

-Town of Brookline Cable Television Renewal License Granted to RCN-BecoCom, Inc.-

**CABLE TELEVISION**

**RENEWAL LICENSE**

**GRANTED TO**

**RCN-BECOCOM, INC.**

**THE BOARD OF SELECTMEN**

**TOWN OF BROOKLINE,**

**MASSACHUSETTS**

**March 4, 2008**

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## AGREEMENT

This Cable Television Renewal License entered into this 4<sup>th</sup> day of March 2008, by and between the Board of Selectmen of the Town of Brookline, Massachusetts, as Issuing Authority for the renewal of the cable television license(s) pursuant to M.G.L. c. 166A, and RCN-BecoCom, Inc. ("RCN").

## WITNESSETH

WHEREAS, the Issuing Authority of the Town of Brookline, Massachusetts, pursuant to M.G.L. c. 166A, is authorized to grant one or more nonexclusive cable television renewal licenses to construct, operate and maintain a Cable Television System within the Town of Brookline; and

WHEREAS, the Issuing Authority conducted a public ascertainment hearing in the Town, on January 10, 2008, pursuant to Section 626(a) of the Cable Act, to (1) ascertain the future cable-related community needs and interests of Brookline, and (2) review the performance during the current license term;

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

## 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 is always mandatory and not merely directory.

(1) Access: The right or ability of any Brookline resident and/or any persons affiliated with a Brookline institution to use designated facilities, equipment and/or channels of the Cable Television System, subject to the conditions and procedures established for such use.

(2) Access Channel: A video channel which the Licensee shall make available, without charge, for the purpose of transmitting programming by members of the public, Town departments and agencies, public schools, educational, institutional and similar organizations.

(3) Access Corporation: The entity, designated by the Issuing Authority from time to time, for the purpose of operating and managing the use of public, educational and governmental access funding, equipment and channels on the Cable Television System.

(4) Affiliate or Affiliated Person: Another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

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

(6) Broadband Monitoring Committee: The Broadband Monitoring Committee as may be appointed and designated by the Issuing Authority, from time to time.

(7) CMR: The Code of Massachusetts Regulations.

(8) Cable Communications Act (the "Cable Act"): Public Law No. 98-549, 98 Stat. 2779 (1984) (the Cable Communications Policy Act of 1984), as amended by Public Law No. 102-385, 106 Stat. 1460 (1992) (the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"), as further amended by Public Law No. 104-458, 110 Stat. 110 (1996) (the Telecommunications Act of 1996).

(9) Cable Division: The Cable Television Division of the Massachusetts Department of Telecommunications and Cable.

(10) Cable Service: The one-way transmission to Subscribers of video programming or other programming services, together with Subscriber interaction, if any, which is required for the selection of such video programming or other programming services, which the Licensee may make available to all Subscribers generally.

(11) Cable Television System or Cable System: A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within the Town.

(12) Commercial Subscriber: A commercial, non-residential Subscriber to Cable Television Service.

(13) Complaint: Any written or verbal contact with the Licensee in connection with subscription in which a Person expresses dissatisfaction with an act, omission, product or service that is (1) within the Licensee's control, and (2) requires a corrective measure on the part of the Licensee.

(14) Converter: Any device changing the frequency of a Signal. A Subscriber Converter may expand reception capacity and/or unscramble coded Signals distributed over the Cable System.

(15) DVD: The acronym for Digital Video Disc player.

(16) Department of Public Works ("DPW"): The Department of Public Works of the Town of Brookline, Massachusetts.

(17) Downstream Channel: A channel over which Signals travel from the Cable System Headend to an authorized recipient of programming.

(18) Drop or Cable Drop: The coaxial cable that connects each home or building to the feeder line of the Cable System.

(19) Educational Access Channel: A specific channel(s) on the Cable System made available by the Licensee to educational institutions and/or educators wishing to present non-commercial educational programming and information to the public.

(20) Effective Date of Renewal License (the "Effective Date"): April 28, 2008.

(21) Execution Date of Renewal License (the "Execution Date"): March 4, 2008.

(22) FCC: The Federal Communications Commission, or any successor agency.

(23) Government Access Channel: A specific channel(s) on the Cable System made available by the Licensee to the Issuing Authority and/or its designees for the presentation of non-commercial programming and/or information to the public.



(24) Gross Annual Revenues: All revenues derived by the Licensee and/or its Affiliates from the carriage of Signals over the Cable Television System for the provision of Cable Service(s) including, without limitation: the distribution of any Service over the Cable System; Basic Service monthly fees; all other Service fees; any and all Cable Service fees and/or Cable Service charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; all digital Cable Service revenues; interest earned on Subscriber fees and/or charges; fees paid on all Subscriber fees; all Commercial Subscriber revenues; fees paid for channels designated for commercial use; Converter, remote control and other equipment rentals, and/or leases or and/or sales; all home-shopping service(s) revenues; and advertising revenues. In the event that an Affiliate is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by an Affiliate for said Affiliate's use of the Cable System for the carriage of advertising. Gross Annual Revenues shall also include the Gross Revenue of any other Person which is derived directly or indirectly from or in connection with the operation of the Cable System to the extent that said revenue is derived, through a means which has the effect of avoiding payment of License Fees to the Town that would otherwise be paid herein. Gross Annual Revenues shall not include actual bad debt that is written off; 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.

(25) Headend: The electronic control center of the Cable System containing equipment that receives, amplifies, filters and converts incoming Signals for distribution over the Cable System.

(26) Hub or Hub Site: A sub-Headend, generally located within a cable television community, used either for the purpose of (i) Signal processing or switching, or (ii) placement of a fiber node, microwave link or transportation super trunk.

(27) Institutional Network ("I-Net"): The dedicated two (2) strand fiber-optic cable, consisting of Upstream and Downstream Channels, said Channels for the use of the Issuing Authority, its designees and Town departments.

(28) Issuing Authority: The Board of Selectmen of the Town of Brookline, Massachusetts.

(29) Leased Channel or Leased Access: A video channel which the Licensee shall make available pursuant to Section 612 of the Cable Act.

(30) License Fee or Franchise Fee: The payments to be made by the Licensee to the Town of Brookline, which shall have the meaning as set forth in Section 622(g) of the Cable Act and M.G. L. Chapter 166A.

(31) Licensee: RCN BecoCom, Inc., or any successor or transferee in accordance with the terms and conditions in this Renewal License.

- (32) Normal Business Hours: 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 (1) night per week and/or some weekend hours.
- (33) Origination Capability: An activated cable and connection to an Upstream Channel, allowing a User(s) to transmit a Signal(s) upstream to a designated location.
- (34) Outlet: An interior receptacle that connects a Subscriber's or User's television set to the Cable System.
- (35) Pay Cable or Premium Services: Programming delivered for a fee or charge to Subscribers on a per-channel basis.
- (36) Pay-Per-View: Programming delivered for a fee or charge to Subscribers on a per-program or per-event basis.
- (37) Pedestal: An environmental protection unit used in housing Cable Television System isolation units and/or distribution amplifiers.
- (38) PEG: The acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.
- (39) PEG Access Channels: Any channel(s) made available for the presentation of PEG Access Programming.
- (40) Person: Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.
- (41) Prime Rate: The prime rate of interest at Bank of America.
- (42) Public Access Channel: A specific channel(s) on the Cable System made available by the Licensee for the use of Brookline residents and/or organizations wishing to present non-commercial programming and/or information to the public.
- (43) Public Way or Street: The surface of, as well as the spaces above and below, any and all public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements, and public grounds or waters and all other publicly owned real property within or belonging to the Town, now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

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

(45) Scrambling/encoding: The electronic distortion of a Signal(s) in order to render it unintelligible or unreceivable without the use of a Converter, or other Licensee-enabled decoding device.

(46) Service: Any Basic Service, any Pay Cable Service, which is offered to any Subscriber in conjunction with, or which is distributed over, the Cable System.

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

(48) State: The Commonwealth of Massachusetts.

(49) Subscriber: Any Person, firm, corporation or other entity who or which elects to subscribe to, for any purpose, a Service provided by the Licensee by means of, or in connection with, the Cable Television System.

(50) Subscriber Network: The minimum 750 MHz network to be owned and operated by the Licensee, over which Signals can be transmitted to Subscribers.

(51) Town: The Town of Brookline, Massachusetts.

(52) Town Counsel: The Town Counsel of the Town of Brookline, Massachusetts.

(53) Trunk and Distribution System: That portion of the Cable System for the delivery of Signals, but not including Drop cables to Subscriber's residences.

(54) Upstream Channel: A channel over which Signals travel from an authorized location to the Cable System Headend.

(55) User: A Person utilizing the Cable Television System, including all related facilities for purposes of production and/or transmission of electronic or other Signals as opposed to utilization solely as a Subscriber.

(56) VCR: A video cassette recorder.

(57) Video Programming or Programming: 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**

Pursuant to the authority of Chapter 166A of the General Laws of the Commonwealth of Massachusetts, and subject to the terms and conditions set forth herein, the Board of Selectmen of the Town of Brookline, Massachusetts, as the Issuing Authority of the Town, hereby grants a non-exclusive cable television renewal license to the Licensee authorizing the Licensee to lawfully operate and maintain a Cable Television System within the corporate limits of the Town of Brookline.

This Renewal License is subject to the terms and conditions contained in Chapter 166A of the laws of Massachusetts, as amended; the regulations of the FCC; the 1984 Cable Act; the 1992 Cable Act; and all lawful Town, State and federal statutes and by-laws of general application.

Subject to the terms and conditions herein, the Issuing Authority hereby grants to the Licensee the right to lawfully operate and maintain a Cable Television System in, under, over, along, across or upon the Streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town of Brookline within the municipal boundaries and subsequent additions thereto, including property over, under or on which the Town has an easement or right-of-way, for the purpose of reception, transmission, collection, amplification, origination, distribution, and/or redistribution of Signals in accordance with the laws of the United States of America, the Commonwealth of Massachusetts and the Town of Brookline. In exercising rights pursuant to this Renewal License, the Licensee shall not endanger or interfere with the lives of Persons, 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 this 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 the Licensee and other parties regarding use of Public Ways and places shall be resolved in accordance with any applicable regulations of the Department of Public Works ("DPW") and any special laws or Town ordinances enacted hereafter.

#### **Section 2.2---TERM OF RENEWAL LICENSE**

The term of this Renewal License shall be a ten (10) year term, commencing on April 28, 2008 and expiring on April 27, 2018, unless sooner terminated as provided herein or surrendered.

### Section 2.3---NON-EXCLUSIVITY OF RENEWAL LICENSE

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

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

(i) In the event that the Licensee believes that any additional cable television license(s) have been granted, from and after the Execution Date hereof, on terms and conditions more favorable or less burdensome than those contained in this Renewal License, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue. The Issuing Authority shall convene said hearing within forty-five (45) days of such request, unless otherwise agreed to by the Issuing Authority and the Licensee. 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 in writing as is requested in order to justify its belief.

(ii) Should the Licensee demonstrate, and the Issuing Authority reasonably finds, 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 consider and negotiate, in good faith, equitable amendments to this Renewal License.

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

### Section 2.4---POLICE AND REGULATORY POWERS

By executing this 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 DPW regulations attached hereto as **Exhibit 1**, and any by-laws enacted by the Town. Any conflict between the terms of this Renewal License and any present or future lawful exercise of the Town's police and regulatory powers shall be resolved in favor of the latter; provided, however, that in the event of a dispute hereto, the parties agree to meet and negotiate in order to resolve such dispute in good faith. If reasonable negotiations to resolve such dispute are not successful, the parties agree to submit such dispute to a forum of appropriate jurisdiction.

## Section 2.5---REMOVAL OR ABANDONMENT

Upon termination of this Renewal License by passage of time or otherwise, and unless (1) the Licensee has renewed its Renewal License for another renewal term, or (2) the Licensee transfers the Cable Television System to a transferee approved by the Issuing Authority, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and all other appurtenances from the Public Ways and places and shall restore all areas to their original condition. If such removal is not complete within six (6) months after such termination, the Issuing Authority may deem any property not removed as having been abandoned and may dispose of any such property in any way or manner it deems appropriate.

## Section 2.6---TRANSFER OF THE RENEWAL LICENSE

(a) Pursuant to M.G.L. c. 166A, Section 7, neither this Renewal License, nor control thereof, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of 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 hearing upon a written application therefor on forms as may be prescribed by the FCC and/or the Cable Division. An application for consent to a transfer or assignment, if required, shall be signed by the Licensee and by the proposed transferee or assignee or by their representatives, evidence of whose authority shall be submitted with the application.

(b) In considering a request to transfer control of this Renewal License, the Issuing Authority may consider such factors as the transferee's management experience, technical expertise, financial capability, and legal ability to operate a cable system under the existing license, and any other criteria allowable under law.

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

(d) The Licensee shall promptly notify the Issuing Authority of any action requiring the consent of the Issuing Authority pursuant to this Section 2.6.

(e) Unless otherwise allowed by applicable law(s), the Issuing Authority shall make a decision on said written application for transfer within one hundred twenty (120) days of receipt of said application for transfer. After 120 days, the application shall be deemed approved, unless said 120-day period is extended by mutual consent of the parties.

(f) The Licensee shall submit to the Issuing Authority an original and five (5) copies, unless otherwise directed, of the application and FCC Form 394 requesting such transfer or assignment consent.

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

(h) 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 this Renewal License.

**Section 2.7---EFFECT OF UNAUTHORIZED TRANSFER ACTION**

(a) Any transfer of the Cable System without complying with Section 2.6 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 in accordance with the provisions of Section 11.1 infra.

(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 DESIGN

#### Section 3.1---SUBSCRIBER NETWORK

(a) The Licensee shall continue to make available to all residents of the Town its minimum seven hundred Megahertz (750 MHz) Subscriber Network, fully capable of carrying at least seventy-eight (78) video channels in the downstream direction

(b) The Licensee shall continue to maintain the Subscriber Network, at all times, at the minimum FCC Technical Standards contained in **Exhibit 2**, attached hereto.

#### Section 3.2---INSTITUTIONAL NETWORK

(a) The Licensee shall continue to operate and maintain, at its sole cost and expense, its two (2) single mode fiber-optic Institutional Network ("I-Net") for the exclusive use of the Town, the Issuing Authority and/or its designees.

(b) Said I-Net shall be bridged to the Subscriber Network at the Headend. Said I-Net shall be capable of distributing video, audio and data to all designated non-school and school buildings connected to the I-Net. I-Net switching shall be the responsibility of the Licensee.

(c) The Licensee shall maintain and replace in a timely manner all equipment that is part of the I-Net. The Town shall maintain and replace any end-user equipment that it owns and operates.

(d) The two (2) single mode fiber-optic strands shall interconnect each of the buildings specified in **Exhibit 3** ("I-Net Buildings") to the Licensee's Hub location using a star network topology.

(e) The I-Net shall be capable of providing voice, video and data services between Town buildings and other institutions specified in **Exhibit 3**. The Licensee shall provide professional consulting services to the Town in order to facilitate video and data transmission capacity over the I-Net. Designated Users shall be able to transmit to other institutions using a modulator and/or other necessary equipment.

(f) Two (2) single mode fibers shall be terminated at each location requiring access to the I-Net. One (1) fiber shall be used for upstream transmission from the I-Net to the Licensee's Hub location in the Town. The second fiber shall be used for downstream transmissions.

(g) The I-Net shall be maintained by the Licensee as follows:

(i) The I-Net shall be maintained at all times in the downstream and upstream mode(s) to conform with FCC standards.



-Town of Brookline Cable Television Renewal License Granted to RCN-BecoCom, Inc.-

(ii) The hours 8:00 AM to 8:00 PM Monday through Friday are defined as Prime Business Hours for the Town. During the portion of Prime Business Hours from 8:00 AM to 5:00 PM, the Licensee shall make its best efforts to initiate action(s) to correct critical outages, as brought to the attention of the Licensee by the I-Net Administrator, within two (2) hours of the time that it is notified of any such outage by the I-Net Administrator; provided, however, that in no event shall the Licensee respond to such outage(s) later than the end of the day if notified by 3:00 P.M.

(a) The Town shall identify, and provide to the Licensee, a telephone number for the I-Net Administrator.

(iii) For critical outages occurring outside of Prime Business Hours, the Licensee shall initiate action(s) to correct such outages not later than 8:00 AM the following day.

(iv) For all non-critical outages, the Licensee shall respond within six (6) hours during Prime Business Hours, unless otherwise agreed to by the parties hereto.

(v) For scheduled I-Net maintenance activities, and scheduled Subscriber Network maintenance activities that may impact the I-Net, whether initiated at the Town's request or by the Licensee, the Licensee shall provide a minimum of one (1) week notice to the I-Net Administrator, unless otherwise agreed to by the I-Net Administrator.

(vi) For all Cable System maintenance activities likely to impact I-Net service, scheduled or otherwise, the Licensee shall notify the I-Net Administrator prior to the commencement of any such work.

(vii) All requests for I-Net maintenance shall be coordinated by the I-Net Administrator.

(viii) In the event that the Subscriber Network and the I-Net experience an outage simultaneously, it is the understanding of the parties hereto that the Licensee's first priority is to repair the Subscriber Network.

(ix) The I-Net Administrator shall approve, in writing, changes regarding I-Net channel assignments before they occur, which approval shall not be unreasonably denied.

(h) The Town shall have the right hereto to use the I-Net for any non-commercial purposes whatsoever, including, but not limited to, carrying Internet Service(s) from third parties for Town use on the I-Net for the Town's internal use only, without charges of any kind levied by the Licensee.

(i) The Licensee shall make available to the Town a reasonable amount of professional consultation regarding the development of the I-Net, from its in-house personnel, on an annual basis.

(j) Beyond the total number of I-Net Drops and Outlets as of the Effective Date of this Renewal License, the Issuing Authority may request additional I-Net Outlets for public buildings, institutions and/or non-profit agencies, which the Licensee shall install at cost to the Town, and subject to paragraph (k)(i) below

(i) Construction, installation and activation of additional designated Drops and Outlets shall be completed within sixty (60) days of designation by the Issuing Authority, for aerial Drops, and within one hundred twenty (120) days of designation by the Issuing Authority, for underground Drops, weather permitting, or such later date as may be mutually agreed upon by the parties. The Licensee shall discuss the location of each connection with the appropriate officials in each of the buildings or institutions designated to receive a Drop or Outlet, prior to the installation of such Drop or Outlet. The Issuing Authority shall designate such officials in writing to the Licensee.

(k) The I-Net shall be interconnected with the Subscriber Network at the Headend or the Hub. All remote I-Net video transmissions shall be sent on an Upstream Channel to the Headend or the Hub, where they shall be reprocessed, switched and designated on the appropriate Downstream Channel(s) on the Subscriber Network. The Licensee shall be responsible for the switching of all video Upstream Channels to the appropriate Subscriber Network Downstream Channels, and switching of all Subscriber Network Upstream Channels to the appropriate I-Net Downstream Channels. Said switching shall be performed by the Licensee at no cost to the Town.

(l) Nothing in this Section 3.2, or elsewhere in this Renal License, shall prevent the Issuing Authority from allowing the Access Corporation(s) from using one (1) or more I-Net channels.

(m) The Licensee shall have the sole responsibility for maintaining the I-Net for the term of the Final License, except for equipment not directly under its control or ownership. The Licensee shall be responsible for all necessary inspections and performance tests of the I-Net. Scheduled tests shall be performed at least approximately once every six (6) months. Test results shall be submitted to the I-Net Administrator.

(n) The I-Net shall be operated in compliance with applicable FCC Technical Specifications as may be amended from time to time. In the event that there are technical problems with the I-Net, excluding any devices, hardware or software not under the control or ownership of the Licensee and installed by the Town or other User, the Licensee shall resolve the technical problem promptly. Should the problem continue, the Issuing Authority and the Licensee shall meet to discuss a resolution of such problem. The Issuing Authority shall have the right to reasonably request a performance test of the I-Net, should such problems persist. The Licensee shall initiate such performance tests within seven (7) days of any such request, and correct the problem within seven (7) days and submit the results to the Issuing Authority promptly, unless the Licensee notifies the Issuing Authority, in writing, that such correction cannot be completed with such seven (7) day period.

(o) There shall be no charges to the Issuing Authority or the Town for I-Net operational, maintenance, repair, replacement, and/or Drop/Outlet(s) installation costs.

### Section 3.3---PARENTAL CONTROL CAPABILITY

The Licensee shall provide, upon request, Subscribers with the capability to control the reception of any channels being received on their television sets. Where 750 MHz Converters are utilized, there shall be no charge for such parental control capability.

### Section 3.4---EMERGENCY ALERT OVERRIDE CAPACITY

(a) The Subscriber Network, described in Section 3.1 herein, shall have an activated Emergency Alert System ("EAS") that will override the audio and video Signal(s) carried on the Brookline Subscriber Network. The EAS will switch-off Cable Television Signals at the local Hub Site and automatically insert video and audio messages that will alert and instruct Subscribers to follow specific emergency related instructions. The EAS shall consist of a MHz sub-alert 70A Camb Generator Base Package, idea/onics AV-70+ expansion switch, a MHz EAS-4 AM/FM/NOAA receiver, or like equipment, and associated antennas and interface equipment. The EAS shall be controlled remotely by the Issuing Authority, and provided by the Licensee at its sole cost and expense.

(b) In the event that applicable law preempts the continued operation of said locally-controlled emergency audio alert override, the Licensee shall not be required to continue to provide said override capacity; provided, however, that the Licensee shall give the Issuing Authority advance notice of any such preemption as well as a copy of such preemption itself.

(c) The Subscriber Network shall also comply with the FCC's Emergency Alert System ("EAS") regulations.

## ARTICLE 4

### CABLE SYSTEM LOCATION AND OPERATIONAL STANDARDS

#### Section 4.1---SERVICE AVAILABLE TO ALL RESIDENTS

(a) The Licensee's Cable Service shall continue to be available to all residents of the Town, unless legally or otherwise prevented from doing so by factors outside of the Licensee's control, including, but not limited to, denial of access by owners of private property or multiple dwelling units.

(b) Installation charges shall be non-discriminatory, except that an additional charge for time and materials may be made for customized installation within a Subscriber's residence or except when the Licensee is engaged in marketing promotions.

(c) Any dwelling unit within one hundred fifty feet (150') of existing Cable System plant shall be entitled to a standard aerial installation rate. Any aerial installation greater than 150' shall be

provided at the Licensee's actual cost, plus profit, if allowable by applicable law(s) or regulation(s), including the cost for system design changes to extend the cable plant to within 150' of the dwelling unit. Any underground installation shall be provided at the Licensee's actual cost.

(d) The Licensee's obligation to extend its Cable Television System to unconstructed Public Ways or Streets in the Town shall be limited to those Public Ways or Streets in which the Licensee's cost of construction is no greater than Seven Hundred Dollars (\$700.00) per dwelling unit, unless prospective Subscribers within said Public Ways or Streets agree to pay additional costs in excess of said amount of \$700.00.

(i) On each anniversary of the Execution Date of this Renewal License, the aforesaid \$700.00 threshold by the Licensee shall be increased by any increase in the Gross National Product Price Increase (GNP-PI). The Licensee, in its sole discretion, may waive excess charges to be paid by prospective Subscribers if it deems it commercially desirable.

(ii) For purposes of this Section 4.1(d), the term "dwelling unit" is hereby defined as any and all occupied residences, individual apartment, individual condominium, units in cooperative buildings, and private homes, but excluding lodging houses, hotels, motels, hospitals, dormitories, organizations and businesses; provided, however, that the Licensee shall include in the above definition of "dwelling unit" any residences that are undergoing renovation or construction at the time that a request for Service is made.

#### **Section 4.2---LOCATION OF CABLE TELEVISION SYSTEM**

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

#### **Section 4.3---UNDERGROUND FACILITIES**

In the areas of the Town having telephone lines and electric utility lines 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 at their sole cost and expense or are required to be placed underground by the Town at the sole cost and expense of such telephone and electric utility companies, the Licensee shall likewise place its facilities underground at no cost to the Issuing Authority and/or any Town departments. Underground cable lines shall be placed beneath the pavement subgrade 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.

#### Section 4.4---**TREE TRIMMING**

In the installation of amplifiers, poles, other appliances or equipment and in stringing of cables and/or wires as authorized herein, the Licensee shall avoid all unnecessary damage and/or injury to any and all shade, ornamental and other trees in and along the streets, alleys, Public Ways and places, and private property in the Town. The Licensee shall be subject to M.G.L. Chapter 87 and shall comply with all rules established by the Issuing Authority or its designee(s) during the term of this Renewal License. All tree and/or root trimming and/or pruning provided for herein shall be done pursuant to appropriate regulations of the Town. The Licensee may not trim and/or prune any trees belonging to the Town without the advance notification of the DPW.

#### Section 4.5---**RESTORATION TO PRIOR CONDITION**

Whenever the Licensee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way or public 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 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.

#### Section 4.6---**TEMPORARY RELOCATION**

The Licensee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person, including without limitation, a Person holding a building moving permit issued by the Town. The expense of such raising or lowering shall be paid by the Licensee, unless otherwise required or permitted by applicable law. The Licensee shall be given reasonable notice necessary to maintain continuity of service.

#### Section 4.7---**DISCONNECTION AND RELOCATION**

The Licensee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street or other Public Way and place, 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(s) 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.

#### **Section 4.8---SAFETY STANDARDS**

The Licensee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with Occupational Safety and Health Administration regulations, the Massachusetts Electrical Code, the National Electrical Code, the National Electrical Safety Code, the National Television Standards Code, the rules and regulations of the FCC, all State and local laws, and all land use restrictions as the same exist or may be amended hereafter.

#### **Section 4.9---PEDESTALS**

In any cases in which Pedestals housing 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 regulations of the Town; provided, however, that the Licensee may place active devices (amplifiers, line extenders, power supplies, etc.) in a low-profile electronic control box at Town approved locations to be determined when the Licensee applies for a permit. All such equipment shall be shown on the Cable System maps submitted to the Town in accordance with Section 4.12 infra. In the event that the Licensee is no longer using any such Pedestals for the provision of Cable Service(s), the Licensee shall expeditiously remove any such Pedestals from the Public Way(s).

#### **Section 4.10---PRIVATE PROPERTY**

The Licensee shall be subject to all laws, by-laws 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 promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, upgrade, installation, operation or maintenance of the Cable Television System at its sole cost and expense.

#### **Section 4.11---RIGHT TO INSPECTION OF SYSTEM**

(a) The Issuing Authority or its designee(s) shall have the right to inspect the Cable System and to make such inspections as it shall deem necessary to ensure compliance with the terms and conditions of this Renewal License and all other applicable law. Any such inspection shall not interfere with the Licensee's operations, except in emergency situations.

(b) Any inspections conducted by the Town shall be at the sole cost and expense of the Town and shall have the prior written approval of the Licensee. Unless otherwise mutually agreed upon, the Town shall give at least thirty (30) days prior notification to the Licensee of its intention to conduct

any inspection. The Licensee shall be afforded the opportunity to be present during all such inspecting.

#### Section 4.12---CABLE SYSTEM MAPS

(a) Upon request, the Licensee shall continue to file with the Issuing Authority or its designee(s) strand maps of the Cable System plant. If changes are made in the Cable System, upon request, the Licensee shall file with the Town updated strand maps annually, not later than fifteen (15) days after each anniversary of the Effective Date of this Renewal License.

(b) Upon request, the Licensee shall allow the Issuing Authority and/or its designee(s) to view "as-built" maps of the Cable System at a location that is mutually-agreeable to the Issuing Authority and the Licensee.

#### Section 4.13---SERVICE INTERRUPTION

Except where there exists an emergency situation necessitating a more expeditious procedure, the Licensee may interrupt Service for the purpose of repairing or testing the Cable Television System only during periods of minimum use and, if practical, only after a minimum of twenty-four (24) hours notice to all affected Subscribers.

#### Section 4.14---SERVICE OUTAGE NOTIFICATION

When notified of a meeting and upon request, the Licensee shall explain major service outages in the Town to the Broadband Monitoring Committee at its regularly scheduled meetings. Major service outages are defined in Section 12.4(d) infra.

#### Section 4.15---"DIG SAFE"

The Licensee shall comply with all applicable "dig-safe" provisions, pursuant to Massachusetts General Laws Chapter 82, Section 40.

## ARTICLE 5

### SERVICES AND PROGRAMMING

#### Section 5.1---BASIC SERVICE

The Licensee shall provide Basic Service which shall include all Signals, including the downstream PEG Access Channels, which are required to be carried by a cable television system serving the Town pursuant to applicable federal statute or regulation.

#### Section 5.2---PROGRAMMING

(a) Pursuant to Section 624 of the Cable Act, the Licensee shall maintain the mix, quality and broad categories of Programming set forth in **Exhibit 4**, attached hereto and made a part hereof. Pursuant to applicable federal law, all Programming decisions, including the Programming listed in **Exhibit 4**, attached hereto, are at the sole discretion of the Licensee.



(b) The Licensee shall provide the Issuing Authority and all Subscribers with notice of its intent to substantially change the Brookline programming line-up at least thirty (30) days before any such change is to take place. The Licensee shall also provide Subscribers with a channel line-up card or other suitable marker indicating the new channel line-up.

#### **Section 5.3----LEASED CHANNELS FOR COMMERCIAL USE**

Pursuant to Section 612 (b)(1)(B) of the Cable Act, the Licensee shall make available channel capacity for commercial use by Persons unaffiliated with the Licensee.

#### **Section 5.4----VCR/DVD CABLE COMPATIBILITY**

In order that Subscribers to the Cable Television System have the capability to simultaneously view and tape any channel and set their "time shifter" to record multiple channels remotely, the Licensee shall provide to any Subscriber, upon request, an A/B switch or by-pass switch, which will allow VCR and/or DVD owners to tape and view any channel capable of being tuned by such owner's television set and/or VCR and/or DVD, except two scrambled Signals. Said A/B switch or by-pass switch shall be available to all Subscribers no later than System completion.

#### **Section 5.5---SCRAMBLING**

(a) Pursuant to applicable law, the Licensee shall not Scramble or otherwise encode, in any manner or form, for the entire term of this Renewal License, (1) any off-the-air Signals or (2) any of the PEG Access Channels. For purposes of this Section 5.5(a), "off-the-air Signals" shall mean any local broadcast television Signals received at the Licensee's Headend without the aid of any intervening relay device or receiving dishes. For purposes of this section, the word "local" shall have the meaning as defined by applicable law and/or regulation.

(b) The Licensee reserves its rights to Scramble or otherwise encode any cable channel(s), except for the channels discussed in paragraph (a) above, as is reasonably necessary, in the Licensee's judgment, to protect the Licensee from unauthorized reception of its Signals.

#### **Section 5.6---CONTINUITY OF SERVICE**

It shall be the right of all Subscribers to receive Service insofar as their financial and other obligations to the Licensee are honored; provided, however, that the Licensee shall have no obligation to provide 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 Service, except for necessary Service interruptions or as a result of Cable System or equipment failures. When necessary, if Service interruptions can be anticipated, the Licensee shall notify Subscribers of such interruption(s) in advance.

**Section 5.7---FREE DROPS AND MONTHLY SERVICE TO PUBLIC BUILDINGS**

(a) The Licensee shall continue to provide, install and maintain a free Subscriber Cable Drop and Outlet(s) and the monthly Basic Service to all police and fire stations, public libraries and other public buildings included in **Exhibit 5**, attached hereto and made a part hereof, and any other public buildings as designated by the Issuing Authority. The Licensee shall coordinate the location of each Drop with each of the aforementioned institutions newly receiving Service. There shall be no costs to the Town or any designated institution for the installation and provision of monthly Cable Service and related maintenance.

(b) The Licensee shall provide up to ten (10) additional Drops and/or Outlets to public buildings at the written request of the Issuing Authority.

(c) The Licensee shall discuss the location of each Drop and/or Outlet with the proper officials in each of the buildings and/or institutions entitled to such a Drop or Outlet, prior to any such installation.

**Section 5.8---FREE DROPS AND MONTHLY SERVICE TO PUBLIC SCHOOLS**

(a) The Licensee shall continue to provide one (1) free Subscriber Cable Drop with one (1) Outlet and monthly Basic Service to all public schools listed in **Exhibit 6**, attached hereto and made a part hereof, including service to all classrooms currently wired.

(b) The Licensee shall provide up to ten (10) additional Drops and/or Outlets to public school buildings at the written request of the Issuing Authority.

(c) The exact locations of said Drops and Outlets shall be designated by the School Department, at the Licensee's sole cost and expense. The Licensee shall discuss the location of each Drop and/or Outlet with the proper officials in each of the school buildings entitled to such a Drop or Outlet, prior to any such installation.

## **ARTICLE 6**

### **PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS FACILITIES AND SUPPORT**

#### **Section 6.1---PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS**

The Access Corporation, as designated by the Issuing Authority, shall be responsible for the provision of public, educational and governmental ("PEG") Access Programming to Subscribers, pursuant to the provisions of this Article 6 herein.

#### **Section 6.2---ACCESS CORPORATION**

The Access Corporation 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 6.3 below;
- (2) Manage the annual funding, pursuant to Section 6.4 below;
- (3) Purchase, maintain and/or lease equipment, with the funds allocated for such purposes in Section 6.5 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, in accordance with available funding;
- (6) Establish rules, procedures and guidelines for use of the PEG Access Channels;
- (7) Provide publicity, fundraising, outreach, referral and other support services to PEG Access Users;
- (8) Assist Users in the production of Programming of interest to Subscribers and focusing on Town issues, events and activities; and
- (9) Accomplish and perform all such other tasks as appropriate and necessary, as may be authorized by its Board of Directors.

**Section 6.3---PEG ACCESS CHANNELS**

- (a) For the entire term of this Renewal License, the Licensee shall make available to the Issuing Authority and/or the Access Corporation three (3) full-time Subscriber Network Downstream Channels for PEG Access non-commercial purposes, pursuant to paragraphs (b) and (c) below.
- (b) Said PEG Access Channels shall be used to transmit PEG Access Programming to Subscribers without charge to the Issuing Authority, the Access Corporation and/or PEG Access Users, and shall be subject to the control and management of the Access Corporation. Charges to Subscribers, if any, shall be subject to applicable law(s) and regulation(s).
- (c) The Access Corporation may utilize Upstream Channels on the I-Net, as described in Section 3.2 herein, in order to transmit PEG Access Programming to Subscribers

(d) The Licensee shall not move or otherwise relocate said PEG Access Channel locations once established without a minimum of sixty (60) days advance, written notice to the Issuing Authority and the Access Corporation.

#### **Section 6.4---ANNUAL SUPPORT FOR PEG ACCESS**

(a) The Licensee shall continue to provide funding to the Access Corporation, for PEG Access purposes, equal to two percent (2%) of the Licensee's Gross Annual Revenues, as defined herein. Said payments shall be used for, among other things, salary, operating and other related expenses connected with PEG Access programming and operations. Said 2% funding shall be paid to the Access Corporation on a quarterly basis.

(b) In Year One of this Renewal License, the first quarterly payment to the Access Corporation shall be based on the period from April 28, 2008 through June 30, 2008 and shall constitute two percent (2%) of the Licensee's Gross Annual Revenues. Said first quarterly payment shall then be due and payable to the Access Corporation no later than forty-five (45) days after the end of said quarterly period, or no later than August 15, 2008. The second quarterly payment to the Access Corporation shall be based on the period from July 1, 2008 through September 30, 2008 and shall constitute two percent (2%) of the Licensee's Gross Annual Revenues. Said second quarterly payment shall then be due and payable to the Access Corporation no later than forty-five (45) days after the end of said quarterly period, or no later than November 15, 2008. The third quarterly payment to the Access Corporation shall be based on the period from October 1, 2008 through December 31, 2008 and shall constitute two percent (2%) of the Licensee's Gross Annual Revenues. Said third quarterly payment shall then be due and payable to the Access Corporation no later than forty-five (45) days after the end of said quarterly period, or no later than February 15, 2009. The fourth quarterly payment to the Access Corporation shall be based on the period from January 1, 2009 through March 30, 2009 and shall constitute two percent (2%) of the Licensee's Gross Annual Revenues. Said second quarterly payment shall then be due and payable to the Access Corporation no later than forty-five (45) days after the end of said quarterly period, or no later than May 15, 2009. In years thereafter for the term of this Renewal License, the Licensee's two percent (2%) payments to the Access Corporation shall continue to be made on the same quarterly basis based on the above-referenced three-month accounting periods and forty-five (45) day due dates. The final payment, pursuant to Section 6.4(a) above, shall be based on the twenty-seven (27) day period from April 1, 2018 through April 27, 2018 and shall constitute two percent (2%) of the Licensee's Gross Annual Revenues. Said final payment shall then be due and payable to the Access Corporation no later than forty-five (45) days after the end of said quarterly period, or no later than June 15, 2018.

(c) The Licensee shall file with each of said two percent (2%) quarterly payments a statement certified by an authorized representative of the Licensee documenting, in reasonable detail, the total of all Gross Annual Revenues of the Licensee during the preceding three (3) month reporting period(s), as well as a completed Gross Annual Revenues Reporting Form, attached hereto as

**Exhibit 7.** If the Licensee's quarterly payments to the Access Corporation were less than two percent (2%) of the Licensee's Gross Annual Revenues for the reporting period, the Licensee shall pay any balance due to the Access Corporation no later than its subsequent quarterly payment. Said statement shall list all of the general categories comprising Gross Annual Revenues as defined in Section 1.1(24) supra.

(d) In accordance with Section 622(h) of the Cable Act, nothing in the Cable Act or this Renewal License shall be construed to limit any 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 or other communications 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 System.

(e) In the event that the payments required herein are not tendered on or before the dates as required herein, interest due on such payments accrue from the date due at two percent (2%) above the Prime Rate.

#### **Section 6.5---EQUIPMENT/FACILITIES PAYMENTS**

(a) The Licensee shall provide a total of Eight Hundred Thousand Dollars (\$800,000.00) to the Issuing Authority and/or the Access Corporation, as directed by the Issuing Authority in writing, for PEG Access equipment/facilities and other cable-related purposes, payable as follows:

(1) Eighty Thousand Dollars (\$80,000.00) payable on the Execution Date of this Renewal License; and

(2) Eighty Thousand Dollars (\$80,000.00) on each anniversary of the Execution Date of this Renewal License.

(b) Under no circumstances shall said equipment/facilities payments required herein be counted against (i) the annual funding payable to the Access Corporation pursuant to Section 6.4 above; and/or (ii) the License Fees payable to the Town pursuant to Section 7.1 infra.

(c) In the event that the equipment/facilities payments required herein are not tendered to the Issuing Authority and/or the Access Corporation on or before the dates fixed herein, interest due on such equipment/facilities payments shall accrue from the date due at the rate of two percent (2%) above the Prime Rate.

#### **Section 6.6---RECOMPUTATION**

(a) Tender or acceptance of any payment shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority and/or the Issuing Authority on behalf of the Access Corporation may have for additional sums including interest payable under this Section 6.6. All amounts paid shall be subject to audit and recomputation by the Issuing Authority and/or the Issuing Authority on behalf of the Access Corporation, which shall be based on the Licensee's fiscal year and shall occur in no event later than three (3) years after each quarterly License Fee is tendered with respect to such fiscal year.

(b) If the Issuing Authority and/or the Issuing Authority on behalf of the Access Corporation has reason to believe that any such payment(s) are incorrect, the Licensee shall have twenty-one (21) days to provide the Issuing Authority and/or Issuing Authority on behalf of the Access Corporation 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 and/or the Issuing Authority on behalf of the Access Corporation may conduct an audit of such payment(s). If, after such audit and recomputation, an additional fee is owed to the Issuing Authority and/or the Access Corporation, such fee shall be paid within thirty (30) days after such audit and recomputation. The Licensee shall contribute to the costs of such audit in an amount not to exceed Three Thousand Dollars (\$3,000.00). The interest on such additional fee shall be charged from the due date at the rate of two percent (2%) above the Prime Rate during the period that such additional amount is owed. If, after such audit and recomputation, the Licensee has overpaid, such overpayment shall be credited against the next required PEG Access payment to the Access Corporation, without interest charges of any kind.

#### **Section 6.7---PEG ACCESS CHANNELS MAINTENANCE**

The Licensee shall monitor the three (3) PEG Access Channels for technical quality and shall ensure that they are maintained at standards commensurate with those which apply to the Cable System's commercial channels; provided, however, that the Licensee is not responsible for the production quality of PEG Access Programming productions. The Access Corporation shall be responsible for the picture quality of all PEG Access Programming.

#### **Section 6.8---PEG ACCESS CABLECASTING**

(a) In order that the Town and/or the Access Corporation can cablecast its PEG Access Programming over the Subscriber Network PEG Access Downstream Channels, all PEG Access Programming shall be modulated by the Town and/or the Access Corporation, then transmitted from the PEG Access studio or from any other I-Net Building with Origination Capability, as listed in **Exhibit 3** hereto, referred to as "Origination Sites", to the Cable System Headend or Hub, on an Upstream I-Net Channel made available, without charge, to the Issuing Authority and/or the Access Corporation for their use.

(b) The Licensee shall ensure that said PEG Access Programming is automatically switched electronically at the Headend or Hub to the appropriate Subscriber Network PEG Access Downstream Channel, in an efficient and timely manner. At the Headend or the Hub, said PEG Access Programming shall be retransmitted in the downstream direction on one of the Subscriber Network PEG Access Downstream Channels. The Licensee shall not charge the Issuing Authority and/or the Access Corporation for such electronic switching responsibility. Any manual switching shall be the responsibility of the Access Corporation or the Issuing Authority. The Licensee and the Issuing Authority shall discuss in good faith any difficulties that arise regarding cablecasting of PEG Access Programming.

(c) The Licensee shall own, maintain, repair and/or replace any Headend or Hubsite Signal processing equipment. The Town and/or the Access Corporation shall own, maintain, repair and/or replace studio or portable modulators and demodulators. The demarcation point between the Licensee's equipment and/or the Town's or the Access Corporation's equipment shall be at the output of the Town's and/or the Access Corporation's modulator(s) at any of the **Exhibit 3** Institutional Network Buildings.

#### Section 6.9---**CENSORSHIP**

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

### **ARTICLE 7**

#### **LICENSE FEES**

##### Section 7.1---**LICENSE FEE PAYMENT**

(a) The Licensee shall pay to the Town, throughout the term of the Renewal License, a License Fee equal to three percent (3%) of its Gross Annual Revenues, as defined herein. Said annual License Fee(s) shall be paid to the Town on a quarterly basis.

(b) In Year One of this Renewal License, the first quarterly payment to the Town shall be based on the period from April 28, 2008 through June 30, 2008 and shall constitute three percent (3%)



of the Licensee's Gross Annual Revenues. Said first quarterly payment shall then be due and payable to the Town no later than forty-five (45) days after the end of said quarterly period, or no later than August 15, 2008. The second quarterly payment to the Town shall be based on the period from July 1, 2008 through September 30, 2008 and shall constitute three percent (3%) of the Licensee's Gross Annual Revenues. Said second quarterly payment shall then be due and payable to the Town no later than forty-five (45) days after the end of said quarterly period, or no later than November 15, 2008. The third quarterly payment to the Town shall be based on the period from October 1, 2008 through December 31, 2008 and shall constitute three percent (3%) of the Licensee's Gross Annual Revenues. Said third quarterly payment shall then be due and payable to the Town no later than forty-five (45) days after the end of said quarterly period, or no later than February 15, 2009. The fourth quarterly payment to the Town shall be based on the period from January 1, 2009 through March 31, 2009 and shall constitute three percent (3%) of the Licensee's Gross Annual Revenues. Said second quarterly payment shall then be due and payable to the Town no later than forty-five (45) days after the end of said quarterly period, or no later than May 15, 2009. In years thereafter for the term of this Renewal License, the Licensee's three percent (3%) payments to the Town shall continue to be made on the same quarterly basis based on the above-referenced three-month accounting periods and forty-five (45) day due dates. The final payment, pursuant to Section 7.1(a) above, shall be based on the twenty-seven (27) day month period from April 1, 2018 through April 27, 2018 and shall constitute three percent (3%) of the Licensee's Gross Annual Revenues. Said final payment shall then be due and payable to the Town no later than forty-five (45) days after the end of said quarterly period, or no later than June 15, 2018.

(c) The Licensee shall file with each of said three percent (3%) quarterly payments a statement certified by an authorized representative of the Licensee documenting, in reasonable detail, the total of all Gross Annual Revenues of the Licensee during the preceding three (3) month reporting period(s), as well as a completed Gross Annual Revenues Reporting Form, attached hereto as **Exhibit 7**. If the Licensee's quarterly payments to the Town were less than three percent (3%) of the Licensee's Gross Annual Revenues for the reporting period, the Licensee shall pay any balance due to the Town no later than its subsequent quarterly payment. Said statement shall list all of the general categories comprising Gross Annual Revenues as defined in Section 1.1(24) supra.

(d) The Licensee shall not be liable for a total financial commitment pursuant to this Renewal License and applicable law in excess of five percent (5%) of its Gross Annual Revenues; provided, however, that said five percent (5%) shall not include the following: (i) the payments in Section 6.5 supra, which payments shall be in addition to said five percent (5%); (ii) any interest due herein to the Town because of late payments; (iii) the costs related to any remedies (Section 11.2); and (iv) any payments, expenses, or replenishment of the Performance Bond made to cure any deficiencies and/or to reimburse the Town (Sections 2.5, 4.5, 9.2(c), 10.4 and/or 10.5).

(e) In accordance with Section 622(h) of the Cable Act, nothing in the Cable Act or this Renewal License shall be construed to limit any 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 or other communications 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 System.

#### Section 7.2---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 of general applicability which the Licensee and/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 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, except as permitted by applicable law.

(b) The term "License Fee" shall have the meaning defined in Sections 622(g)(1) & (2)(A-E) of the Cable Act.

#### Section 7.3---LATE PAYMENT

In the event that the License Fees herein required are not tendered on or before the dates fixed in Section 7.1 above, interest due on such fee shall accrue thirty (30) days from the date due at the rate of two percent (2%) above the annual Prime Rate. Any payments to the Town pursuant to this Section 7.5 shall not be deemed to be part of the License Fees to be paid to the Town pursuant to Section 7.1 hereof and shall be within the exclusion to the term "Franchise Fee" for requirements incidental to enforcing the Renewal License pursuant to §622(g)(2)(D) of the Cable Act.

#### Section 7.4---RECOMPUTATION

(a) Tender or acceptance of any payment shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Town may have for additional sums including interest payable under this Section 7.4. All amounts paid shall be subject to audit and recomputation by the Issuing Authority and shall occur in no event later than three (3) years after each quarterly License Fee is tendered with respect to such fiscal year.

(b) If the Issuing Authority has reason to believe that any such payment(s) are incorrect, the Licensee shall have twenty-one (21) days to provide the Issuing Authority 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

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payment(s), the Issuing Authority may conduct an audit of such payment(s). If, after such audit and recomputation, an additional fee is owed to the Issuing Authority, such fee shall be paid within thirty (30) days after such audit and recomputation. The Licensee shall contribute to the costs of such audit in an amount not to exceed Three Thousand Dollars (\$3,000.00). The interest on such additional fee shall be charged from the due date at the rate of two percent (2%) above the Prime Rate during the period that such additional amount is owed.

**Section 7.5---AFFILIATES USE OF SYSTEM**

Use of the Cable System by Affiliates shall be in compliance with applicable State and/or federal laws.

**Section 7.6---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.

**ARTICLE 8**

**RATES AND CHARGES**

**Section 8.1---RATE REGULATION**

The Issuing Authority reserves the right to regulate the Licensee's Basic Service rates and charges, and the equipment needed to receive Basic Service, to the extent allowable under State and federal laws.

**Section 8.2---NOTIFICATION OF RATES AND CHARGES**

(a) The Licensee shall file with the Issuing Authority schedules which shall describe all Cable Services offered by the Licensee, all rates and charges of any kind, and all terms or conditions relating thereto. Thereafter, the Licensee shall file with the Issuing Authority all substantial changes in Services, all rates and charges of any kind, and all terms and conditions relating thereto thirty (30) days prior to all such changes. The Licensee shall notify all Subscribers of any impending rate increases no later than thirty (30) days prior to such increase and provide each Subscriber with a schedule describing existing and proposed rates for each Service offered.

(b) At the time of initial solicitation or installation of Service, the Licensee shall also provide each Subscriber with an 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., attached as **Exhibit 8**.

#### Section 8.3---PUBLICATION AND NON-DISCRIMINATION

All rates for Subscriber Cable Services shall be published and non-discriminatory. A written schedule of all rates shall be available upon request during business hours at the Licensee's business office. Nothing in this Renewal License shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or maintaining subscribers.

#### Section 8.4---CREDIT FOR SERVICE INTERRUPTION

The Licensee shall grant a pro rata credit or rebate to any Subscriber whose Cable Service is interrupted for twenty-four (24) or more consecutive hours.

#### Section 8.5---SENIOR CITIZEN DISCOUNT

(a) The Licensee shall provide senior citizens in Brookline a discount of Two Dollars (\$2.00) per month off of the Licensee's Basic Service. To qualify for said discount, senior citizens must be (1) sixty-five (65) years of age or older and head-of-the-household and (2) receiving one of the following: (i) Supplemental Security Income, or (ii) Medicaid benefits, or (iii) Massachusetts fuel assistance, or (iv) Veteran's Services benefits. The Licensee reserves the right to adjust this discounted rate proportionately in accordance with any change in the rate for Basic Service.

(b) The Town will make its best efforts to assist the Licensee in the continued implementation of said Senior Citizen discount.

## **ARTICLE 9**

### **INSURANCE AND BONDS**

#### **Section 9.1---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, on an annual basis, copies of the certificates of insurance for the following policies:

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(1) A general comprehensive liability policy naming the Town, its officers, boards, commissions, agents and employees as additional named insureds on all claims on account of injury to or death of a person or persons occasioned by the construction, installation, maintenance or operation of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000.00) for injury or death to any one person in any one occurrence and a Five Million Dollar (\$5,000,000.00) umbrella policy for injury or death to two (2) or more persons in any one occurrence.

(2) A property damage insurance policy naming the Town, its officers, boards, commissions, agents and employees as additional named insureds and save them harmless from any and all claims of property damage, real or personal, occasioned or alleged to have been so occasioned by the construction, installation, maintenance or operation of the Cable Television System, with a minimum liability of One Million Dollars (\$1,000,000.00) for damage to the property of any one person in any one occurrence and a Five Million Dollar (\$5,000,000.00) umbrella policy for damage to the property of two (2) or more persons in any one occurrence.

(3) Automobile liability insurance for owned automobiles, non-owned automobiles and/or rented automobiles in the amount of:

(a) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death per occurrence;

(b) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death to any one person; and

(c) Five Hundred Thousand Dollars (\$500,000.00) for property damage per occurrence.

(4) Worker's Compensation in the minimum amount of the statutory limit.

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

(a) Such insurance shall commence no later than the Execution Date of this Renewal License.

(b) 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.

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

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

Section 9.2---**PERFORMANCE BOND**

(a) The Licensee shall continue to maintain at its sole cost and expense throughout the term of the Renewal License a faithful performance bond running to the Town, with good and sufficient surety licensed to do business in the State in the sum of One Hundred Thousand Dollars (\$100,000.00) Said bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by this Renewal License:

(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 11.1 and 11.2 infra.

(c) Said bond shall be a continuing obligation of this Renewal License, and thereafter until the Licensee has satisfied all of its obligations to the Town that may have arisen from the grant of the Renewal License or from the exercise of any privilege herein granted. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the appropriate amount required herein. Neither this section, any bond accepted pursuant thereto, or any damages recovered thereunder shall limit the liability of the Licensee under the Renewal License.

#### **Section 9.3---REPORTING**

Upon renewal of any insurance policies and/or the performance bond required herein and/or upon the written request of the Issuing Authority, the Licensee shall submit to the Issuing Authority, or its designee, copies of all current certificates regarding (a) all insurance policies as required herein and (b) the performance bond as required herein.

#### **Section 9.4---INDEMNIFICATION**

The Licensee shall, at its sole cost and expense, indemnify and hold harmless the Issuing Authority, the Town, its officials, boards, commissions, agents and/or employees against all claims for damage due to the actions of the Licensee, its employees, officers 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, damage to persons or property, both real and personal, caused by the maintenance, operation, and/or removal of any structure, equipment, wire or cable installed. Indemnified expenses shall include all reasonable attorneys' fees and costs incurred 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 and defend the Issuing Authority of a claim or action pursuant to this Section 9.4.

**Section 9.5---NOTICE OF CANCELLATION OR REDUCTION OF COVERAGE**

The insurance policies and performance bond required herein shall each contain an explicit endorsement stating that such insurance policies and performance bond are intended to cover the liability assumed by the Licensee under the terms of the Renewal License and shall contain the following endorsement:

It is hereby understood and agreed that this policy (or bond) shall not be cancelled, materially changed or the amount of coverage thereof reduced until thirty (30) days after receipt by the Issuing Authority by certified mail of one (1) copy of a written notice of such intent to cancel, materially change or reduce the coverage required herein.

**ARTICLE 10**

**ADMINISTRATION AND REGULATION**

**Section 10.1---REGULATORY AUTHORITY**

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



Authority shall notify the Licensee in writing of any instance of non-compliance pursuant to Section 11.1 infra.

#### Section 10.2---**PERFORMANCE EVALUATION HEARINGS**

(a) The Issuing Authority may hold a performance evaluation hearing in each year of this Renewal License. All such evaluation hearings shall be open to the public. The purpose of said evaluation hearing shall be to, among other things, (i) review the Licensee's compliance with the terms and conditions of this Renewal License, with emphasis on PEG Access Channels, facilities and support, customer service and Complaint response, and the Institutional Network; and (ii) hear comments, suggestions and/or Complaints from the public.

(b) The Issuing Authority shall have the right to question the Licensee on any aspect of this Renewal License including, but not limited to, the maintenance, operation and/or removal of the Cable Television System. During review and evaluation by the Issuing Authority, the Licensee shall fully cooperate with the Issuing Authority and/or its designee(s), and produce such documents or other materials relevant to such review and evaluation as are reasonably requested from the Town. Any Subscriber or other Person may submit comments during such review hearing, either orally or in writing, and such comments shall be duly considered by the Issuing Authority.

(c) Within sixty (60) days after the conclusion of such review hearing(s), the Issuing Authority shall issue a written report with respect to the Licensee's compliance with Cable System performance and quality of Service, and send one (1) copy to the Licensee and file one (1) copy with the Town Clerk's Office. If inadequacies are found which result in a violation of any of the provisions of this Renewal License, the Licensee shall respond and propose a plan for implementing any changes or improvements necessary, pursuant to Section 11.1 infra.

#### Section 10.3---**NONDISCRIMINATION**

The Licensee shall not discriminate against any Person in its solicitation, service or access activities, if applicable, 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. This Section 10.3 shall not affect the right of the Licensee to offer discounts.

#### Section 10.4---**EMERGENCY REMOVAL OF PLANT**

If, at any time, in case of fire or disaster in the Town, it shall become necessary in the reasonable judgment of the Issuing Authority or any designee(s), to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the Cable Television System, the Town shall have the right to do so at the sole cost and expense of the Licensee.

**Section 10.5---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 10.6---JURISDICTION AND 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 this instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit.

**ARTICLE 11  
DETERMINATION OF BREACH-LIQUIDATED DAMAGES  
LICENSE REVOCATION**

**Section 11.1---DETERMINATION OF BREACH**

In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any or several provisions 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 which the Issuing Authority believes may have been in default and the

details relating thereto. The Licensee shall have thirty (30) days from the receipt of such notice to:

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

(b) cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Licensee shall report to the Issuing Authority, in writing, by certified mail, at fourteen (14) 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 the Licensee fails to respond to such notice of default and 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 and be heard at such public hearing.

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

(i) seek specific performance of any provision in the Renewal License which reasonably lends itself to such remedy as an alternative to damages;

(ii) assess liquidated damages in accordance with the schedule set forth in Section 11.2 below;

(iii) commence an action at law for monetary damages;

(iv) foreclose on all or any appropriate part of the security provided pursuant to Section 9.2 herein;

(v) declare the Renewal License to be revoked subject to Section 11.3 below and applicable law;

(vi) invoke any other lawful remedy available to the Town.

#### Section 11.2---LIQUIDATED DAMAGES

(a) For the violation of any of the following provisions of this Renewal License, liquidated

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damages shall be paid by the Licensee to the Issuing Authority, subject to Section 11.1 above. Any such liquidated damages shall be assessed as of the date that the Licensee received written notice, by certified mail, of the provision or provisions which the Issuing Authority believes are in default provided that the Issuing Authority made a determination of default pursuant to Section 11.1(d) above.

(1) For failure to operate and maintain the Subscriber Network in accordance with Section 3.1 herein, Five Hundred Dollars (\$500.00) per day, for each day that any such non-compliance continues.

(2) For failure to operate and maintain the Institutional Network in accordance with Section 3.2 herein, Five Hundred Dollars (\$500.00) per day, for each day that any such non-compliance continues.

(3) For failure to comply with Sections 6.3, 6.7 and 6.8 of the PEG Access provisions Two Hundred Fifty Dollars (\$250.00) per day, for each day that any such non-compliance continues.

(4) For failure to comply with the technical standards Four Hundred Dollars (\$400.00) per day, for each day that any such non-compliance continues.

(5) For failure to comply with the FCC's Customer Service Obligations in accordance with Section 12.4 infra, and Exhibit 9 attached hereto One Hundred Dollars (\$100.00) per day that any such non-compliance continues.

(6) For failure to provide, install and/or fully activate the Subscriber Network Drops and/or I-Net Drops or Outlets in accordance with Sections 3.1, 3.2, 5.6 and 5.7 herein and/or Exhibits 3, 5 and 6, One Hundred Dollars (\$100.00) per day that any of such Drops and/or Outlets are not provided, installed and/or activated as required.

(7) For failure to submit reports, pursuant to Article 13 herein, Fifty Dollars (\$50.00) per day per report, that each and any of said reports are not submitted as required.

(b) Such liquidated damages shall not be a limitation upon, any other provisions of this Renewal License and applicable law, including revocation, or any other statutorily or judicially imposed penalties or remedies.

(c) Each of the above-mentioned cases of non-compliance shall result in damage to the Town, its residents, businesses and institutions, compensation for which will be difficult to ascertain. The Licensee agrees that the liquidated damages in the amounts set forth above are fair and reasonable compensation for such damage. The Licensee agrees that said foregoing amounts are liquidated damages, not a penalty or forfeiture, and are within one or more exclusions to the term "franchise fee" provided by Section 622(g)(2)(A)-(D) of the Cable Act.

**Section 11.3---REVOCATION OF THE RENEWAL LICENSE**

To the extent permitted by applicable law, 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 11.4---TERMINATION**

The termination of this Renewal License and the Licensee's rights herein shall become effective upon the earliest to occur of: (i) the revocation of the Renewal License by action of the Issuing Authority, pursuant to Section 11.1 and 11.2 above; (ii) the abandonment of the Cable System, in whole or material part, by the Licensee without the express, prior approval of the Issuing Authority; or (iii) the expiration of the term of this Renewal License unless the Licensee is otherwise permitted to continue operating the Cable System pursuant to applicable law(s).

#### **Section 11.5---NOTICE TO TOWN OF LEGAL ACTION**

In the event that the Town or Licensee has reason to believe that the other party has acted, or has failed to act, in such a manner as to give rise to a claim, in law or equity, against the other party, and either the Town or the Licensee intends to take legal action, said party shall (i) give the other party at least forty-five (45) days notice, unless, in good faith, time and events do not allow for such a period, that an action will be filed, (ii) meet with the other party before filing any such action, and (iii) negotiate the issue, if possible, which is the subject of any proposed legal action, in good faith with the other party.

#### **Section 11.6---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 ordinance shall preclude the availability of any other such remedy.

#### **Section 11.7---NO WAIVER-CUMULATIVE REMEDIES**

(a) No failure on the part of the Issuing Authority or the Town 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 Issuing Authority or the Town under applicable law, subject in each case to the terms and conditions in this Renewal License.

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(c) A waiver of any right or remedy by the Issuing Authority or the Town at any one time shall not affect the exercise of such right or remedy or any other right or remedy by the Issuing Authority or the Town at any other time. In order for any waiver of the Issuing Authority or the Town to be effective, it shall be in writing. The failure of 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 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 12**

### **SUBSCRIBER RIGHTS AND CONSUMER PROTECTION**

#### **Section 12.1---TELEPHONE ACCESS**

(a) The Licensee's main customer service office(s) shall have a publicly listed local telephone connection for Brookline subscribers.

(b) Pursuant to 47 C.F.R. §76.309(c)(1)(B), 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.

(c) A Subscriber shall receive a busy signal less than three (3%) of the time that the Licensee's customer service call center is open for business, measured on a quarterly basis, under Normal Operating Conditions.

(d) The Licensee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards herein unless an historical record of Complaints indicates a clear failure to comply with such standards.

#### **Section 12.2---CUSTOMER SERVICE CALL CENTER**

(a) The Licensee shall maintain and operate a customer service 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) In the event that the Licensee does not maintain and operate its customer service call center twenty-four (24) hours a day, seven (7) days a week, the Licensee shall maintain a telephone answering service to handle Subscriber inquiries, Complaints and emergencies, and provide proper referral regarding billing and other Subscriber information. The Licensee shall log all such after-hours calls. Said answering service shall (i) forward all inquiries and/or Complaints to the Licensee the next business day and (ii) inform each Subscriber calling that his or her complaint will be referred to the Licensee's Customer Service Department for response. If requested, or reasonably warranted by the reported nature of the Subscriber's problem or inquiry, the Licensee shall promptly contact each individual Subscriber to follow-up on their individual problem and/or inquiry.

#### **Section 12.3--INSTALLATION VISITS-SERVICE CALLS-RESPONSE TIME**

(a) The Licensee shall respond to all requests for aerial installation(s) within seven (7) 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. If arranging appointments for installation, the Licensee shall specify in advance whether such will occur in the morning or afternoon, or a narrow interval, if possible within a four (4) hour time block in accordance with 47 C.F.R. §76.309(c)(2)(iii), 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). In the event that the Licensee misses a scheduled service visit, the Licensee shall provide the Subscriber or customer with a priority service call.

(b) A Subscriber Complaint or request for service received after Normal Business Hours shall be responded to the next business morning.

(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, (ii) an unusual number of calls and/or (iii) a number of similar Complaint calls or a number of calls coming from the same area.

(d) System outages shall be responded to immediately, 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 within one hour of any such first call, concerning such an outage, or when the Licensee has reason to know of such an outage.

(e) The Licensee shall respond to all requests for service or repair that are received during the business hours described in Section 12.1. All of such requests shall be handled on the same day, if possible, provided that said service Complaint or request for service is received by 2:00 P.M.; provided, however, that in all instances, requests for service calls shall be responded to within forty-eight (48) hours of said original call. Verification of the problem and resolution shall occur as promptly as possible.

(f) The Licensee shall remove all Subscriber Drop Cables, within thirty (30) days of receiving a request from a Subscriber to do so.

#### **Section 12.4---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**.

#### **Section 12.5---BUSINESS PRACTICE STANDARDS**



The Licensee shall provide the Issuing Authority, the Commission and all of its Subscribers with the following information in accordance with 207 CMR 10.00 et seq., attached hereto as **Exhibit 8** and made a part hereof, as the same may exist or as may be amended from time to time:

- (i) Notification of its Billing Practices;
- (ii) Notification of Services, 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 12.6---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 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/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 ten (10) business days after receiving such request, send a written report to the Issuing Authority or its designee(s) 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. The Subscriber shall thereafter meet jointly with the Issuing Authority or its designee(s) and a 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. The Licensee shall notify each new Subscriber, at the time of initial installation of Cable Service, of the procedures for reporting and resolving all of such Complaints, and annually to all Subscribers.

(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 any multiple Complaints or disputes brought by Subscribers arising from the operations of the Licensee.

#### **Section 12.7---DAMAGE OR LOSS OF EQUIPMENT**

The Licensee shall comply with all provisions of 207 CMR 9.00, as amended, and any other applicable laws.

#### **Section 12.8---REMOTE CONTROL DEVICES**

The Licensee shall allow its Subscribers to purchase, from legal and authorized parties other than the Licensee, own, utilize and program remote control devices which are compatible with the Converter(s) provided by the Licensee. The Licensee takes no responsibility for changes in its equipment which might make inoperable the remote control devices acquired by Subscribers.

#### **Section 12.9---EMPLOYEE IDENTIFICATION CARDS**

All of the Licensee's employees 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 wear an employee identification card issued by the Licensee and bearing a picture of said employee.

#### **Section 12.10---PROTECTION OF SUBSCRIBER PRIVACY**

(a) The Licensee shall respect the rights of privacy of every Subscriber of the Cable Television System and shall not violate such rights through the use of any device or Signal associated with the Cable Television System, and as hereafter provided.

(b) The Licensee shall comply with all privacy provisions contained in this Article 12 and all other applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Act.

(c) 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.

(d) The Licensee shall notify all third parties who offer Cable Services in conjunction with the Licensee, or independently over the Cable Television System, of the subscriber privacy requirements contained in this Renewal License.

#### Section 12.11---**PRIVACY WRITTEN NOTICE**

At the time of entering into an agreement to provide any Cable Service or other Service to a Subscriber, and annually thereafter to all Cable System Subscribers, the Licensee shall provide Subscribers with written notice, as required by Section 631(a)(1) of the Cable Act, which, at a minimum, clearly and conspicuously explains the Licensee's practices regarding the collection, retention, uses, and dissemination of personal subscriber information, and describing the Licensee's policy for the protection of subscriber privacy.

#### Section 12.12---**MONITORING**

(a) Neither the Licensee nor its agents nor the Town nor its agents shall tap, monitor, arrange for the tapping or monitoring, or permit any other Person to tap or monitor, any cable, line, Signal, input device, or subscriber Outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber provided, however, that the Licensee may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying System integrity, checking for illegal taps, connections or Converters, controlling return-path transmission, billing for pay Services or monitoring channel usage in a manner not inconsistent with the Cable Act. The Licensee shall report to the affected parties and the Issuing Authority any instances of monitoring or tapping of the Cable Television System, or any part thereof, of which it has knowledge, whether or not such activity has been authorized by the Licensee, other than as permitted herein.

(b) The Licensee shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes. Pursuant to Section 631(e) of the Cable Act, the Licensee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information pursuant to a request from a Subscriber or pursuant to a court order.

**Section 12.13---DISTRIBUTION OF SUBSCRIBER INFORMATION**

(a) The Licensee shall not disclose personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned.

(b) The Licensee may disclose such information if the disclosure is:

(i) necessary to render, or conduct a legitimate business activity related to, a Cable Service or other service provided by the Licensee to the Subscriber; and/or

(ii) made pursuant to a court order authorizing such disclosure, if the Subscriber is notified of such order by the person to whom the order is directed

(iii) a disclosure of the names and addresses of Subscribers to any Cable Service or other service, if a) the Licensee has provided the Subscriber the opportunity to prohibit or limit such disclosure, and b) the disclosure does not reveal, directly or indirectly, the (i) extent of any viewing or other use by the Subscriber of a Cable Service or other service provided by the Licensee, or (ii) the nature of the transaction made by the Subscriber over the Cable System.

**Section 12.14---INFORMATION WITH RESPECT TO VIEWING HABITS  
AND SUBSCRIPTION DECISIONS**

Except as permitted by Section 631 of the Cable Act, neither the Licensee nor its agents nor its employees shall make available to any third party, including the Town, information concerning the viewing habits or subscription package decisions of any individual Subscriber. If a court authorizes or orders such disclosure, the Licensee shall notify the Subscriber as soon as practicable, unless such notification is otherwise prohibited by applicable law or the court.

**Section 12.15---SUBSCRIBER'S RIGHT TO INSPECT AND VERIFY INFORMATION**

(a) The Licensee shall make available for inspection by a Subscriber at a reasonable time and place all personal subscriber information that the Licensee maintains regarding said Subscriber.

(b) A Subscriber may obtain from the Licensee a copy of any or all of the personal subscriber information regarding him or her maintained by the Licensee. The Licensee may require a reasonable fee for making said copy.

(c) A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of subscriber information shall be directed to the Licensee. The Licensee shall change any such information upon a reasonable showing by any Subscriber that such information is inaccurate.

**Section 12.16---PRIVACY STANDARDS REVIEW**

The Issuing Authority and the Licensee shall periodically review this Article 12 to determine that it effectively addresses appropriate concerns about privacy. This Article may be amended periodically by agreement of the Issuing Authority and 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 promptly submit to the Town any information regarding (1) the Licensee, its business and operations with respect to the Cable System, and/or (2) any Affiliated Person(s), with respect to the computation of Gross Annual Revenues, if applicable, in such form and containing such detail as may be reasonably specified by the Town pertaining to the subject matter of this Renewal License which may be reasonably required to establish the Licensee's compliance with its obligations pursuant to this 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 Solicitor for a determination of the validity of the Licensee's claim of a proprietary interest.

#### **Section 13.2---FINANCIAL REPORTS**

(a) Upon the written request of the Issuing Authority after the end of the Licensee's fiscal year, the Licensee shall furnish the Issuing Authority with Commission Forms 200 showing a balance sheet sworn to by the Licensee's authorized Financial Officer.

(b) Any other reports required by State and/or federal law to be filed with the Issuing Authority.

#### **Section 13.3---CABLE SYSTEM INFORMATION**

Upon written request, the Licensee shall file annually with the Issuing Authority a statistical summary of the operations of the Cable System. Said report shall include, but not be limited to, (i) the number of Basic Service Subscribers, (ii) the number of dwelling units passed; and (iii) the number of plant miles completed. The Licensee may submit such information subject to Section 13.1(b) above, and it shall be considered proprietary.

#### **Section 13.4---IN-HOUSE TELEPHONE REPORTS**

To establish the Licensee's compliance with the requirements of this Renewal License, the Licensee shall provide, on a quarterly basis, the Issuing Authority with a report of telephone traffic, generated from an in-house automated call accounting or call tracking system.

**Section 13.5---SUBSCRIBER COMPLAINT REPORT**

The Licensee shall submit a completed copy of Cable Division Form 500, attached hereto as **Exhibit 10**, to the Issuing Authority, or his designee, as required by the Cable Division.

**Section 13.6---ANNUAL PERFORMANCE TESTS**

Unless required otherwise by applicable State or federal law and/or regulation, the Licensee shall conduct, on a twice-yearly basis, performance tests to ensure compliance with the technical specifications in Section 3.5 supra and **Exhibit 2** attached hereto.

**Section 13.7---DUAL FILINGS**

To the extent required by applicable law, either party shall notify the other of any petitions, communications, and/or requests for waiver or advisory opinion with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder, subject to Section 13.1 above, and upon the other party's written request, shall make available at its own expense to the other party copies of any such petitions, communications or requests.

**Section 13.8---ADDITIONAL INFORMATION**

At any time during the term of this Renewal License, upon the reasonable request of the Issuing Authority, the Licensee shall not unreasonably deny any requests for further information which may be required to establish the Licensee's compliance with its obligations pursuant to this Renewal License and subject to Section 13.1 supra.

**Section 13.9---INVESTIGATION**

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.

**ARTICLE 14  
EMPLOYMENT**

**Section 14.1---EQUAL EMPLOYMENT OPPORTUNITY**

The Licensee shall comply with all laws and regulations with respect to Equal Employment Opportunities.

**Section 14.2---NON-DISCRIMINATION**

The Licensee shall adhere to all federal and State laws prohibiting discrimination in employment practices.



## **ARTICLE 15 MISCELLANEOUS PROVISIONS**

### **Section 15.1---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 orally but only by an instrument in writing executed by the parties.

### **Section 15.2---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 captions shall not affect the meaning or interpretation of the Renewal License.

### **Section 15.3---SEPARABILITY**

If any section, sentence, paragraph, term or provision of this Renewal License is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any State or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which shall remain in full force and effect for the term of this Renewal License.

### **Section 15.4---ACTS OR OMISSIONS OF AFFILIATES**

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

### **Section 15.5---RENEWAL LICENSE EXHIBITS**

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

### **Section 15.6---WARRANTIES**

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

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

(ii) The Licensee has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the Effective Date of this Renewal License, to enter into and legally bind the Licensee to this Renewal License and to take all actions necessary to perform all of its obligations pursuant to this Renewal License;

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

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

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

#### Section 15.7---**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 State or any of their departments, agencies, political subdivision, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; and unavailability of essential equipment, services and/or materials and/or other matters beyond the control of the Issuing Authority, the Town or the Licensee.

#### Section 15.8---**REMOVAL OF ANTENNAS**

The Licensee shall not remove any television antenna of any Subscriber but shall offer to said Subscriber, and maintain, an adequate switching device ("A/B Switch") to allow said Subscriber to choose between cable and non-cable television reception.

#### Section 15.9---**SUBSCRIBER TELEVISION SETS**

Pursuant to M.G.L. Chapter 166A, Section 5(d), the Licensee shall not engage directly or indirectly in the business of selling or repairing television or radio sets; provided, however, that the Licensee may make adjustments to television sets in the course of normal maintenance.

**Section 15.10---APPLICABILITY OF RENEWAL LICENSE**

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

**Section 15.11---NOTICES**

(a) Every notice to be served upon the Issuing Authority shall be delivered, or sent by certified mail (postage prepaid) to the Board of Selectmen, Town of Brookline, Brookline Town Hall, 333 Washington Street, Brookline, Massachusetts 02246, with one (1) copy to the Town Counsel, or such other address as the Issuing Authority may specify in writing to the Licensee. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

(b) Every notice served upon the Licensee shall be delivered or sent by certified mail (postage prepaid) to the Vice-President of Regulatory Affairs, RCN, 105 West First Street, South Boston, MA 02127, with one (1) copy to 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.

(c) All required notices shall be in writing.

**Section 15.12---NO RECOURSE AGAINST THE ISSUING AUTHORITY**

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

**Section 15.13---TOWN'S RIGHT OF INTERVENTION**

The Town hereby reserves to itself the right to intervene in any suit, action or proceeding involving this Renewal License, or any provision in this Renewal License. The Licensee reserves the right to contest such intervention.

**Section 15.14---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 ten (10) year term of the Renewal License, except as expressly provided for otherwise herein.

**EXHIBITS**

## **EXHIBIT 1**

### **DEPARTMENT OF PUBLIC WORKS PROCEDURES**

#### **GRANT OF LOCATION PROCEDURES**

The Company shall petition the Board of Selectmen for a grant of location for any and all new underground conduits, cables, manholes or other hardware (e.g. pedestal mounted power supplies, amplifiers, etc.) that are to be installed within the limits of a public way as required by G.L. ch. 166 - S. 22.

The general procedure to be followed is:

- Submit the petition and 2 sets of 24" x 36" plans to DPW Engineering Division for approval of the location. The plans shall be drawn to a 1" = 20' scale and shall show the street sideline, the gutter/curb line, the requested location, and any other utilities within five (5) feet of or crossing the location of the proposed conduit, cable, manholes etc. All utilities being crossed having an anticipated clearance of less than two (2) feet must be shown in plan view and cross section showing the proposed clearance.
- Once the location has been approved by the Commissioner of Public Works and the Inspector of Wires, a Public Hearing date before the Board of Selectmen will be scheduled by the Engineering Division.
- Obtain a signed cover letter, Notice To Abutters and a mailing list of abutters to the requested location from the Engineering Division. Mail a copy of the cover letter and hearing notice to each of the abutters at least seven days before the scheduled public hearing.
- Have a representative appear before the Board of Selectmen at the scheduled public hearing to answer any questions from the Board and the public.

### **PRELIMINARY PROCEDURES FOR CONSTRUCTION WITHIN PUBLIC WAYS**

- Pre mark the location of proposed conduit, cable structure, etc as required by Dig Safe.
- Request Dig Safe Mark Out.
- Apply to the Brookline DPW for a Street Opening Permit.
- Apprise the DPW Engineering Division of proposed construction schedule including:
  - Location of proposed street construction.
  - Expected start and finish dates.
  - The street opening permit number.
  - Any other information that could have an impact on the Public's use of the streets in question.
  - The name of the construction superintendent, his cell phone and/or pager numbers. This information shall also be provided to the Police and Fire Departments for 24 hour emergency notification.
- Arrange for a Police Detail.
- Notify the DPW, Fire and Police Departments of any contemplated and/or actual street closures.
- If parking will be restricted in the construction area, "No Parking – Tow Zone" signs must be purchased from the DPW transportation Division and posted by the Contractor. If the required area of restricted parking contains metered parking spaces, then payment for all metered spaces occupied for the duration of the work must be made at the DPW Transportation Division.
- The hours of construction within public ways are restricted to the following:
  - Residential streets – From 7:30 a.m. to 5 00 p.m.
  - Collector streets – From 9:00 a.m. to 3:00 p.m.
- All trenches shall be closed by the end of the work day.

**GENERAL METHODS FOR UNDERGROUND CONDUIT CONSTRUCTION**

The contractor shall provide all necessary equipment, labor and safety devices to cut and excavate trenches, lay conduit and restore the road in accordance with current Brookline DPW standards, the procedures indicated herein and the Department of Telecommunications and Energy finding D.T.E. 98-22 (Available at - <http://www.mass.gov/dte/pipeline/98-22/826standar.pdf>). The contractor shall ensure the safe passage of pedestrians, bicyclists and vehicular traffic during the progress of the work. Work area signing shall be in accordance with current Brookline traffic control standards. All methods and materials used in conduit construction and street repair shall meet with the approval of the Town of Brookline Inspector of Wires and/or the latest Brookline DPW specifications as appropriate.

Equipment used will be as chosen by the Contractor and approved by the Town for the efficient and effective prosecution of the work. Unless otherwise approved, all pavement cuts shall be made with a pavement saw or a Vermeer® concrete saw.

All conduit and cables shall be placed at such a depth that there will be a minimum cover of 18" between the finished surface of the street and the topmost conduit or, if concrete encased, the top of the concrete.

Design of all underground structures to be placed in the Public Way shall be approved by the Commissioner of Public Works. Manholes and hand holes shall be of precast concrete. Frames and covers shall be heavy duty iron castings designed for AASHTO H20 loading.

Backfill between and over conduits and/or cables shall be dense graded crushed stone, (1/2" maximum stone M2.01.5) or type 2E controlled density fill (M4.08.0) to 4-1/2" below the existing road surface.

The permanent pavement patch shall conform to the latest DPW standards for roadway and sidewalk patching.



### **LATERAL HOUSE CONNECTIONS**

- All underground house connections shall be made from manholes, hand holes or vaults in the street to the property line.
- The connections to homes may be placed in conduit or may be by direct buried cable. In either case, depth to the top of conduit or cable shall be 18" below the finish grade of the street and sidewalk.
- All house connections shall be installed under granite curb. (i.e. not in the joints between curb stones or through quarry drill holes.)
- When house connections are made beneath concrete sidewalks, the permanent patch shall include the entire panel(s) between the undisturbed contraction or construction joints. If necessary, these undisturbed joint shall be saw cut at the time of patching to provide for a "clean" joint between the patch and the existing panels.

## EXHIBIT 2

### FCC TECHNICAL SPECIFICATIONS

#### TITLE 47—TELECOMMUNICATION

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

#### PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

##### § 76.605 Technical standards.

(a) As of December 30, 1992, unless otherwise noted, the following requirements apply to the performance of a cable television system as measured at any subscriber terminal with a matched impedance at the termination point or at the output of the modulating or processing equipment (generally the headend) of the cable television system or otherwise as noted. The requirements are applicable to each NTSC or similar video downstream cable television channel in the system:

(1)(i) The cable television channels delivered to the subscriber's terminal shall be capable of being received and displayed by TV broadcast receivers used for off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter; and

(ii) Cable television systems shall transmit signals to subscriber premises equipment on frequencies in accordance with the channel allocation plan set forth in the Electronics Industries Association's "Cable Television Channel Identification Plan, EIA IS-132, May 1994" (EIA IS-132). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 522(a) and 1 CFR Part 51. Cable systems are required to use this channel allocation plan for signals transmitted in the frequency range 54 MHz to 1002 MHz. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 522(a) and 1 CFR Part 51. Copies of EIA IS-132 may be obtained from: Global Engineering Documents, 2805 McGraw Ave., Irvine CA 92714. Copies of EIA IS-132 may be inspected during normal business hours at the following locations: Federal Communications Commission, 1919 M Street, NW, Dockets Branch (Room 239), Washington, DC, or the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. This requirement is applicable on May 31, 1995, for new and re-built cable systems, and on June 30, 1997, for all cable systems.

(2) The aural center frequency of the aural carrier must be  $4.5 \text{ MHz} \pm 5 \text{ kHz}$  above the frequency of the visual carrier at the output of the modulating or processing equipment of a cable television system, and at the subscriber terminal.

(3) The visual signal level, across a terminating impedance which correctly matches the internal impedance of the cable system as viewed from the subscriber terminal, shall not be less than 1 millivolt across an internal impedance of 75 ohms (0 dBmV). Additionally, as measured at the end of a 30 meter (100 foot) cable drop that is connected to the subscriber tap, it shall not be less than 1.41 millivolts across an internal impedance of 75 ohms (+3 dBmV). (At other impedance values, the minimum visual signal level, as viewed from the subscriber terminal, shall be the square root of  $0.0133(Z)$  millivolts and, as measured at the end of a 30 meter (100 foot) cable drop that is connected to the subscriber tap, shall be 2 times the square root of  $0.00662(Z)$  millivolts, where  $Z$  is the appropriate impedance value.)

(4) The visual signal level on each channel, as measured at the end of a 30 meter cable drop that is connected to the subscriber tap, shall not vary more than 8 decibels within any six-month interval, which must include four tests performed in six-hour increments during a 24-hour period in July or August and during a 24-hour period in January or February, and shall be maintained within:

(i) 3 decibels (dB) of the visual signal level of any visual carrier within a 6 MHz nominal frequency separation;

(ii) 10 dB of the visual signal level on any other channel on a cable television system of up to 300 MHz of cable distribution system upper frequency limit, with a 1 dB increase for each additional 100 MHz of cable distribution system upper frequency limit (e.g., 11 dB for a system at 301-400 MHz; 12 dB for a system at 401-500 MHz, etc.); and

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(iii) A maximum level such that signal degradation due to overload in the subscriber's receiver or terminal does not occur.

(5) The rms voltage of the aural signal shall be maintained between 10 and 17 decibels below the associated visual signal level. This requirement must be met both at the subscriber terminal and at the output of the modulating and processing equipment (generally the headend). For subscriber terminals that use equipment which modulate and remodulate the signal (e.g., baseband converters), the rms voltage of the aural signal shall be maintained between 6.5 and 17 decibels below the associated visual signal level at the subscriber terminal.

(6) The amplitude characteristic shall be within a range of  $\pm 2$  decibels from 0.75 MHz to 5.0 MHz above the lower boundary frequency of the cable television channel, referenced to the average of the highest and lowest amplitudes within these frequency boundaries.

(i) Prior to December 30, 1999, the amplitude characteristic may be measured after a subscriber tap and before a converter that is provided and maintained by the cable operator.

(ii) As of December 30, 1999, the amplitude characteristic shall be measured at the subscriber terminal.

(7) The ratio of RF visual signal level to system noise shall be as follows:

(i) From June 30, 1992, to June 30, 1993, shall not be less than 36 decibels.

(ii) From June 30, 1993 to June 30, 1995, shall not be less than 40 decibels.

(iii) As of June 30, 1995, shall not be less than 43 decibels.

(iv) For class I cable television channels, the requirements of paragraphs (a)(7)(i), (a)(7)(ii) and (a)(7)(iii) of this section are applicable only to:

(A) Each signal which is delivered by a cable television system to subscribers within the predicted Grade B contour for that signal;

(B) Each signal which is first picked up within its predicted Grade B contour;

(C) Each signal that is first received by the cable television system by direct video feed from a TV broadcast station, a low power TV station, or a TV translator station.

(8) The ratio of visual signal level to the rms amplitude of any coherent disturbances such as intermodulation products, second and third order distortions or discrete-frequency interfering signals not operating on proper offset assignments shall be as follows:

(i) The ratio of visual signal level to coherent disturbances shall not be less than 51 decibels for noncoherent channel cable television systems, when measured with modulated carriers and time averaged; and

(ii) The ratio of visual signal level to coherent disturbances which are frequency-coincident with the visual carrier shall not be less than 47 decibels for coherent channel cable systems, when measured with modulated carriers and time averaged.

(9) The terminal isolation provided to each subscriber terminal:

(i) Shall not be less than 18 decibels. In lieu of periodic testing, the cable operator may use specifications provided by the manufacturer for the terminal isolation equipment to meet this standard; and

(ii) Shall be sufficient to prevent reflections caused by open-circuited or short-circuited subscriber terminals from producing visible picture impairments at any other subscriber terminal.

(10) The peak-to-peak variation in visual signal level caused by undesired low frequency disturbances (hum or repetitive transients) generated within the system, or by inadequate low frequency response, shall not exceed 3 percent of the visual signal level. Measurements made on a single channel using a single unmodulated carrier may be used to demonstrate compliance with this parameter at each test location.

(11) As of June 30, 1995, the following requirements apply to the performance of the cable television system as measured at the output of the modulating or processing equipment (generally the headend) of the system:

(i) The chrominance-luminance delay inequality (or chroma delay), which is the change in delay time of the chrominance component of the signal relative to the luminance component, shall be within 170 nanoseconds.

(ii) The differential gain for the color subcarrier of the television signal, which is measured as the difference in amplitude between the largest and smallest segments of the chrominance signal (divided by the largest and expressed in percent), shall not exceed  $\pm 20\%$ .

(iii) The differential phase for the color subcarrier of the television signal which is measured as the largest phase difference in degrees between each segment of the chrominance signal and reference segment (the segment at the blanking level of 0 IRE), shall not exceed  $\pm 10$  degrees.

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(12) As an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in § 76.609(h) and shall be limited as follows:

Frequencies	limit (micro-volt/	Signal leakage	
		Distance in meters (m) meter)	
Less than and including 54 MHz, and over 216 MHz	15	30	
Over 54 up to and including 216 MHz	20	30	

(b) Cable television systems distributing signals by using methods such as nonconventional coaxial cable techniques, noncoaxial copper cable techniques, specialized coaxial cable and fiber optical cable hybridization techniques or specialized compression techniques or specialized receiving devices, and which, because of their basic design, cannot comply with one or more of the technical standards set forth in paragraph (a) of this section, may be permitted to operate: Provided, That an adequate showing is made pursuant to § 76.7 which establishes that the public interest is benefited. In such instances, the Commission may prescribe special technical requirements to ensure that subscribers to such systems are provided with an equivalent level of good quality service.

**Note 1:** Local franchising authorities of systems serving fewer than 1000 subscribers may adopt standards less stringent than those in § 76.605(a). Any such agreement shall be reduced to writing and be associated with the system's proof-of-performance records.

**Note 2:** For systems serving rural areas as defined in § 76.5, the system may negotiate with its local franchising authority for standards less stringent than those in §§ 76.605(a)(3), 76.605(a)(7), 76.605(a)(8), 76.605(a)(10) and 76.605(a)(11). Any such agreement shall be reduced to writing and be associated with the system's proof-of-performance records.

**Note 3:** The requirements of this section shall not apply to devices subject to the provisions of §§ 15.601 through 15.626.

**Note 4:** Should subscriber complaints arise from a system failing to meet § 76.605(a)(6) prior to December 30, 1999, the cable operator will be required to provide a converter that will allow the system to meet the standard immediately at the complaining subscriber's terminal. Further, should the problem be found to be system-wide, the Commission may order all converters on the system be changed to meet the standard.

**Note 5:** Should subscriber complaints arise from a system failing to meet § 76.605(a)(10), the cable operator will be required to remedy the complaint and perform test measurements on § 76.605(a)(10) containing the full number of channels as indicated in § 76.601(b)(2) at the complaining subscriber's terminal. Further, should the problem be found to be system-wide, the Commission may order that the full number of channels as indicated in § 76.601(b)(2) be tested at all required locations for future proof-of-performance tests.

**Note 6:** No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.

[37 FR 3278, Feb. 12, 1972, as amended at 37 FR 13867, July 14, 1972; 40 FR 2690, Jan. 15, 1975; 40 FR 3296, Jan. 21, 1975; 41 FR 53028, Dec. 3, 1976; 42 FR 21782, Apr. 29, 1977; 47 FR 21503, May 18, 1982; 50 FR 52466, Dec. 24, 1985; 51 FR 1255, Jan. 10, 1986; 52 FR 22461, June 12, 1987; 57 FR 11002, Apr. 1, 1992; 57 FR 61010, Dec. 23, 1992; 58 FR 44952, Aug. 25, 1993; 59 FR 25342, May 16, 1994; 61 FR 18510, Apr. 26, 1996; 61 FR 18978, Apr. 30, 1996; 65 FR 53616, Sept. 5, 2000]

**EXHIBIT 3**

**INSTITUTIONAL NETWORK BUILDINGS**

- (1) Police Department
- (2) Fire Department
- (3) Court House
- (4) Health Center
- (5) Main Library
- (6) Town Hall
- (7) Waterwork Facility
- (8) Highway Garage
- (9) Council-on-Aging
- (10) High School
- (11) Fire Station #6
- (12) Coolidge Corner Library
- (13) Putterham Library
- (14) Municipal Pool
- (15) Parks Garage
- (16) Baker School
- (17) Devotion School
- (18) Driscoll School
- (19) Heath School
- (20) Lawrence School
- (21) Lincoln School
- (22) Pierce School
- (23) Runkle School
- (24) Walnut Street Apartments
- (25) Sussman House
- (26) Theresa Morse Apartments
- (27) Kickham Apartments
- (28) High Street Veterans Apartments
- (29) Egmont Street Veterans Apartments
- (30) Trustman Apartments
- (31) Colonel Floyd Apartments

**EXHIBIT 4**

**PROGRAMMING AND INITIAL SIGNAL CARRIAGE**

The Licensee shall provide the following broad categories of Programming:

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

For informational purposes, it is the Licensee's intention to have the following channel line-up upon the Effective Date of the Renewal License, subject to applicable law and the Licensee's editorial discretion.

(RCN to Provide)

# EXHIBIT 5

## FREE DROPS AND MONTHLY SERVICE TO PUBLIC BUILDINGS

The following public buildings and non-profit organizations shall continue to receive the following Drops and/or Outlets and the monthly Basic Service at no charge:

TOWN OWNED BUILDINGS		
MAINTENANCE	ADDRESS	NAME
BUILDING	19 KENNARD RD	MUSIC SCHOOL
BUILDING	13 NEWTON ST	ELECTRICIAN SHOP
BUILDING	13 NEWTON ST	CARPENTER SHOP
BUILDING	11 PIERCE ST	PUBLIC HEALTH
BUILDING	333 WASHINGTON ST	TOWN HALL
BUILDING	350 WASHINGTON ST	PUBLIC SAFETY HQ
COA	93 WINCHESTER ST	SENIOR CENTER
		NEW MUNICIPAL
DPW	870 HAMMOND ST	GARAGE
DPW	870 HAMMOND ST	SALT SHED
		BROOKLINE WATER
DPW	44 NETHERLANDS RD	DEPT. GARAGE
DPW	813 NEWTON ST	TRANSFER STATION
		INCENERATOR
DPW	815 NEWTON ST	BUILDING
DPW	817 NEWTON ST	WOOD HOG BUILDING
		EMERGENCY PUMPING
DPW	17 WARREN ST	STATION
DPW	7 WARREN ST	LOWER GATE HOUSE
FIRE	49 BABCOCK ST	FIRE STATION 5
FIRE	827 BOYLSTON ST	FIRE STATION 4
		FIRE DEPARTMENT
FIRE	962 HAMMOND ST	TRAINING
FIRE	962 HAMMOND ST	FIRE STATION 6
FIRE	140 WASHINGTON ST	FIRE STATION 1
FIRE	665 WASHINGTON ST	FIRE STATION 7
HISTORICAL SOCIETY	347 HARVARD ST	DEVOTION HOUSE
HISTORICAL SOCIETY	17 NEWTON ST	PUTTERHAM SCHOOL
HISTORICAL SOCIETY	21 NEWTON ST	WIDOW HARRIS HOUSE
LIBRARIES	31 PLEASANT ST	COOLIDGE CORNER

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		LIBRARY
LIBRARIES	361 WASHINGTON ST	MAIN LIBRARY
LIBRARIES	959 WEST ROXBURY PKY	PUTTERHAM BRANCH LIBRARY
PARK DEPT	15 AMORY ST	AMORY FIELD HOUSE
PARK DEPT	26 CLINTON PTH	WALDSTEIN FIELD HOUSE
PARK DEPT	350 GODDARD AVE	COMFORT STATION
PARK DEPT	360 GODDARD AVE	PICNIC SHELTER
PARK DEPT	110 GROVE ST	GARAGE & STORAGE
PARK DEPT	112 GROVE ST	STABLE/GARAGE & OFFICE
PARK DEPT	94 GROVE ST	CEMETERY CARETAKER HOUSE
PARK DEPT	96 GROVE ST	PARK DEPT OFFICE
PARK DEPT	98 GROVE ST	BURIAL VAULT
PARK DEPT	24 HIGHLAND RD	HARRY DOWNS FIELD
PARK DEPT	19 NEWTON ST	PARK & OS GARAGE
PARK DEPT	23 NEWTON ST	SKATING RINK
PARK DEPT	25 NEWTON ST	PARK & OS OFFICE
PARK DEPT	27 NEWTON ST	CHILLER BUILDING
PARKS & RECREATION	599 BROOKLINE AV	LYNCH RECREATION CENTER
PARKS & RECREATION	133 ELIOT ST	ELIOT RECREATION CENTER
PARKS & RECREATION	135 ELIOT ST	WARREN PARK CABIN
PARKS & RECREATION	650 HAMMOND ST	SOULE GYM
PARKS & RECREATION	652 HAMMOND ST	SOULE RECREATION CENTER
PARKS & RECREATION	654 HAMMOND ST	SOULE STORAGE BUILDING
PARKS & RECREATION	1279 WEST ROXBURY PKY	PUTTERHAM GOLF CLUB PRO SHOP
PARKS & RECREATION	1281 WEST ROXBURY PKY	GOLF COURSE MAINTENANCE
PARKS & RECREATION	1281 WEST ROXBURY PKY	GOLF COURSE MAINTENANCE
PARKS & RECREATION	1281 WEST ROXBURY PKY	PUTTERHAM GOLF CLUB
TOWN HOUSES/OTHER	86 MONMOUTH ST	BROOKLINE ARTS CENTER
TOWN HOUSES/OTHER	15 NEWTON ST	TRANSPORTATION MUSEUM



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**EXHIBIT 6**

**FREE DROPS AND OUTLETS TO SCHOOLS**

The following public schools shall continue to receive the following Drops and/or Outlets and monthly Service at no charge:

SCHOOLS	205 BEVERLY RD	BAKER SCHOOL
SCHOOLS	194 BOYLSTON ST	OLD LINCOLN SCHOOL
SCHOOLS	50 DRUCE ST	RUNKLE SCHOOL
SCHOOLS	100 ELIOT ST	HEATH SCHOOL
SCHOOLS	27 FRANCIS ST	LAWRENCE SCHOOL
SCHOOLS	115 GREENOUGH ST	HIGH SCHOOL
SCHOOLS	345 HARVARD ST	DEVOTION SCHOOL
SCHOOLS	88 HARVARD ST	PIERCE SCHOOL
SCHOOLS	484 HEATH ST	BALDWIN SCHOOL
SCHOOLS	25 KENNARD RD	NEW LINCOLN SCHOOL
SCHOOLS	32 PIERCE ST	PIERCE PRIMARY
SCHOOLS	33 SCHOOL ST	PIERCE SCHOOL
SCHOOLS	46 TAPPAN ST	UNIFIED ARTS
SCHOOLS	60 TAPPAN ST	PHYSICAL ED. BUILDING
SCHOOLS	68 TAPPAN ST	GYMNASIUM
SCHOOLS	64 WESTBOURNE TER	DRISCOLL SCHOOL

**EXHIBIT 7**

**GROSS ANNUAL REVENUES REPORTING FORM**

Company: **RCN of California/ Massachusetts/Michigan/Utah, Inc.**

Municipality: **Brookline, Massachusetts**

Annual Revenue Period: \_\_\_\_\_ Calendar Year: \_\_\_\_\_

**I. Composition of Total Revenues Subject to License Fee:**

Revenue Adjustment (specify)	Totals
<b>Totals by Service:</b>	
Basic Service Revenue	\$ [enter amount]
Pay Service Revenue <sup>1</sup>	\$ [enter amount]
Other Unregulated Revenue <sup>2</sup>	\$ [enter amount]
Digital Revenue	\$ [enter amount]
<b>Subtotal:</b>	<b>\$ [enter subtotal]</b>
<b>Totals by Non Service:</b>	
Home Shopping Revenue	\$ [enter amount]
Advertising Revenue	\$ [enter amount]
Leased Access Revenue	\$ [enter amount]
Franchise Fees	\$ [enter amount]
Less Bad Debt/Add Bad Debt Paid	\$ [enter amount]
<b>Subtotal:</b>	<b>\$ [enter subtotal]</b>
<b>Total Gross Revenue</b>	<b>\$ [enter total]</b>
<b>License Fee (3%)</b>	<b>\$ [enter % of total]</b>
<b>PEG Access Fee (2%)</b>	<b>\$ [enter % of total]</b>
<b>Fee on Fee (5%)</b>	<b>\$ [enter % of %]</b>
<b>License Fee Due</b>	<b>\$ [enter total due]</b>
<b>PEG Access Fee Due</b>	<b>\$ [enter total due]</b>

1 - Pay Service includes all Pay Channels and Pay Per View Movie/Event revenue.

2 - Other Unregulated includes converter, remote, installation, TV Guide, wire maintenance and other misc. billing adjustments.

Authorized RCN Representative:

## **EXHIBIT 8**

### **207-CMR 10.00**

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

##### **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.

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- (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 9**

**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 10**

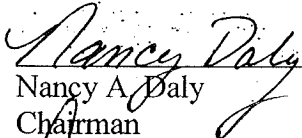
**MASSACHUSETTS CABLE DIVISION FORM 500**

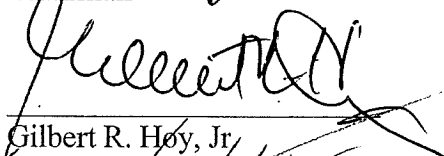
(See Attached)

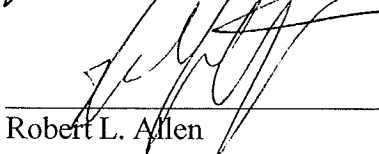
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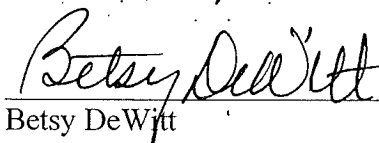
**SIGNATURE PAGE**

In Witness Whereof, this Renewal License is hereby issued by the Board of Selectmen of the Town of Brookline, Massachusetts, as Issuing Authority, and all terms and conditions are hereby agreed to by RCN BecoCom, Inc., this 4th day of March, 2008.

  
Nancy A. Daly  
Chairman


  
Gilbert R. Hoy, Jr.

  
Robert L. Allen

  
Betsy DeWitt

\_\_\_\_\_  
Jesse Mermell

The Board of Selectmen,  
as Issuing Authority

  
RCN BecoCom, Inc.

BY:

TITLE: *SVR - L.M.*