



Carol A. Murray  
676 Island Pond Road  
Manchester, NH 03109  
Phone: 603-695-1490  
Fax: 603-628-3303

May 29, 2008

***VIA OVERNIGHT MAIL***

Board of Selectmen  
Fairhaven Town Hall  
Town of Fairhaven  
40 Center Street  
Fairhaven, MA 02719

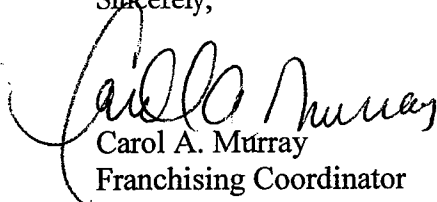
***Re: Fairhaven, Massachusetts Cable Television Renewal License:***

Dear Chair and Members of the Board:

Enclosed please find one fully executed original of the Cable Television Renewal License between the Town of Fairhaven and Comcast of Massachusetts/New Hampshire, LLC. As you know, the term is for a ten year period, commenced on May 19, 2008 and will expire at midnight on May 18, 2018.

If you have any questions, please feel free to contact me at 603.695.1490.

Sincerely,



Carol A. Murray  
Franchising Coordinator

/cam

Enc.

cc: Cable Advisory Committee, c/o Fairhaven Town Hall  
Catrice Williams - Massachusetts Cable Television Division Municipal Liaison  
Nick Leuci - Comcast Vice President of Franchising & Community Relations (2nd original)  
Lou Russo - Comcast Vice President of Government & Community Relations (3rd original)  
Attorney William Solomon (4th original)  
Mary O'Keeffe - Comcast Sr. Manager of Government & Community Relations  
Comcast Local Accounting Department  
Comcast Corporate Government Affairs Department

**CABLE TELEVISION  
RENEWAL LICENSE**

**GRANTED TO**

**Comcast of  
Massachusetts/New Hampshire, LCC**

**BY**

**THE BOARD OF SELECTMEN  
TOWN OF FAIRHAVEN  
MASSACHUSETTS**

**Effective Date: May 19, 2008**

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## **RENEWAL LICENSE GRANTED BY THE TOWN OF FAIRHAVEN**

### **AGREEMENT**

This Cable Television Renewal License entered into this NINETEENTH day of MAY, 2008, by and between the Board of Selectmen of the Town of Fairhaven, Massachusetts, as Issuing Authority for the grant of the cable television license(s) pursuant to M.G.L. c. 166A, and Comcast of Massachusetts/New Hampshire, LCC ("Comcast").

### **WITNESSETH**

WHEREAS, Comcast of Massachusetts/New Hampshire, LCC (hereinafter "Comcast" or "Licensee"), is the duly authorized holder of a license to construct, maintain and operate a Cable Television System in the Town of Fairhaven, Massachusetts (hereinafter the "Town"), said license having commenced on November 21, 1996.

WHEREAS, Comcast filed a written request for a renewal of its license pursuant to the Cable Communications Policy Act of 1984, as amended, and filed a renewal proposal dated March 24, 2006 to the Town's Request for Proposal on February 2, 2006;

WHEREAS, there has been an opportunity for public comment, and ascertainment has been conducted to ascertain the future cable-related needs of the community, as provided for pursuant to Section 626 of the Cable Communication Policy Act;

WHEREAS, the Board of Selectmen, as Issuing Authority and Comcast did engage in good faith negotiations and did agree on terms and provisions for Comcast's continued operation of its Cable Television System in the Town of Fairhaven;

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

WHEREAS, the Issuing Authority has determined that it is in the best interests of the Town of Fairhaven to grant a non-exclusive Renewal License to Comcast;

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.

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

(b) Access Channel: A video channel which the Licensee owns and is made available for use by the Town, its designee(s) and/or Access Users without charge for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools, educational, institutional and similar organizations.

(c) Affiliate or Affiliated Person - When used in relation to any Person, means another Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such Person.

(d) Basic Cable Service - Any Service tier, which includes retransmission of local television broadcast signals.

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

(f) Cable Service - Pursuant to the Cable Act, (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) other programming services, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming services.

(g) Cable Television System or Cable System - The facility owned, constructed, installed, operated and maintained by Licensee in the Town of Fairhaven, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that

is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Town but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves Subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of Section 621(c) of the Cable Act) to the extent such facility is used in the transmission of Video Programming directly to Subscribers unless the extent of such use is solely to provide interactive on-demand Services; (d) an open video system that complies with Section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

(h) Drop – The cable that connects a home or building to the feeder cable of the Subscriber Network.

(i) Effective Date – May 19, 2008.

(j) FCC – Federal Communications Commission or any successor governmental entity.

(k) Franchise Fee – The payments to be made by the Licensee to the Issuing Authority of the Town of Fairhaven and/or its designee(s) which shall have the meaning as set forth in Section 622(g) of the Cable Act.

(l) Gross Annual Revenues – The revenues received by the Licensee and/or its Affiliates from the operation of the Cable System in the Town of Fairhaven to provide Cable Service, including, without limitation: the distribution of any Cable Service over the Cable System; Basic Services monthly fees and all other Cable Service fees; installation, reconnection, downgrade, upgrade and any similar charges; interest earned on all Subscriber fees and/or charges collected; all digital Cable Service revenues; fees paid on all Subscriber fees (“Fee-on-Fee”); all Commercial Subscriber Cable Service revenues (including bulk account revenues); Pay Cable, Premium Services and Pay-Per-View revenues; converter, remote control and other Cable Service-related equipment rentals and/or leases or sales. fees paid for channels designated for commercial use; home shopping revenues; and advertising revenues. In the event that an Affiliate and/or any other Person is responsible for advertising revenues, advertising revenues for purposes herein shall be deemed to be the pro-rata portion of the advertising revenues, accrued by such Affiliate or other Person for such Affiliate’s or other Person’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 from or in connection with the operation of the Cable System to the extent that said revenue is derived through a means which has the effect of avoiding payment of Franchise Fees to the Town that would



otherwise be paid herein. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with Generally Accepted Accounting principles; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

(m) Issuing Authority – The Board of Selectmen of the Town of Fairhaven, Massachusetts, or the lawful designee thereof.

(n) Licensee – Comcast of Massachusetts/New Hampshire, LLC, a Delaware Corporation, or any successor or transferee in accordance with the terms and conditions in this Renewal License.

(o) License Fee – The payments to be made by the Licensee to the Issuing Authority, the Town of Fairhaven and the Commonwealth of Massachusetts, which shall have the meaning as set forth in M.G.L.c. 166A, § 9.

(p) Outlet – An interior receptacle that connects a television set to the Cable Television System.

(q) Pay Cable or Premium Services - Programming delivered for a fee or charge to Subscribers on a per-channel or group-of-channels basis.

(r) Pay-Per-View: - Programming delivered for a fee or charge to Subscribers on a per-program or per-event basis.

(s) Person – Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or legally recognized group of individuals acting in concert.

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

(u) Public, Educational and Government (PEG) Access Programming – Noncommercial Programming produced in accordance with 47 U.S.C. 531.

(v) Public Way – The surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Issuing Authority in the Town of Fairhaven, which shall entitle the Licensee to the use thereof for the

purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Issuing Authority within the Town of Fairhaven for the purpose of public travel, or for utility or public services use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Licensee to the use thereof for the purposes of installing, operating, and maintaining the Licensee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System. 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.

(w) Renewal License or License – This Renewal License and any amendments or modifications in accordance with the terms herein.

(x) Standard Installation – The standard aerial Drop of one hundred fifty feet (150 ft.).

(y) State – The Commonwealth of Massachusetts.

(z) Subscriber – Any Person, firm, corporation or other entity who or which contracts with the Licensee for or lawfully receives, Cable Service provided by the Licensee by means of, or in connection with, the Cable Television System.

(aa) Subscriber Network – The trunk and feeder signal distribution network over which video and audio signals are transmitted to Subscribers.

(ab) Town – The Town of Fairhaven, Massachusetts.

(ac) Town Counsel: The Town Counsel of the Town of Fairhaven, Massachusetts.

(ad) Video Programming or Programming – Programming provided by, or generally considered comparable to Programming provided by, a television broadcast station.

(ae) Video Return Lines - The dedicated, separate video return lines providing upstream capacity for Video Programming from specific sites within the Town to the Licensee's hubsite, where the signal is then switched to the appropriate Downstream channel.

## **ARTICLE 2**

### **GRANT OF RENEWAL LICENSE**

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

(a) Pursuant to the authority of M.G.L. c. 166A, and the Cable Act the Issuing Authority hereby grants a non-exclusive Renewal License to Comcast of Massachusetts/New Hampshire, LLC, a Delaware Corporation, authorizing and permitting Licensee to construct, operate and maintain a Cable Television System in the Public Way within the municipal limits of the Town of Fairhaven.

(b) This Renewal License is subject to the terms and conditions contained in Chapter 166A of the laws of Massachusetts; the Cable Act, the regulations of the FCC; and all federal and State laws and regulations, and Town By-laws and lawful regulations of general applicability, all as may be amended, in full force and effect during the term of this License.

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

The term of this non-exclusive Renewal License shall be for a period of ten (10) years and shall commence on May 19, 2008 and shall terminate at midnight on May 18, 2018.

#### **SECTION 2.3 - RESERVATION OF AUTHORITY**

Nothing in this Renewal License shall (a) abrogate the right of the Issuing Authority to perform any public works or public improvements of any description, or (b) be construed as a waiver or release of the rights of the Issuing Authority in and to the Public Ways.

#### **SECTION 2.4 - NON-EXCLUSIVITY OF LICENSE**

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

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

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

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

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

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

(e) In the event that the Licensee believes that in the future another Licensee which has been granted a cable television license in the Town, has been provided relief by the Issuing Authority from any material obligation(s), which may include amendments, of its license that causes said other cable television license(s) to be more favorable or less burdensome than this Renewal License, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue. Along with said written request, the Licensee shall provide the Issuing Authority with written reasons for its belief. The Licensee shall provide the Issuing Authority with such financial or other relevant information as is requested subject to the provisions of Section 12.1 herein. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to demonstrate that such relief causes said other cable license to be more favorable or less burdensome than this Renewal License. Should the Licensee demonstrate that any such relief causes said other cable television license to be more favorable or less burdensome than the Renewal License, the Issuing Authority shall consider and negotiate, in good faith, equitable amendments to this Renewal License.

## **SECTION 2.5 – POLICE AND REGULATORY POWERS**

By executing this Renewal License, the Licensee acknowledges that its rights are subject to the powers of the Town and its right to adopt and enforce by-laws in the lawful exercise of its police powers to the extent permitted by applicable law, with respect to the safety and welfare of the public. The Licensee shall comply with all applicable, Town by-laws and lawful regulations, provided such are not specific to this License, the Licensee and/or Cable System. 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 a court of competent jurisdiction. Nothing in this Section 2.5 shall be deemed to prohibit the right of the Licensee to challenge the legality of a Town by-law or regulation.

## **SECTION 2.6 – REMOVAL OR ABANDONMENT**

Upon termination of this Renewal License by passage of time or otherwise, unless (1) the Licensee has its license renewed for another term or (2) the ownership of the Cable Television System is transferred to another Person with written approval by the Issuing Authority in accordance with applicable law and pursuant to Section 2.7 below, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and other appurtenances from the Public Ways and shall restore the areas to their original condition as is reasonably possible and as soon as reasonably possible. If such removal is not complete within six (6) months of such termination, the Issuing Authority may deem any property not removed as having been abandoned. Upon written request of the Licensee, the Issuing Authority may waive this requirement for good cause shown.

## **SECTION 2.7 – TRANSFER OF THE RENEWAL LICENSE**

(a) Pursuant to M.G.L. c. 166A, Section 7, as may be amended from time to time, and 207 CMR 4.00, neither the Renewal License, nor control thereof, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any Person, company and/or other entity holding such Renewal License to any other Person, company and/or other entity, without the prior written consent of the Issuing Authority, which consent shall not be arbitrarily or unreasonably withheld. Such consent shall be given only after a public hearing upon a written application therefore on forms as may be prescribed by the FCC and/or the Massachusetts Department of Telecommunications and Cable. 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) Pursuant to applicable State and federal law, as may be amended, in considering a request to transfer control of the Renewal License, the Issuing Authority shall consider the transferee's financial capability, management experience, technical expertise and legal ability to operate a Cable System under the existing license and may consider any other criteria allowable under federal and State laws and regulations.

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

(d) The Licensee shall promptly notify the Issuing Authority of any action requiring the consent of the Issuing Authority pursuant to this Section 2.7.

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

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

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

## **SECTION 2.8 – EFFECT OF UNAUTHORIZED TRANSFER ACTION**

(a) Any transfer of the Cable System without complying with Section 2.7 above shall be null and void, and shall be deemed a material breach of this Renewal License.

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

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

**ARTICLE 3**  
**SYSTEM SPECIFICATIONS AND CONSTRUCTION**

**SECTION 3.1 - AREA TO BE SERVED**

The Licensee shall make its Cable Services available to all residents of the Town, subject to the line extension policy of Section 3.2 below, provided that the Licensee is able to obtain any necessary easements, permits and/or permission from owners of property and multiple dwelling units. The Licensee shall make its best efforts to obtain any necessary easements or permission from owners of property in the Town in order to make Cable Service available to all residents.

**SECTION 3.2 – LINE EXTENSION POLICY**

Consistent with Section 3.1 above, the Cable Television System shall be extended automatically, to newly constructed residential units and subdivisions at the Licensee's sole cost and expense, in any and all areas of the Town containing twenty (20) dwelling units or more per aerial mile of the Cable System, twenty (20) dwelling units or more per underground mile of the Cable System, provided that there is existing underground conduit that is made available to the Licensee or thirty (30) dwelling units or more per underground mile of the Cable System where there is no available underground conduit for use by the Licensee. The Licensee shall promptly apply for all necessary permits. Said Services shall be made available and fully activated to requesting dwelling units no later than ninety (90) days after all necessary permits are obtained, subject to Section 13.2, Force Majeure.

**SECTION 3.3 – RESIDENTIAL SUBDIVISIONS**

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



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

Any dwelling unit with a one hundred fifty feet (150 ft.) or less aerial Drop from the feeder cable shall be entitled to a Standard Installation rate. Installations with more than a one hundred fifty foot (150 ft.) Drop from the feeder cable or which require underground installation shall be provided at a rate established by the Licensee in accordance with applicable law and regulations.

#### **SECTION 3.5 – LOCATION OF THE CABLE TELEVISION SYSTEM**

The Licensee shall own, install, operate and maintain the Cable Television System within the Town of Fairhaven. Licensee-owned poles and 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 licensee-owned poles, towers and other obstructions shall be in accordance with all applicable State and local laws and regulations.

#### **SECTION 3.6 – UNDERGROUND FACILITIES**

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

(b) Pursuant to Section 3.4(a) above, underground cable lines shall be placed beneath the pavement sub-grade in compliance with applicable Town by-laws, rules, regulations and/or standards. It is the policy of the Town that existing poles for electric and communication purposes be utilized wherever possible and that underground installation is preferable to the placement of additional poles.

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

### **SECTION 3.7 – SUBSCRIBER NETWORK**

The Licensee shall own, operate and maintain a Cable Television System, of a minimum bandwidth of 750MHz to Fairhaven Subscribers.

### **SECTION 3.8 - CABLE DROPS TO PUBLIC BUILDINGS**

(a) As of the Effective Date, the Licensee shall maintain active Subscriber Network Drops, Outlets and Basic Service, at no charge to the Town, to each Public Buildings as designated by the Issuing Authority within the Town and along the cable route, listed in **Exhibit 3.8** attached hereto.

(b) Licensee shall provide one (1) Drop, Outlet and Basic Service, as described in Subparagraph (a) above, at no charge to all new public buildings and other Town owned public buildings (including new public buildings located on the same property as a former public building), as long as with respect to underground construction if required by the Town, the Town provides, at its sole cost and expense, all such underground construction (labor and materials including conduit within a conduit bank for utilities and municipal purposes) to the base of the common riser pole only, which may be needed to connect the new public building(s) to Licensee's cable plant along the cable route; provided, however Licensee shall not be required to provide said Drop, Outlet and Basic Service in the event that said Town-owned or Town-leased buildings are not occupied by Town or Fairhaven Public School department(s) or employees. The Issuing Authority or its designee shall consult with a representative of the Licensee to determine the appropriate location for each Outlet prior to requesting that the Licensee install the said Outlet.

(c) Nothing in this Section shall require the Licensee to move existing Drops or Outlets, as listed in **Exhibit 3.6** within an existing building or to any extension of an existing building, or install an additional Drop or Outlet to any municipal or Town owned or leased Public Building which already has an existing Drop or Outlet.

(d) The Licensee shall supply one (1) converter for each Outlet, without charge to the Town, if necessary for the reception of monthly Basic Service. The Licensee shall maintain such Outlets and converters for normal wear and tear, at its sole cost and expenses; provided, however, that the Licensee shall not be responsible for repairs and/or replacement necessitated by any acts of vandalism or theft.

**SECTION 3.9 – EMERGENCY ALERT SYSTEM**

The Licensee shall comply with the Emergency Alert System (“EAS”) requirements of the FCC in order that emergency messages may be distributed over the Cable System.

**SECTION 3.10 – SYSTEM TECHNICAL SPECIFICATIONS**

The Cable System shall conform to the FCC technical specifications, including 47 CFR 76.605, which are incorporated herein by reference. At all times throughout the Renewal License, the Licensee shall meet all applicable FCC technical standards.

## **ARTICLE 4**

### **TECHNOLOGICAL AND SAFETY STANDARDS**

#### **SECTION 4.1 – SYSTEM MAINTENANCE**

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

(b) The Licensee shall construct, 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 rules and regulations of the Cable Division of the Massachusetts Department of Telecommunications and the FCC, all State laws and regulations, and local lawful by-laws and lawful regulations, and all land use restrictions as the same exist or may be amended hereafter.

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

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

#### **SECTION 4.2 – REPAIRS AND RESTORATION**

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 reasonably possible as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs, and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of the Licensee to comply within the time specified, the Issuing Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Licensee upon written demand by the Issuing Authority.

### **SECTION 4.3 – TREE TRIMMING**

In installing, operating and maintaining equipment, cable and wires, the Licensee shall avoid all unnecessary damage and/or injury to trees, structures and improvements in and along Public Ways. The Licensee shall be subject to M.G.L. Chapter 87 and shall comply with all rules established by the Issuing Authority and/or its designee(s) during the term of the Renewal License. All tree and/or root trimming and/or pruning provided for herein shall be done pursuant to regulations of the Town.

### **SECTION 4.4 – STRAND MAPS**

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

### **SECTION 4.5 – BUILDING MOVES**

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

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

### **SECTION 4.6 – DIG SAFE**

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

### **SECTION 4.7 – DISCONNECTION AND RELOCATION**

(a) The Licensee shall, upon reasonable advance written notice, without charge to the Town, protect, support, temporarily disconnect, relocate in the same street or other Public Way, or remove from any street or any other Public Ways, 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.

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

#### **SECTION 4.8 – EMERGENCY REMOVAL OF PLANT**

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

(b) The Licensee shall have the right to seek reimbursement under any applicable government program for reimbursement. All cable operators or public municipal utility companies shall be treated alike if reimbursed for such costs by the Town.

#### **SECTION 4.9 – PEDESTALS**

In any cases in which pedestals housing active and passive devices are to be utilized, in Town Public Ways or within the Town public lay-out, such equipment must be installed in accordance with applicable Town rules, regulations and/or by-laws. All such pedestals shall be shown on the strand maps submitted to the Town in accordance with Section 4.4 supra.

#### **SECTION 4.10 – PRIVATE PROPERTY**

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

#### **SECTION 4.11 – RIGHT TO INSPECTION OF CONSTRUCTION**

The Issuing Authority and/or its designee(s) shall have the right to inspect all Cable System plant and construction and installation work performed subject to the provisions of this Renewal License in order 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. The Licensee shall have the right to have its representative present during any such inspection. The cost of any such Town inspection shall be borne by the Town. Inspections shall be performed at reasonable times and upon reasonable notice to the Licensee.

#### **SECTION 4.12 – SERVICES INTERRUPTION**

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

**ARTICLE 5  
PROGRAMMING AND SERVICES**

**SECTION 5.1 – BASIC CABLE SERVICE**

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

**SECTION 5.2 – PROGRAMMING**

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

(b) Licensee shall comply with 76.309(c)(3)(i)(b) of the FCC Rules and Regulations as well as 207 CMR 10.02 of the Massachusetts Cable Television Division Rules and Regulations regarding notice of Programming changes.

**SECTION 5.3 – CONVERTER BOX, REMOTE CONTROLS**

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

**SECTION 5.4 – STEREO TV TRANSMISSIONS**

All broadcast signals that are transmitted to the Licensee's headend in stereo shall be transmitted in stereo to Subscribers.

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

Pursuant to 47 U.S.C. 532, the Licensee shall make available channel capacity for commercial use by persons unaffiliated with the Licensee. Rates for use of commercial access channels shall be negotiated between the Licensee and the commercial user in accordance with federal law.



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

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

## **SECTION 5.7 – COMMERCIAL ESTABLISHMENTS**

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

**ARTICLE 6**  
**PEG ACCESS CHANNEL(S) AND SUPPORT**

**SECTION 6.1 – PEG ACCESS GENERAL**

Use of channel capacity for public, educational and governmental (“PEG”) access purposes shall be provided by Licensee in accordance with federal law, Section 611 of the Cable Act (47 U.S.C. 531), and as set forth below. Licensee shall not exercise editorial control over any public, educational, or governmental use of channel capacity, except Licensee may refuse to transmit any public access program or portion of a public access program pursuant to Section 611 of the Cable Act. The Issuing Authority or its designee shall be responsible for developing, implementing, interpreting and enforcing rules for Fairhaven’s PEG access channel use.

**SECTION 6.2 - PEG ACCESS CHANNEL(S)**

(a) Upon the Effective Date, the Licensee shall continue to make available to the Issuing Authority or its designee(s) three (3) PEG Access Channels.

(b) Said PEG access channels shall be used to transmit non-commercial PEG Access Programming to Subscribers, at no cost by the Town or its designee(s) and, except as otherwise provided for herein, shall be subject to the control and management of the Town and/or its designee(s).

(c) Said PEG access channels shall be used to transmit PEG Access Programming to Subscribers without charge to the Town, the Fairhaven public schools, or any organizations serving the Town.

(d) The Licensee shall not change the PEG access channel locations, without the advance, reasonable, written notice to the Issuing Authority and Subscribers.

(e) The Licensee shall monitor the 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. Upon the written request of the Issuing Authority, the Licensee shall make available a copy of its most recent annual performance tests.

### **SECTION 6.3 – PEG ACCESS PROVIDER AND STUDIO**

(a) Licensee shall continue to operate the Fairhaven Public Access studio for thirty (30) days past the Effective Date. At such time, the Town and/or an access provider, as designated by the Issuing Authority, shall provide services to PEG access users and the Town as follows:

- (1) Schedule, operate and program the PEG access channels within its authority and control provided in accordance with Section 6.2 above;
- (2) Manage the annual PEG access funding, pursuant to Section 6.4 below;
- (3) Purchase, maintain and/or lease PEG access equipment, with the funds allocated for such purposes in Section 6.4 below;
- (4) Provide technical and production assistance in the coverage of governmental meetings;
- (5) Assist users in the production of activities and events that are of interest to Subscribers cable coverage of meetings and events;
- (6) Establish rules, procedures and guidelines for use of the PEG access channel(s) within its authority and control; and,
- (7) Accomplish such other tasks relating to the operation, scheduling and/or management of the PEG access channels, facilities and equipment within its authority and control, as appropriate and necessary.

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

(a) The Licensee shall provide an annual Franchise Fee payment to the Fairhaven Public Schools for Educational Access purposes (and Government Access purposes if so determined by the Issuing Authority and the Fairhaven Public Schools), equal to one and three quarters percent (1.75%) of its Gross Annual Revenues. The first quarterly payment shall be made on or before September 1, 2008 based on the Gross Annual Revenues for the period from the Effective Date through June 30, 2008. Quarterly payments shall be made each year thereafter based on the Gross Annual Revenues for the prior three (3) month period as follows:

<u>Quarter</u>	<u>Due Date</u>
January 1 – March 31	June 1
April 1 – June 30	September 1
July 1 – September 30	December 1
October 1 – December 31	March 1

A final payment shall be made by the Licensee to the Fairhaven Public Schools for the period of time between January 1, 2018 through the expiration of the License term, based upon the Gross Annual Revenues for said period of time and shall be due no later than sixty (60) days after said final day of the term of this Renewal License. Said quarterly payments shall be used for, among other things, purchase of equipment, salary, operating and other related expenses connected to Educational Access programming and operations. All equipment purchased with these funds will be owned, operated and maintained by the Fairhaven Public Schools or its designee.

(b) Upon the Effective Date, the Licensee shall not be responsible for Educational or Governmental Access within the Town.

(c) The Licensee shall provide to the Issuing Authority or its designee, for Public and/or Government Access purposes, quarterly Franchise Fee payments equal to two and one-quarter percent (2.25%) of the Licensee's Gross Annual Revenues. Said payments shall be used for, among other things, purchase of equipment, salary, operating, facilities and other related expenses connected to Public and/or Governmental Access programming and operations. A payment shall be made by the Licensee to the Issuing Authority or its designee on or before September 1, 2008 for the period of time between thirty (30) days after the Effective Date though June 30, 2008, based on the Gross Annual Revenues for said period of time. Quarterly payments shall be made each year thereafter based on the Gross Annual Revenues for the prior three (3) month period as follows:

<u>Quarter</u>	<u>Due Date</u>
January 1 – March 31	June 1
April 1 – June 30	September 1
July 1 – September 30	December 1
October 1 – December 31	March 1

For the period of January 1, 2018 through the expiration of the License term, the Licensee's payment of said two and one-quarter (2.25%) of the Licensee's Gross Annual Revenues shall be due no later than sixty (60) days after said final day of the term of this Renewal License. Said quarterly payment shall be based on the Licensee's Gross Annual Revenues for the respective quarter (or fractional portion thereof with respect to the final payment period).

(d) Licensee shall provide an advance Franchise Fee payment of Seventy Five Thousand

Dollars (\$75,000) to the Issuing Authority, or its designee, to be deducted in equal amounts from the first four (4) quarterly payments made by the Licensee to the Issuing Authority or its designee, pursuant to Section 6.4(c) above: Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on December 1, 2008, Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on March 1, 2009, Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on June 1, 2009 and Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on September 1, 2009. Said payment, shall be paid by Licensee to the Issuing Authority or its designee within sixty (60) days of the Effective Date of this Renewal License.

(e) Licensee shall provide a second advance Franchise Fee payment of Seventy Five Thousand Dollars (\$75,000) to the Issuing Authority, or its designee, within sixty (60) days of the first anniversary of the Effective Date, to be deducted in equal amounts from four (4) quarterly payments made by the Licensee to the Issuing Authority or its designee, pursuant to Section 6.4(c) above: Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on December 1, 2009, Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on March 1, 2010, Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on June 1, 2010 and Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) against the quarterly payment due on September 1, 2010. All equipment purchased with these funds in Section 6.5 (d) and (e) will be owned, operated and maintained by the Town.

(f) The Licensee shall provide funding to the Town for PEG Access equipment, payable to the Town and/or its designee(s) as follows: Ten Thousand Dollars (\$10,000) within sixty (60) days of the Effective Date of this Renewal License and thereafter on each anniversary of the Effective Date of this Renewal License an additional Ten Thousand Dollars (\$10,000) per year (the last Ten Thousand Dollar (\$10,000) payment being made on or before May 19, 2017). The total amount payable to the Town and/or its designee(s) over the term of this Renewal License pursuant to this Section 6.4(f) shall be One Hundred Thousand Dollars (\$100,000.00).

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

Upon written request by the Licensee, the Issuing Authority shall provide, within one hundred twenty (120) days of receipt of said notice, a written report of actual disbursements made of the funds provided by the Licensee during the prior calendar year, pursuant to this Renewal License and applicable federal and State law. If upon review of the financial records, the Licensee

determines expenses were not related to a use allowed pursuant to the Renewal License, the Licensee may (i) refer the matter to the Issuing Authority or its designee(s) who shall investigate said complaint and may (ii) also require that the financial records from the previous calendar year be reviewed. After such referral of a matter to the Issuing Authority or its designee by the Licensee, the Issuing Authority shall, upon request of the Licensee, report its findings to the Licensee, subject to any privacy rights of individuals and applicable law and regulation. If the Issuing Authority or its designee(s) determines that funds were misused, it shall take appropriate corrective action to ensure future compliance. If a subsequent violation should occur, a public hearing may be held to address said violation and review procedures for proper use and accounting procedures.

#### **SECTION 6.6 – CENSORSHIP**

Neither the Licensee, nor the Town and/or its designee(s) shall 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.

#### **SECTION 6.7 – NON-COMMERCIAL PROGRAMMING**

The Issuing Authority and its designee(s) shall not use the designated PEG access channels, equipment, or other facilities to provide for-profit commercial Programming. Transport of the PEG channel content on the Licensee's Cable System shall not be provided to a competing multichannel video programming distributor without the prior written consent of the Licensee. Nothing in this Section 6.7 shall prohibit the Issuing Authority or its designee from having memberships, sponsorships, underwriting or acknowledgements (such as the underwriting and acknowledgments displayed by the Public Broadcasting System), to the extent not otherwise prohibited by applicable law or regulations.

#### **SECTION 6.8 – PEG ACCESS COSTS**

There shall be no charges by the Licensee to the Town, its designee(s), and/or PEG access users for use of the PEG access channels.

#### **SECTION 6.9 - EXISTING PEG ACCESS EQUIPMENT**

(a) An inventory of all studio, production and cablecasting equipment as of the Effective Date of this Renewal License, located at the Licensee's studio at 244 Huttleston Ave., Fairhaven, is

attached hereto as **Exhibit 6.9**. The Issuing Authority acknowledges that said equipment is currently shared between the towns of Fairhaven and Acushnet. The existing equipment shall be divided between Fairhaven and the Town of Acushnet as follows: Fairhaven's proportionate share of sixty-six percent (66%) and the Town of Acushnet's proportionate share of thirty-four percent (34%). The Licensee shall insure that said equipment is currently available to the Town, subject to the proportional sharing as referenced above. The specifics of the equipment per town shall be jointly determined by the towns of Fairhaven and Acushnet's designee(s). The Issuing Authority and/or its designee(s) shall be responsible for the installation and set-up of said equipment in its new location. The Licensee shall have no further responsibility whatsoever for said equipment.

(b) Said equipment shall be deeded in "as is" condition and without warranty. Upon transfer of said equipment, the Licensee shall not have any further responsibility whatsoever for equipment owned by the Town and/or its designees, including but not limited to maintenance, insurance, repair and/or replacement of said equipment. The Licensee shall provide to the Issuing Authority all existing equipment warranties and information, including installation, setup, configuration and operation manuals, if available.

#### **SECTION 6.10 - PEG ACCESS CABLECASTING**

(a) In order that the Town and/or its designee(s) can cablecast its PEG Access Programming over the PEG Access Downstream Channels, PEG Access programming shall be modulated, then transmitted on one of the Video Return Lines from a Video Return Line drop site to the Headend, without charge to the Town or its designee(s), for such purpose. The demarcation point between the equipment operated and maintained by the Licensee and the equipment operated and maintained by the Town or its designee (i.e. the point of demarcation for the Licensee's signal and cablecasting responsibilities) shall be the output of the Town's or its designee's modulators. At the Headend, said Access Programming shall be retransmitted in the downstream direction on the appropriate Downstream PEG Access Channel(s).

(b) The Licensee shall continue to own, operate, maintain, repair or replace, as needed: (i) the Video Return Lines and all associated Video Return Line equipment after the demarcation point, and (ii) equipment at the Headend in order to transport Programming on the Video Return Lines and routing such programming through the Headend for distribution to the Subscriber Network.

(c) The Licensee shall provide the Town and its designee(s) with the capability to ensure that said Programming is properly switched electronically to the appropriate PEG Access Downstream Channel, in an efficient and timely manner. The Licensee shall not charge the Town

and/or its designee(s) for such electronic switching responsibility. Any manual switching that may be necessary for multiple remote origination cablecasting shall be the responsibility of the Issuing Authority or its designee(s). The Licensee and the Issuing Authority shall negotiate in good faith any difficulties that arise regarding cablecasting of PEG Access Programming.

(d) The Licensee shall maintain and operate the existing Video Return Lines used for PEG Access Programming from the locations listed in **Exhibit 6.10**. Additionally, the Licensee shall provide video origination capability by and through the installation of an additional video return line to a new Access studio located in the Town of Fairhaven (including, but not limited to a new and/or upgraded studio at the Fairhaven High School) if so notified by the Issuing Authority. The expense of such additional Video Return Line shall be the responsibility of the Town or its designee, unless the facility is located within three-eighths (3/8) of a mile from the existing Video Return Line system in which case the expense shall be the responsibility of the Licensee. If the Issuing Authority selects the former Oxford School building located at 347 Main Street, as the location for the Public Access studio, the Licensee shall reactivate the Video Return Line to this location for the purpose of transporting PEG Access Video Programming.

(e) The Licensee shall provide, operate, maintain, and replace at no cost to the Town, all necessary processing equipment in order to switch upstream signals from the Town and/or its designee(s) to the designated Downstream Access Channel. Nothing herein shall require the Licensee to provide, repair, maintain or replace end-user equipment.

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



## **ARTICLE 7**

### **FRANCHISE FEES AND LICENSE FEES**

#### **SECTION 7.1 – LICENSE FEE PAYMENTS**

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

(b) In the event that the Town can collect a License Fee in the future expressed as a percentage, the Licensee shall, upon written notification by the Issuing Authority of such, (i) immediately commence paying such a percentage License Fee to the Town in accordance with applicable law and based on Gross Annual Revenues as defined in this Renewal License and (ii) file with the Issuing Authority, with each such percentage License Fee payment, a statement certified by the Licensee's regional financial representative documenting, in reasonable detail, the total of all Gross Annual Revenues as defined in Section 1.1(l) derived during the previous year. Unless specified otherwise by applicable law, the Licensee shall make such Gross Annual Revenue percentage payments to the Town annually, on or before each anniversary of the Effective Date of this Renewal License.

#### **SECTION 7.2 – FRANCHISE FEE**

(a) In accordance with Section 622(b) of the Cable Act, the Licensee shall not be liable for a total Franchise Fee pursuant to this Renewal License and applicable law in excess of five percent (5%) of its Gross Annual Revenues; provided, however, that said five percent (5%) shall include the following: (i) the PEG access support pursuant to Section 6.4 (a) – (e), supra; and (ii) any License Fee(s) that may be payable to the Town and to the state pursuant to Massachusetts General Laws Chapter 166A, Section 9, and Section 7.1 supra; provided, however, that said five percent (5%) shall not include the following: (i) the Video Return Lines provided pursuant to Section 6.10 supra; (ii) the funding for PEG Access equipment, pursuant to Section 6.4(f) supra; (iii) the PEG Access equipment funding pursuant to Section 6.4(f); (iv) the PEG Access equipment provided to the Town pursuant to Section 6.9 supra; (v) any interest due to the Town because of late payments to the Issuing Authority or its designee(s); (vi) any payment excluded from the definition of the term "franchise fee" pursuant to Sections 622(g)(2) of the Cable Act; and (vii) the

FCC regulatory fee, unless and until said FCC regulatory fee is determined to be a franchise fee by the FCC or a court of competent jurisdiction.

### **SECTION 7.3 – PAYMENT**

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

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

(a) The License Fee payments shall be in addition to and shall not constitute an offset or credit against any and all taxes or other fees or charges of general applicability which Licensee or any Affiliated Person shall be required to pay to the Town, or to any State or federal agency or authority, as required herein or by law; the payment of said taxes, fees or charges shall not constitute a credit or offset against the License Fee payments which shall be a separate and distinct obligation of the Licensee and each Affiliated Person. The Licensee herein agrees that no such taxes, fees or charges of general applicability shall be used as offsets or credits against the License Fee payments.

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

### **SECTION 7.5 – LATE PAYMENT**

In the event that the payments required pursuant to Article 6 and 7 are not tendered to the Town on or before the dates required by the dates set out in the respective section of Article 6 or Article 7 or applicable law, interest due on such payment(s) shall accrue from the date due at the prime rate at the Federal Reserve Bank of Boston.

## **SECTION 7.6 – RECOMPUTATION**

(a) Tender or acceptance of any payment, including any payment of a License Fee or any payment required in Article 6 of this Renewal License shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority may have for additional sums including interest payable pursuant to Section 7.5 supra. All amounts paid shall be subject to audit and recomputation by the Issuing Authority, and shall occur in no event later than two (2) years after the subject payment has been tendered.

(b) If the Issuing Authority has reason to believe that any such payments are incorrect, the Licensee shall have thirty (30) business days after a written request from the Issuing Authority to provide the Town with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Issuing Authority does not believe that such documentation supports the accuracy of such payment(s), the Issuing Authority may conduct an audit of such payment(s).

(c) If, after such audit and recomputation, an additional fee is owed to the Town, such fee shall be paid within thirty (30) days after such audit and recomputation. The interest on such additional fee shall be charged from the due date at the prime rate at the Federal Reserve Bank of Boston during the period that such additional amount is owed.

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

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

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

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

## **ARTICLE 8**

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

#### **SECTION 8.1 – TELEPHONE ACCESS**

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

(b) The Licensee shall answer all Subscriber calls, in compliance with the FCC's Customer Service Obligations at 47 C.F.R. §76.309, attached hereto as **Exhibit 8.3**, during normal business hours, as defined therein.

(c) The Licensee's main customer service call center shall have a publicly listed local or toll-free telephone number for Fairhaven Subscribers.

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

(e) A Subscriber shall receive a busy signal less than three (3%) of the time, measured on a quarterly basis, under normal operation conditions.

(f) 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 morning of 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 8.2 – INSTALLATION VISITS-SERVICE CALLS-RESPONSE TIME**

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

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

(c) The Licensee shall ensure that there are stand-by technicians on-call at all times after Normal Business Hours. The answering service shall be required to notify the stand-by technician(s) of (i) any emergency situations, (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 promptly, twenty-four (24) hours a day by technical personnel. For purposes of this section, an outage shall be considered to occur when three (3) or more calls are received from any one neighborhood, concerning such an outage, or when the Licensee has reason to know of such an outage.

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

## **SECTION 8.3 – FCC CUSTOMER SERVICE OBLIGATIONS**

The Licensee shall comply with the FCC's Customer Service Obligations, codified at 47 U.S.C. Section 76.309, as may be amended from time to time, which standards are attached hereto, and made a part hereof, as **Exhibit 8.3**.

## **SECTION 8.4 – BUSINESS PRACTICE STANDARDS**

The Licensee shall provide the Issuing Authority and all of its Subscribers with the following information in accordance with 207 CMR 10.00 et seq., attached hereto as **Exhibit 8.4**, as the same may exist or be amended from time to time:

- (i) Notification of its Billing Practices;
- (ii) Notification of Service, Rates and Charges;
- (iii) Form of Bill;

- (iv) Advance Billing, Issuance of Bills;
- (v) Billing Due Dates, Delinquency, Late Charges and Termination of Service;
- (vi) Charges for Disconnection or Downgrading of Service;
- (vii) Billing Disputes; and
- (viii) Security Deposits.

## **SECTION 8.5 – COMPLAINT RESOLUTION PROCEDURES**

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

## **SECTION 8.6 – 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 display, upon request, an employee identification card issued by the Licensee and bearing a picture of said employee.

## **SECTION 8.7 – PROTECTION OF SUBSCRIBER PRIVACY**

(a) The Licensee shall respect the rights of privacy of every Subscriber and/or user 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 8 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.

## **SECTION 8.8 – PRIVACY WRITTEN NOTICE**

At the time of entering into an agreement to provide any Cable 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 8.9 – MONITORING**

(a) The Licensee and the Town shall comply at all times as applicable with Section 631 of the Cable Act (47 U.S.C. 551) "Protection of Subscriber Privacy", as may be amended.

(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. The Licensee shall destroy all Subscriber information of a personal nature when such information is no longer necessary for the Licensee's lawful business purposes or as required by applicable State and/or federal law(s).

#### **SECTION 8.10 – DISTRIBUTION OF SUBSCRIBER INFORMATION**

(a) In accordance with applicable law, 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 provided by the Licensee to the Subscriber;

(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; and/or

(iii) a disclosure of the names and addresses of Subscribers to any Cable 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 provided by the Licensee, or (ii) the nature of the transaction made by the Subscriber over the Cable System

#### **SECTION 8.11 – POLLING BY CABLE**

Pursuant to applicable law, no poll of a Subscriber or user shall be conducted or obtained, unless (i) the program shall contain an explicit disclosure of the nature, purpose and prospective use of the results of the poll, and (ii) the program has an informational, entertainment or educational function which is self-evident. The Licensee or its agents shall release the results only in the aggregate and without individual references.

#### **SECTION 8.12 – INFORMATION WITH RESPECT TO VIEWING HABITS AND SUBSCRIPTION DECISIONS**

Except as permitted by §631 of the Cable Act or pursuant to an order by a court, 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.

#### **SECTION 8.13 – 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 or user 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's General Manager. The Licensee shall change any such information upon a reasonable showing by any Subscriber that such information is inaccurate.

#### **SECTION 8.14 – PRIVACY STANDARDS REVIEW**

The Issuing Authority and the Licensee shall periodically review this Article 8 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.

#### **SECTION 8.15 – RESPECT FOR PRIVATE PROPERTY**

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

## **ARTICLE 9 RATES AND CHARGES**

### **SECTION 9.1 - RATES AND CHARGES**

(a) All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Licensee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations [47 U.S.C. 543]. Before any new or modified rate, fee, or charge is imposed, the Licensee shall follow the applicable FCC and State notice requirements and rules and notify affected Subscribers, which notice may be by any means permitted under applicable law.

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

### **SECTION 9.2 – RATE REGULATION**

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

### **SECTION 9.3 – CREDIT FOR SERVICE INTERRUPTION**

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

## **ARTICLE 10**

### **INSURANCE AND BONDS**

#### **SECTION 10.1 – INSURANCE**

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

(a) A commercial general liability insurance policy, written on an occurrence basis, on all claims on account of injury to or death of a person or persons occasioned by the construction, installation, maintenance, operation or removal of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000.00). The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for personal injury, broad form property damage, products and completed operations liability, independent contractor's liability, coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

(b) A property damage insurance policy, written on an occurrence basis, naming the Town, its officers, boards, commissions, committees, agent and employees as additional 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).

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

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

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

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

(e) The Licensee shall carry excess liability, written on an occurrence basis, in the minimum amount of Five Million Dollars (\$5,000,000.00) umbrella form over all other insurance required by this Section 10.1.

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

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

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

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

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

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

(vi) The Licensee shall require that every one of its contractors and their subcontractors are covered by the Licensee's insurance as required herein or, in the alternative, carry in full force and effect, the same insurance in the same minimum amounts and meeting the same requirements as required in this Section 10.1.

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

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

(ix) Neither this Section 10.1, nor the provision of insurance or insurance proceeds pursuant to this Section 101, shall limit the liability of the Licensee pursuant to this Renewal License.

(x) The Licensee shall provide the Issuing Authority with certificate(s) of insurance for all policies required herein upon expiration of the policies. All certificates shall contain, at a minimum, a thirty (30) day notice of cancellation or reduction in the coverage amount(s).

## **SECTION 10.2 – PERFORMANCE BOND**

(a) The Licensee shall maintain, without charge to the Town, throughout the term of the Renewal License, a faithful performance bond running to the Town and in a form satisfactory to the Issuing Authority (however, the Issuing Authority shall not unreasonably deem a bond's form to be unsatisfactory), with good and sufficient surety licensed to do business in the Commonwealth of Massachusetts in the sum of Twenty-Five Thousand Dollars (\$25,000). Said bond shall be upon

the terms and conditions specified in M.G.L. 166A § 5(K) and the faithful performance and discharge of all obligations imposed by the Renewal License, subject to the provisions of 11.1 and 11.2 below.

(b) The performance bond shall be effective throughout the term of this Renewal License, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that the Licensee shall fail to comply with any one or more provisions of this Renewal License, the Town shall recover from the surety of such bond all damages suffered by the Town as a result thereof, pursuant to the provisions of Sections 11.1 infra.

(c) Said bond shall be a continuing obligation of the Renewal License, and thereafter until the Licensee has satisfied all of its obligations to the Town pursuant to the terms and conditions of such bond. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the sum of Twenty-Five Thousand Dollars (\$25,000) required herein. Neither this section, nor any bond accepted pursuant thereto, nor any damages recovered thereunder shall limit the liability of the Licensee under the Renewal License.

(d) The performance bond required herein shall contain an explicit endorsement stating that such performance bond is intended to cover the liability assumed by the Licensee under the terms of the Renewal License and shall contain the following endorsement:

It is hereby understood and agreed that this performance 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.

### **SECTION 10.3 – INDEMNIFICATION**

The Licensee shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, commissions, committees, agents and/or employees against all claims for damage due to the 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, property damage or personal injury (including accidental death) that arise out of Licensee's construction, operation, maintenance or

removal of the Cable System. Indemnified expenses shall include reasonable attorneys' fees and costs incurred from the time the Licensee receives written notice of its obligation to indemnify and defend the Town for a specific claim up to such time that the Licensee assumes defense of any action hereunder. The Issuing Authority shall give the Licensee timely written notice of its obligation to indemnify and defend the Town after receipt of a claim for which indemnification is sought. The Licensee is not required to indemnify the Town for attorney fees and costs incurred prior to the above referenced written notice being provided to the Licensee. In the event of a legal action, the Issuing Authority or its designee shall promptly forward a copy of the legal complaint served upon the Town.

**ARTICLE 11**  
**DETERMINATION OF BREACH AND**  
**LICENSE REVOCATION**

**SECTION 11.1 - NOTICE AND OPPORTUNITY TO CURE**

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

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

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

(c) In the event that (i) the Licensee fails to respond to such notice of default; and/or (ii) the Licensee fails to cure the default or to take reasonable steps to cure the default within the required thirty (30) day period; the Issuing Authority or its designee shall promptly schedule a public hearing no sooner than fourteen (14) days after written notice, by certified mail, to the Licensee. The Licensee shall be provided reasonable opportunity to offer evidence, question witnesses, if any, and be heard at such public hearing.

(d) Within forty-five (45) days after said public hearing, the Issuing Authority shall issue a written determination of its findings. In the event that the Issuing Authority determines that the Licensee is in such default, the Issuing Authority may determine to pursue any lawful remedy available to it, including, but not limited to:

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

- (iii) foreclose on all or any appropriate part of the security provided pursuant to Section 10.2 herein;
- (iv) declare the Renewal License to be revoked subject to Section 11.3 below and applicable law;
- (v) invoke any other lawful remedy available to the Town.

(e) In the event that the Issuing Authority fails to issue a written determination within forty-five (45) days after the public hearing pursuant to Section 11.1(d) above, then the specific default against the Licensee by the Issuing Authority shall be considered null and void.

#### **SECTION 11.2 – REVOCATION OF THE RENEWAL LICENSE**

To the extent permitted by applicable law and subject to the provisions of Section 11.1 above, in the event that the Licensee fails to comply with any material provision of this Renewal License, the Issuing Authority may revoke the Renewal License granted herein.

#### **SECTION 11.3 – NON-EXCLUSIVITY OF REMEDY**

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

#### **SECTION 11.4 – NO WAIVER-CUMULATIVE REMEDIES**

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

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

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

(d) The failure of the Issuing Authority or the Town to take any action in the event of any breach by the Licensee shall not be deemed or construed to constitute a waiver of or otherwise affect



the right of the Issuing Authority or the Town to take any action permitted by this Renewal License at any other time in the event that such breach has not been cured, or with respect to any other breach by the Licensee.

## **ARTICLE 12**

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

#### **SECTION 12.1 – GENERAL**

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

(b) If the Licensee believes that the documentation requested by the Issuing Authority involves proprietary information, then the Licensee shall submit the information to its counsel, who shall confer with the Town Counsel for a determination of the validity of the Licensee's claim of a proprietary interest. If it is agreed by the parties that such information is proprietary, then any obligation pursuant to Section 12.1(a) is not applicable. In the event of a disagreement the Licensee shall have all rights available under applicable law to challenge or appeal the determination of the Town to the appropriate appellate entities.

#### **SECTION 12.2 – FINANCIAL REPORTS**

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

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

#### **SECTION 12.3 – CABLE SYSTEM INFORMATION**

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

#### **SECTION 12.4 – IN-HOUSE TELEPHONE REPORTS**

To establish the Licensee's compliance with the requirements of Sections 8.1 of this Renewal License, the Licensee shall provide, upon written request of the Issuing Authority, but not more than once annually, the Issuing Authority with a report of regional telephone traffic, generated from an in-house automated call accounting or call tracking system, covering Subscriber calls to the Licensee.

Said reports shall include the following information and any other information that may be required by applicable law(s): (i) confirmation that, 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 (which standard shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis); and (ii) confirmation that, under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

#### **SECTION 12.5 – SUBSCRIBER COMPLAINT REPORTS**

In accordance with the regulations of the Cable Division of the Massachusetts Department of Telecommunications, the Licensee shall submit a completed copy of the Cable Division of the Massachusetts Department of Telecommunications Form 500, a copy of which is attached hereto as **Exhibit 12.5**, to the Issuing Authority or its designee(s).

#### **SECTION 12.6 – ANNUAL PERFORMANCE TESTS**

Upon the written request of the Issuing Authority, the Licensee shall provide to the Issuing Authority copies of performance tests to the Issuing Authority, consistent with the FCC regulations set out in 47 C.F.R. §76.601 et seq.

#### **SECTION 12.7 – QUALITY OF SERVICE**

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

#### **SECTION 12.8 – DUAL FILINGS**

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

## **SECTION 12.9 – INVESTIGATION**

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

**ARTICLE 13  
MISCELLANEOUS**

**SECTION 13.1 - SEVERABILITY**

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

**SECTION 13.2 - 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; environmental conditions not caused by the Licensee and unavailability of essential equipment, Services and/or materials and/or other matters beyond the reasonable control of the Licensee, the Issuing Authority or the Town.

**SECTION 13.3 – ACTS OR OMISSIONS OF AFFILIATES**

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

**SECTION 13.4– RENEWAL LICENSE EXHIBITS**

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

## **SECTION 13.5 - NOTICES**

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

Board of Selectmen  
Town of Fairhaven  
Attn: Board of Selectmen  
40 Center Street  
Fairhaven, MA, 02719

with one (1) copy to the Town's Cable Advisory Committee at said Fairhaven Town Hall.

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

Comcast Cable Communications, Inc.  
Attn: Vice President of Government & Community Relations  
440 Myles Standish Boulevard  
Taunton, MA 02780

with copies to:

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

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

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

## **SECTION 13.6 - ENTIRE AGREEMENT**

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

### **SECTION 13.7 - CAPTIONS**

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

### **SECTION 13.8 - WARRANTIES**

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

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

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

(c) This Renewal License is enforceable against the Licensee in accordance with the provisions herein; and

(d) There is no action or proceedings pending or threatened against the Licensee which would interfere with performance of this Renewal License.

### **SECTION 13.9 - APPLICABILITY OF RENEWAL LICENSE**

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

### **SECTION 13.10- REMOVAL OF ANTENNA**

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

**SECTION 13.11 – 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 13.12– NO RECOURSE AGAINST THE ISSUING AUTHORITY**

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

**SECTION 13.13– TOWN'S RIGHT OF INTERVENTION**

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

**SECTION 13.14– 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 term of the Renewal License, except as expressly provided for otherwise herein.

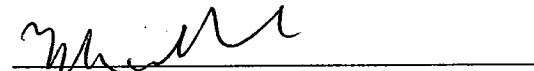


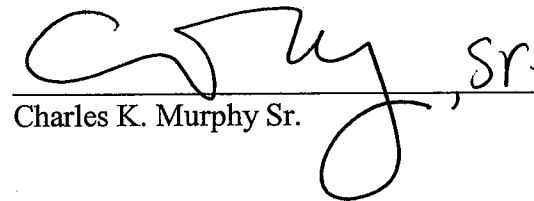
WITNESS OUR HANDS AND OFFICIAL SEAL, THIS 19<sup>th</sup> DAY OF MAY

**TOWN OF FAIRHAVEN**

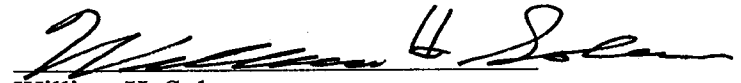
By its: Board of Selectmen

  
\_\_\_\_\_  
Brian Bowcock

  
\_\_\_\_\_  
Michael Silvia

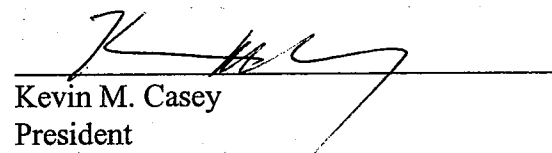
  
\_\_\_\_\_  
Charles K. Murphy Sr.

Approved to legal form:

  
\_\_\_\_\_  
William H. Solomon  
Special Cable Counsel

**COMCAST OF MASSACHUSETTS/  
NEW HAMPSHIRE, LLC**

By:

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

## **EXHIBIT 3.8**

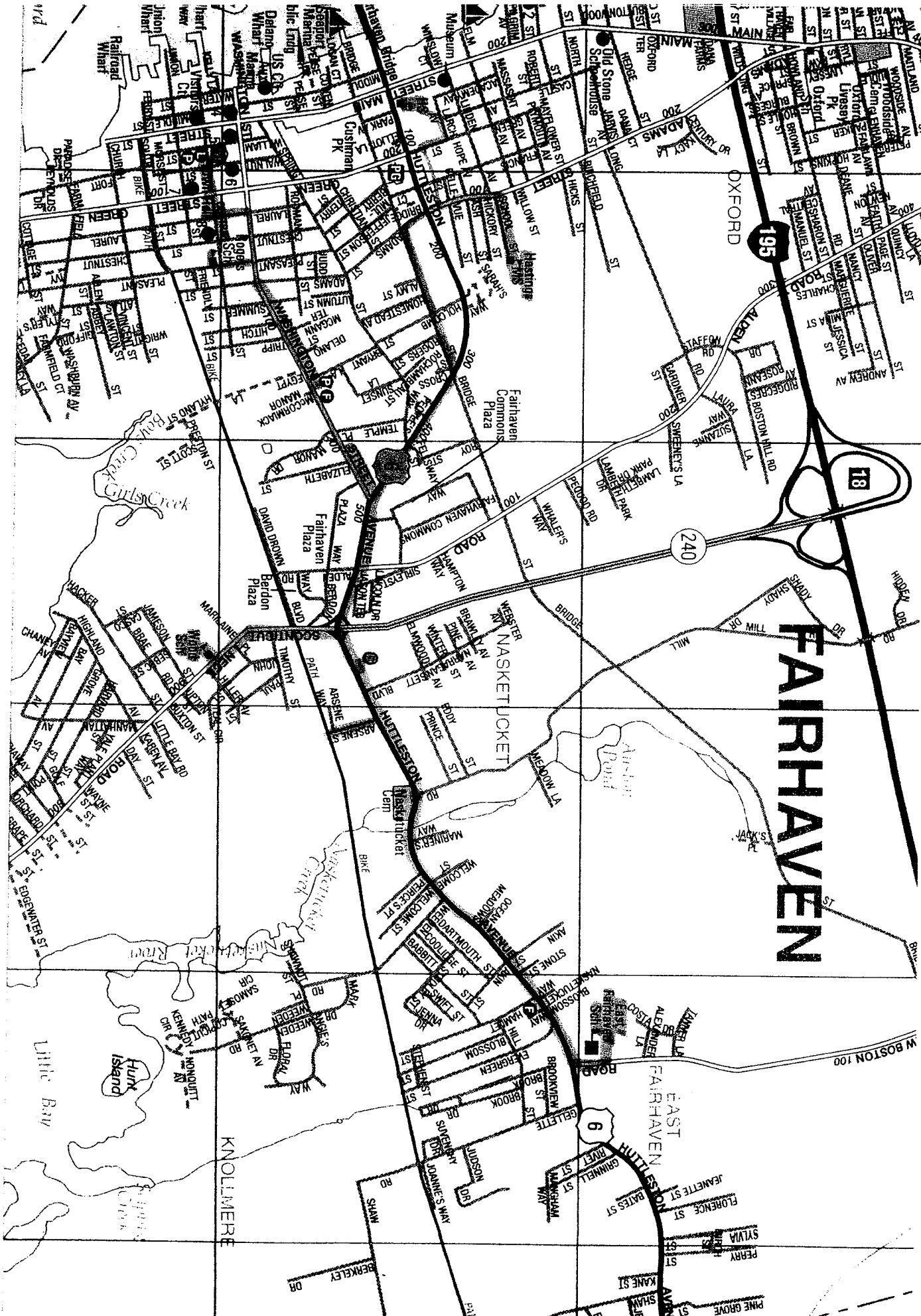
### **CABLE DROPS TO PUBLIC BUILDINGS**

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

East Fairhaven Elementary School	2 New Boston Road
Fairhaven High School	12 Huttleston Avenue
Hastings Middle School	30 School Street
Leroy L. Wood School	60 Sconticut Neck Road
Fairhaven School Administration	128 Washington Street
Oxford Elementary School	347 Main Street
Rogers Elementary School	100 Pleasant Street

#### **Municipal Buildings:**

Fairhaven Town Hall	40 Center Street
Fire Department	146 Washington Street
Police Department	1 Bryant Lane
Millicent Library	45 Center Street
West Island Wastewater	141 Fir Street
Fairhaven Wastewater	Rear Arsene Street
Public Works Building	5A Arsene Street
Recreation Center	227 Huttleston Avenue
Senior Center	229 Huttleston Avenue
Fire House 3/Police Substation	341 Main Street



# FAIRHAVEN

## **EXHIBIT 5.2**

### **PROGRAMMING**

Licensee shall provide the following broad categories of Video Programming:

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

## EXHIBIT 6.9

### EXISTING PEG ACCESS/COMMUNITY PROGRAMMING EQUIPMENT

2	Camcorder ( Supercam )	Panasonic	DP-800HP
1	Camcorder	Panasonic	AG-455
2	DV Camera	Canon	GL-2
1	Tripod	Bogen	3066
3	Tripod	Bogen	3046
2	Tripod Mounting Plate		
2	Supercam Lifesaver Charger	Anton Bauer	ABC800
2	14.4 Batteries	Anton Bauer	Trimpac 14
2	14.4v Batteries	Anton Bauer	ProPac 14
8	Batteries 12v		AGBP20DX
2	Wireless Handheld mics	Samson	MR-1/HT3/SM58
2	Wireless Lavalier mics	Samson	MR-1/CT3L/ECM
6	Lavalier mics	AudioTechnica	AT-831B
2	Handheld omnidirectional mics	Electrovoice	635A
1	Handheld omnidirectional mic	Shure	VP64A
1	Camera-mount UltraLight Kit	Anton Bauer	ULD-4
1	Portable light kit	Lowell	Omni
3	Camera Control Units	Sony	M-5
4	6" B&W Monitor	Panasonic	TR-990c
1	S-VHS edit system	JVC	VES22-DX
2	Source decks	JVC	BR-S622DXU
1	Record deck	JVC	BR-S822DXU
1	Edit controller	JVC	RM-86OU
3	13" Color Monitor	Panasonic	CT-1384VY
1	27" Color Monitor	Panasonic	CT-2784VY
1	Waveform Monitor	Videotek	TSM-61
1	Vectorscope	Videotek	VSM-61
1	Special Effects Generator	JVC	KM-2500
1	¾" Source Deck	Sony	VO-9800
1	¾" Edit Deck	Sony	VO-9850
1	Digital TBC	FOR-A	FA-200
2	Character Generator	Magic Box	Alphagen Plus
1	Digital Image Integrator	Magic Box	Supergen SX
1	16-channel audio mixer	Mackie	CR 1604VLX
1	Compact Disk Player	Sony	CDP-CE215
1	Dual Cassette Player	Marantz	PMD 500
2	Triple B&W monitor		WV-BM900
1	Digital Stereo Receiver	Optimus	STA-300
1	Switcher	Panasonic	WJMX12
1	Monitor	Panasonic	1388
1	Playback system	Leightronix	Mini T Pro
5	Playback VCR	Panasonic	1340
1	Playback VCR	Panasonic	1330
1	Portable studio		
1	19"x31" Road Case	TCH	17RU
2	9" Color monitors	Sony	BT-S900Y
3	TBC	Hotronic	AP-41
1	Special effects generator	JVC	KM-1200
1	6-channel audio mixer	Shure	M367
1	Surge protector/Power strip		

1	Modulator		
3	Studio Camera Package		
2	Camera Head	Sony	327A
2	TV Zoom Lens	Canon	VCL 714BX
2	Focus&Zoom Controllers	Canon	
2	25 meter Camera cables	Sony	
3	5" viewfinder	Sony	DXF-50B
4	Headset	Sony	DR-100
3	Tripod	Bogen	3068
2	Fluid head	Bogen	3066
3	Tripod plates		
2	spreader w/dolly wheels	Bogen	
1	Camera head	Sony	327B
1	TV Zoom lens	Fujinon	VCL713BX
1	Focus & Zoom controller	Fujinon	SRD-92B
1	50ft. camera cable	Sony	
1	spreader w/dolly wheels	Quickset	5-95054-8
4	500W Fresnel lights	Strand Century	
4	1500W Broad lights	Strand Century	
2	500W Scoop lights	Strand Century	
1	Audio Junction Box	VJ Electronics	
1	50' X10' Blue cyc		
1	8 ft. ladder		
6	4' X 4' risers		
1	Power PC	Macintosh	8500/150
1	17" Computer monitor	Mitsubishi	17HX
1	SCSI Tape Drive	Optima	F800
3	SCSI Hard Disk Subsystem	Optima	4100W
1	Speakers (pair)	Bose	Roommate II
2	Speakers	Radio Shack	
1	Computer desk	Winstead	E4729
1	13" Color Monitor	Panasonic	CT-1382VY
6	5' XLR Audio Cable		
5	20' XLR Audio Cable		
2	12' XLR to mini Audio Cable		
1	25' Extension Cord		
2	Cases	Pelican	#1550
2	Mic Adaptors	Canon	MA-300
2	S-VHS Decks	JVC	BR-S500U
1	Mini DV Deck	JVC	SR-VS30

**EXHIBIT 6.10**

**VIDEO RETURN LINE LOCATIONS**

**Public School Buildings:**

Hastings Middle School	30 School Street
Fairhaven High School	12 Huttleston Avenue
Leroy L. Wood School	60 Sconticut Neck Road
Rogers Elementary School	100 Pleasant Street
East Fairhaven Elementary School	2 New Boston Road *

**Municipal Buildings:**

Fairhaven Town Hall	40 Center Street
Board of Public Works	5 Arsene Street

\* The East Fairhaven Elementary School shall be reconnected by the Licensee within ninety (90) days of the Effective Date of this Renewal License

### **EXHIBIT 8.3**

#### **U.S.C. Section 76.309 / FCC Customer Services Obligations**

##### **PART 76--CABLE TELEVISION SERVICES – Subpart H--General Operating Requirements**

##### **Sec. 76.309 Customer Services Obligations**

(a) A cable franchise authority may enforce the customer Services 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 Services 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 Services 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 Services that imposes customer Services 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 Services 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 Services 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 Services center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and Services 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 "Services interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other Services problems the next business day after notification of the Services problem.

(iii) The "appointment window" alternatives for installations, Services 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 Services 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 Services, 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 Services 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 Services 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 Services is terminated.

(iv) Credits--Credits for Services 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 Services 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) Services interruption--The term "Services interruption" means the loss of picture or sound on one or more cable channels.

## **EXHIBIT 8.4**

### **Billing and Termination of Services 207 CMR 10.00**

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

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

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

- (1) The cable television operator shall give notice of its Services, rates and charges to potential Subscribers before a subscription agreement is reached.
- (2) At least 30 days prior to implementing an increase in one of its rates or charges or a substantial change in the number or type of Programming Services, the operator shall notify, in writing, the Commission, the issuing authority and all affected Subscribers of the change and include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new Programming Services provided.
- (3) Every cable television operator shall fully disclose in writing all of its Programming Services and rates, upon request from a subscriber.
- (4) Every cable television operator shall fully disclose in writing all of its charges for installation, disconnection, downgrades and upgrades, reconnection, additional outlets, and rental, purchase and/or replacement due to damage or theft of equipment or devices used in relation to Cable Service, upon request from a subscriber.
- (5) Every cable television operator shall provide written notice of the charge, if any, for Services 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 Services 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 Services offering, the addition or deletion of specific channels from an existing tier of Services, or the restructuring or division of existing tiers of Services that do not result in a fundamental change in the nature of an existing Services or tier of Services.

#### **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 Services is billed including prorated periods as a result of establishment and termination of Services;
  - (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 Services 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 Services 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 Services**

- (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 Services 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 Services 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 Services**

A cable television operator may impose a charge reasonably related to the cost incurred for a downgrade of Services, 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 Services (s) in question.

- (1) If a subscriber requests disconnection from cable television Services 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 Services prior to the effective date. Any subscriber who has paid in advance for the next billing period and who requests disconnection from Services 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 therefore.

**10.08: Security Deposits**

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

**Exhibit 12.5**

**Massachusetts Form 500**

*Please see attached page(s).*

# Form 500 Complaint Data - Paper Filing

City/Town:

Cable Company:

Filing Year:

Address:

Number of Subscribers:

Address:

Contact:

Phone:

E-Mail:

Average Resolution Time:

Manner of Resolution:

<1> Less than 1 Day, <2> 1-3 Days, <3> 4-7 Days, <4> 8-14 Days, <5> 15-30 Days, <6> >30 Days  
A. Resolved to the satisfaction of both parties., B. Resolved, customer dissatisfied., C. Not Resolved.

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

## City/Town:

**Cable Company:**

**Address:**

**Filing Year:**

**Address:**

**Number of Subscribers:**

**Contact:**

**Phone:**

**E-Mail:**

**Average Resolution Time:**

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

[illegible]