or permission from owners of property and multiple dwelling units. The Licensee shall make its best efforts to obtain any necessary easements or permission from owners of property in the Town in order to make Cable Service available to all residents. The Licensee shall promptly apply for all necessary permits. Said Cable Services shall be made available and fully activated to requesting dwelling units no later than ninety (90) days after all necessary permits are obtained, subject to Section 13.2, Force Majeure.

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

Consistent with Section 3.1 above, the Cable System shall be extended, at the Licensee's sole cost and expense, to any and all areas of the Town containing fifteen (15) dwelling units or more per aerial mile or twenty (20) dwelling units or more per underground mile of Cable System plant. (All being pro-rated for distances less than or greater than a mile.) The Licensee shall promptly apply for all necessary permits. Said Cable Services shall be made available and fully activated to requesting dwelling units no later than ninety (90) days after all necessary permits are obtained, subject to Section 13.2, Force Majeure.

##### **SECTION 3.3 – RESIDENTIAL SUBDIVISIONS**

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 so long as such additional time does not result in additional cost to the project developer or the Town. 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. The Developer shall be responsible for the digging and back-filling of all trenches.

#### **SECTION 3.4 – INSTALLATION CHARGES**

Any dwelling unit within one hundred fifty (150') feet aerial or underground from the feeder cable shall be entitled to a Standard Installation rate, unless the sub-surface of an underground installation is a hard surface or requires boring through rock or a similar hard surface (i.e. concrete, asphalt, etc.). All other installations are considered non-standard installations. For aerial or underground installations more than one hundred fifty feet (150'), the first one hundred fifty feet (150') shall be at the Standard Installation rate.

#### **SECTION 3.5 – SUBSCRIBER NETWORK**

Licensee shall continue to own, operate and maintain the Cable Television System, to a minimum bandwidth of 750MHz and carrying video channels in the downstream direction to Berkley Subscribers.

#### **SECTION 3.6 – LOCATION OF THE CABLE TELEVISION SYSTEM**

The Licensee shall own, operate and maintain the Cable Television System within the Town. Poles, towers and other obstructions shall be erected so as not to interfere with vehicular or pedestrian traffic over Public Ways. The erection and location of all poles, towers and other obstructions shall be in accordance with all applicable and legally enforceable State and local laws and regulations.

#### **SECTION 3.7 - PARENTAL CONTROL CAPABILITY**

(a) Pursuant to applicable law, upon request, Licensee shall provide Subscribers with the capability to control the reception of any channel on the Cable System.

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

### **SECTION 3.8 - EMERGENCY ALERT OVERRIDE CAPACITY**

Licensee shall comply with the FCC's Emergency Alert System ("EAS") regulations and any applicable laws and regulations of the Commonwealth of Massachusetts in order that emergency messages are distributed over the Cable System.

### **SECTION 3.9 - SYSTEM TECHNICAL SPECIFICATIONS**

The Cable System shall conform to the FCC technical specifications. At all times throughout the Renewal License, the Licensee shall meet all applicable FCC technical standards.

## **ARTICLE 4**

### **TECHNOLOGICAL AND SAFETY STANDARDS**

#### **SECTION 4.1 - SYSTEM MAINTENANCE**

(a) In installing, operating and maintaining equipment, cable and wires, 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 of general applicability, codes and regulations, including but not limited to OSHA regulations, the Massachusetts Electrical Code, the National Electrical Safety Code, the National Electrical Code, and the rules and regulations of the FCC, the rules and regulations of the DTC, any other applicable Massachusetts laws and regulations, generally applicable Town bylaws and regulations, and all applicable land use restrictions as the same exist or as 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. 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.

#### **SECTION 4.2 - REPAIRS AND RESTORATION**

Whenever 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 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 Licensee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of 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 Licensee upon written demand by the Issuing Authority. However, prior to such repair or restoration the Town should submit a written estimate to Licensee of the actual cost of said repair or restoration.

#### **SECTION 4.3 – UNDERGROUND FACILITIES**

(a) In the areas of the Town in which telephone lines and electric utility lines are currently, or in the future specified to be, underground, whether required by law or not, all of the Licensee's lines, cables and wires shall be underground. At such time as these facilities are placed underground by the telephone and electric utility companies, the Licensee shall likewise place its facilities underground at no cost to the Town.

(b) Pursuant to Section 4.3(a) above, underground cable lines shall be placed beneath the pavement sub-grade in compliance with applicable Town by-laws, rules, regulations and/or standards. It is the policy of the Town that existing poles for electric and communication purposes be utilized wherever possible and that underground installation is preferable to the placement of additional poles.

(c) Except as provided for in paragraph (a) herein, in the event that the Licensee is required to place existing aerial plant underground, the Licensee reserves its right to pass those costs through to Subscribers if and to the extent allowed by applicable law. In the event the Town develops an undergrounding project for which it plans to utilize Town funds to reimburse utilities for the cost of said undergrounding, it shall notify the Licensee of such and discuss with the Licensee how the Licensee may be eligible for such funding consistent with equitable principles and applicable law.

(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**

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 Licensee, in accordance with M.G.L. c. 87 and any Town bylaws and regulations.

#### **SECTION 4.5 – STRAND MAPS**

Upon written request, the Licensee shall file with the Issuing Authority strand maps of the Cable System plant installed. Upon written request said strand maps shall also be provided in electronic format if they exist in said electronic format. The Licensee shall not be required to provide a particular type of electronic format which is different from the electronic format the Licensee maintains.

#### **SECTION 4.6 - BUILDING MOVES**

(a) In accordance with applicable laws, Licensee shall, 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). Licensee shall be given not less than thirty (30) days advance written notice to arrange for such temporary wire changes. The cost to raise or lower wires shall be borne by the Person(s) holding the building move permit, unless otherwise required by applicable law or regulation.

#### **SECTION 4.7 - DIG SAFE**

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

#### **SECTION 4.8 - DISCONNECTION AND RELOCATION**

(a) 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) Licensee shall have the right to seek reimbursement under any applicable 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 Town 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.

(b) The Licensee shall have the right to seek reimbursement under any applicable government program for reimbursement.

#### **SECTION 4.10 – REMOVAL AND RELOCATION**

The Issuing Authority shall have the power at any time to order and require the Licensee to remove or relocate any pole, wire, cable or other structure owned by the Licensee that is dangerous to life or property. In the event that the Licensee, after notice, fails or refuses to act within a reasonable time, the Issuing Authority shall have the power to remove or relocate the same at the sole cost and expense of the Licensee. In such event, the Licensee shall reimburse the Issuing Authority the cost and expense of such removal within thirty (30) days of submission of a bill thereof.

#### **SECTION 4.11 RIGHT TO INSPECTION**

The Issuing Authority and/or its designee(s) shall have the right, at its sole cost and expense, to inspect the plant and equipment of the Licensee in the Town at reasonable times and under reasonable circumstances for the purpose of determining compliance with the requirements of this License. The Licensee shall fully cooperate in such inspections; provided, however, that such inspections are reasonable and do not interfere with the operation or the performance of the facilities of the Cable System, and that such inspections are conducted after reasonable written notice to the Licensee. The Licensee shall have a representative present during such inspections.

#### **SECTION 4.12 – PRIVATE PROPERTY**

The Licensee shall be subject to all laws, by-laws and/or regulations regarding private property in the course of constructing, upgrading, installing, operating and maintaining the Cable Television System in the Town. The Licensee shall at its sole cost and expense, promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, installation, operation or maintenance of the Cable System.

#### **SECTION 4.13 – PEDESTALS**

In any cases in which pedestals housing active and passive devices are to be utilized, in Town Public Ways or within the Town public lay-out, such equipment must be installed in accordance with applicable Town, regulations and/or by-laws.

#### **SECTION 4.14 – SERVICE INTERRUPTIONS**

Except where there exists an emergency situation necessitating a more expeditious procedure, the Licensee may interrupt Service for the purpose of non-routine repairing, constructing or testing the Cable Television System only during periods of minimum use and, when practical, only after a minimum of forty-eight (48) hours' notice to all affected Subscribers.

## **ARTICLE 5 PROGRAMMING**

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

Licensee shall make available a Basic Cable Service tier to all Subscribers in the Town pursuant to applicable statute or regulation.

### **SECTION 5.2 - PROGRAMMING**

(a) Pursuant to 47 U.S.C. 544, Licensee shall maintain the mix, quality and broad categories of Video Programming as set forth in **Exhibit 5.2**. Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of 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. (See Exhibit 9.4)

### **SECTION 5.3 - REMOTE CONTROLS**

Licensee shall allow Subscribers to purchase remote control devices which are compatible with the converter installed by Licensee, if any, and allow the use of remotes. 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 and cablecast signals that are transmitted to 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 (Section 612 of the Cable Act), Licensee shall make available channel capacity for commercial use by persons unaffiliated with Licensee. Rates for use of commercial access channels shall be negotiated between Licensee and the commercial user in accordance with federal law.

#### **SECTION 5.6 – CONTINUITY OF SERVICES**

It shall be the right of all Subscribers to receive Cable Service insofar as Subscribers honor their financial and other obligations to the Licensee; provided, however, that the Licensee shall have no obligation to provide Cable Service to any Person who or which the Licensee has a reasonable basis to believe is utilizing an unauthorized converter and/or is otherwise obtaining any Cable Service without required payment thereof. The Licensee shall ensure that all Subscribers receive continuous, uninterrupted Cable Service, except for necessary Cable Service interruptions or as a result of Cable System or equipment failures. When necessary, if non-routine Cable Service interruptions can be anticipated, the Licensee shall notify Subscribers of such interruption(s) in advance if practical.

#### **SECTION 5.7 – COMMERCIAL ESTABLISHMENTS**

The Licensee shall make Cable Service available to any commercial establishments in the Town provided that said establishment(s) agrees to pay for installation, any required line extension, and monthly subscription costs as established by the Licensee.

**ARTICLE 6**  
**PEG ACCESS CHANNELS AND SUPPORT**

**SECTION 6.1 - PEG ACCESS CHANNELS**

(a) Use of a Cable System video channel 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 or other interest 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. The PEG Access channels shall, other than provided in Section 6.1(c) below, be used exclusively as and/or for PEG Access channels and PEG Access Programming. The Licensee shall not exercise editorial control over any public, educational, or governmental use of channel capacity except Licensee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity pursuant to Section 611 of the Cable Act, to the extent allowed by applicable law. The Issuing Authority and/or its designee shall be responsible for developing, implementing, interpreting and enforcing rules for the PEG Access Channel and PEG Access operations in accordance with applicable law. The PEG Channels shall be provided on the Basic Cable Service tier to the extent said tier is required pursuant to applicable law or regulations or otherwise provided by the Licensee.

(b) Licensee shall make available two (2) Public, Educational, and Government (“PEG”) Access Channels in Standard Definition format to be used for PEG Access programming by the Issuing Authority and/or its PEG Access Designee(s). The Licensee shall provide a third (3<sup>rd</sup>) Standard Definition PEG Access Channel, as may be designated in writing by the Issuing Authority, within one hundred and twenty (120) days of such written designation by the Issuing Authority.

(c) In the event the Issuing Authority, its designee(s) or other PEG Access User elects not to program a PEG Access Channel for a period of one hundred twenty (120) days or more, the Licensee may thereafter use such channel capacity that is not being used for PEG Access purposes, subject to the right of the Issuing Authority to reclaim said channel capacity for its PEG Access use or the PEG Access use of its designee(s) or other Access Users.

(d) Said PEG Access Channels shall be used to transmit PEG Access Programming to Subscribers without charge to the Town, the public schools, the PEG Access Designee, any organizations serving the Town and/or PEG Access users.

(e) The PEG Access Channels may not be used to cablecast for-profit or commercial programs in any fashion.

(f) The Licensee shall monitor the PEG Access Channels for technical quality consistent with the FCC Technical Standards and shall ensure that they are maintained at standards commensurate with those which apply to the Cable System's commercial channels. However, the Licensee is not responsible for the production quality of PEG Access Programming productions.

(g) There shall be no charges by the Licensee to the Town, the Issuing Authority, the Access Provider or Access Users for the Access Channels.

## **SECTION 6.2 – PEG ACCESS PROVIDER**

(a) The Access Provider shall provide services to PEG Access users and the Town as follows:

- (1) Schedule, operate and program the PEG Access channels provided in accordance with Section 6.1, above;
- (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 6.5 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, outreach, referral and other support services to PEG Access users, members, volunteers and community;
- (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 downstream PEG Access Channels, all PEG Access Programming originating or aggregated during the term of this Renewal License at the PEG Access Studio, 113 Padelford Street (hereinafter also referred to as the "Video Return Line Building") shall be transmitted to the Licensee's Headend or hub-site on a Licensee-provided and owned fiber-based video return line continued to be made available by the Licensee without charge to the Town and/or Access Provider for their use. At Licensee-owned Headend or hub-site, said PEG Access Programming shall be retransmitted in the downstream direction on the appropriate Licensee-owned Subscriber Network downstream PEG Access Channel.

(b) The Licensee shall continue to connect the Berkley Town Hall (1 North Main Street) to the above referenced Video Return Line Building by a fiber-based video return line in order that the Town and/or its Access Provider can transmit PEG Access Programming from the Town Hall to the PEG Access Studio at the Video Return Line Building, for transmission therefrom to the shall be transmitted to the Licensee's Headend or hub-site as set out in Section 6.3(a) above, without charge to the Town and/or Access Provider for their use.

(c) The Licensee shall, within eighteen (18) months of the Effective Date purchase, install and operate standard definition serial digital interface (SD/SDI) equipment at the PEG Access video return hub located (PEG Access Studio, 113 Padelford Street) for each of the two (2) Standard Definition (SD) PEG Access. Said equipment shall be used for transport of the PEG Access Programming signal(s) to Comcast's headend facility as set out in Section 6.3(a) above, to enable the Issuing Authority, its designee(s) and/or the Access Provider to cablecast their PEG Access Programming over the Subscriber Network PEG Access Downstream Channels, pursuant to Section 6.3(a) above. The costs for the SD/SDI upgrade may be passed through by the Licensee to Subscribers to the extent allowed by applicable law and regulations. The Licensee shall own, maintain and repair and/or, if necessary, replace, said equipment for the entire term of this Renewal License.

(d) The Licensee shall be responsible for all necessary inspections and performance tests of the video return lines in accordance with applicable law and regulation for a Cable System. The Licensee shall provide, maintain, operate and repair all equipment necessary to receive and transmit PEG Access programming and PEG Access Channels as described in Section 6.3 above, including necessary transmission, switching and/or processing equipment located at its hub-site and/or Headend in order to switch upstream signals carrying PEG Access Programming from the PEG Access video return hub to the designated Licensee-owned Subscriber Network downstream PEG Access Channel.

(e) The demarcation point between Licensee's equipment and the Town's and/or Access Provider's equipment shall with respect to the PEG Access Channels be at the input of the Licensee owned equipment used for video signal transport at the Video Return Line Building referenced in Exhibit 6.3. The Licensee shall own, maintain, repair and/or, if necessary, replace said video signal transport equipment.

(f) The Issuing Authority shall have the right, at its own cost or that of the PEG Access Designee, as determined by the Issuing Authority, to construct and install PEG Access video return lines ("Town Video Return Lines") from other Public Buildings and/or PEG Access facilities or location in the Town to the PEG Access Video Return Line Building (Hub) referenced in Exhibit 6.3 as long as said Town Video Return Lines are compatible with Licensee's video return and Cable System. The Issuing Authority or its PEG Access Designee, as determined by the Issuing Authority, shall be responsible for said Town Video Return Line terminations and any necessary equipment to provide for terminations, patching and interconnects to the PEG Access Video Return Line Building. The PEG Access programming so aggregated at the PEG Access Video Return Line Building shall be transmitted to the Licensee's Headend or hub-site pursuant to the then applicable transmission process as set out in this Section 6.3 above, and then switched by the Licensee to the designated Licensee-owned Subscriber Network downstream PEG Access Channel. The Issuing Authority or its PEG Access Designee, as determined by the Issuing Authority, shall be responsible for



maintaining, operating and repairing the Town Video Return Lines, if any. The Licensee shall continue to be responsible for maintaining, operating and repairing all other parts of the video return and cablecasting as set out in the above subparagraphs of this Section 6.3.

(g) There shall be no charge to the Town, its Issuing Authority, the Access Provider or Access users for the provision of PEG Access origination, video return or cablecasting, as required by or provider pursuant to this Section 6.3.

(h) The Licensee and the Issuing Authority shall work together in good faith with respect to any difficulties that arise regarding the transmission, switching and/or cablecasting of PEG Access Programming, pursuant to this Section 6.3.

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

(a) The Licensee shall provide payments to the Issuing Authority and/or its PEG Access Designee for Public, Educational and Government Access and cable-related purposes in an amount equal to five percent (5.00%) of Gross Annual Revenues, less applicable License Fees payments to the Town and State only pursuant to M.G.L. c. 166A, sec. 9 (the “PEG Access Annual Support”). Said payments shall be made as provided herein on the following quarterly basis: (i) on or before May 15<sup>th</sup> of each year of this Renewal License for the previous three (3) month period of January, February and March; (ii) on or before August 15<sup>th</sup> of each year of this Renewal License for the previous three (3) month period of April, May and June; (iii) on or before November 15<sup>th</sup> of each year for the previous three (3) month period of July, August and September; and (iv) on or before February 15<sup>th</sup> of each year for the previous three (3) month period of October, November and December. The first five percent (5.00%) quarterly payment shall be made on or before February 15, 2022 for the period from the Effective Date through December 31, 2021. The final such five percent (5.00%) payment shall be made on or before November 15, 2031 for the previous period from July 1, 2031 through September 30, 2031.

(b) The Licensee shall file with each of the payments pursuant to this Section 6.4, a statement certified by a duly authorized financial representative of the Licensee documenting, in reasonable detail, the Gross Annual Revenue as defined in Section 1.1(p), for each three (3) month

reporting period. Said statement shall list general categories comprising Gross Annual Revenues as defined in Section 1.1(p).

(c) In the event that payments required to be made herein by the Licensee are not tendered on or before the dates fixed herein, interest due on such required payments shall accrue and be paid to the Issuing Authority or its designee from the date due at the rate of two percent (2%) above the Prime Rate.

#### **SECTION 6.5– PEG ACCESS CAPITAL FUNDING**

(a) The Licensee shall provide capital funding to the Issuing Authority or its Access Designee for capital costs for public, educational or governmental (PEG) access facilities (the “PEG Access Capital Funding”) in the amount of Ninety-One Thousand Dollars (\$91,000) on or before the below referenced dates, as follows:

November 1, 2021:	\$9,100
November 1, 2022:	\$9,100
November 1, 2023:	\$9,100
November 1, 2024:	\$9,100
November 1, 2025:	\$9,100
November 1, 2026:	\$9,100
November 1, 2027:	\$9,100
November 1, 2028:	\$9,100
November 1, 2029:	\$9,100
November 1, 2030:	\$9,100

(b) The Town and/or its Access Designee shall own all PEG Access facilities and equipment purchased with the PEG Access Capital Funding provided pursuant to this Section 6.5. The Licensee shall have no obligation for maintenance, repair or replacement of such PEG Access facilities and equipment.

(c) The PEG Access Capital Funding provided herein by the Licensee shall not be counted toward: (i) the PEG Access Annual Support provided by the Licensee pursuant to Section 6.4 above; or (ii) the License Fee payment payable pursuant to Section 7.1 below.

(d) In the event that payments required to be made herein by the Licensee are not tendered on or before the dates fixed herein, interest due on such required payments shall accrue and be paid to the Issuing Authority or its designee from the date due at the rate of two percent (2%) above the Prime Rate. Any payment pursuant to this Section 6.5(d) shall be within the exclusion to the term “franchise fee” for requirements incidental to enforcing the Renewal License pursuant to Section 622(g)(2)(D) of the Cable Act.

#### **SECTION 6.6 - NON-COMMERCIAL PROGRAMMING**

The Issuing Authority and its designee(s) shall not use the designated PEG access channels, equipment, or other facilities to provide for-profit commercial Programming. Nothing in this Section 6.6 shall prohibit the Issuing Authority or its designee from having memberships, sponsorships, underwriting or acknowledgements (such as the underwriting and acknowledgments displayed by the Public Broadcasting System), to the extent not otherwise prohibited by applicable law or regulations.

#### **SECTION 6.7 – INTERCONNECTION WITH COMPETING CABLE LICENSE**

In the event a cable license is issued by the Issuing Authority to a competing Licensee, the Issuing Authority shall not authorize or require the competing licensee to connect its facilities or cable system to Licensee’s current Cable System for purposes of obtaining PEG Access Programming from the Licensee’s PEG access channels without the prior written consent of Licensee.

**ARTICLE 7**  
**FRANCHISE FEES AND LICENSE FEES**

**SECTION 7.1 – LICENSE FEE PAYMENTS**

(a) Pursuant to Massachusetts General Laws Chapter 166A, Section 9, the Licensee shall pay to the Town, throughout the term of this Renewal License, a License Fee equal to fifty cents (\$.50) per Subscriber per year, or such other amount as may in the future be allowed pursuant to State and/or federal law. The number of Subscribers, for purposes of this Section 7.1, shall be calculated in compliance with applicable law(s).

**SECTION 7.2 – FRANCHISE FEE**

In accordance with Section 622(b) of the Cable Act, the Licensee shall not be liable for a total Franchise Fee pursuant to this Renewal License and applicable law in excess of five percent (5%) of Gross Annual Revenues. Said five percent (5%) shall include the following: (i) the PEG Access Annual Support pursuant to Section 6.4, above; and (ii) any License Fee(s) that may be payable to the Town and to the State pursuant to Massachusetts General Laws Chapter 166A, Section 9, and Section 7.1 above, provided, however, that said five percent (5%) shall not include the PEG Access Capital Funding pursuant to Section 6.5 above and any other exclusions to the definition of Franchise Fee provided in Section 622(g)(2) of the Cable Act.

**SECTION 7.3 – PAYMENT**

Pursuant to M.G.L. Chapter 166A, Section 9, the License Fees shall be paid annually to the Town throughout the term of this Renewal License, no later than March 15th of each year, unless provided for otherwise under applicable law.

**SECTION 7.4 – OTHER PAYMENT OBLIGATIONS AND EXCLUSIONS**

(a) The Franchise Fee and License Fee payments shall be in addition to and shall not constitute an offset or credit against any and all taxes or other fees or charges of general applicability which Licensee or any Affiliated Person shall be required to pay to the Town, or to any State or federal agency or authority, as required herein or by law; the payment of said taxes,

fees or charges shall not constitute a credit or offset against the Franchise Fee and License Fee payments which shall be a separate and distinct obligation of the Licensee and each Affiliated Person. The Licensee herein agrees that no such taxes, fees or charges of general applicability shall be used as offsets or credits against the Franchise Fee or Franchise Fee payments.

(b) In accordance with Section 622(h) of the Cable Act, nothing in the Cable Act or this Renewal License shall be construed to limit the authority of the Issuing Authority to impose a tax, fee or other assessment of any kind on any Person (other than the Licensee) with respect to Cable Service provided by such Person over the Cable System for which charges are assessed to Subscribers but not received by the Licensee. For any twelve (12) month period, the fees paid by such Person with respect to any such Cable Service or any other communications service shall not exceed five percent (5%) of such Person's gross revenues derived in such period from the provision of such service over the Cable System.

#### **SECTION 7.5 – LATE PAYMENT**

In the event that the payments required pursuant to this Article 7 are not tendered to the Town on or before the dates fixed herein by or pursuant to Section 7.3 above or applicable law, interest due on such fee payment shall accrue from the date due at the rate of two percent (2%) above the Prime Rate. Any payment pursuant to this Section 7.5 shall be within the exclusion to the term "franchise fee" for requirements incidental to enforcing the Renewal License pursuant to Section 622(g)(2)(D) of the Cable Act.

#### **SECTION 7.6 – RECOMPUTATION**

(a) Tender or acceptance of any payment, including any payment of a Franchise Fee or License Fee or any payment required in Article 6 of this Renewal License shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority may have for additional sums including interest payable under Article 6 or Article 7. All amounts paid shall be subject to audit and recomputation by the Issuing Authority, which shall commence in no event later than two (2) years after the subject payment has been tendered.

(b) If the Issuing Authority has reason to believe that any such payments are incorrect, the Licensee shall have thirty (30) business days after a written request from the Issuing Authority

to provide the Town with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Issuing Authority does not believe that such documentation supports the accuracy of such payment(s), the Issuing Authority may conduct an audit of such payment(s). If, after such audit and recomputation, an additional Franchise Fee, License Fee or any payment required in Article 6 of this Renewal License is owed to the Town, the Licensee shall pay said amount, plus interest, to the Town or its designated Access Provider within thirty (30) days after such audit and recomputation. The interest on such additional fee shall be charged from the due date at two percent (2%) above the Prime Rate during the period that such additional amount is owed.

#### **SECTION 7.7 – AFFILIATES USE OF SYSTEM**

Use of the Cable System by Affiliates shall be in compliance with applicable State and/or federal laws, and shall not detract from the provisions of this Renewal License.

#### **SECTION 7.8 – METHOD OF PAYMENT**

All License Fee payments by the Licensee to the Town pursuant to this Renewal License shall be made payable to the Town and provided to the Issuing Authority, unless the Licensee is otherwise notified in writing by the Issuing Authority.

## **ARTICLE 8**

### **RATES AND CHARGES**

#### **SECTION 8.1 - RATES AND CHARGES**

(a) All rates, fees, charges, deposits and associated terms and conditions to be imposed by Licensee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations. Before any new or modified rate, fee, or charge is imposed, 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.

(b) In accordance with applicable laws and regulations, the Licensee shall file with the Issuing Authority schedules which shall describe all Cable Service offered by the Licensee, all rates and charges of any kind, and all terms or conditions relating thereto, including any changes thereto.

(c) At the time of initial solicitation or installation of Cable Service, the Licensee shall also provide each Subscriber with a detailed explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate cable service. Subscribers shall have at least thirty (30) days prior to the Effective Date of any rate increase to either downgrade service or terminate service altogether without any charge. Change of service policies shall be in compliance with 207 CMR 10.00 et seq.

(d) 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.

#### **SECTION 8.2 – RATE REGULATION**

The Town reserves the right to regulate the Licensee's rates and charges to the extent allowable under State and federal laws.

#### **SECTION 8.3 – CREDIT FOR SERVICE INTERRUPTION**

In accordance with applicable law, in the event that Service to any Subscriber is interrupted for twenty-four (24) or more consecutive hours, the Licensee shall grant such Subscriber a pro rata credit or rebate.

## **ARTICLE 9**

### **CUSTOMER SERVICE, SUBSCRIBER RIGHTS AND CONSUMER PROTECTION**

#### **SECTION 9.1 – CUSTOMER SERVICE CALL CENTER**

(a) Licensee shall maintain and operate its customer services call center twenty-four (24) hours a day, seven (7) days a week, including holidays. The Licensee reserves the right to modify its business operations with regard to such customer service call center. The Licensee shall comply with all State and federal requirements pertaining to the hours of operation of such customer service call center.

(b) The Licensee's main customer service call center shall have a publicly listed local or toll-free telephone number for Berkley Subscribers, unless required otherwise by applicable law.

(c) Pursuant to 47 C.F.R. §76.309(c)(1)(B), under normal operating conditions (as defined in §76.309(c)(4)(ii) telephone answer time by a customer service representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. Said standard shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

(d) Pursuant to 47 C.F.R. §76.309(c)(1)(B), a Subscriber shall receive a busy signal less than three (3%) of the time, measured on a quarterly basis, under normal operating conditions.

#### **SECTION 9.2 – INSTALLATION VISITS-SERVICE CALLS-RESPONSE TIME**

(a) The Licensee shall respond to all requests for aerial installation(s) within seven (7) business days of such request, or at such other time as is mutually agreed-upon by the Licensee and said Subscriber. Underground installation shall be completed as expeditiously as practicable, weather permitting. If arranging appointments for installation, the Licensee shall specify in advance whether such will occur in the morning or afternoon, or a narrower interval, if possible, and the Licensee shall make reasonable efforts to install at times convenient to Subscribers (including times other than (9:00 a.m. to 5:00 p.m. weekdays).

(b) A Subscriber complaint or request for service received after Normal Business Hours shall be acted upon the next business day.



(c) The Licensee shall ensure that there are stand-by technicians on-call at all times after Normal Business Hours. The answering service shall be required to notify the stand-by technician(s) of (i) any emergency situations; and/or (ii) an outage as described in section 9.2 (d) below.

(d) System outages shall be responded to promptly, twenty-four (24) hours a day by technical personnel. For purposes of this section, an outage shall be considered to occur when three (3) or more calls are received from any one neighborhood, concerning such an outage, or when the Licensee has reason to know of such an outage.

(e) The Licensee shall remove all Subscriber Drop Cables, within twenty-one (21) days of receiving a request from a Subscriber to do so.

### **SECTION 9.3 – FCC CUSTOMER SERVICE OBLIGATIONS**

The Licensee shall comply with the FCC's Customer Service Obligations, codified at 47 U.S.C. Section 76.309, as may be amended from time to time, which standards are attached hereto, and made a part hereof, as **Exhibit 9.3**.

### **SECTION 9.4 – BUSINESS PRACTICE STANDARDS**

The Licensee shall provide the Issuing Authority and all of its Subscribers with the following information in accordance with 207 CMR 10.00 et seq., attached hereto as **Exhibit 9.4**, as the same may exist or be amended from time to time:

- (i) Notification of its Billing Practices;
- (ii) Notification of Service, Rates and Charges;
- (iii) Form of Bill;
- (iv) Advance Billing, Issuance of Bills;
- (v) Billing Due Dates, Delinquency, Late Charges and Termination of Service;
- (vi) Charges for Disconnection or Downgrading of Service;
- (vii) Billing Disputes; and
- (viii) Security Deposits.

## **SECTION 9.5 – COMPLAINT RESOLUTION PROCEDURES**

- (a) The Licensee shall establish a procedure for resolution of complaints by Subscribers.
- (b) Upon reasonable notice, the Licensee shall expeditiously investigate and resolve all complaints regarding the quality of Cable Service, equipment malfunctions and similar matters. In the event that a Subscriber is aggrieved, the Issuing Authority or its designee(s) shall be responsible for receiving and acting upon such Subscriber complaints and/or inquiries, as follows:
  - (i) Upon the written request of the Issuing Authority or its designee(s), and subject to applicable privacy laws, the Licensee shall, within fourteen (14) business days after receiving such request, send a written report to the Issuing Authority with respect to any complaint. Such report shall provide a full explanation of the investigation, finding and corrective steps taken by the Licensee.
  - (ii) Should a Subscriber have an unresolved complaint regarding cable television operations, the Subscriber shall be entitled to file his or her complaint with the Issuing Authority or its designee(s), who shall have primary responsibility for the continuing administration of this Renewal License and the implementation of complaint procedures. Thereafter, if the Subscriber chooses to participate in further processing of the complaint, the Subscriber shall meet jointly with the Issuing Authority or its designee(s) and an authorized representative of the Licensee, within thirty (30) days of the Subscriber's filing of his or her complaint, in order to fully discuss and resolve such matter.
- (c) Notwithstanding the foregoing, if the Issuing Authority or its designee(s) determines it to be in the public interest, the Issuing Authority or its designee(s) may investigate multiple complaints or disputes brought by Subscribers arising from the operations of the Licensee.
- (d) In the event that the Issuing Authority or its designee(s) finds a pattern of multiple unresolved Subscriber complaints, the Issuing Authority or its designee(s) and the Licensee shall discuss, in good faith, possible amendments to the Licensee's procedures for the resolution of complaints.

## **SECTION 9.6 – EMPLOYEE IDENTIFICATION CARDS**

All of the Licensee's employees and/or contractor's entering upon private property, in connection with the construction, installation, maintenance and/or operation of the Cable System, including repair and sales personnel, shall be required to visibly display an employee or contractor

identification card issued by the Licensee or contractor, respectively, and bearing a picture of said employee or contractor.

#### **SECTION 9.7 – PROTECTION OF SUBSCRIBER PRIVACY**

(a) The Licensee shall comply with all applicable federal and State laws and regulations regarding privacy, monitoring, information with respect to Cable Service viewing habits, subscription information or decisions, and the distribution thereof, including, but not limited to the provisions of Section 631 of the Cable Act (47 U.S.C. 551), as may be amended.

(b) The Licensee shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy.

#### **SECTION 9.8 – RESPECT FOR PRIVATE PROPERTY**

Nothing herein shall be construed as authorizing access or entry onto private property, or any other property by the Licensee, where such right to access or entry is not otherwise provided by law, the Subscriber Services Agreement or this License.

## **ARTICLE 10**

### **INSURANCE AND BONDS**

#### **SECTION 10.1 – INSURANCE**

At all times during the term of the Renewal License, including the time for removal of facilities provided for herein, the Licensee shall obtain, pay all premiums for, and file with the Issuing Authority, as obtained and renewed, copies of the certificates of insurance for the following policies:

(a) A commercial general liability insurance policy, written on an occurrence basis, naming the Town, its officers, boards, commissions, committees, agent and employees as additional insureds on all claims on account of injury to or death of a person or persons occasioned by the construction, installation, maintenance, operation or removal of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000). The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for personal injury, broad form property damage, products and completed operations liability, independent contractor's liability, coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

(b) Automobile liability insurance for owned automobiles and trucks, non-owned automobiles and trucks and/or rented automobiles and trucks in the amount of One Million Dollars (\$1,000,000) combined single limit for bodily injury and consequent death and property damage per occurrence;

(c) Workers Compensation in the minimum amount of the statutory limit.

(d) The Licensee shall carry excess liability, written on an occurrence basis, in the minimum amount of Five Million Dollars (\$5,000,000) umbrella form over all other insurance required by this Section 10.1.

(e) The following conditions shall apply to the insurance policies required herein:

(i) Such insurance shall commence no later than the Effective Date of the Renewal License.

(ii) Such insurance shall be primary with respect to any insurance maintained by the Town and shall not call on the Town's insurance for contributions.

(iii) Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in the State.

(iv) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those required herein.

(v) The Licensee's failure to obtain, to procure or maintain the required insurance shall constitute a material breach of the Renewal License under which the Town may immediately suspend operations under the Renewal License.

(vi) The Licensee shall be responsible for all deductibles.

(vii) The Town, its Issuing Authority, other officials, and employees shall be named as "additional insureds" on all required liability insurance policies.

(viii) Neither this Section 10.1, nor the provision of insurance or insurance proceeds pursuant to this Section 10.1, shall limit the liability of the Licensee pursuant to this Renewal License.

(ix) The Licensee shall provide the Issuing Authority with certificate(s) of insurance for all policies required herein upon expiration of the policies. The Licensee shall timely notify the Issuing Authority in the event of cancellation or reduction in the coverage amount. Said notice may be by electronic mail (e-mail).

## **SECTION 10.2 – PERFORMANCE BOND**

(a) The Licensee shall maintain, without charge to the Town, throughout the term of the Renewal License, a faithful performance bond running to the Town and in a form satisfactory to the Issuing Authority (however, the Issuing Authority shall not unreasonably deem a bond's form to be unsatisfactory), with good and sufficient surety licensed to do business in the Commonwealth of Massachusetts in the sum of Thirty Thousand Dollars (\$30,000). Said bond shall be upon the terms and conditions specified in M.G.L. 166A § 5(K) and the faithful performance and discharge of all obligations imposed by the Renewal License, subject to the provisions of 12.1 and 12.2 below.

(b) The performance bond shall be effective throughout the term of this Renewal License, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that the Licensee shall fail to comply with any one or more provisions of this

Renewal License, the Town shall recover from the surety of such bond all damages suffered by the Town as a result thereof, pursuant to the provisions of Sections 12.1 below.

(c) Said bond shall be a continuing obligation of the Renewal License, and thereafter until the Licensee has satisfied all of its obligations to the Town pursuant to the terms and conditions of such bond. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the sum of Thirty Thousand Dollars (\$30,000) required herein. Neither this section, nor any bond accepted pursuant thereto, nor any damages recovered there under shall limit the liability of the Licensee under the Renewal License.

(d) The performance bond required herein shall contain an explicit endorsement stating that such performance bond is intended to cover the liability assumed by the Licensee under the terms of the Renewal License. The Licensee shall timely notify the Issuing Authority in the event of cancellation, material change or reduction in the coverage amount of the performance bond. Said notice may be by electronic mail (e-mail).

### **SECTION 10.3 – INDEMNIFICATION**

The Licensee shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, commissions, committees, agents and/or employees against all claims for damage due to the acts and/or omissions of the Licensee, its employees, officers, contractors and subcontractors, or agents arising out of the construction, installation, maintenance, operation, and/or removal of the Cable Television System under this Renewal License, including without limitation, property damage or personal injury (including accidental death) that arise out of Licensee's construction, operation, maintenance or removal of the Cable System. Indemnified expenses shall include reasonable attorneys' fees and costs incurred from the time the Licensee receives written notice of its obligation to indemnify hold harmless and defend the Town for a specific claim up to such time that the Licensee assumes defense of any action hereunder. The Issuing Authority shall give the Licensee timely written notice of its obligation to indemnify, hold harmless and defend the Town after receipt of a claim for which indemnification is sought. The Licensee is not required to indemnify the Town for attorney fees and costs incurred prior to the above referenced written notice being provided to the Licensee. In the event of a legal action, the Issuing Authority or its designee shall promptly forward a copy of the legal complaint served upon the Town.

**ARTICLE 11  
ADMINISTRATION AND REGULATION**

**SECTION 11.1 – REGULATORY AUTHORITY**

The Issuing Authority and/or its designee(s) shall have authority for the day to day regulation of the Cable System. The Issuing Authority and/or its designee(s) shall monitor and enforce the Licensee's compliance with the terms and conditions of this Renewal License.

**SECTION 11.2 – PERFORMANCE EVALUATION HEARINGS**

The Licensee, if requested in writing by the Issuing Authority, shall attend a performance evaluation hearing no more than once per year. Nothing in this Section 11.2 shall limit any rights that the Issuing Authority may have to conduct additional hearings and/or the Licensee's attendance at such hearing. The Issuing Authority shall provide Licensee with the results of its performance evaluation in writing within sixty (60) days after the conclusion of such hearing.

**SECTION 11.3 – NONDISCRIMINATION**

The Licensee shall not discriminate against any Person in its solicitation or Service on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the Town, sex, sexual orientation, disability, age, marital status, or status with regard to public assistance. The Licensee shall be subject to all other requirements of federal and State laws or regulations, relating to nondiscrimination through the term of the Renewal License.

**SECTION 11.4 – JURISDICTION/VENUE**

Jurisdiction and venue over any dispute, action or suit shall be in any court of appropriate venue and subject matter jurisdiction located in the Commonwealth of Massachusetts and the parties by the 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.

## **ARTICLE 12**

### **DETERMINATION OF BREACH - LICENSE REVOCATION**

#### **SECTION 12.1 - 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 in the reasonable opinion of the Issuing Authority 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 thirty (30) 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 thirty (30) 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 forty-five (45) 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, including, but not limited to:

- (i) seek specific performance of any provision in this Renewal License which reasonably lends itself to such remedy as an alternative to damages;
- (ii) commence an action at law for monetary damages



- (iii) foreclose on all or any appropriate part of the security provided pursuant to Section 10.2 herein;
- (iv) declare the Renewal License to be revoked subject to Section 12.2 below and applicable law; and
- (vi) invoke any other lawful remedy available to the Town.

(e) In the event that the Issuing Authority fails to issue a written determination within forty-five (45) days after the public hearing pursuant to Section 12.1(d) above, then the issue of said default against Licensee by the Issuing Authority shall be considered null and void.

## **SECTION 12.2 – REVOCATION OF THE RENEWAL LICENSE**

To the extent permitted by applicable law and subject to the provisions of Section 12.1 above, in the event that the Licensee fails to comply with any material provision of this Renewal License, the Issuing Authority may revoke the Renewal License granted herein.

## **SECTION 12.3 – NON-EXCLUSIVITY OF REMEDY**

No decision by the Issuing Authority or the Town to invoke any remedy under this Renewal License or under any statute, law or by-law shall preclude the availability of any other such remedy.

## **SECTION 12.4 – NO WAIVER-CUMULATIVE REMEDIES**

(a) No failure on the part of the Issuing Authority, the Town or the Licensee to exercise, and no delay in exercising, any right in this Renewal License shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in this Renewal License.

(b) The rights and remedies provided herein are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Renewal License shall impair any of the rights of the Town or of the Licensee under applicable law, subject in each case to the terms and conditions in this Renewal License.

(c) No waiver of, nor failure to exercise any right or remedy by the Issuing Authority, the Town or the Licensee at any one time shall not affect the exercise of such right or remedy or any other right or remedy by the Town or the Licensee at any other time. In order for any waiver of the Issuing Authority, Town or the Licensee to be effective, it shall be in writing.

(d) The failure of the Issuing Authority or the Town to take any action in the event of any breach by the Licensee shall not be deemed or construed to constitute a waiver of or otherwise affect the right of the Issuing Authority or the Town to take any action permitted by this Renewal License at any other time in the event that such breach has not been cured, or with respect to any other breach by the Licensee.

## **ARTICLE 13**

### **REPORTS, AUDITS AND PERFORMANCE TESTS**

#### **SECTION 13.1 – GENERAL**

(a) Upon the written request of the Issuing Authority, the Licensee shall timely submit to the Town any information which may be reasonably required to establish the Licensee's compliance with its obligations pursuant to the Renewal License.

(b) If the Licensee believes that the documentation requested by the Issuing Authority involves proprietary information, then the Licensee shall submit the information to its counsel, who shall confer with the Town Counsel for a determination of the validity of the Licensee's claim of a proprietary interest. If it is agreed by the parties that such information is proprietary, then any obligation pursuant to Section 13.1(a) is not applicable. In the event of a disagreement the Licensee shall have all rights available under applicable law to challenge or appeal the determination of the Town to the appropriate appellate entities.

#### **SECTION 13.2 – FINANCIAL REPORTS**

(a) Upon written request by the Issuing Authority and in accordance with applicable law, after the end of the Licensee's fiscal year, the Licensee shall furnish the Issuing Authority and/or its designee(s) with the DTC Form 200 showing a balance sheet sworn to by the Licensee's authorized financial representative. Said forms shall contain such financial information as required by State and/or federal law.

(b) The Licensee shall also provide any other reports required by State and/or federal law that are required to be provided to the Issuing Authority.

#### **SECTION 13.3 – CABLE SYSTEM INFORMATION**

Upon written request by the Issuing Authority, the Licensee shall file annually with the Issuing Authority a report of the number of Basic Service Subscribers.

#### **SECTION 13.4 – SUBSCRIBER COMPLAINT REPORTS**

In accordance with the regulations of the DTC, the Licensee shall submit a completed copy of the DTC Form 500, a copy of which is attached hereto as **Exhibit 13.5**, to the Issuing Authority or its designee(s).

#### **SECTION 13.5 – QUALITY OF SERVICE**

Where there exists evidence which, in the reasonable judgment of the Issuing Authority, casts doubt upon the reliability or technical quality of Cable Service(s), the Issuing Authority shall cite specific facts which cast such doubt(s), in a written notice to the Licensee. The Licensee shall submit a written report to the Issuing Authority, within thirty (30) days of receipt of any such notice from the Issuing Authority, setting forth in detail its explanation of the problem(s).

#### **SECTION 13.6 – DUAL FILINGS**

If requested, in writing, the Licensee and the Issuing Authority shall provide to one another copies of any petitions or written communications with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder and subject to Section 12.1 above.

#### **SECTION 13.7 – INVESTIGATION**

Subject to applicable law and regulation, the Licensee and any Affiliated Person(s) shall cooperate fully and faithfully with any lawful investigation, audit or inquiry conducted by a Town governmental agency; provided, however, that any such investigation, audit or inquiry is for the purpose of establishing the Licensee's compliance with its obligations pursuant to this Renewal License.

**ARTICLE 14  
MISCELLANEOUS**

**SECTION 14.1 – 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 14.2 – FORCE MAJEURE**

If for any reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this Renewal 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 beyond the reasonable control of the Licensee or the Town.

**SECTION 14.3 – ACTS OR OMISSIONS OF AFFILIATES**

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

#### **SECTION 14.4 – NOTICES**

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

Town of Berkley  
Attn: Board of Selectmen  
Berkley Town Hall  
1 North Main Street  
Berkley, MA 02780

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

Comcast Cable Communications, Inc.  
Attn: Government Relations  
5 Omni Way  
Chelmsford, MA 01824

with a copy to:

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

(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 14.5 – RENEWAL LICENSE EXHIBITS**

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

#### **SECTION 14.6 – 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 14.7 – 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 14.8 – WARRANTIES**

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 Commonwealth of Massachusetts;
- (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 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 Licensee in accordance with the provisions herein; and
- (d) There is no action or proceedings pending or threatened against Licensee which would interfere with performance of this Renewal License.

#### **SECTION 14.9- INCORPORATION BY REFERENCE**

- (a) All presently and hereafter applicable conditions and requirements of federal, state and generally applicable local laws, including but not limited to M.G.L. c. 166A, and the rules and regulations of the FCC and the DTC, as they may be amended from time to time, are incorporated herein by reference, to the extent not enumerated herein. However, no such general laws, rules,

regulations and codes, as amended, may alter the obligations, 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.

#### **SECTION 14.10 – NO RECOURSE AGAINST THE ISSUING AUTHORITY**

Pursuant to Section 635A(a - d) of the Cable Act, the Licensee shall have no recourse against the Issuing Authority, the Town and/or its officials, boards, commissions, committees, members, agents or employees other than injunctive relief or declaratory relief.

#### **SECTION 14.11 – TOWN'S RIGHT OF INTERVENTION**

The Town hereby reserves to itself, and the Licensee acknowledges, the Town's right, as authorized by applicable law and/or regulation, to intervene in any suit, action or proceeding involving this Renewal License, or any provision in this Renewal License; provided, however, that this Section shall not restrict the right of the Licensee to oppose such intervention, pursuant to applicable law.

#### **SECTION 14.12 – TERM**

All obligations of the Licensee and the Issuing Authority set forth in the Renewal License shall commence upon the Effective Date of this Renewal License and shall continue for the term of the Renewal License, except as expressly provided for otherwise herein.

#### **SECTION 14.13 – APPLICABILITY OF RENEWAL LICENSE**

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

#### **SECTION 14.14 - NO THIRD PARTY BENEFICIARIES**

Nothing in this Renewal License is intended to confer third-party beneficiary status on any member of the public, entity or non-signatory party to enforce the terms of this Renewal License.

**SIGNATURE PAGE FOLLOWS**





**SIGNATURE PAGE**

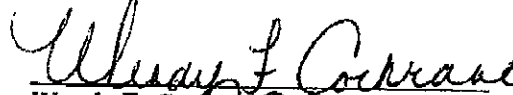
WITNESS OUR HANDS AND OFFICIAL SEAL, THIS 8<sup>th</sup> DAY OF August, 2021.

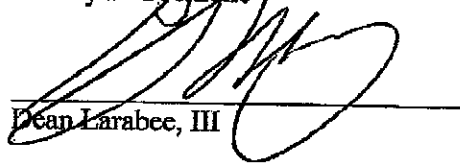
**TOWN OF BERKLEY**

By its:

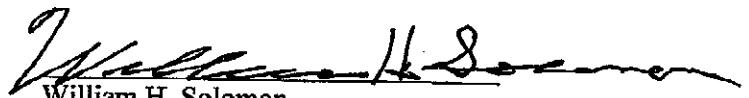
Board of Selectmen

  
George F. Miller, Chairman

  
Wendy F. Cochrane

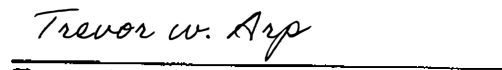
  
Dean Larabee, III

Approved as to legal form:

  
William H. Solomon  
Special Cable Counsel

**COMCAST CABLE COMMUNICATIONS  
MANAGEMENT, LLC**

By:

  
Trevor Arp  
Senior Vice President  
Greater Boston Region



**EXHIBIT 5.2  
PROGRAMMING**

Licensee shall provide the following broad categories of Video Programming:

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

## **EXHIBIT 9.3 FCC CUSTOMER SERVICE OBLIGATIONS**

### **TITLE 47--TELECOMMUNICATION CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION**

#### **PART 76--CABLE TELEVISION SERVICE**

##### **Subpart H--General Operating Requirements**

##### **Sec. 76.309 Customer Service Obligations**

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this Section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards. (b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this Section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this Section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this Section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability--

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering Machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes Known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep

the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that is convenient for the customer.

(3) Communications between cable operators and cable subscribers--

(i) Notifications to subscribers--

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions programming carried on the system; and,
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A) of this Section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

(ii) Billing--

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds--Refund checks will be issued promptly, but no later than either--

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits--Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions--

(i) Normal business hours--The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal operating conditions--The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service interruption--The term "service interruption" means the loss of picture or sound on one or more cable channels.

## **EXHIBIT 9.4**

### **BILLING AND TERMINATION OF SERVICE**

#### **207 CMR 10.00**

##### **10.01: Billing Practices Notice**

- (1) Every cable television operator shall give written notice of its billing practices to potential subscribers before a subscription agreement is reached. Such notice shall include practices relating to the frequency and timing of bills, payment requirements necessary to avoid account delinquency, billing dispute resolution procedures and late payment penalties.
- (2) A copy of the cable television operator's billing practices notice, work order and sample subscriber bill shall be filed by March 15th of each year with the Commission, the issuing authority, and the company's local office, where they shall be available for public inspection. If an operator amends its billing practices notice, work order or subscriber bill after submitting the annual filing, it shall file copies of the amendments with the Commission, the issuing authority and the company's local office.
- (3) At least 30 days prior to implementing a change of one of its billing practices, the cable television operator shall notify in writing the Commission, the issuing authority and all affected subscribers of the change and include a description of the changed practice.
- (4) Statements about billing practices in work orders, marketing, materials and other documents shall be consistent with the billing practices notice.

##### **10.02: Services, Rates and Charges Notice**

- (1) The cable television operator shall give notice of its services, rates and charges to potential subscribers before a subscription agreement is reached.
- (2) At least 30 days prior to implementing an increase in one of its rates or charges or a substantial change in the number or type of programming services, the operator shall notify, in writing, the Commission, the issuing authority and all affected subscribers of the change and include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new programming services provided.
- (3) Every cable television operator shall fully disclose in writing all of its programming services and rates, upon request from a subscriber.
- (4) Every cable television operator shall fully disclose in writing all of its charges for installation, disconnection, downgrades and upgrades, reconnection, additional outlets, and rental, purchase and/or replacement due to damage or theft of equipment or devices used in relation to cable services, upon request from a subscriber.
- (5) Every cable television operator shall provide written notice of the charge, if any, for service visits and under what circumstances such charge will be imposed, upon request from a subscriber.
- (6) A copy of the cable operator's programming services, rates and charges shall be filed by March 15th of each year with the Commission, the issuing authority and the company's local office where it shall be made available for public inspection. If an operator amends its notice after the annual filing, it shall file a copy of the amendment with the Commission, the issuing authority and the company's local office.
- (7) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. This provision, however, shall not preclude the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, or the restructuring or division of existing tiers of service that do not result in a fundamental change in the nature of an existing service or tier of service.

##### **10.03: Form of Bill**

- (1) The bill shall contain the following information in clear, concise and understandable language and format:
  - (a) The name, local address and telephone number of the cable television operator. The telephone number shall be displayed in a conspicuous location on the bill and shall be accompanied by a statement that the subscriber may call this number with any questions or complaints about the bill or to obtain a description of the subscriber's rights under 207 CMR 10.07 in the event of a billing dispute;
  - (b) the period of time over which each chargeable service is billed including prorated periods as a result of establishment and termination of service;
  - (c) the dates on which individually chargeable services were rendered or any applicable credits were applied;
  - (d) separate itemization of each rate or charge levied or credit applied, including, but not be limited to, basic, premium service and equipment charges, as well as any unit, pay-per-view or per item charges;
  - (e) the amount of the bill for the current billing period, separate from any prior balance due;

- (f) The date on which payment is due from the subscriber.
- (2) Cable operators may identify as a separate line item of each regular subscriber bill the following:
  - (a) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to whom the fee is paid;
  - (b) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels;
  - (c) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under 207 CMR 10.03, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.
- (3) All itemized costs shall be direct and verifiable. Each cable operator shall maintain a document in its public file which shall be available upon request, that provides the accounting justification for all itemized costs appearing on the bill.

**10.04: Advance Billing and Issuance of Bill**

- (1) In the absence of a license provision further limiting the period of advance billing, a cable operator may, under uniform nondiscriminatory terms and conditions, require payment not more than two months prior to the last day of a service period.
- (2) A cable subscriber may voluntarily offer and a cable operator may accept advance payments for periods greater than two months.
- (3) Upon request, a cable television operator shall provide subscribers with a written statement of account for each billing period and a final bill at the time of disconnection.

**10.05: Billing Due Dates, Delinquency, Late Charges and Termination of Service**

- (1) Subscriber payment is due on the due date marked on the bill, which shall be a date certain and in no case a statement that the bill is due upon receipt. The due date shall not be less than five business days following the mailing date of the bill.
- (2) A subscriber account shall not be considered delinquent unless payment has not been received by the company at least 30 days after the bill due date.
- (3) The following provisions shall apply to the imposition of late charges on subscribers:
  - (a) A cable television operator shall not impose a late charge on a subscriber unless a subscriber is delinquent, the operator has given the subscriber a written late charge notice in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the date of delinquency to pay the balance due.
  - (b) A charge of not more than 5 percent of the balance due may be imposed as a one-time late charge.
  - (c) No late charge may be assessed on the amount of a bill in dispute.
- (4) A cable television operator shall not terminate a subscriber's service unless the subscriber is delinquent, the cable operator has given the subscriber a separate written notice of termination in a clear and conspicuous manner, and the subscriber has been given at least eight business days from the mailing of the notice of termination to pay the balance due. A notice of termination shall not be mailed to subscribers until after the date of delinquency.
- (5) A cable television operator shall not assess a late charge on a bill or discontinue a subscriber's cable television service solely because of the nonpayment of the disputed portion of a bill during the period established by 207 CMR 10.07 for registration of a complaint with the operator or during the process of a dispute resolution mechanism recognized under 207 CMR 10.07.
- (6) Any charge for returned checks shall be reasonably related to the costs incurred by the cable company in processing such checks.

**10.06: Charges for Disconnection or Downgrading of Service**

- (1) A cable television operator may impose a charge reasonably related to the cost incurred for a downgrade of service, except that no such charge may be imposed when:
  - (a) A subscriber requests total disconnection from cable service; or
  - (b) A subscriber requests the downgrade within the 30 day period following the notice of a rate increase or a substantial change in the number or type of programming services relative to the service (s) in question.
- (2) If a subscriber requests disconnection from cable television service prior to the effective date of an increase in rates, the subscriber shall not be charged the increased rate if the cable television operator fails to disconnect service prior to the effective date. Any subscriber who has paid in advance for the next billing period and who requests disconnection from service shall receive a prorated refund of any amounts paid in advance.



**10.07: Billing Disputes**

- (1) Every cable television operator shall establish procedures for prompt investigation of any billing dispute registered by a subscriber. The procedure shall provide at least 30 days from the due date of the bill for the subscriber to register a complaint. The cable television operator shall notify the subscriber of the result of its investigation and give an explanation for its decision within 30 working days of receipt of the complaint.
- (2) The subscriber shall forfeit any rights under 207 CMR 10.07 if he or she fails to pay the undisputed balance within 30 days.
- (3) Any subscriber in disagreement with the results of the cable television operator's investigation shall promptly inquire about and take advantage of any complaint resolution mechanism, formal or informal, available under the license or through the issuing authority before the Commission may accept a petition filed under 207 CMR 10.07(4).
- (4) The subscriber or the cable television operator may petition the Commission to resolve disputed matters within 30 days of any final action. Final action under 207 CMR 10.07(3) shall be deemed to have occurred 30 days after the filing of a complaint.
- (5) Upon receipt of a petition, the Commission may proceed to resolve the dispute if all parties agree to submit the dispute to the Commission and be bound by the Commission's decision and the Commission obtains a statement signed by the parties indicating that agreement. In resolving the dispute, the Commission may receive either written or oral statements from the parties, and may conduct its own investigation. The Commission shall then issue a decision based on the record and the parties shall receive written notification of the decision and a statement of reasons therefor.

**10.08: Security Deposits**

- (1) A cable operator shall not require from any cable subscriber a security deposit for converters or other equipment in excess of the cost of the equipment.
- (2) The cable operator shall pay interest to the cable subscriber at a rate of 7% per year for any deposit held for six months or more, and such interest shall accrue from the date the deposit is made by the cable subscriber. Interest shall be paid annually by the cable operator to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.
- (3) Within 30 days after the return of the converter or other equipment, the cable operator shall return the security deposit plus any accrued interest to the cable subscriber, either as a direct payment or as a credit to the cable subscriber's account.

**EXHIBIT 13.5**

**FORM 500**

*Please see attached.*

## Form 500 Complaint Data - Paper Filing

City/Town:

Cable Company:

Filing Year:

Address:

Number of Subscribers:

Contact:

Phone:

E-Mail:

Average Resolution Time:

<1> Less than 1 Day, <2> 1-3 Days, <3> 4-7 Days, <4> 8-14 Days, <5> 15-30 Days, <6> > 30 Days

Manner of Resolution:

A. Resolved to the satisfaction of both parties, B. Resolved, customer dissatisfied, C. Not Resolved.

	Total Complaints	Avg. Resolution Time (see code above)	Manner of Resolution (see code key above for the manner represented by the letters below) The number below each letter indicates the number of complaints resolved in that manner.		
			A.	B.	C.
Advertising/Marketing					
Appointment/Service call					
Billing					
Customer Service					
Defective Notice					
Equipment					
Installation					
Reception					
Service Interruption					
Unable to Contact					
Failure to Respond to Original Complaint					
Other:					

[illegible]

