

TOWN OF DALTON  
COMMONWEALTH OF MASSACHUSETTS

CABLE TELEVISION COMMUNICATIONS SYSTEM RENEWAL LICENSE

ISSUED TO

TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP

TOWN OF DALTON  
COMMONWEALTH OF MASSACHUSETTS

CABLE TELEVISION COMMUNICATIONS SYSTEM RENEWAL LICENSE

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TOWN OF DALTON  
COMMONWEALTH OF MASSACHUSETTS  
CABLE TELEVISION COMMUNICATIONS SYSTEM RENEWAL LICENSE

Issued Pursuant to Chapter 166A of the General Laws

ARTICLE I

Definitions: For the purpose of this License, the following terms, phrases, words and their derivations shall have the meanings given herein:

- (1) Town: Town of Dalton.
- (2) Issuing Authority: Select Board, Town of Dalton.
- (3) Licensee: Time Warner Entertainment-Advance/Newhouse Partnership, or any successor or transferee in accordance with the terms and conditions in this License.
- (4) 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 broadband telecommunication services or other services which include, but are not limited to, cable service as defined in the Cable Act and which is provided to multiple subscribers within a community. Such term does not include a facility that serves only to retransmit the television signals of one or more television broadcast stations; a facility that serves only subscribers in one or more multiple unit dwellings, not including single family dwellings unless

such facility or facilities uses any public right of way; a facility of a common carrier which is subject, in whole or in part, to the provisions of the Cable Act, except that such facility shall be considered as a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or any facilities of any electric utility used solely for operating its electric utility systems.

- (5) 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 System.
  
- (6) Massachusetts Commission or Cable Commission: Massachusetts Community Antenna Television Commission also known as the Massachusetts Cable Television Commission.
  
- (7) F.C.C.: Federal Communications Commission.
  
- (8) Committee: Town of Dalton Cable Committee.
  
- (9) Cable Act: The Cable Communications Policy Act of 1984 (47 U.S.C. § 521-559), as amended by the 1992 Cable Television Consumer Protection and Competition Act, Public Law No. 102-385, as further amended by the Telecommunications Act of 1996, as such act may hereafter be amended in the future.

- (10) Cable Service: Cable Service shall have the meaning provided in the Cable Act.
- (11) Gross Revenues: All revenues actually received for providing Cable Service within the Town of Dalton pursuant to the rights granted by this License.

## ARTICLE II

### GRANT AND TERM OF LICENSE

#### Section 1. Grant of License

Under General Laws Chapter 166A of the Commonwealth of Massachusetts, and the Cable Act, the Town of Dalton ("Issuing Authority") hereby grants a non-exclusive cable television renewal License to Time Warner Entertainment-Advance\Newhouse Partnership (the "Licensee"), effective as of \_\_\_\_\_, and expiring on \_\_\_\_\_.

#### Section 2. Rights and Privileges of Company

The Issuing Authority grants to the Licensee the right to construct, upgrade, install, operate and maintain a cable television system, comprised of poles, wires, cables, underground conduits, manholes, other conductors and fixtures, and other operating equipment in, under, over, along, across and upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public ways or places in the Town of Dalton and subsequent additions thereto, including property over which the Town has an easement or right-of-way, for the

purpose of transmission, distribution or provision of Cable Service and such other communications services as Licensee may choose to provide.

### Section 3. Applicable Law

This License is granted under and in compliance with Chapter 166A of the General Laws and all other general laws and acts of the Legislature, and in compliance with all applicable Federal law, including but not limited to the Cable Act, as amended, all rules of the Federal Communications Commission ("FCC") and all other local, state and federal rules and regulations in force and effect during the period for which this License is granted. This License is subject to all rules and regulations of the Massachusetts Cable Television Commission and the FCC.

### Section 4. Term of License and Renewal

Upon continuing full and complete performance by the Licensee of the terms of its License, the License shall continue for a period of ten (10) years from the effective date hereof. At the expiration of said ten (10) year term, the License may be renewed pursuant to the applicable provisions of the Cable Act which are incorporated herein by reference.

## ARTICLE III

### CONSTRUCTION AND OPERATION OF THE CABLE SYSTEM

## Section 1. Use of Streets

(a) Tree Trimming - In the erection of the amplifiers, poles, other appliances or equipment and in stringing of cable and/or wires as herein authorized, the Licensee shall avoid unnecessary damage to any and all shade trees in and along the streets, alleys, public ways and places, and private property in the Town and shall cut or otherwise prune such trees only to the extent necessary for the construction, maintenance, operation and repair of said cables, wires, amplifiers, appliances and other fixtures of the Licensee.

(b) 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 a condition as before entry to the extent reasonably possible and as soon as practicable.

(c) Cooperation with Building Moves - The Licensee shall on the request of any private party holding an appropriate permit issued by the Town temporarily raise or lower its lines to permit the moving of any building or other structure, and the actual expense of same shall be paid by the party requesting the same. The Licensee shall have the authority to require such payment in advance. The Licensee shall be given not less than thirty (30) days advance notice to arrange for such temporary wire changes.

(d) Relocation of Facilities - The Licensee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place or Town property, or remove from the street or other public place or Town property, any property of the Licensee when required by the Issuing Authority or his designee by reason of traffic conditions, public safety, street

construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks, or any other type of structures or improvements by public agencies. The Town will provide reasonable written notice and any such direction must be in accordance with Town, State and Federal law where applicable.

(e) For subscribers requesting connection requiring an aerial drop line in excess of 150 feet, the Licensee shall extend cable service at the regular installation rate for the first 150 feet and at a rate not to exceed the Licensee's actual costs of installation for any distance exceeding 150 feet.

Section 2. Removal of Cable System

Upon termination of this License by passage of time or otherwise, and unless Licensee renews its License for another term or Licensee transfers its License to a transferee approved by the Issuing authority, Licensee shall remove its supporting structures, poles, transmission and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public places in, over, under or along which they are installed and shall restore the areas to the original condition they were in immediately preceding removal.

Section 3. Emergency Audio Alert

The Licensee shall provide an emergency audio alert system. This system will enable the Issuing Authority or its designee to gain access onto the system by using any touch-tone telephone to override channels on the subscriber network with the emergency telephone message and notify subscribers to tune to a specific channel for both audio and visual emergency information. It is understood that access to the emergency alert

system is shared by all three municipalities served by the cable system (Town of Dalton, Town of Richmond and City of Pittsfield). Instruction on the use of this system shall be coordinated through Licensee and utilization shall be coordinated together with all participating municipalities.

Section 4. Service to Public Buildings and other Designated Facilities.

a) The Licensee shall provide one subscriber network drop and free monthly basic service with a converter unit to one drop to the following locations in the Town:

- (i) Public elementary, middle and high schools;
- (ii) Fire stations;
- (iii) Town Hall;
- (iv) Police stations;
- (v) Public Library;
- (vi) The local Community House Center;
- (vii) Dalton Youth Center;
- (viii) St. Agnes School;
- (ix) Dalton Community Access; and
- (x) Senior Center Community Room

b) In the event that the Town's middle school, which at the time of execution of this agreement is located on First Street, is demolished, sold or otherwise ceases to exist during the term of this agreement, Licensee agrees to relocate, at no charge to the Town, any existing equipment in the school presently used to receive from or transmit programming to facilities listed above in (a)(i)

of this section.

Section 5.           Construction and Maintenance Standards

(a) It is understood that by December 31, 1998, and subject to the availability of materials, Licensee shall have completed an upgrade of the cable system in the Town such that the system will be capable of passing frequencies of 550 MHz. The operation of such system shall render efficient service to subscribers consistent with all applicable regulations during the term of this License. All construction associated with the performance of said upgrade shall employ the use of good and durable materials. Licensee shall within thirty (30) days following the effective date of this License, post a performance bond with the town in the amount of Twenty One Thousand (\$21,000) Dollars guaranteeing Licensee's faithful performance of its construction obligations under this section. All material damages which are directly occasioned by the failure of the Licensee to perform such obligations, up to the principal amount of the bond, shall be recoverable from the principal and surety of said bond by the Town. The bond shall be subject to termination by Licensee upon completion of the aforesaid construction, and in such event shall be released to Licensee. The construction, maintenance and operation of the cable television system for which this License is granted shall be in conformance with the applicable provisions of the National Electrical Code (Article 820), the National Electrical Safety Code, the National Television Standards Code and the rules and regulations of the Occupational Safety and Health Administration (OSHA), the Massachusetts Cable Television Commission and the FCC as the same exist or as they may be hereafter changed or amended. Copies of any technical performance tests that may be required under FCC rules and regulations must be submitted to the Town upon its request. Further, the Licensee shall install and maintain its wire, cable, fixtures, and other equipment in such a manner as shall not interfere with any installations of the Town or

any public utility serving the Town. Any inspections of the cable system conducted by the Town to ascertain compliance with this section by the Licensee shall not interfere with Licensee's operations, shall be reasonable and shall be at the Town's expense. The Town shall give prior notice of any inspection to the Licensee, and Licensee shall have the right to accompany the Town's inspectors.

(b) All structures and all lines, equipment and connections in, over, under, and upon streets, sidewalks, alleys, and public ways and places in the Town, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition and in good order and repair.

#### Section 6. System Technical Specifications

The Licensee shall make available to all residents in the Town of Dalton a 550 MHz subscriber network, consistent with the construction schedule described in Article III, Section 5(a), above.

On or about the fifth anniversary date of the execution of this License, and upon the request of the Issuing Authority, the Licensee shall be available to discuss technological developments in the cable television industry as they may relate to the Town's cable system.

#### Section 7. Subscriber Services

Licensee shall notify the Issuing Authority and the subscribers at least thirty (30) days prior to making any changes in its channel lineup including all channel reassignments, additions or

deletions, insofar as it is required by existing state and federal law.

Section 8.        Local Access Channels

Any such channels shall not be exclusive to the Municipality and shall be shared among the municipalities served by the same cable system that serves the Town of Dalton. Rules governing the use of these channel(s) shall be formulated by the Issuing Authority or its designee(s) in cooperation with such other municipalities. Such rules shall prescribe conditions under which the Licensee is permitted to use channel capacity designed for access programming when such channel capacity is not being so used, and conditions under which such permitted use shall cease. Until such rules are promulgated and become effective, the Licensee may use such channel capacity when it is unused by the Town. Licensee shall relinquish use of such channel capacity upon reasonable notice by the Issuing Authority or its designee.

Notwithstanding the above, Licensee shall agree to accommodate the Town's system with the capability to provide to residents of the Town community programming exclusive to the Town of Dalton when such programming may otherwise have been preempted by programming from the City of Pittsfield. This capability shall be available by December 31, 1998, co-terminus with the completion of the upgrade of the system serving the Town.

Licensee also agrees to provide an amount not to exceed Four Thousand Five Hundred Dollars (\$4,500) for the purchase of studio equipment to be utilized by the Town for access programming.

Section 9.        Customer Service Procedures and Notice

(a) As expeditiously as possible after receipt of subscriber complaints regarding the quality of service, equipment malfunctions and similar matters, the Licensee shall investigate such complaints and resolve them to the extent reasonably possible. In the event Licensee's service to any subscriber is interrupted for 24 or more consecutive hours, it will grant such subscriber a prorata credit or rebate upon request, as prescribed in General Laws Chapter 166A and any Rules and Regulations of the Massachusetts Community Antenna Television Commission promulgated thereunder. In addition, and at the request of the Issuing Authority, the Licensee or its designee shall provide a report to the Issuing authority or its designee, in writing, and in a form and at intervals to be mutually agreed upon, to allow the Town to identify the nature of subscriber complaints. Upon request of the Issuing Authority, the Licensee shall, within 5 business days after receiving such request, send a written report to the Issuing Authority with respect to any complaint. Such report shall provide a full explanation of the investigation, findings and corrective steps taken.

(b) The Licensee shall respond to all requests for service making a service call at the subscriber's residence within 2 business days of receiving the request for service and in normal business periods respond to all requests for installation and disconnection within 10 days of such requests or at such other time as is mutually agreed upon by the Licensee and the subscriber, except during times of system failure due to weather, power outages or other catastrophes, promotional periods, or other circumstances which are exceptional or otherwise beyond the Licensee's reasonable control, and shall correct malfunctions as promptly as possible. For these purposes, the Licensee shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its subscribers, and shall maintain 24 hour telephone facilities capable of accommodating receipt of customer service calls within a reasonable amount of time.

(c) Except where there exists an emergency situation necessitating a more expedited procedure, the Licensee may interrupt service, for the purpose of repair or upgrading of the system, only during periods of minimum use, and only after 48 hours minimum notice to subscribers.

(d) The Licensee shall provide notice to its subscribers of its procedures for responding to customer service requests, including the right to a credit or rebate and the address and telephone number of the local business office, and shall also provide subscribers with notice concerning their rights of privacy hereunder. Such notice will be provided to customers when they initially subscribe to cable service, and in an annual mailing to all subscribers.

#### ARTICLE IV

#### LICENSE ADMINISTRATION

##### Section 1. Indemnification

Licensee shall indemnify and hold the Town harmless at all times during the term of the License from any and all claims for injury and damage to persons or property, both real and personal, caused by Licensee's installation, operation, or maintenance of any structure, equipment, wire or cable authorized to be installed pursuant to the License. Upon receipt of notice in writing from the Issuing Authority, Licensee shall at Licensee's own expense, defend any action or proceeding against the Town in which it is claimed that personal damage was caused by activities of the Licensee in the installation, operation or maintenance of its system.

Section 2.        Insurance

The Licensee shall carry insurance in companies authorized to conduct business in Massachusetts indemnifying the Town and itself from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation or maintenance of any structure, equipment, wires or cables authorized or used pursuant to the License. The amount of such insurance shall not be less than two million dollars (\$2,000,000.00), for bodily injury or death to any one person or property damage resulting from any one occurrence, with a general aggregate limit of six million dollars (\$6,000,000.00).

Section 3.        License Revocation

The License issued hereunder may be revoked by the Issuing Authority to the extent

permitted by law.

Any such revocation of this License shall be by order entered after a public hearing by the Issuing Authority and after affording Licensee a public hearing in accordance with M.G.L. Chapter 30A, including notice of a reasonable opportunity to cure and subject to the appeal provisions of Section 4 of M.G.L. Chapter 166A or any other rights available to the Licensee. Before any such order is entered, the Licensee must be given at least sixty (60) days advance written notice, which shall set forth the causes and reasons for the proposed revocation and shall advise the Licensee that it will be provided an opportunity to be heard by the Issuing Authority regarding such proposed action before any such action is taken, and shall set forth the time, date and place of hearing. In no event shall such hearing be held less than sixty (60) days following delivery of such notice to the Licensee.

If this License is revoked, the Town hereby agrees that Licensee shall have the right to sell same and the assets relating thereto, to the Town or to any other party and that the purchase price for the same, in the sole discretion of the Licensee, shall be, pursuant to Section 627 of the 1984 Cable Act, no less than an equitable price for which, for the purposes of this License, shall be the fair market value of the Cable System valued as an on-going business venture. Nothing herein shall obligate the Town to purchase the License and the assets relating thereto. The Licensee may be afforded one year after revocation to effect the aforementioned right and during such time the Town may in its discretion permit Licensee to operate the Cable System and provide Cable Service pursuant to the obligations of this License.

#### Section 4. Fiscal Reports and Payments to the Town

(a) The Licensee shall, before the anniversary date of this License during the period within which it is in force, pay annually to the Issuing Authority the maximum license fee allowed under Chapter 166A of the General Laws of Massachusetts or by special legislation or other legislation. In addition, the Licensee shall pay during the term of this License, a sum equal to five percent (5%) of Gross Revenues that are received by and paid to Licensee from the provision of Cable Service ("License Fee"). Such fee shall be paid on a quarterly basis within forty-five (45) days after the end of each calendar quarter.

Notwithstanding the above, the total amount payable to the Town and to the Commonwealth under section 4(a) above plus community programming support payments as provided in Section 622 of the Cable Act, and any State payments, shall in no event exceed the maximum franchise fees permitted by the Cable Act or other applicable law, currently five percent (5%). In the event that federal law increases the maximum allowable franchise fee beyond 5%, the Town shall notify Licensee in writing of its desire to receive payment based on such permitted increased fee.

Computation of amounts payable to the Town under this section shall not include donations of facilities or equipment for community programming purposes.

(b) Licensee agrees to file with the Issuing Authority copies of all forms that Licensee is required to file with the Cable Commission.

Section 5. Right to Inspect Records and Facilities

With reasonable notice, subject to Federal subscriber privacy laws, the Issuing Authority may visit the places of business and other premises and examine the records, facilities and subscriber agreements of the Licensee to ascertain if all rules and regulations and orders of the Issuing Authority have been complied with.

ARTICLE V  
GENERAL PROVISIONS

Section 1. Rates

(a) Charges shall be consistent with applicable law. The Town may regulate rates to the extent permitted under applicable law.

(b) Service rates may be adjusted by the Licensee consistent with the Cable Act as amended and defined by the FCC.

(c) Licensee may waive any maximum charges in whole or in part for promotional purposes.

Section 2. Privacy

The Licensee shall comply with the subscriber privacy provisions set forth in Section 631 of the Cable Act.

Section 3.      Transfer of Control

(a)      To the extent required by M.G.L. 166A, Section 7, this License, or control thereof, shall not be transferred or assigned without the prior written consent of the Issuing Authority, which consent shall not be unreasonably withheld. The Issuing Authority shall schedule a public hearing on a petition to transfer this License within sixty (60) days of receipt of such petition, and shall render a decision within sixty (60) days of receipt of such petition, provided such procedure is consistent with state law. Such consent shall be given only after a public hearing upon a written application therefore as provided by the Massachusetts Commission and on forms prescribed by the Massachusetts Commission and the FCC. This provision shall not apply to a transfer of control or assignment to the principal parents of the Licensee, a parent corporation, a subsidiary or an affiliate corporation of the Licensee, or any other firm or entity under common control of the Licensee.

(b)      The consent or approval of the Issuing Authority to any assignment, lease, transfer, sublease, or mortgage of the License granted to the Licensee shall not constitute a waiver or release of the rights of the Town under this License, and any such transfer shall, by its terms, be expressly subordinate to the terms and conditions of this License.

(c)      The Licensee shall submit to the Issuing Authority an original and five (5) copies, unless otherwise directed, of the License transfer application and forms requesting such consent to license transfer or assignment.

(d)      Any proposed controlling or owning person or transferee approved by the Town

shall be subject to all of the terms and conditions contained in this License.

Section 4. Supersedure of Previous Licenses

This renewal license replaces and supersedes all previous licenses between the Licensee and Issuing Authority. All conditions and requirements of General Laws, Chapter 166A, the Cable Act as amended, and the rules and regulations of the Federal Communications Commission and the Massachusetts Cable Television Commission are incorporated herein by reference, to the extent not enunciated herein.

Section 5. Severability

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

Section 6. Notice

Every notice to be served under this License shall be delivered by hand or sent by certified mail, postage prepaid, shall be deemed to have been given on the date of hand delivery or on the mailing date thereof and shall be addressed as follows:

To the Issuing Authority:

Select Board  
Town of Dalton  
Dalton Town Hall  
469 Main Street  
Dalton, MA 01226 and

Copy to:

Town Solicitor  
Town Hall  
Dalton, MA 01226

or such other address as the Issuing Authority may specify in writing to the Licensee.

To the Licensee:

General Manager  
Time Warner Cable  
163 Fourth Street  
Dalton , MA 01201

Copy to:

Division President  
Time Warner Cable  
Albany Division  
130 Washington Ave. Ext.  
Albany, New York 12203-5393

or such other address as the Licensee may specify in writing to the Issuing Authority.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

APPROVED AS TO FORM

TOWN OF DALTON

By its Issuing Authority

Chair Person \_\_\_\_\_

Select Person \_\_\_\_\_

Select Person \_\_\_\_\_

The within License is hereby accepted.

TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP

through its Albany Division,

By: \_\_\_\_\_

Jeffrey M. King, Division President

