
TOWN OF BERLIN

COMMONWEALTH of MASSACHUSETTS

RENEWAL CABLE TELEVISION LICENSE

GRANTED TO

CHARTER COMMUNICATIONS ENTERTAINMENT I, DST

l/k/a

Charter Communications

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CHARTER FRANCHISE AGREEMENT

This Franchise Agreement is between the Town of Berlin, hereinafter referred to as the “Franchising Authority” and Charter Communications Entertainment I, DST d/b/a Charter Communications, hereinafter referred to as the “Licensee.”

WHEREAS, the Issuing Authority of the Town of Berlin, Massachusetts (“Town”), pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts, as inserted by Chapter 1103 of the Acts of 1971, as amended, is authorized to grant one or more non-exclusive, renewal licenses to construct, upgrade, operate and maintain a Cable Television System within the Town of Berlin and

WHEREAS, the Franchising Authority finds that the Licensee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Licensee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Franchising Authority desires to enter into this Franchise with the Licensee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Franchising Authority and Licensee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, the Franchise Authority and Licensee agree as follows:

1 Definition of Terms

1.1 Terms

For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1. "Cable System," "Cable Service," "Cable Operator" and "Basic Cable Service" shall be defined as set forth in the Cable Act
2. "Board" shall mean the Board of Selectmen, the governing body of the Town of Berlin.
3. "Cable Act" shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
4. Cable Division: The Cable Television Division of the Massachusetts Department of Telecommunications and Energy
5. "Execution date" shall mean the date when Renewal License is executed by both parties.
6. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
7. "Franchise Authority or Issuing Authority" shall mean the Board of Selectmen of Berlin.
8. "Franchise" or "License" shall mean the non-exclusive rights granted pursuant to this franchise to construct and operate a Cable System along the public ways within all or a specified area in the Service Area.
9. "Licensee" shall mean Charter Communications Entertainment I, DST d/b/a Charter Communications or its lawful successor, transferee or assignee.
10. "Gross Revenue" means any revenue received by the Licensee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any taxes, fee or assessment of general applicability collected by the Licensee from Subscribers for pass-through to a government agency, including the FCC User Fee and (2) un-recovered bad debt Gross revenues shall include, basic and expanded basic tiers, pay programming, pay-per-view revenues, installations revenues, equipment rentals, third party billings, home shopping service revenues, and advertising revenues.
11. "Installation" shall mean the connection of the Cable System from feeder cable to Subscribers' terminals.
12. "Person" shall mean an individual, partnership, association, organization, corporation or any lawful successor, transferee or assignee of said individual, partnership, association, organization or corporation.
13. "Public School" shall mean any school at any educational level operated within the Service Area by any public school system, but limited to, elementary, junior/middle high school, and high school.
14. "Reasonable notice" shall be written notice addressed to the Licensee at its principal office or such other office as the Licensee has designated to the Franchise Authority as the address to which notice should be transmitted to it.
15. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto..

16. "State" shall mean the Commonwealth of Massachusetts.
17. "Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights-of-way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the Service Area, which shall entitle the Licensee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System..
18. "Subscriber" shall mean any person lawfully receiving Cable Service from the Licensee.
19. "Subscriber Network" The minimum 750 MHz Cable Television System to be operated and maintained by the Licensee, over which Signals can be transmitted to Subscribers.

2 Grant of Franchise

2.1 Grant

(a) PURSUANT to the authority of Chapter 166A of the General Laws of the Commonwealth of Massachusetts, (M.G.L. c. 166A) as inserted by Chapter 1103 of the Acts of 1971, as amended, and to federal law, Board of Selectmen as the Issuing Authority of the Town of Berlin, Massachusetts ("Town"), shall grant a non-exclusive renewal Cable Television License to Charter Communications Entertainment I, L.L.C. ("Licensee") a Delaware limited liability corporation established for such purpose, authorizing and permitting said Licensee to operate a Cable Television System within the corporate limits of the Town of Berlin, Massachusetts. The Renewal License is granted pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts, as amended, and with all rules and regulations of the FCC, the rules and regulations of Cable Division, the Cable Act, as amended, and all other rules and regulations in force and effect upon the date hereof.

(b) Subject to the terms and conditions herein, the Issuing Authority shall grant to Licensee the right to upgrade, install, operate and maintain a Cable System in, under, over, along, across, through or upon the Public Ways, including streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town of Berlin within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way, Private Ways and also through public and private easements, which are within the Town, that have been dedicated for compatible uses. In exercising rights pursuant to the Renewal License, Licensee shall not endanger or interfere with the lives of persons or, without prior written permission, unlawfully interfere with any installations of the Town, any public utility serving the Town or any other persons permitted to use public ways and places. Grant of the Renewal License does not establish priority for use over other present or future permit holders or the Town's own use of public ways and places. Disputes between Licensee and other parties regarding use of public ways and places shall be resolved in accordance with the Department of Public works regulations, or governing applicable law or bylaw.

2.2 Terms

The Franchise and the rights, privileges and authority hereby granted shall be for a term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in subsection 15.11, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

2.3 Franchise Requirements For Other Franchise Holders.

In the event that the Franchisee believes that any additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome taken as a whole 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. Should the Licensee demonstrate that any such additional cable television license(s) have been granted on terms and conditions more favorable or less burdensome taken as a whole than those contained in this Renewal License, the Issuing Authority shall consider and negotiate, in good faith, equitable amendments to this Renewal License

2.4 Police Powers and Conflicts with Franchise

By executing the Renewal License, the Licensee acknowledges that its rights are subject to the powers of

the Town to adopt and enforce general by-laws necessary to the safety and welfare of the public. The Licensee shall comply with all applicable State and Town laws, by-laws, rules, and regulations governing construction within a Public Way. This Franchise is a contract and except as to those changes, which are the result of the Franchising Authority's exercise of its general police power, the Franchising Authority may not take any unilateral action, which materially changes the explicit mutual promises in this contract. Nor may either party take any unilateral action, which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Licensee and the Franchising Authority.

2.5 Cable System Franchise Required

No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area for the provision of Cable Service nor be allowed to operate a Cable System for the provision of Cable Service without a Cable System Franchise.

3 Franchise Renewal

3.1 Procedures for Renewal

The Franchising Authority and the Licensee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Licensee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

4 Indemnification and Insurance

4.1 Indemnification

The Licensee shall, by acceptance of the Franchise granted herein, defend the Town, its Issuing Authority, and its officers, boards, commissions, agents, and employees for all claims for injury to any person or property caused by the negligence or intentional act(s) of Licensee, its officers, employees, agents or servants in the construction or operation of the Cable System, including any injury to any person or property as a result of the negligence or intentional act(s) of the Licensee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System and in the event of a determination of liability or settlement by the Licensee shall indemnify and hold the Town, its Issuing Authority, officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, judgments and costs arising out of the construction or operation of the Cable System, including any injury to any person or property as a result of the negligence or intentional act(s) of the Licensee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System. Notwithstanding the foregoing, the Licensee shall not be obligated to indemnify the Issuing Authority for any damages, liability or claims resulting from the willful misconduct or gross negligence of the Issuing Authority or for the Issuing Authority's use of the Cable System, including any PEG channels.

In order for the Town to assert its rights to be indemnified, defended and held harmless, the Town must:

- (i) Timely notify Licensee of any claim or legal proceeding which gives rise to such right;

- (ii) When the Licensee is obligated to defend and indemnify the Town against such claims or actions, the Licensee shall in its sole discretion control such defense, compromise or settlement or other resolution or disposition of such claim or proceeding. The Licensee agrees to make every effort to include the Town in the participation of any such compromise, settlement or other such resolution or disposition of such claim or proceeding. In the event the Town determines its interests cannot be represented in good faith by the Licensee, the Town may otherwise seek legal representation;

- (iii) The Town shall fully cooperate with the reasonable requests of the Licensee in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subparagraph (ii) above.

4.2 Insurance

A. The Licensee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence, Combined Single Liability (C.S.L.) [\$2,000,000] General Aggregate

The CGL policy shall be written on an occurrence basis and shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for 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.

Auto Liability including coverage [\\$1,000,000] per occurrence C.S.L.

on all owned, non-owned

hired autos

Umbrella Liability [\\$3,000,000] per occurrence C.S.L.

B. The Franchising Authority shall be added as an additional insured to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

C. The Licensee shall furnish the Franchising Authority with current certificates of insurance evidencing such coverage on an annual basis, if requested by the issuing authority.

4.3 Performance Bond

The Licensee shall submit and maintain throughout the License a bond with corporate surety satisfactory to the Issuing Authority in the amount of twenty thousand dollars (\$20,000.00) conditioned on the following terms:

(1) The satisfactory operation of the Cable System in accordance with the provisions of M.G.L.c. 166A §§ 5(a), (m) & (n) and this License.

(2) The satisfactory restoration of pavements, sidewalks and other improvements in accordance with M.G.L.c. 166A § 5(g) and as approved by the Issuing Authority and Superintendent of Streets of the City;

(3) The sightly preservation of trees and the vegetation in accordance with M.G.L.c. 166A § 5(g) and as approved by the Issuing Authority and Tree Warden;

(4) The indemnification of the Town in accordance with M.G.L.c. 166A § 5(b);

(5) The satisfactory removal of the cable system in accordance with M.G.L.c. 166A § 5(f) and within six from the date of lawful notice from the Issuing Authority to so remove the cable system.

(6) The condition of said bond shall be that the Licensee shall well and truly observe, fulfill and performs each material term and condition of this License and that in case of any failure to comply with any material term and/or condition contained herein, the amount thereof shall be recoverable from said performance bond by the Town for all amounts resulting from the failure of Licensee to comply with any material terms or conditions in this License, provided that first Licensee has been notified of such failure and given an opportunity to cure and be heard.

5 Subscriber Rights And Consumer Protection

5.1 Customer Service Office/Payment Center/Telephone Answering Service

(a) The Licensee shall maintain sufficient customer service representatives ("CSRs) to handle all calls from Subscribers in Town during all hours of the day and all days of the week.

(b) All after-hours telephone calls regarding outages shall be acted upon promptly, and Licensee shall restore service as soon as reasonably possible under the circumstances.

(c) The Licensee shall maintain during the duration of this license a regional customer service center which is open at a minimum during normal Business hours as defined by federal laws and regulations. The services provided by the service center shall include; 1) equipment pickup, 2) equipment drop-off, 3) exchange of any defective components, 4) bill payment.

5.2 Initial Installation And Service Call Procedures In Wired Areas

The Licensee shall provide Cable Service to those residents whose homes are passed by the Cable System and who have requested service and have paid a deposit for such service, if required, within seven (7) business days of receipt of the request and deposit for standard aerial installations, provided that such request for service involves a standard installation. In arranging appointments for cable installation work or service calls, the Licensee shall make its reasonable best efforts to specify to the resident, in advance, whether installation or service will occur in the morning or afternoon hours. The Licensee shall make reasonable efforts to install or perform service at times convenient to residents, including times other than 9:00 a.m. to 5:00 p.m. weekdays. Failure to install within fourteen (14) days, or to make a service call as scheduled, without just cause or resident fault, shall require the Licensee to automatically offer a priority cable installation or service call to the affected resident at a time mutually agreeable to the Licensee and such affected resident, but in no case later than three (3) working days following the initial installation or service call date unless mutually agreed to otherwise by the parties.

5.3 Subscriber Solicitation Procedures

The Licensee shall provide all prospective Subscribers with complete, clear and concise written information concerning all services and rates upon solicitation or prior to, or at the time of, installation of cable service. Such sales materials shall clearly and conspicuously disclose the price and other information concerning the Licensee's lowest cost service tier, prices of optional and Premium Services, privacy policies, availability and price of equipment and billing practices. Nothing herein shall be otherwise construed to limit, restrict or prevent Licensee from marketing, promoting or offering any services provided hereunder in accordance with applicable law.

5.4 Billing Practices Information And Procedures

(a) The Licensee shall inform all prospective Subscribers of complete information respecting billing and collection procedures, procedures for ordering changes in or termination of service, and refund policies, upon solicitation of service and prior to the consummation of any agreement for installation of service.

(b) Billing procedures shall be as follows:

(i) The Licensee shall bill all residential Subscribers to its Cable Television Service in a uniform, non-discriminatory manner.

(ii) The Licensee shall provide all Subscribers with an itemized bill that contains, at a minimum, the following information:

- a. A list of each service or package received for the particular billing period;
- b. the rate or charge for each service or package received;
- c. the period of time over which said services are billed; and
- d. the total charges for the monthly period, separate from any previous balance due.

(iii) Licensee may detail to Subscribers that portion of the monthly cable bill allocated to pay the license fees, PEG access costs, the PEG Fund or other External Costs.

5.5 Notification Of Rates And Charges

The Licensee shall inform the Issuing Authority of all rates and charges of any kind, and all terms or conditions relating thereto. Thereafter, the Licensee shall inform the Issuing Authority of all changes in service, rates and charges of any kind, and all terms and conditions relating thereto in such time and manner as necessary to comply with law and regulations, and to the extent such service charges are under Licensee's control. The Licensee shall notify all Subscribers of any impending rate increases in such time and manner as necessary to comply with law and regulations.

5.6 Disconnected and Termination Of Cable Services

The account of a Subscriber shall be considered delinquent and therefore subject to disconnection only in accordance with Licensee's payment policy and subject to all applicable laws and regulations.

5.7 Response To Service Calls And Service Complaints/Rebate Procedures

(a) Licensee shall use its best efforts to respond to all complaint calls or requests for repair service during regular business hours as soon as practicable.

(b) Licensee shall ensure that there are stand-by personnel on-call at all times after normal business hours.

(c) Licensee shall respond to System Outages as soon as practicable, twenty-four (24) hours a day seven (7) days a week.

(d) The Licensee shall specify to the Subscriber, in advance, whether said installation visit or service call will occur in a weekday morning block, weekday afternoon block, weekday evening block, or a Saturday block. Evening service visits (after 6:00 p.m.) shall be available on a scheduled basis, subject to availability and subject to safety considerations. If Licensee cannot make an appointment, Licensee shall call the Subscriber in advance to cancel. The Licensee shall give priority for next day or next "available time" installation or service appointments to Subscribers who cannot be scheduled within the aforementioned time periods. Unless caused by a Subscriber's failure to make the premises available to the Licensee at the time scheduled, failure to make the installation or service call as scheduled shall require the Licensee to automatically offer a priority cable installation or service visit to the affected Subscriber at a time mutually agreeable to the Licensee and said Subscriber, but in no case later than three (3) working days following the initial installation date, or 24 hours following the service date, unless mutually agreed to otherwise by said Subscriber and the Licensee. In the event a service problem is attributable to technical problems in the Cable System but are wholly within parts of the Cable System that are not on private property, Licensee shall not require Subscribers to be at home at the time of the service call.

(e) Nothing herein shall be construed to require Licensee to violate applicable provisions of federal and Massachusetts law concerning Subscriber privacy.

5.8 Complaint Resolution Procedures

(a) In compliance with law, the Licensee shall establish a procedure for resolution of billing disputes and other complaints by Subscribers. The Licensee shall provide, on an annual basis, a written description of said procedures, including telephone numbers to call for complaints and other services, to all Subscribers.

(b) If the Issuing Authority determines it to be in the public interest, the Issuing Authority or its designee may investigate any multiple complaints or disputes that are both specific and similar, brought by Subscribers arising from the operations of the Licensee, provided said Subscribers have made good faith effort to comply with the procedures specified in Section 5.7(a) above for the resolution of complaints.

(c) In the event that the Issuing Authority finds a pattern of multiple specific and similar unresolved subscriber complaints, the Issuing Authority may request appropriate and reasonable amendments to the Licensee's procedures for the resolution of complaints.

5.9 Change Of Service

Upon notification by a Subscriber to disconnect or downgrade a Basic or Premium Service, the Licensee shall cease and/or adjust said Subscriber's monthly service charges immediately or as of the Subscriber's specified disconnect or downgrade date.

5.10 Employee And Agent Identification Cards

All of the Licensee's employees and agents 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 carry an employee photo identification card issued by the Licensee.

5.11 F.C.C. Customer Service

The Licensee shall comply with the F.C.C. Customer Service Standards (47 C.F.R. § 76.309.c). Both parties agree, however, that the telephone response times are unrealistic in light of the Licensee's increased services and resultant increase in average talk time. The Licensee shall make all reasonable efforts to comply with the 30 second standard but shall under no circumstances be held in non-compliance under this or any subsequent License based upon the telephone response standard as set forth in the F.C.C. Customer Service Standards (47 C.F.R. § 76.309.c). The Town may, upon written request, receive a quarterly report of the Licensee's telephone statistics in order to measure the Licensee's compliance with reasonable telephone standards. Should the Town, in writing, request clarification of the Licensee's telephone report, the Licensee shall, upon invitation by the Town, schedule a meeting with the Town to review said report and advise the Town what measures are being employed by the Licensee to meet a reasonable telephone response standard.

5.12 Protection Of Subscribers Privacy

(a) The Licensee shall respect the rights of privacy of every Subscriber and/or User of the Cable System and shall not violate such rights through the use of any device or signal associated with the Cable Television Service, and as hereinafter provided. The Licensee shall have the right to take reasonable steps to avoid the unauthorized reception, use or interception of any of Licensee's services, including, but not limited to, prohibiting and removing any unauthorized instrument, apparatus, equipment or device, which is designed, adapted, intended, or used to receive, use, intercept or fraudulently obtain any of Licensee's services, in violation of law or any of Licensee's rights under this License or any other agreement or instrument, and nothing herein shall be construed or is intended to limit, restrict or interfere with Licensee's right to secure its system and to offer services only to duly authorized customers.

(b) The Licensee shall comply with all privacy provisions contained in applicable laws, including, but not limited to, the provisions of 47 U.S.C. § 551.

5.13 VCR/Cable Compatibility: A/B Switch

In order to assist Subscribers who own "cable ready" VCR's to interconnect such VCR's with their "cable ready" television sets, and to assist Subscribers in the interconnection of non-cable ready VCR's and television sets, Licensee has prepared instructional materials and shall, upon request, during the course of an installation, provide one (1) "A/B switch" and a splitter to each such Subscriber, at a reasonable cost, to facilitate such interconnection. Use of such an A/B switch and splitter will allow any Subscriber with a cable-ready VCR to record any channel while viewing an unscrambled channel, or vice-versa, without the need of a second converter. The simultaneous viewing of one (1) scrambled channel and taping of another scrambled channel requires a "second set" converter and applicable monthly charges and deposit.

5.14 No Discrimination.

Licensee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

5.15 Offices and Phone

The Licensee shall maintain a toll-free telephone number and a phone service operated such that complaints

and requests for repairs or adjustments may be received at any time.

5.16 Notification of Service Procedures

The Licensee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Licensee's name, address and local telephone number. Licensee shall give the Franchising Authority thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

6 Service Availability

6.1 Service Area

The Licensee shall make Cable Service distributed over the Cable System available to all residents of the Town, within seven (7) days of a request; provided, however, that (i) all such homes are on the Public Way or a Private Way (ii) such Public Ways or Private Ways can be accessed by Licensee from a Public Way without crossing a Town boundary; and (iii) to the extent that Licensee shall require easements, attachment to utility poles or other rights not granted herein, then such easements, attachments or other rights are available to Licensee on reasonable terms and conditions. Nothing herein shall be construed to preclude Licensee from charging a fee to any Subscriber or potential Subscriber for a standard or non-standard installation, as may be applicable. The Licensee may elect to provide Cable Service to areas not meeting the above standard. Licensee retains full ownership rights and interest in all portions of its Cable Television System, including, but not limited to, converters that it leases to subscribers, the Distribution Plant, the Cable Drops, the Outlets, the Subscriber Network, and the Trunk and Distribution System, as authorized in accordance with applicable law.

6.2 Standard Drops

A standard aerial installation charge shall be established by the Licensee which shall apply to any residence located not more than two hundred fifty feet (250') of the Licensee's feeder cable longer aerial drops and underground drops greater than one hundred twenty-five feet (125') shall be priced based on additional actual costs incurred in the installation.

6.3 New Development Underground

In cases of new construction or property development where utilities are to be placed underground, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Licensee at least thirty (30) days prior notice of such construction or development, and of the particular dates on which open trenching will be available for Licensee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Licensee's expense. Licensee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Licensee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by Licensee.

6.4 Commercial Establishments

The Licensee shall make cable services available to any commercial establishments in the Town, which are located on the residential Subscriber Network, subject to the Licensee and each commercial establishment reaching a reasonable agreement regarding the terms and costs of initial installation and service which may or may not differ from the terms and costs that apply to residential Subscribers. It is herein acknowledged that certain programming services may not be available to commercial establishments, or may be available only upon certain terms and conditions, pursuant to law or the Licensee's agreements with its program suppliers.

6.5 Inspections

The Issuing Authority or its designee shall have the right to inspect the plant, equipment or other property of the Licensee within the Town upon reasonable notice. The Licensee shall fully cooperate in such inspections.

7 Construction and Technical Standards

7.1 Compliance with Codes

Licensee shall construct and maintain the Cable System in accordance with applicable technical standards and standards generally observed by the cable television industry. During the term hereof, the Licensee shall comply with all applicable FCC statutes, regulations and standards, including those relating to the quality of signals transmitted over the Cable System. The Licensee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with the Massachusetts Electrical Code, the National Electric Code, the National Electrical Safety Code, the National Electrical Code of the National Fire Protection Association, the National Cable Television Association Safety Manual, the rules and regulations of the FCC and the MDTE, building and zoning codes, and land use restrictions as the same exist or may be amended hereafter. The Licensee shall resolve any conflicts between said codes in accordance with applicable law and regulations.

7.2 Construction Standards and Requirements

All of the Licensee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety

The Licensee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents, which are likely to cause damage.

7.4 Network Technical Requirements

The Cable System shall be operated so that it is capable of continuous twenty-four (24) hour daily operation, capable of meeting or exceeding all applicable federal technical standards, as they may be amended from time to time, and operated in such a manner as to comply with all applicable FCC regulations.

7.5 Performance Monitoring

Licensee shall test the Cable System consistent with the FCC regulations.

7.6 Institutional Network

The Franchisee shall continue to operate the bi-directional Institutional Network (I-Net) in place on the effective date of this Franchise, to be used by the Town and the Franchisee. The INET shall link those municipal and school buildings or other structures along the I-Net route currently being served including but not limited to following;

Town Municipal Building, 23 Linden Street. Berlin Mass.

Town Hall , 14 Woodward Avenue. Berlin Mass.

Berlin Memorial School, 34 South Street. Berlin Mass.

Upon written request, the Franchisee shall provide, free of charge, one activated I-Net Drop and Outlet to

other municipal buildings or property along the I-Net route; and such other new or unwired municipally-owned non-residential buildings along the I-Net route as may be designated by the Franchising Authority from time to time, provided that such new or unwired municipally-owned non-residential buildings may be served by a standard installation as defined in section 6.2. The I-Net shall be interconnected with the Subscriber Network, in order that video signals originating from Town buildings can be sent Upstream on an I-Net Channel and then connected to a Downstream Subscriber Network Channel. There shall be no charge to the Town for such connections for video signals. In making installations of I-Net outlets, the Franchisee shall not be required to come into contact with asbestos building materials, and the Town shall designate alternate routing to avoid asbestos building materials. The Franchisee shall have the sole responsibility, at its sole cost and expense, for normal maintenance of the I-Net for video signals, I-Net modulators, and I-Net processors for the term of this Renewal Franchise, except for equipment not directly under its control, but including all necessary inspections and performance tests. The Franchisee shall only be responsible, at its sole cost and expense, for the transfers of Access Channel video signals between the Subscriber Network and the I-Net. Franchisee shall provide any equipment necessary to effectuate such transfers. The term "video" shall include the accompanying audio portion of any video signal. Franchisee may impose any charges incurred to transport, monitor, manage and service voice or data signals over the I-Net, and to support any specialized equipment necessary for voice or data transmissions.

8 Conditions on Street Occupancy

8.1 General Conditions

Licensee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property until the written approval of the Franchising Authority is obtained, which approval shall not be unreasonably withheld.

8.2 Underground Construction

The facilities of the Licensee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Licensee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Franchising Authority, the Licensee shall likewise place its facilities underground

8.3 Permits

The Franchising Authority shall cooperate with the Licensee in granting any permits required, providing such grant and subsequent construction by the Licensee shall not unduly interfere with the use of such Streets.

8.4 System Construction

All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Licensee shall, at all times, employ reasonable care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Licensee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Restoration of Streets

Licensee shall, at its own expense, restore any damage or disturbance caused to a street as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Street immediately prior to such damage or disturbance.

Whenever the Licensee excavates, opens or disturbs any pavement, sidewalk or other improvement of any Public Way or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon the failure of the Licensee to comply within the specified time period, the Issuing Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Licensee upon demand by the Issuing Authority. For the purpose of this section, "reasonable expense" shall provide for restoration to a condition similar to the original condition.

8.6 Removal in Emergency

Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Franchising

Authority to remove any of the Licensee's facilities, no charge shall be made by the Licensee against the Franchising Authority for restoration and repair, unless such acts amount to gross negligence by the Franchising Authority.

8.7 Tree Trimming

Licensee or its designee shall have the authority, subject to obtaining, to the extent required by applicable law or regulation, a permit from the Town Tree Warden or appropriate municipal official to trim trees on public property at its own expense as may be necessary to protect its wires and facilities in accordance with applicable law and regulations.

8.8 Relocation for the Franchising Authority

The Licensee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Licensee when lawfully required by the Franchising Authority pursuant to its police powers. Licensee shall be responsible for any costs associated with these obligations to the same extent all other users of the Franchising Authority rights-of-way are responsible for the costs related to their facilities.

8.9 Relocation for a Third Party

The Licensee shall, on the request of any person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Licensee, provided that the expense of such is paid by any such person benefiting from the relocation and the Licensee is give reasonable advance written notice to prepare for such changes. The Licensee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business day in the event of a temporary relocation and no less than one hundred twenty days (120) for a permanent relocation.

8.10 Reimbursement of Costs

If funds are available to any person using the Streets for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Licensee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Licensee.

8.11 Emergency Use

Licensee shall comply with all federal and state Emergency Alert System ("EAS"), requirements

8.12 Subscriber Network

(a) Subject to Section 5.1 infra, the Licensee shall continue to operate, maintain and make available to residents of the Town its minimum 750 MHz Subscriber Network. Said Cable System shall be fully capable of carrying at least seventy-eight (78) video channels in the downstream direction.

(b) The Licensee shall transmit all of its broadcast and commercial Signals to Berlin Subscribers in stereo, provided that such Signals are furnished to the Licensee in stereo.

9 Rates, Charges And Programming

9.1 Rate Regulation

Franchising Authority shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Franchising Authority. If and when exercising rate regulation, the Franchising Authority shall abide by the terms and conditions set forth by the FCC.

9.2 Continuity of Service

It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Licensee are honored.

9.3 Senior and Handicapped Citizen Discount

(a) Current Subscribers receiving a Senior Citizen or Handicapped Citizen Discount as of the Execution Date of this Renewal License shall continue, throughout the term of this License, to receive an equivalent discount.

(b) For the term of this Renewal License only, for those eligible pursuant to the provisions below, the Senior Citizen or Handicapped Citizen Discount shall be ten percent (10%) off of the price of the Basic Service tier of service, and shall not apply to any other channels, packages or tiers.

(c) To be eligible, a resident must meet the following criteria: sixty-five (65) years of age or older and head of household receiving one of the following: (i) Supplemental Security Income (SSI); (ii) Medicaid; (iii) Massachusetts fuel assistance; (iv) Veterans' Services Benefits; (v) the Town's income-based senior citizen real estate tax abatement, if any, pursuant to applicable law; or (vi) any other suitable criteria that the Licensee and the Issuing Authority mutually agree upon.

(d) To establish eligibility, a resident shall bring or mail a photocopy of a valid driver's license, birth certificate or other document definitively establishing age, plus a photocopy of documentation definitively establishing receipt by the resident at time of application for this discount of any one of the programs listed in (i)-(v) of Section 9.3(c). A resident need establish eligibility for this discount only once to continue receiving it so long as they remain a Subscriber.

9.4 Credits For Service Interruption

Pursuant to 207 CMR, Licensee shall grant a pro rata credit or rebate to any Subscriber whose entire Cable Service is interrupted for twenty-four (24) or more consecutive hours, if the interruption was not caused by the Subscriber and the Licensee knew or should have known of the service interruption. Pursuant to 207 CMR, if an entire tier or Premium Service of a Subscriber's Cable Service is interrupted for twenty-four (24) or more consecutive hours, the Licensee shall provide a pro rata credit or rebate for each tier or Premium Service interruption as provided in 207 CMR.

9.5 Basic Service

The Licensee shall provide a Basic Service, which shall include at least: (1) all broadcast television Signals in the Berlin, Massachusetts area, which are required to be carried by a cable television system serving the Town pursuant to State or federal law, and the three (3) Downstream Channels for public, educational and governmental access use pursuant to section 13.3 supra.

9.6 Programming

(a) Pursuant to Section 624 of the Cable Act, the Licensee shall maintain the mix, quality and broad categories of programming currently carried on the cable system. Pursuant to federal law, all programming decisions are at the sole discretion of the Licensee, and such programming may be modified or subject to change from time to time at Company's sole direction in accordance with applicable law.

(b) The Licensee shall, where possible, provide the Issuing Authority and all Subscribers with notice of its intent to change the Berlin programming line-up at least thirty (30) days before any such change is to take place.

10 Franchise Fee

10.1 Amount of Fee.

- a) Pursuant to MGL Chapter 166A §9, the Licensee shall pay to the Town, throughout the term of this Renewal License, a license fee equal to \$0.50 per Subscriber per year, or such higher amount as may in the future be allowed pursuant to law. The number of Subscribers, for purposes of this section, shall be calculated as of December thirty-first of the preceding calendar year.
- b) In the event that the Town is permitted by Law to collect a license fee expressed as a percentage of gross annual revenue in the future, the Licensee shall (i) immediately commence paying such a percentage license fee to the Town in accordance with applicable Law and based on the Licensee's gross annual revenues from the Cable System; and (ii) file with the Issuing Authority, with each such percentage license fee payment, a statement certified by a financial officer of Licensee certifying that total of all gross annual revenues derived during the previous year.
- c) The Licensee shall not be liable for a total franchise fee pursuant to this Renewal License and applicable Law in excess of five (5) percent of its Gross Annual Revenues. Further, if in the future, license fee payments to the Town are based on a percentage of gross annual revenue and said payments are in excess of (5) five percent of Licensee's gross annual revenues, said payments will be decreased by the aggregate amount of the annual access funding and operating support provided to Town by Licensee in order to stay within the five (5) percent of Gross Annual Revenues cap specified herein.

10.2 Payment of Fee

Pursuant to M.G.L. c. 166A, § 9, the license fees shall be paid annually to the Town throughout the term of this Renewal License, not later than March 15th of each year, unless otherwise required by applicable law.

10.3 Other Payment Obligations and Exclusions

(a) The 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 which the Licensee or any Affiliated Person or party 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 License Fee payments all of which shall be separate and distinct obligations of the Licensee and each Affiliated Person. The Licensee herein agrees that no such taxes, fees or charges shall be used as offsets or credits against the License Fee payments.

(b) In accordance with Section 622(h) of the Cable Act (47 U.S.C. § 542(h)), it is the understanding of the parties hereto that nothing in the Cable Act or this Renewal License shall be construed to limit any authority of the Issuing Authority to impose a non-discriminatory 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 shall not exceed five percent (5%) of such Person's gross revenues derived in such period from the provision of such Cable Service over the Cable System.

10.4 Accord and Satisfaction

No acceptance of any payment by the Franchising Authority shall be construed as a release or as an accord and satisfaction of any claim the Franchising Authority may have for additional sums payable as a franchise fee under this Franchise.

10.5 Audit and Limitation on Recovery

If the Issuing Authority has reason to believe that any such payment(s) are incorrect, the Licensee shall have thirty (30) business days after a 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 re-computation, an additional fee is owed to the Town, such fee shall be paid within thirty (30) days after such audit and recomputation. In the event that any payment under this License or recomputed payment is not made on or before the dates specified herein, Licensee shall pay an interest charge, computed from such due date, at the annual rate of two percent (2%) over the prime interest rate. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Licensee was due.

10.6 Late Payment

In the event that any payment under this License herein required are not tendered on or before the dates fixed in sections 13.4, 10.1 and 10.2, interest due on such fees shall accrue from the date at the rate of two percent (2%) above the annual Prime Rate.

11 Transfer of Franchise

11.1 Franchise Transfer

The Franchise granted hereunder shall not be transferred, assigned, or disposed of in any manner, including transfer of control, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Licensee in the Franchise or Cable System to secure indebtedness. Unless otherwise provided by applicable law or regulations, within sixty (60) days of receiving a request for transfer, the Franchising Authority shall notify the Licensee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. Unless otherwise provided by applicable law or regulation, if the Franchising Authority has not taken action on the Licensee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

11.2 Transfer to Affiliates

The foregoing requirements shall not apply to any sale, assignment or transfer to any Person that is owned or controlled by the Licensee, or any Person that owns or controls the Licensee. Licensee shall notify the Franchising Authority thirty (30) days prior to any such sale, assignment or transfer.

The terms of sections 11.1 and 11.2 are not intended to contradict current and future Massachusetts State or Federal Laws and Regulations.

12 Records, Reports, Tests And Maps

12.1 Reports Required

The Licensee's schedule of charges, contract or application forms for regular Subscriber service, policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Licensee's policy in connection with its Subscribers shall be filed with the Franchising Authority upon request.

12.2 Records Required

The Licensee shall at all times maintain:

- A. A record of all complaints received regarding interruptions or degradation of Cable Service shall be maintained for one (1) year.
- B. A full and complete set of plans, records and strand maps showing the location of the Cable System.

12.3 Inspection of Records

Licensee shall permit any duly authorized representative of the Franchising Authority, upon receipt of advance written notice to examine during normal business hours and on a non-disruptive basis any and all records as is reasonably necessary to ensure Licensee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Licensee may organize the necessary books and records for easy access by the Franchising Authority. The Licensee shall not be required by this Renewal License to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Licensee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Franchising Authority agrees to treat as confidential any books; records or maps that constitute proprietary or confidential information to the extent such are deemed proprietary or confidential by applicable law or regulation and the Licensee make the Franchising Authority aware of such confidentiality. If the Franchising Authority believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Licensee in advance so that Licensee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Franchising Authority agrees that, to the extent permitted by state and federal law, it shall deny access to any of Licensee's books and records marked confidential, as set forth above, to any Person.

12.4 Subscriber Complaint Report

In accordance with the regulations of the Cable Division, the Licensee shall submit annually a completed copy of Cable Division Form 500 to the Issuing Authority, or its designee, no later than thirty (30) days after submission of the Form to the Division.

12.5 Service Interruption Report

The Licensee shall submit annually a completed copy of Cable Division Form 500 to the Issuing Authority, or its designee, no later than - thirty (30) days after submission of the Form to the Cable Division.

12.6 Annual Performance Tests

- (a) Unless required otherwise by applicable State or federal law and/or regulation, the Licensee shall

conduct, on an annual basis, performance tests to ensure compliance with applicable technical specifications. The costs of such tests shall be borne exclusively by the Licensee.

(b) Upon written request, the above tests shall be submitted to the Issuing Authority, or his designee(s).

12.7 Quality Of Service

(a) 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 have the right and authority to require the Licensee to test, analyze and report on the performance of the Cable System. The Licensee shall fully cooperate with the Issuing Authority in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after notice for the same.

- (1) the nature of the Complaint or problem, which precipitated the special tests;
- (2) the system component tested;
- (3) the equipment used and procedures employed in testing;
- (4) the method, if any, in which such Complaint/problem was resolved; and
- (5) any other information pertinent to said tests and analysis, which may be required.

12.8 ADDITIONAL INFORMATION

At any time during the term of this Renewal License, the Licensee shall not unreasonably deny any reasonable requests of the Issuing Authority for further information, which may be required to establish the Licensee's compliance with its obligations pursuant to this Renewal License.

13 Public, Educational and Government Programming

13.1 Service to Schools and Buildings

Upon written request of the Issuing Authority, the Licensee shall provide one (1) Subscriber Network Drop, one (1) Outlet with Basic Service and expanded basic service, without charge, to municipal schools, police and fire stations, municipal libraries, and other municipal buildings specifically designated in writing by the Issuing Authority. In addition, upon written request of the Issuing Authority, Licensee shall provide one Subscriber Network Drop, outlet, and Basic Service without charge to newly constructed or newly occupied municipal or public school buildings. The Issuing Authority or its designee shall be responsible for the additional cost of a non-standard installation – an aerial installation in excess of two hundred fifty feet (250') feet from the Licensee's feeder cable, and an underground installation greater than one hundred twenty-five feet (125') from the Licensee's feeder cable - based on additional actual costs incurred in the installation.

13.2 Limitations on Use

The Cable Service provided pursuant to this Section shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any use of the Licensee's Cable System that results in the inappropriate use thereof or any loss or damage to the Cable System.

13.3 Public, Educational and Government Access Channels

The Licensee shall make available to the Issuing Authority or its designee(s) sufficient bandwidth for three (3) channels for PEG access-programming use. Use of these channels by the Town or schools and organizations or producers shall be strictly non-commercial in nature. Underwriting of the costs of access program production is permitted provided the sponsor(s) do not advertise on the programs. Underwriter acknowledgments similar to those appearing on public broadcast stations shall be permitted. In addition, Town shall have the use of Licensee's mobile van, upon request, twice each year at no cost. Fees for additional use of the mobile van in the calendar year are not to exceed \$250. Use of the Van is contingent upon availability. The Licensee shall maintain the existing connection from the Tahanto Middle/High School access channel to one of the above-mentioned PEG access channels as directed by the Issuing Authority. The Town shall be allowed continued use of the nearest regional broadcast studio facility operated by the Licensee on an as available basis. However the Licensee is not obligated to maintain the regional broadcast studio. In no case shall any cost associated with use of the mobile van or the Regional Studio be passed on to Subscribers of the Town

13.4 Public, Educational And Governmental Access Equipment/Facilities Fund And Annual Grant

(a) The Licensee shall provide a cash payment to the Town's special PEG Access account or Public Access corporation, if so designated by the Issuing Authority in writing, in the amount of sixty-three thousand dollars (\$63,000) to be used to purchase, lease, and/or improve PEG Access equipment and facilities. Licensee may upon request of the Issuing Authority provide an equivalent amount (\$63,000) of equipment at the request in lieu of above cash payment. Said equipment must be agreed upon by and between the Licensee and the Town prior to such substitution. Said payment shall be made in two installments. The first in the amount of thirty-three thousand dollars (\$33,000) shall be made no later than ninety days (90) after the execution date of this License. The second in the amount of thirty thousand dollars (\$30,000) shall be made on or before the fifth anniversary of said date.

In no case shall said payment describe in Sec. 13.4(a) be counted against the annual PEG Access payment infra or any License Fee required infra or any other fees or payments required by law. This grant shall be considered as an external cost for the purposes of rate regulation and may be passed on to the Subscribers and identified as a

separate line item on the subscriber's monthly statement to the extent allowed by applicable law and regulation.

(b) For the term of the Renewal License, the Licensee shall provide an annual payment to the Issuing Authority for PEG operations and related purposes in the amount of ten thousand dollars (\$10,000) directly to a special PEG Account, not the general fund. Said amount shall be increased five percent (5%) each year during the term of the license. Upon written request of the Issuing Authority, said amount may be decreased. The first such annual payment shall be made no later than ninety days (90) after the Execution date of this License. Thereafter the Licensee shall make all subsequent annual cash grants no later than March 31st of each year with a final payment on or before March 31, 2014. Upon written request of the Issuing Authority, said amount shall be increased to a maximum amount of twenty thousand dollars (\$20,000). Said maximum shall increase five percent (5%) each year. All written request to modify the annual payment must be made no later than November 1. In no case shall this payment be counted against the equipment and facilities payment made pursuant to Subparagraph (a) of this Section 13.4 above or against any franchise or license fee. This grant shall be considered as an external cost for the purposes of rate regulation and may be passed on to the subscribers and identified as a separate line item on the subscriber's monthly statement to the extent allowed by applicable law and regulation.

13.5 Equipment Ownership And Maintenance

The Town shall own all PEG access equipment and, accordingly, shall be responsible for maintenance, repair and replacement of all such PEG access equipment. Ownership of equipment currently used by the Town and owned by Licensee shall pass to the Town upon the effective date of the Renewal License in Section 15.11.

13.6 Editorial Control

Neither the Licensee nor the Issuing Authority may engage in any editorial control of the content of the access programming on the Cable System, except as otherwise required or permitted by applicable Law. In furtherance thereof, the Town will require program producers to assume individual responsibility for any program-based liability, subject to the Cable Act, FCC requirements or other applicable law. Nothing herein shall be construed to limit the Licensee's right or ability to cablecast local programming at the Licensee's sole discretion.

13.7 Access Coordinator

The Town or its designee shall designate a PEG Access Coordinator who shall be responsible for PEG operations, equipment purchase, equipment maintenance and management, production training, and other duties as assigned by the Issuing Authority.

13.8 Rate Of Return Percentage On PEG Funds

Where the Licensee is allowed by federal or state laws or regulations and: 1) chooses to treat the PEG Access Equipment/Facilities payment(s) (pursuant to Sec 13.4(a) above) as an external cost for purposes of rate regulation and 2) amortizes PEG payment over multiple years, the rate of return used in such amortization shall not exceed the prime interest rate plus two(2) percent at the time the payment is made.

14 Enforcement Or Revocation

14.1 Determination Of Breach

In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any material provision of the 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 of which the Issuing Authority believes Licensee to be 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 within thirty (30) days of notice thereof, or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured.

In the event that the Licensee fails to respond to such notice of default, to cure the default or to take reasonable steps to cure the default, the Issuing Authority shall promptly schedule a public hearing no sooner than fourteen (14) days after a determination has been made by the Issuing Authority that Licensee has not appropriately responded, cured, nor taken appropriate measures to attempt to cure the default, and written notice, by certified mail, of such has been delivered to the Licensee. The Licensee shall be provided reasonable opportunity to offer evidence and be heard at such public hearing. If the Issuing Authority determines after public hearing that a continuing state of default exists, and that its cure is unlikely or untimely, Issuing Authority may determine to pursue any of the remedies available to it under law.

14.2 Revocation Of Renewal License

In the event that the License fails to comply with any material provision of the Renewal License in any material fashion, the Issuing Authority may revoke the Renewal License granted, subject to the procedures of Law and the Renewal License and M.G.L.c 166A § 11, as it exists on the date hereof.

14.3 Enforcement

Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 14.1 above, determines that the Licensee is in default of any provision of the Franchise, the Franchising Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.2 above.

14.4 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 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.

15 Miscellaneous Provisions

15.1 Force Majeure

If by 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. The term "force majeure" as used herein shall mean the following: 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 subdivision, or officials, or any civil or military authority, whether legal or illegal; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; labor work actions and unavailability of essential equipment, personnel, services and/or materials beyond the reasonable control of the Licensee; and the inability of Licensee to obtain, on customary and reasonable terms, easements, permits or licenses for the attachment or placement of the System, or parts thereof, to any pole or underground conduit not owned by Licensee, or any other cause or event not reasonably within the control of the disabled party.

15.2 Action of Parties

In any action by the Franchising Authority or the Licensee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

15.3 Notices

a) Every notice and/or request to be served upon the Issuing Authority shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the Board of Selectmen, P.O. Box 274, 23 Linden Street, Berlin, Massachusetts 01503, or such other address as the Issuing Authority may specify in writing to the Licensee. Every notice served upon the Licensee shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the General Manager, Charter Communications, 95 Higgins Street, Worcester, Massachusetts 01606, with a copy sent to Joshua L. Jamison, Sr. Vice President of Operations, Northeast Division, Charter Communications, 11 Commerce Road, Newtown, Connecticut 06470 and Vice President, Government Affairs and Franchise Relations, Charter Communications, Inc., Charter Plaza 12405 Powerscourt Drive, St. Louis, Missouri 63131, or such other address as the Licensee may specify in writing to the Issuing Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt of such notice.

b) Subject to Section 15.3(a) above, all required notices shall be in writing.

15.4 Public Notice

Minimum public notice of any public meeting relating to this Franchise, unless otherwise provided in this Renewal License or by applicable law or regulation, shall be by publication at least twice in a newspaper of general circulation in the area at least fourteen (14) days prior to the meeting and a posting at the administrative buildings of

the Franchising Authority.

15.5 Severability

If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

15.6 Acts or Omissions of Affiliates

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

15.7 No Recourse Against The Issuing Authority

Pursuant to Section 635A(a) of the Cable Act, the Licensee shall have no recourse against the Issuing Authority, the Town and/or its officials, boards, commission, committees, advisors, designees, agents, and/or its employees other than injunctive relief or declaratory relief, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Renewal License.

15.8 Jurisdiction

Jurisdiction and venue over any dispute, action or suit arising from this Renewal License 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.

15.9 Captions

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

15.10 Entire Agreement

This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this Franchise. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby.

15.11 Effective Date

The effective date of this Franchise is _____, 2005 pursuant to the provisions of applicable law. This Franchise shall expire on _____, 2015, unless extended by the mutual agreement of the parties.

Considered and approved this ___ day of _____, _____.

Town of Berlin

Thomas Andrew, Chairman, Board of Selectmen

Valary J. Bradley, Member, Board of Selectmen

David R. Marble, Member, Board of Selectmen

Accepted this ___ day of _____, _____, subject to applicable federal, state and local law.

**Charter Communications Entertainment I, DST
I/k/a Charter Communications**

Signature: _____
Joshua L. Jamison
Senior Vice-President of Operations
Northeast Division

