



**CABLE TELEVISION**

**LICENSE**

**GRANTED TO**

**COGECO US (NH-ME), LLC  
d/b/a BREEZELINE**

**BY**

**THE BOARD OF SELECTMEN**

**TOWN OF MERRIMAC,  
MASSACHUSETTS  
(MA0507)**

## **EXHIBITS**

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## **AGREEMENT**

This Cable Television License entered into by and between the Board of Selectmen of the Town of Merrimac, Massachusetts, as Issuing Authority for the grant of the cable television license(s) pursuant to M.G.L. c. 166A, and Cogeco US (NH-ME), LLC d/b/a Breezeline ("Breezeline" or the "Licensee").

## **WITNESSETH**

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

WHEREAS, Breezeline submitted a proposal and Massachusetts Cable Division Form 100 to the Town of Merrimac, dated April 29, 2022 for a license to operate and maintain a Cable Television System in the Town of Merrimac; and

WHEREAS, the Issuing Authority and Breezeline engaged in good faith negotiations pursuant to Section 626(h) of the Cable Act and did agree thereto on terms and provisions for Breezeline's continued operations and maintenance of its Cable Television System in the Town of Merrimac.

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

(1) Access: The right or ability of any Merrimac resident and/or any Persons affiliated with a Merrimac institution to use designated public, education and government ("PEG") access facilities, equipment and/or PEG Access channels of the Cable Television System, subject to the conditions and procedures established for such use herein.

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

(3) 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.

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

(5) CMR: The acronym for Code of Massachusetts Regulations.

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

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

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

(9) Cable Television System or Cable System: A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Town, 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 the Cable Act or (E) any facilities of any electric utility used solely for operating its electric utility systems.

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

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

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

(13) Department of Public Works ("DPW"): The Department of Public Works of the Town of Merrimac, Massachusetts.

(14) Downstream Channel: A channel over which Signals travel from the Cable System Headend or Hub Site to an authorized recipient of Programming.

(15) Drop or Cable Drop: The cable that connects an Outlet to feeder cable of the Cable System.

(16) Educational Access Channel: A specific channel(s) on the Subscriber Network owned and made available by the Licensee to the Issuing Authority, educational institutions and/or its designee(s) to present non-commercial educational programming and information to the public.

(17) Effective Date of License (the "Effective Date"): September 13, 2022.

(18) Execution Date: \_\_\_\_\_.

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

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

(21) Gross Annual Revenues: All revenues derived by the Licensee and/or its Affiliates, calculated in accordance with Generally Accepted Accounting Principles ("GAAP"), from the operation of the Cable Television System for the provision of Cable Service(s) over the Cable Television System including, without limitation: the distribution of any Service over the Cable System; Basic Service monthly fees and all other Service fees; all revenues from Subscribers to the Licensee's streaming video services; any and all Cable Service fees and/or charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; all digital Cable Service revenues; interest collected on Subscriber fees and/or charges; fees paid on all Subscriber fees ("Fee-on-Fee"); all Commercial Subscriber revenues; all Pay Cable, Pay-Per-View revenues; any other services now or in the future deemed to be lawful for purposes of computing Gross Annual Revenues by a court or forum of appropriate jurisdiction; video-on-demand Cable Services; fees paid for channels designated for commercial use; home-shopping revenues; Converter, remote control and other cable-related equipment rentals and/or leases and/or sales; and advertising revenues. In the event that an Affiliate and/or any other Person is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by an Affiliate or such other Person for said 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 received directly or indirectly from or in connection with the operation of the Cable System to the extent that said revenue is received, through a means which has the effect of avoiding payment of License Fees to the Town that would otherwise be paid herein. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of such Affiliates and/or Persons relating to Signal carriage over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to such Signal carriage. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with GAAP; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

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

(23) Institutional Network: The separate network connecting Town buildings and schools, for the use of the Town, its departments and/or its designees.

(24) Issuing Authority: The Board of Selectmen of the Town of Merrimac, Massachusetts.

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

(26) License Fee or Franchise Fee: The payments to be made by the Licensee to the Town of Merrimac and/or its designee(s), which shall have the meaning as set forth in Section 622(g) of the Cable Act and M.G.L. Ch. 166A.

(27) Licensee: Cogeco US (NH-ME), LLC d/b/a Breezeline, or any successor or transferee in accordance with the terms and conditions in this License.

(28) Normal Business Hours: Those hours during which most similar businesses in Merrimac 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.

(29) Origination Capability or Origination Locations: An activated cable and connection to an Upstream Channel, allowing a User(s) to transmit a video Signal(s) upstream to a designated location.

(30) Outlet: An interior or exterior receptacle, generally mounted in a wall that connects a Subscriber's or User's television set or Subscriber-owned equipment to the Cable System.

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

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

(33) Pedestal: An environmental protection unit used in housing Cable Television System isolation units and/or distribution amplifiers.

(34) PEG: The acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.

(35) PEG Access Channels: Any Licensee-owned channel(s) made available by the Licensee and provided for use for the presentation of PEG Access Programming.

(36) PEG Access Hub-Site: The Licensee's sub-Headend, located in the Town of Merrimac, used for the purpose of PEG Access Signal processing and/or switching.

(37) Person: Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.

(38) Prime Rate: The prime rate of interest at the Federal Reserve Bank.

(39) Public Access Channel: A specific channel(s) on the Cable System owned and made available by the Licensee to the Issuing Authority and/or its designee(s) for use by, among others, Merrimac residents and/or organizations wishing to present non-commercial Programming and/or information to the public.

(40) Public Way or Street: The surface of, as well as the spaces above and below, any and all public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements, and public grounds or waters and all other publicly owned real property within or belonging to the Town, now or hereafter existing.

Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

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

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

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

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

(45) State: The Commonwealth of Massachusetts.

(46) Strand Maps: Route maps of the Town of Merrimac, of suitable scale, showing (i) the location of all of the Licensee's facilities in, on, over and under the Streets and Public Ways in the Town; (ii) all transmitting and Origination Locations; (iii) all Cable Service routes; (iv) all Pedestal locations; (v) the location of every utility pole in the Town utilized by the Licensee; (vi) the number of unit lengths of cable (or its functional equivalent) in, on, over and under the Streets and Public Ways; and (vii) all amplifier and power supply locations.

(47) Subscriber: Any Person, firm, corporation or other entity, who or which contracts with the Licensee and lawfully receives, for any purpose, a Cable Service provided or distributed by the Licensee by means of, or in connection with, Cable Television System.

(48) Subscriber Network: The 750 MHz, bi-directional network, owned, operated and maintained by the Licensee, over which Signals can be transmitted to Subscribers.

(49) Town: The Town of Merrimac, Massachusetts.

(50) Town Counsel: The Town Counsel of the Town of Merrimac, Massachusetts.

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

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

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

(54) Video Programming or Programming: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **ARTICLE 2**

### **GRANT OF LICENSE**

#### **Section 2.1---GRANT OF LICENSE**

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

(b) This License is subject to the terms and conditions contained in Chapter 166A of the laws of Massachusetts; the regulations of the FCC; the Cable Act; and all Town, State and federal statutes and by-laws of general application, as all may be amended.

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

(d) Grant of this License does not establish priority for use over other present or future permit holders or the Town's own use of Public Ways or Streets. Disputes between the Licensee and other parties regarding use of Public Ways or Streets shall be resolved in accordance with any generally applicable regulations of the Town and any special laws or Town by-laws and/or regulations enacted hereafter.

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

The term of this License shall commence on September 13, 2022 and shall expire at midnight on September 12, 2032.

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

(a) This 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 Merrimac; 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, taken on the whole, than those contained in this 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, taken on the whole, than those contained in this 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, taken on the whole, than those contained in this 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, taken on the whole, than those contained in this License, the Issuing Authority shall consider and negotiate, in good faith, equitable amendments to this License.

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

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

By executing the License, the Licensee acknowledges that its rights are subject to the powers of the Town to adopt and enforce general by-laws necessary to the safety and welfare of the public. The Licensee shall comply with all applicable State and Town laws, by-laws of general applicability, and not specific to this License, the Cable System or the Licensee, rules, and regulations governing construction within a Public Way and shall apply all of such standards to construction within a private way in the Town, unless legally prevented from applying such standards in private ways. Any conflict between the terms of the 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.

## **Section 2.5---REMOVAL OR ABANDONMENT**

Upon termination of the License by passage of time or otherwise, and unless (1) the Licensee has its license renewed for another term or (2) the Licensee has transferred the Cable Television System to a transferee approved by the Issuing Authority, pursuant to applicable law, the Licensee shall remove all of its supporting structures, poles, Trunk and Distribution System, and all other appurtenances from the Public Ways and places and shall restore all areas. If such removal is not complete within six (6) months after such termination, the Issuing Authority may deem any property not removed as having been abandoned.

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

(a) Subject to applicable law, neither this 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 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 or delayed. Such consent shall be given only after a public hearing upon a written application therefore on forms as may be prescribed by the Cable Division and/or the FCC. 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 federal and State law(s), in considering a request to transfer control of the License, the Issuing Authority may consider such factors as the transferee's financial capability, management experience, technical expertise, legal ability to operate the Cable System under the existing license and any other criteria allowable under such applicable law(s) and/or regulation(s).

(c) For purposes of this Section 2.6, the word "control" shall comply with the definition of such in 207 CMR 4.01, as may be amended from time to time. Pursuant to 207 CMR 4.01(2), a transfer or assignment of this License or control thereof between commonly controlled entities, between affiliated companies, or between parent and subsidiary corporations, shall not constitute a transfer or assignment of this License or control thereof under M.G.L. c. 166A, Section 7. For purposes of this Section 2.6(c) only, under 207 CMR 4.00, an "affiliated company" is any Person or entity that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with another Person or entity.

(d) The consent or approval of the Issuing Authority to any assignment or transfer of the 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 License, and any such transfer shall, by its terms, be expressly subordinate to the terms and conditions of this License.

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

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

(g) The consent of the Issuing Authority shall be given only after a public hearing to consider the written application for transfer. Unless otherwise allowed by applicable law(s), the Issuing Authority shall make a decision on said written application within 120 days of receipt of said application. After 120 days, the application shall be deemed approved.

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

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

(a) Any transfer of the Cable System without complying with Section 2.6 above shall be null and void, and shall be deemed a material breach of this License and shall be subject to Section 11.1 infra.

(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 the 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**

### **CABLE SYSTEM DESIGN**

#### **Section 3.1---SUBSCRIBER NETWORK**

(a) The Licensee shall own, operate, maintain and make available to all residents of the Town its Subscriber Network with a bandwidth of at least 750 MHz.

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

(c) The Cable Television System, pursuant to Section 3.1 herein, shall conform to the FCC technical specifications contained in **Exhibit 1**, as amended, attached hereto and made a part hereof. At all times throughout the License, the Licensee shall meet all applicable FCC technical standards, as amended.

#### **Section 3.2 (Intentionally Omitted)**

#### **Section 3.3---EMERGENCY ALERT OVERRIDE CAPACITY**

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

#### **Section 3.4---PARENTAL CONTROL CAPABILITY**

The Licensee shall comply with all requirements of federal law(s) governing Subscribers' capability to control the reception of any channels being received on their television sets.

## **ARTICLE 4**

### **CABLE SYSTEM LOCATION, MAINTENANCE AND OPERATIONAL STANDARDS**

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

(a) The Licensee shall make its Cable System Service available to all areas subject to the Licensee being able to obtain any necessary easements and/or permits, subject paragraph (b) below.

(b) Following the completion of the original Cable System, the Licensee shall provide Cable Service to residents in new homes or developments, as a standard installation, within ninety (90) days of a request therefore, subject to (i) the Licensee being able to obtain any necessary easements and/or permits; and (ii) there being twenty (20) homes per aerial mile and/or twenty (20) homes per underground mile, provided that there is existing underground conduit that is made available to the Licensee, measured from the nearest Trunk and Distribution System, or thirty (30) homes per underground mile, assuming that there is no available conduit for use by the Licensee, measured from the nearest Trunk and Distribution System. The Licensee shall expeditiously apply for any necessary easements and/or permits.

(c) Installation charges shall be non-discriminatory. A standard aerial installation charge shall be established by the Licensee, which shall apply to any residence located not more than two hundred feet (200') from the existing aerial and underground Trunk and Distribution System and additions thereto.

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

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

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

(a) In the areas of the Town having telephone lines and electric utility lines underground, 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 company, the Licensee shall likewise place its facilities underground at no cost to the Town.

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

(d) Nothing in this Section 4.3 shall be construed to require the Licensee to construct, operate, or maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

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

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

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

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

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

The Licensee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person holding a building moving permit issued by the Town at no cost to the Town, unless otherwise required or permitted by applicable law. The Licensee shall be given reasonable advance notice necessary to maintain continuity of service.

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

The Licensee shall, pursuant to applicable law(s), if any, protect, support, temporarily disconnect, relocate in the same street or other Public Way and place, or remove from any Street or any other Public Ways and places, any of its property as required by the Issuing Authority or its designee(s) by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any Town department acting in a governmental capacity.

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

The Licensee shall construct, 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 and the FCC, all State and local laws, any other applicable regulations, and all land use restrictions as the same exist or may be amended hereafter. Enforcement of such codes shall be by the appropriate regulatory authority.

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

Pedestals housing passive devices may be installed and utilized by the Licensee in and on the Town's Public Way(s) for the provision of Cable Service(s), subject to the Licensee applying for and receiving a permit for such installation and/or utilization. In any cases in which Pedestals housing passive devices are to be utilized, in Town Public Ways or within the Town public lay-out, such equipment must be installed in accordance with applicable DPW regulations; provided, however, that the Licensee may place active devices (amplifiers, line extenders, power supplies, etc.) in a low profile electronic control box at Town approved locations to be determined when the Licensee applies for a permit. All pedestals shall be shown on the System maps submitted to the Town in accordance with Section 4.12 infra. In the event that the Licensee is no longer utilizing any such Pedestals for Cable Service(s), the Licensee shall remove any such Pedestals from the Public Ways in a timely manner, unless the Licensee is otherwise permitted to use such Pedestals pursuant to applicable law.

#### **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 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 at its sole cost and expense.

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

(a) The Issuing Authority or its designee(s) shall have the right, at its cost, to inspect all construction and installation work performed subject to the provisions of this License in order to ensure compliance with the terms and conditions of the License and all other applicable law. Any such inspection shall not interfere with the Licensee's operations, except in emergency situations. Except for emergency situations, the Issuing Authority shall provide the Licensee with timely notice of any such inspection(s). The Licensee shall have the right to have a representative present at any such inspection. Both parties shall make a good faith effort to work with each other to schedule any such inspections at a mutually convenient time.

(b) The Licensee shall remove all of its system plant on poles when such plant or equipment is no longer utilized or operational immediately upon cessation of such operation. The Licensee shall cooperate fully with those utilities which own the poles utilized by the Licensee in the inspection and good maintenance of wires, cable and fiber, and with the Town when new poles are erected or removed including, without limitation, double poles.

(c) The Town's Inspector of Wires shall have the right to inspect all of the Licensee's system plant on poles and/or underground on an annual basis. The Licensee shall comply with any orders from said Inspector of Wires in a timely manner.

#### **Section 4.12---SYSTEM MAPS**

(a) The Licensee shall provide, upon written request, not more than once annually, the Issuing Authority or its designee(s) with Strand Maps of the Licensee's System plant. If changes are made in said System that effect the accuracy of such Strand Maps, the Licensee shall file updated Strand Maps not more than once annually.

(b) Within thirty (30) days of a written request, the Licensee shall allow the Issuing Authority and/or its designee(s) to view "as-built" maps of the System at a location that is mutually-agreeable to the Issuing Authority and the Licensee.

(c) Upon the written request of the Town, said Strand Maps shall also be provided in electronic format if they exist in said electronic format; provided, however, that the Licensee shall not be required to provide a particular type of electronic format which is different from the electronic format the Licensee maintains.

(d) The Licensee shall identify all of its System plant over, on and under the Public Ways on said Strand Maps.

**Section 4.13---SERVICE INTERRUPTION**

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

**Section 4.14---COMMERCIAL ESTABLISHMENTS**

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

**Section 4.15---DIG SAFE**

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

**ARTICLE 5**  
**SERVICES AND PROGRAMMING**

**Section 5.1---BASIC SERVICE**

The Licensee shall make available a Basic Service to all Merrimac Subscribers pursuant to applicable federal statute or regulation.

**Section 5.2---PROGRAMMING**

(a) Pursuant to Section 624 of the Cable Act, the Licensee shall maintain the mix, quality and broad categories of Programming set forth in **Exhibit 3**, attached hereto and made a part hereof. Pursuant to applicable federal law, all Programming decisions, including the Programming listed in **Exhibit 3**, attached hereto, shall be at the sole discretion of the Licensee.

(b) Pursuant to the rules and regulations of the Cable Division, the Licensee shall provide the Issuing Authority and all Subscribers with notice of its intent to substantially change the Merrimac Programming line-up at least thirty (30) days before any such change is to take place, and the Licensee shall provide Subscribers with a channel line-up card or other suitable marker indicating the new channel line-up.

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

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

**Section 5.4---CABLE COMPATIBILITY**

The Licensee shall continue to maintain equipment compatibility in accordance with applicable law and regulation.

**Section 5.5---CONTINUITY OF SERVICE**

It shall be the right of all Subscribers to receive Cable Service insofar as their financial and other obligations to the Licensee are honored; 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 Service interruptions or as a result

of Cable System or equipment failures. When necessary, if Service interruptions can be anticipated, the Licensee shall notify Subscribers of such interruption(s) in advance.

**Section 5.6---DROPS & MONTHLY SERVICE TO PUBLIC BUILDINGS AND  
PUBLIC SCHOOLS WITHOUT CHARGE(S)**

Pursuant to M.G.L. Chapter 166A, §5(e), the Licensee shall provide a Cable Drop, an Outlet and monthly Basic Service along its cable routes at no cost to public schools, police and fire stations, public libraries, and other public buildings designated in writing by the Issuing Authority, including those listed in **Exhibit 4**, attached hereto and made a part hereof.

## **ARTICLE 6**

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

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

The Issuing Authority and/or its designee(s) shall be responsible for the provision of public, educational and governmental ("PEG") Access Programming to Subscribers, pursuant to the provisions of this Article 6 herein.

#### **Section 6.2---PEG ACCESS CHANNELS**

(a) The Licensee shall make available for use by the Issuing Authority and/or its designee(s) two (2) Licensee-owned Subscriber Network Downstream Channels for PEG Access purposes, which shall be used to transmit non-commercial PEG Access Programming to Subscribers, at no cost to the Town, the Issuing Authority and/or its designee(s) and shall be subject to the control and management of the Issuing Authority and/or its designee (s).

(b) In the event that a third channel is necessary for the provision of PEG Access Programming in Merrimac, the Issuing Authority shall write to the Licensee, stating that there is a need for a third PEG Access Channel in order to provide additional programming for the benefit of Merrimac Subscribers. In its letter to the Licensee, the Issuing Authority shall state, in good faith, the basis of such need, and provide reasonable documentation thereto. Said letter shall include the following: (1) that such a third PEG Access Channel is necessary to accomplish the stated PEG Access Programming goals of the Town and/or the Access Corporation; (2) that such a third PEG Access Channel will not be used simply to repeat PEG Access Programming that is already carried on the other two (2) PEG Access Channels, but will be used to carry substantially new locally-produced PEG Access Programming; and (3) that the then current two (2) PEG Access Channels are being substantially programmed with non-duplicated, locally-produced, non-character-generated programming during available cablecast hours, as defined below. The Issuing Authority agrees that such a third PEG Access Channel shall not be utilized solely to carry character-generated messages; provided, however, that the Issuing Authority and/or the Access Corporation may use said third PEG Access Channel to carry character-generated messages along with other new PEG Access Programming.

(i) For purposes of this Section 6.2(b), "substantially programmed" shall be deemed to have occurred anytime that the PEG Access Channels are programmed seventy-five percent (75%) of the time between the hours of 5:00 PM and 10:00 PM during weekdays (Monday-Friday) for a period of twelve (12) consecutive weeks.

(c) While the Licensee retains sole discretion for channel placement in accordance with terms of this License, the Licensee shall attempt to minimize the number of PEG Access Channel assignment changes. The Licensee shall not move or otherwise relocate the channel locations of the PEG Access Channels, once established, without the advance, written notice to the Issuing Authority; provided, however, that the Licensee shall not change said channel locations more than once per year (except in the event of a must-carry requirement). In the event that the Licensee does change said channel location(s), the Licensee shall (1) provide notice to the Issuing Authority and Access Corporation of said change; (2) provide marketing assistance to the Issuing Authority and/or the Access Corporation to publicize said change(s); and (3) provide the Issuing Authority and/or the Access Corporation with funding to publicize said change(s).

(d) The Licensee shall not move or otherwise relocate the channel locations of the PEG Access Channels, referenced in paragraph (a) above, without the advance, written notice to the Issuing Authority and/or its designee(s).

(e) The Licensee shall provide the Downstream Channels for PEG Access use, in accordance with paragraphs (a) & (b) above, in high-definition digital format in the Licensee's Basic Service. The Licensee shall carry all components of the high-definition PEG Access Channel Signal(s) provided by the Issuing Authority and/or its designee(s) including, but not limited to, closed captioning, stereo audio and other elements associated with PEG Access Programming. The Issuing Authority and/or its designee(s) shall be responsible for providing the PEG Access Channel Signal(s) in a high-definition format to the demarcation point at the designated point of Origination for the PEG Access Channel(s). The Licensee shall transport and distribute the PEG Access Channel Signal(s) on its Cable System and shall not discriminate against PEG Access Channels with respect to the functionality, signal quality, and features from those of the local broadcast digital format channels carried on the Cable System. With respect to Signal quality, the Licensee shall not be required to carry a PEG Access Channel in a higher quality format than that of the channel signal delivered to the Licensee; provided, however, that the Licensee shall distribute PEG Access Channel Signal(s) without degradation. Upon reasonable written request by the Issuing Authority, the Licensee shall verify PEG Access Channel Signal delivery to Subscribers with the Issuing Authority and/or its designee(s).

(f) Said PEG Access Channels shall be used to transmit PEG Access Programming to Subscribers at no cost to the Town and/or PEG Access Users.

(g) The PEG Access content provider shall be responsible for the picture quality of PEG Access Programming at the input of the modulators that are permanently located at the PEG Access studio, which is the demarcation point between the video origination equipment owned, operated and maintained by the Licensee and the Issuing Authority's and/or its designee(s) end-user equipment.

### **Section 6.3---CABLE-RELATED EQUIPMENT/FACILITIES FUNDING**

(a) The Licensee shall provide funding to the Issuing Authority in the total amount of Fifty Thousand Dollars (\$ 50,000.00) for Cable-Related equipment/facilities purpose. The Licensee shall provide such funding on an annual basis, no later than July 1st of each year of this License, in the amount of Five Thousand Dollars (\$ 5,000.00) each year; the first annual payment shall be made within sixty (60) days of the effective date. Annual payment thereafter shall be made by January 31<sup>st</sup> of each following year. There shall be ten (10) such annual payments, each in the amount of \$5,000.00.

(b) Under no circumstances shall said equipment/facilities funding payments required herein be counted against (i) applicable License Fees or Franchise Fees payable to the Town, the State and/or the FCC pursuant to Section 7.1 infra; and/or (ii) the annual PEG Access/Cable-Related funding payable to the Issuing Authority pursuant to Section 7.2 infra.

### **Section 6.4---PEG ACCESS SERIAL DIGITAL INTERFACE EQUIPMENT**

(a) Licensee shall purchase, install and operate serial digital interface equipment for each PEG Access Channel. The Licensee shall own, maintain and repair said equipment for the entire term of this License.

(b) Intentionally Left Blank

### **Section 6.5---EQUIPMENT OWNERSHIP**

The Town and/or its designee(s) shall own all PEG Access/Cable-Related equipment purchased with funding pursuant to Section 6.3 above and/or Section 7.2. The Licensee shall have no obligation for maintenance, repair or replacement of such equipment.

### **Section 6.6---PEG ACCESS CHANNELS MAINTENANCE**

The Licensee shall monitor the PEG Access Channels for technical quality and shall ensure that they are maintained, at a minimum, at the same FCC Technical Standards which apply to the Cable System's commercial channels. Upon the written request of the Issuing Authority, the Licensee shall make available a copy of its most recent annual performance tests.

## **Section 6.7---PEG ACCESS CABLECASTING**

(a) In order that the Issuing Authority and/or its designee(s) can cablecast its PEG Access Programming over the Subscriber Network PEG Access Downstream Channels, all PEG Access Programming shall be modulated by the Town and/or its designee(s) from any Origination Location listed in **Exhibit 2** to the Cable System Headend or Hub-Site without charge, to the Issuing Authority and/or its designee(s) for their use. After six (6) months from the Execution Date of this License, all PEG Access Programming shall subsequently be modulated by the Town and/or its designee(s) from the Licensee's PEG Access Hub-Site in the Town to the Cable System Headend, without charge, to the Issuing Authority and/or its designee(s), for their use.

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

(c) The Licensee shall own, maintain, repair and/or replace any Headend or PEG Access Hub-Site Signal processing equipment. The Issuing Authority and/or its designee(s) shall own, maintain, repair and/or replace studio or portable modulators and demodulators. Unless otherwise agreed to, the demarcation point between the Licensee's equipment and/or the Town's and/or its designee(s)' equipment shall be at the output of the Town's and/or its designee(s)' modulator or equivalent device(s).

(d) The Town and/or its designee(s) shall make available at the location of the Licensee's PEG Access Hub-Site, at no cost to the Licensee, space for the Licensee-owned rack and transmission equipment required for said PEG Access Hub-Site and transmission of PEG Access Programming back to the Licensee's Headend.

## **Section 6.8---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.

## **ARTICLE 7**

### **LICENSE FEE PAYMENTS**

#### **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 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, shall be calculated in compliance with applicable law(s).

(b) The Licensee shall not be liable for a total License Fee pursuant to this 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 Cable-Related Funding pursuant to Section 7.2 below; and (ii) any License Fees that may be payable to the Town, the State and/or the FCC; provided, however, that said five percent (5%) shall not include the following: (i) any interest due herein to the Town and/or its designee(s) because of late payments; (ii) the PEG Access/Cable-Related equipment/facilities funding payments pursuant to Section 6.3 supra; (iii) the costs related to any liquidated damages pursuant to Section 11.2 infra; and/or (iv) any exclusion to the term "franchise fee" pursuant to Section 622(g)(2) of the Cable Act.

(c) In the event that the License Fees herein required herein are not tendered as outlined, interest due on such fee shall accrue from the date due at rate of two percent (2%) above the Prime Rate. Any payments to the Town pursuant to this §7.1 shall not be deemed to be part of the License Fees to be paid to the Town pursuant to Sections 7.1 and/or 7.2 and shall be within the exclusion to the term "franchise fee" for requirements incidental to enforcing the License pursuant to §622(g)(2)(D) of the Cable Act.

#### **Section 7.2---CABLE-RELATED FUNDING**

(a) The Licensee shall make License Fee payments to the Issuing Authority equal to five percent (5%) of the Licensee's Gross Annual Revenues, as defined in Section 1.1(21) supra, less applicable License Fees.

(b) Said payments shall be made on a quarterly basis. Subject to paragraphs (b)(i), (b)(ii) and (b)(iii) below, said payments shall be made to the Issuing Authority on the following quarterly basis: (i) on or before May 15<sup>th</sup> of each year of this License for the previous (3) month period of January, February and March; (ii) on or before August 15<sup>th</sup> of each year of this

License for the previous three (3) month period of April, May and June; (iii) on or before November 15<sup>th</sup> of each year of this License for the previous three (3) month period of July, August and September; and (iv) on or before February 15<sup>th</sup> of each year of this License for the previous three (3) month period of October, November and December.

(b) The Licensee shall file with each of said five percent (5%) quarterly payments a statement certified by an authorized representative of the Licensee documenting, in reasonable detail, the total of all Gross Annual Revenues of the Licensee during the preceding three (3) month reporting period(s), as well as a completed Gross Annual Revenues Reporting Form, substantially consistent with that which is attached hereto as **Exhibit 5**. If the Licensee's quarterly payments to the Issuing Authority were less than five percent (5%) of the Licensee's Gross Annual Revenues for the reporting period, the Licensee shall pay any balance due to the Issuing Authority no later than the quarterly payment subsequent to the discovery of such underpayment. Said statement shall list all of the general categories comprising Gross Annual Revenues as defined in Section 1.1(21)supra.

(c) In no case shall said five percent (5%) payment(s) include the equipment/facilities funding required by Section 6.3 supra. Said five percent (5%) payments shall be considered a Franchise Fee, unless otherwise provided for by applicable law.

(d) In the event that the PEG Access Funding payments herein required are not tendered on or before the dates fixed in paragraph (a) above, interest due on such fee shall accrue from the date due at the rate of two percent (2%) above the Prime Rate, on the last day of business of the prior month. Any such late payments to the Issuing Authority pursuant to this Section 7.2(e) shall not be deemed to be part of the funding to be paid to the Issuing Authority pursuant to this Section 7.2 and shall be within the exclusion to the term "franchise fee" for requirements incidental to enforcing the License pursuant to Section 622(g)(2)(D) of the Cable Act.

### **Section 7.3---OTHER PAYMENT OBLIGATIONS AND EXCLUSIONS**

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

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

#### **Section 7.4---RECOMPUTATION**

(a) Tender or acceptance of any payment made pursuant to Section 6.3, Section 7.1 and/or Section 7.2 supra shall not be construed as an accord that the amount paid pursuant to this License is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority may have, including interest, pursuant to Section 6.3, Section 7.1 and/or Section 7.2 supra. All amounts paid shall be subject to audit and precomputations by the Issuing Authority, which shall be based on the Licensee's fiscal year and shall occur in no event later than two (2) years after said payments are tendered with respect to such fiscal year.

(b) If the Issuing Authority has reason to believe that any such payment(s) are incorrect, the Licensee shall have thirty (30) days from a written request to provide the Issuing Authority with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Issuing Authority does not believe that such documentation supports the accuracy of such payment(s), the Issuing Authority may conduct an audit of such payment(s). Upon reasonable written notice, the Issuing Authority shall have the right to inspect any records relating to Gross Annual Revenues, as defined herein, in order to establish the accuracy of any payments to the Issuing Authority tendered hereunder.

(c) If, after such audit and precomputations, an additional fee is owed to the Issuing Authority, such fee shall be paid within thirty (30) days after such audit and precomputations. The interest on such additional fee shall be charged from the due date at the Prime Rate during the period that such additional amount is owed. If, after such audit and precomputations, the Licensee has overpaid, such overpayment shall be credited against the next required Cable-Related Funding payment to the Issuing Authority, without interest charges of anykind.

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

Use of the Cable System by Affiliates shall be in compliance with applicable State and/or federal laws, and shall not detract from Services provided to Merrimac.

**Section 7.6---METHOD OF PAYMENT**

All License Fee payments by the Licensee to the Town pursuant to the License shall be made payable to the Town and deposited with the Town Treasurer.

## **ARTICLE 8**

### **RATES AND CHARGES**

#### **Section 8.1---RATE REGULATION**

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

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

(a) In accordance with applicable law, the Licensee shall file with the Issuing Authority schedules which shall describe all Services offered by the Licensee, all rates and charges of any kind, and all terms or conditions relating thereto. At least thirty (30) days prior to implementing a change of one of its billing practices, the Licensee shall notify, in writing, the Cable Division, the Issuing Authority and all affected Subscribers of the change, including a description of the changed practice, in a typeface that can be easily read and understood by Subscribers.

(b) At the time of initial solicitation or installation of Service, the Licensee shall also provide each Subscriber with an explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate cable service. Subscribers shall have at least thirty (30) days prior to the effective date of any rate increase to either downgrade service or terminate service altogether without any charge. Change of service policies shall be in compliance with 207 CMR 10.00 et seq. as amended, attached as **Exhibit 6**.

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

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

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

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

## **ARTICLE 9**

### **INSURANCE AND BONDS**

#### **Section 9.1---INSURANCE**

(a) The Licensee shall carry insurance throughout the term of this License and any removal period, pursuant to M.G.L. Chapter 166A, §5(f), with the Town as an additional insured, with an insurance company satisfactory to the Issuing Authority, indemnifying the Town and the Licensee from and against all claims for injury or damage to Persons or property, both real and personal, caused by the construction, installation, operation, maintenance and/or removal of the Cable Television System. The amount of such insurance against liability for damage to property shall be no less than One Million Dollars (\$1,000,000.00) as to any one occurrence. The amount of such insurance for liability for injury or death to any Person shall be no less than One Million Dollars per occurrence (\$1,000,000.00). The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000.00) inumbrella form.

(b) The Licensee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.

(c) All insurance coverage, including Workers' Compensation in amounts as required by applicable law, shall be maintained throughout the entire term of this License. All expenses incurred for said insurance shall be at the sole cost and expense of the Licensee.

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

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

#### **Section 9.2---PERFORMANCE BOND**

(a) The Licensee shall maintain at its sole cost and expense throughout the term of this License a faithful performance bond running to the Town, with good and sufficient surety licensed to do business in the State in the sum of Thirty-Five Thousand Dollars (\$35,000.00). Said bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by this License.

(b) The performance bond shall be effective throughout the term of the 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 the 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 Section 11.1 and 11.2 infra.

(c) Said bond shall be a continuing obligation of the License, and thereafter until the Licensee has satisfied all of its obligations to the Town that may have arisen from the grant of the License or from the exercise of any privilege herein granted. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the appropriate amount required herein. Neither this section, any bond accepted pursuant thereto, nor any damages recovered thereunder shall limit the liability of the Licensee under the License.

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

Upon written request of the Issuing Authority, the Licensee shall submit to the Issuing Authority, or its designee, copies of all current certificates regarding (i) all insurance policies as required herein, and (ii) the performance bond as required herein.

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

The Licensee hereby agrees, at its sole cost and expense, to indemnify, defend and hold harmless the Issuing Authority, 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 License, including without limitation, damage to Persons or property, both real and personal, caused by the maintenance, operation, and/or removal of any structure, equipment, wire or cable installed. Indemnified expenses shall include all reasonable attorneys' fees and costs incurred up to such time that the Licensee assumes defense of any action hereunder. The Issuing Authority shall give the Licensee written notice of its obligation to indemnify and defend the Issuing Authority within ten (10) business days of receipt of a claim or action pursuant to this section.

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

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

It is hereby understood and agreed that this policy (or bond) shall not be cancelled, materially changed or the amount of coverage thereof reduced until thirty (30) days after receipt by the Issuing Authority by certified mail of one (1) copy of a written notice of such intent to cancel, materially change or reduce the coverage required herein. But in any event, the Licensee shall also notify the Issuing Authority, within five (5) business days of receiving notice that the insurance policy or performance bond has been or is being terminated. Failure to do so shall be a material breach hereunder.

## **ARTICLE 10**

### **ADMINISTRATION AND REGULATION**

#### **Section 10.1---REGULATORY AUTHORITY**

The Issuing Authority and/or its designee(s) shall be responsible for the day to day regulation of the Cable Television System. The Issuing Authority and/or its designee(s) shall monitor and enforce the Licensee's compliance with the terms and conditions of this License. The Issuing Authority shall notify the Licensee in writing of any instance of non-compliance pursuant to Section 11.1 infra.

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

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

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

(c) Within sixty (60) days after the conclusion of such review hearing(s), the Issuing Authority shall issue a written report with respect to the Licensee's compliance, and send one (1) copy to the Licensee and file one (1) copy with the Town Clerk's Office. If noncompliance is found which could result in a violation of any of the provisions of the License, the Licensee shall respond and propose a plan for implementing any changes or improvements necessary, pursuant to Section 11.1 infra. Said report shall report on the Licensee's compliance to the terms and conditions of this License, as well.

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

The Licensee shall not discriminate against any Person in its solicitation, service or access activities, if applicable, on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the Town, sex, sexual orientation, disability, age, marital status, or status with regard to public assistance. The Licensee shall be subject to all other requirements of

local, federal and State laws or regulations, relating to nondiscrimination through the term of the License. This Section 10.3 shall not affect the right of the Licensee to offer discounts.

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

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

#### **Section 10.5---REMOVAL AND RELOCATION**

The Issuing Authority shall have the power at any time to order and require the Licensee to remove or relocate any pole, wire, cable or other structure owned by the Licensee that is dangerous to life or property. In the event that the Licensee, after notice, fails or refuses to act within a reasonable time, the Issuing Authority shall have the power to remove or relocate the same at the sole cost and expense of the Licensee, which cost shall be summarized by the Issuing Authority.

#### **Section 10.6---JURISDICTION AND VENUE**

Jurisdiction and venue over any dispute, action or suit shall be in any court of appropriate venue and subject matter jurisdiction located in the Commonwealth of Massachusetts and the parties by the instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit.

## **ARTICLE 11**

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

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

In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any or several provisions of the 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.

(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 twenty-one (21) day intervals as to the Licensee's efforts, indicating the steps taken by the Licensee to cure said default and reporting the Licensee's progress until such default is cured.

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

(d) Within thirty (30) days after said public hearing, the Issuing Authority shall determine whether or not the Licensee is in default of any provision of the License and shall issue a written determination of its findings. In the event that the Issuing Authority, after such hearings, determines that the Licensee is in such default, the Issuing Authority may determine to pursue any of the following remedies:

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

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

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

- (iv) Foreclose on all or any appropriate part of the security provided pursuant to Section 9.2 herein;
- (v) Declare the License to be revoked subject to Section 11.3 below and applicable law;
- (vi) Invoke any other lawful remedy available to the Town.

### **Section 11.2---LIQUIDATED DAMAGES**

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

(1) For failure to obtain the advance, written approval of the Issuing Authority for any transfer of the License in accordance with Section 2.6 herein, Three Hundred Dollars (\$300.00) per day, for each day that any such non-compliance continues.

(2) For failure to fully activate, operate and maintain the Subscriber Network in accordance with Section 3.1 and 4.1 herein, Three Hundred Dollars (\$300.00) per day, for each day that any such non-compliance continues.

(3) For failure to fully activate, operate, maintain and repair the Institutional Network in accordance with Section 3.2 herein, Three Hundred Dollars (\$300.00) per day, for each day that any such non-compliance

(4) For failure to comply with the FCC's Customer Service Obligations and the Massachusetts Department of Telecommunications and Cable of Cable Billing Practices Standards, 207 CMR sec. 10.00 et seq, EXHIBIT 6 attached hereto, and in accordance with Section 12.4 infra, and **Exhibit 7** attached hereto, Two Hundred Fifty Dollars (\$250.00) per day that any such non-compliance continues.

(5) For failure to comply with the PEG Access Support provisions in accordance with the timelines in Article 6 and Section 7.2 herein, Two Hundred Fifty Dollars (\$250.00) per day, for each day that any such non-compliance continues; provided, however, that Sections 6.5 and 6.6 supra are not subject to assessment of liquidated damages only during such time that interest charges are being levied.

(6) For failure to provide, install and/or fully activate the Subscriber Network Drops and/or Outlets in accordance with Section 5.6 herein and/or **Exhibit 4**, One Hundred Dollars (\$100.00) per day that any of such Drops and/or Outlets are not provided, installed and/or activated as required.

(7) For failure to submit reports, pursuant to Article 13 herein, Fifty Dollars (\$50.00) per day that

any of said reports are not submitted as required.

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

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

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

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

### **Section 11.4---TERMINATION**

The termination of the License and the Licensee's rights herein shall become effective upon the earliest to occur of: (i) the revocation of the License by action of the Issuing Authority, pursuant to Section 11.1 and 11.3 above; or (ii) the expiration of the term of the License. In the event of any termination, the Issuing Authority shall have all of the rights provided in the License unless the Licensee is otherwise permitted to continue operating the Cable System pursuant to applicable law(s).

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

Except in an emergency situation, in the event that the Licensee or the Issuing Authority intends to take legal action against the other party for any reason, it shall first give the other party reasonable notice that an action will be filed.

### **Section 11.6---NON-EXCLUSIVITY OF REMEDY**

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

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

(a) No failure on the part of the Issuing Authority or the Town, or the Licensee to exercise, and no delay in exercising, any right in the 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 the License.

(b) The rights and remedies provided herein are cumulative and not exclusive of any remedies provided by law, and nothing contained in the License shall impair any of the rights of the Issuing Authority or the Town or the Licensee under applicable law, subject in each case to the terms and conditions in the 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 affect the exercise of such right or remedy or any other right or remedy by the Town 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 License at any other time in the event that such breach has not been cured, or with respect to any other breach by the Licensee.

## **ARTICLE 12**

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

#### **Section 12.1--- Intentionally Left Blank**

#### **Section 12.2---TELEPHONE ACCESS**

(a) The Licensee shall comply with the FCC's Customer Service Obligations at 47 C.F.R. §76.309, attached hereto as **Exhibit 7**, during Normal Business Hours, as defined therein.

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

(c) Pursuant to 47 C.F.R. §76.309I(1)(B), under Normal Operating Conditions, as defined, 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 standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

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

### **Section 12.3---CUSTOMER SERVICE CALL CENTER**

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

### **Section 12.4---INSTALLATION VISITS-SERVICE CALLS-RESPONSE TIME**

(a) The Licensee shall provide Cable Service(s), for new aerial installations, to Merrimac residents who request Service within seven (7) business days of said request, or at such time as is mutually agreed-upon by the Licensee and said Subscriber. Underground installations shall be completed as expeditiously as possible, weather permitting. If arranging appointments for installation, the Licensee shall specify in advance whether such will occur in the morning or afternoon, or a more narrow 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 responded to the next business day.

(c) The Licensee shall ensure that there are stand-by technician(s) 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 by technical personnel. For purposes of the 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) Within fifteen (15) days of a Subscriber discontinuing service with the Licensee, the Licensee shall remove all Drop Cables related to such Subscribers in their entirety.

### **Section 12.5---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 7**.

## **Section 12.6---BUSINESS PRACTICE STANDARDS**

The Licensee shall provide the Issuing Authority, the Cable Division and all of its Subscribers with the following information in accordance with 207 CMR 10.00 et seq., attached hereto as **Exhibit 6** and made a part hereof, as the same may exist or as may be amended from time to time:

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

## **Section 12.7---COMPLAINT RESOLUTION PROCEDURES**

(a) The Licensee shall establish a procedure for resolution of Complaints by Subscribers.

(b) Upon reasonable notice, the Licensee shall expeditiously investigate and resolve all Complaints regarding the quality of Service, equipment malfunctions and similar matters. In the event that a Subscriber is aggrieved, the Issuing Authority or its designee(s) shall be responsible for receiving and acting upon such Subscriber Complaints/inquiries, as follows:

(i) Upon the written request of the Issuing Authority or its designee(s), and subject to applicable privacy laws, the Licensee shall, within 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. 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 the License and the implementation of Complaint procedures. Thereafter, if the Subscriber wishes to participate in further processing of the Complaint, the Subscriber shall meet jointly in Merrimac 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 attempt to resolve such matter.

(c) Notwithstanding the foregoing and subject to applicable privacy laws, if the Issuing Authority or its designee(s) determines it to be in the public interest, the Issuing Authority or its designee(s) may investigate any Complaints or disputes brought by Subscribers arising from the operations of the Licensee.

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

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

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

All of the Licensee's employees entering, or seeking entrance, upon private property, in connection with the construction, installation, maintenance and/or operation of the Cable System, including repair and sales personnel, shall be required to wear an employee identification card issued by the Licensee and bearing a picture of said employee.

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

(a) The Licensee shall respect the rights of privacy of every Subscriber 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 the Article 12 and all other applicable federal and state laws including, but not limited to, the provisions of Section 631 of the Cable Act.

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

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

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

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

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

(b) The Licensee shall not record or retain any information transmitted between a Subscriber or User and any third party, except as required for lawful business purposes. Pursuant to Section 63 l(e) of the Cable Act, the Licensee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information pursuant to a request from a Subscriber or pursuant to a court order.

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

(1) In accordance with 47 U.S.C. Section 551, as may be amended, except as provided in Paragraph (2) below or in accordance with and subject to applicable law, the Licensee shall not disclose personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a Person other than the Subscriber or the Licensee.

(2) The Licensee may disclose such information if the disclosures are:

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

(B) subject to subsection (h) of 47 USC 551, 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; or

(C) a disclosure of the names and addresses of Subscribers to any Cable Service or other service, if:

- the Licensee has provided the Subscriber the opportunity to prohibit or limit such disclosure, and
- the disclosure does not reveal, directly or indirectly, the:

(I) extent of any viewing or other use by the Subscriber of a Cable Service or other service provided by the Licensee, or

(II) the nature of any transaction made by the Subscriber over the Cable System.

(D) to a government entity as authorized under chapters 119, 121 or 206 of title 18, except that such disclosure shall not include records revealing cable subscriber selection of video programming from a cable operator.

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

Except as permitted by Section 631 of the Cable Act, neither the Licensee nor its agents nor its employees shall make available to any third party, including the Town, information concerning the viewing habits or subscription package decisions of any individual Subscriber.

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

In accordance with 47 U.S.C. Section 551, as may be amended, a Subscriber shall be provided access to all personally identifiable information regarding that Subscriber which is collected and maintained by the Licensee. Such information shall be made available to the Subscriber at reasonable times and at a convenient place designated by the Licensee. A Subscriber shall be provided reasonable opportunity to correct any error in such information. The Licensee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information as specified herein or pursuant to a court order.

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

The Issuing Authority and the Licensee shall periodically review Article 12 to determine that it effectively addresses appropriate concerns about privacy. The Article may be amended periodically by agreement of the Issuing Authority and the Licensee.

## **ARTICLE 13**

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

#### **Section 13.1---GENERAL**

(a) Upon written request of the Issuing Authority, the Licensee shall promptly submit to the Town any information in such form and containing such information as may be reasonably requested by the Issuing Authority, which may be reasonably required to establish the Licensee's compliance with its obligations pursuant to the 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.

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

(a) Upon written request, no later than one hundred twenty (120) days after the end of the Licensee's fiscal year, the Licensee shall furnish the Issuing Authority and/or its designee(s) with Cable Division Forms 200 showing a balance sheet sworn to by an authorized representative of the Licensee. Said forms shall contain such financial information as required by applicable law.

(b) The Licensee shall provide any other reports required by State and/or federal law.

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

Pursuant to applicable law, upon the Issuing Authority's written request, the Licensee shall file annually with the Issuing Authority a statistical summary of the operations of the Cable System. Said report shall include, but not be limited to the number of Basic Service Subscribers.

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

To establish the Licensee's compliance with the requirements of Sections 12.2 and 12.5 of this License, the Licensee shall provide to the Issuing Authority, upon written request of the Issuing Authority on a semi-annual basis, 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 percent (90%) 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 percent (3%) of the time.

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

In accordance with the regulations of the Cable Division, the Licensee shall submit a completed copy of Cable Division Form 500, attached hereto as **Exhibit 8** to the Issuing Authority, or its designee(s), as required by the Cable Division.

#### **Section 13.6---INDIVIDUAL COMPLAINT REPORTS**

Subject to Sections 12.7 supra, the Licensee shall, within fourteen (14) business days after receiving a written request from the Issuing Authority, send a written report to the Issuing Authority with respect to any Complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken, as allowed by applicable law.

#### **Section 13.7---ANNUAL PERFORMANCE TESTS**

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

#### **Section 13.8---QUALITY OF SERVICE**

Where evidence exists 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 written notice from the Issuing Authority, setting forth in detail its explanation of the problem(s).

#### **Section 13.9---DUAL FILINGS**

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

**Section 13.10---ADDITIONAL INFORMATION**

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

**Section 13.11---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 License.

**ARTICLE 14**  
**EMPLOYMENT**

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

The Licensee is an Equal Opportunity Employer and shall comply with applicable FCC regulations with respect to Equal Employment Opportunities.

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

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

## **ARTICLE 15**

### **MISCELLANEOUS PROVISIONS**

#### **Section 15.1---ENTIRE AGREEMENT**

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

#### **Section 15.2---CAPTIONS**

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

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

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

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

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

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

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

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

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

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

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

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

(iv) There are no actions or proceedings pending or threatened against the Licensee as of the Effective Date of this License that would interfere with its performance of the License; and

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

#### **Section 15.7---FORCE MAJEURE**

If by reason of Force Majeure either party hereto 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; applicable environmental restrictions and unavailability of essential equipment, services and/or materials and/or other matters beyond the control of either party hereto.

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

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 15.9---SUBSCRIBER TELEVISION SETS**

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

### **Section 15.10---APPLICABILITY OF LICENSE**

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

### **Section 15.11---NOTICES**

(a) Every notice to be served upon the Issuing Authority shall be delivered, or sent by certified mail (postage prepaid) or by overnight courier service to the Board of Selectmen Town of Merrimac, 2 School Street, Merrimac, Massachusetts 01860, with one (1) copy to the Town Counsel, or such other address as the Issuing Authority may specify in writing to the Licensee. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of mailing.

(b) Every notice served upon the Licensee shall be delivered or sent by certified mail (postage prepaid) or by overnight courier service to the following addresses. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt:

with one (1) copy to:

Breezeline  
Director of Regional Operations  
21 Jarvis Road  
Rochester, NH 03868

and one (1) copy to:

Breezeline  
SVP & General Counsel  
3 Batterymarch Park  
Suite 200  
Quincy, MA 02169

(c) Whenever notice of any public hearing relating to the Cable System is required by law, regulation or the License, the Issuing Authority shall publish notice of the same, sufficient to identify its time, place and purpose, in an Merrimac newspaper of general circulation.

(d) Subject to subsection (c) above, all required notices shall be in writing.

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

Pursuant to 47 U.S.C. Section 555(a) 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, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, transfer or amendment of this License.

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

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

#### **Section 15.14---TERM**

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

## **EXHIBIT 1**

### **FCC TECHNICAL SPECIFICATIONS**

#### **TITLE 47-TELECOMMUNICATION**

#### **CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION**

#### **PART 76--MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE**

##### **§ 76.605 Technical standards.**

(a) As of December 30, 1992, unless otherwise noted, the following requirements apply to the performance of a cable television system as measured at any subscriber terminal with a matched impedance at the termination point or at the output of the modulating or processing equipment (generally the headend) of the cable television system or otherwise as noted. The requirements are applicable to each NTSC or similar video downstream cable television channel in the system: (1)(i) The cable television channels delivered to the subscriber's terminal shall be capable of being received and displayed by TV broadcast receivers used for off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter; and

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

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

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

(4) The visual signal level on each channel, as measured at the end of a 30 meter cable drop that

is connected to the subscriber tap, shall not vary more than 8 decibels within any six-month interval, which must include four tests performed in six-hour increments during a 24-hour period in July or August and during a 24-hour period in January or February, and shall be maintained within:

- (i) 3 decibels (dB) of the visual signal level of any visual carrier within a 6 MHz nominal frequency separation;
- (ii) 10 dB of the visual signal level on any other channel on a cable television system of up to 300 MHz of cable distribution system upper frequency limit, with a 1 dB increase for each additional 100 MHz of cable distribution system upper frequency limit (*e.g.*, 11 dB for a system at 301-400 MHz; 12 dB for a system at 401-500 MHz, *etc.*); and
- (iii) A maximum level such that signal degradation due to overload in the subscriber's receiver or terminal does not occur.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xii) Shall not be less than 18 decibels. In lieu of periodic testing, the cable operator may use

specifications provided by the manufacturer for the terminal isolation equipment to meet this standard; and

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

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

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

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

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

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

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

Frequencies	Signal leakage limit (micro-volt/ meter)	Distance in meters (m)
Less than and including 54 MHz, and over 216 MHz	15	30
Over 54 up to and including 216 MHz	20	3

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

Note 1: Local franchising authorities of systems serving fewer than 1000 subscribers may adopt

standards less stringent than those in § 76.605(a). Any such agreement shall be reduced to writing and be associated with the system's proof-of-performance records.

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

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

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

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

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

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

## **EXHIBIT 2**

### **Origination Locations**

#### **Public Buildings:**

Donaghue School  
24 Union Street Extension

Dr. Fredrick N. Sweetsir School  
104 Church Street

#### **Municipal Buildings:**

Public Library  
86 West Main Street

Senior Center  
100 East Main Street

Town Hall  
4 School Street

### **EXHIBIT 3**

#### **PROGRAMMING AND SIGNAL CARRIAGE**

The Licensee shall provide the following broad categories of Programming:

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

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

## **EXIHBIT4**

### **DROPS AND MONTHLY SERVICE TO PUBLIC BUILDINGS AND PUBLIC SCHOOLS**

In accordance with Section 5.6 supra, the following public buildings and school buildings shall receive a Drop and/or Outlet and the monthly Basic Service:

(1) Dr. Fredrick N. Sweetsir School	104 Church Street
(2) Town Hall	4 School Street
(3) Fire Department	16 East Main Street
(4) Public Library	6 West Main Street
(5) Police Department	16 East Main Street
(6) Senior Center	100 East main Street
(7) Donaghue School	24 Union Street Extension
(8) Water Department	10 West Main Street
(9) Sewer Department	50 Federal Way

## EXHIBITS

### CABLE-RELATED FUNDING GROSS ANNUAL REVENUES REPORTING FORM Cogeco US (NH-ME), LLC, d/b/a Breezeline

#### TOWN OF MERRIMAC

Period: [enter period of which payment is based]

#### Totals

##### Totals by Service:

Basic Service Revenue	\$ [enter amount]
Pay Service Revenue <sup>1</sup>	\$ [enter amount]
Other Unregulated Revenue <sup>2</sup>	\$ [enter amount]
Digital Revenue	<u>\$ [enter amount]</u>
Subtotal:	\$ [enter subtotal]

##### Totals by Non Service:

Home Shopping Revenue	
Advertising Revenue	
Leased Access Revenue	\$ [enter amount]
Less Bad Debt/Add Bad Debt Paid	<u>\$ [enter amount]</u>
Subtotal:	\$ [enter subtotal]

Total Gross Revenue	\$ [enter total]
---------------------	------------------

License Fee (5%)	\$ [enter % of total]
Fee-on-Fee (5%)	<u>\$ [enter % of %]</u>

License Fee Due	<u>\$ [enter total due]</u>
-----------------	-----------------------------

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

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

Authorized Breezeline Representative:

\_\_\_\_\_  
Name:

Date:

## **EXHIBIT 6**

### **207 CMR 10.00**

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

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

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

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

- (1) The cable television operator shall give notice of its services, rates and charges to potential subscribers before a subscription agreement is reached.
- (2) At least 30 days prior to implementing an increase in one of its rates or charges or a substantial change in the number or type of programming services, the operator shall notify, in writing, the Commission, the issuing authority and all affected subscribers of the change and include a description of the increased rate or charge. The notice shall list the old and new rate or charge and, if applicable, the old and new programming services provided.
- (3) Every cable television operator shall fully disclose in writing all of its programming services and rates, upon request from a subscriber.
- (4) Every cable television operator shall fully disclose in writing all of its charges for installation, disconnection, downgrades and upgrades, reconnection, additional outlets, and rental, purchase and/or replacement due to damage or theft of equipment or devices used in relation to cable services, upon request from a subscriber.
- (5) Every cable television operator shall provide written notice of the charge, if any, for service visits and under what circumstances such charge will be imposed, upon request from a subscriber.
- (6) A copy of the cable operator's programming services, rates and charges shall be filed by March 15th of each year with the Commission, the issuing authority and the company's local office where it shall be made available for public inspection. If an operator amends its notice after the annual filing, it shall file a copy of the amendment with the Commission, the issuing authority and the company's local office.

- (7) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. This provision, however, shall not preclude the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, or the restructuring or division of existing tiers of service that do not result in a fundamental change in the nature of an existing service or tier of service.

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

- (1) The bill shall contain the following information in clear, concise and understandable language and format:
- (a) The name, local address and telephone number of the cable television operator. The telephone number shall be displayed in a conspicuous location on the bill and shall be accompanied by a statement that the subscriber may call this number with any questions or complaints about the bill or to obtain a description of the subscriber's rights under 207 CMR 10.07 in the event of a billing dispute;
  - (b) the period of time over which each chargeable service is billed including prorated periods as a result of establishment and termination of service;
  - (c) the dates on which individually chargeable services were rendered or any applicable credits were applied;
  - (d) separate itemization of each rate or charge levied or credit applied, including, but not be limited to, basic, premium service and equipment charges, as well as any unit, pay-per-view or per item charges;
  - (e) the amount of the bill for the current billing period, separate from any prior balance due;
  - (f) The date on which payment is due from the subscriber.
- (2) Cable operators may identify as a separate line item of each regular subscriber bill the following:
- (a) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to whom the fee is paid;
  - (b) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels;
  - (c) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under 207 CMR 10.03, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.
- (3) All itemized costs shall be direct and verifiable. Each cable operator shall maintain a document in its public file, which shall be available upon request that provides the accounting justification for all itemized costs appearing on the bill.

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

- (1) In the absence of a license provision further limiting the period of advance billing, a cable operator may, under uniform nondiscriminatory terms and conditions, require payment not more than two months prior to the last day of a service period.
- (2) A cable subscriber may voluntarily offer and a cable operator may accept advance payments

for periods greater than two months.

- (3) Upon request, a cable television operator shall provide subscribers with a written statement of account for each billing period and a final bill at the time of disconnection.

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

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

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

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

#### **10.07 : Billing Disputes**

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

#### **10.08 : Security Deposits**

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

## **EXHIBIT7**

### **FCC CUSTOMER SERVICE OBLIGATIONS**

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

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

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

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

(a) A cable: franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time that is convenient for the customer.

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

Ci) Notifications to subscribers--

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

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;  
(4) Instructions on how to use the cable service;  
(5) Channel positions programming carried on the system; and,  
(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

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

(ii) Billing--

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

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

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

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

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

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

(4) Definitions--

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

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

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

**EXIDBIT 8**

**CABLE DIVISION FORM 500**

(See Attached)

# Form 500 Complaint Data - Paper Filing

City/Town:

Cable Company:

Filing Year:

Address:

Number of Subscribers:

Address:

Contact:

Phone:

E-Mail:

Average Resolution Time:

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

Manner of Resolution:

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

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

**SIGNATURE PAGE**

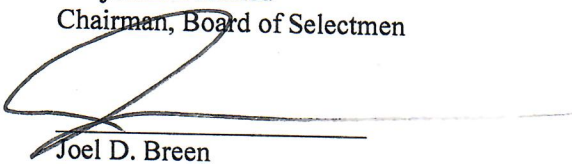
In Witness Whereof, this Franchise is hereby issued by the Board of Selectmen of the Town of Merrimac, Massachusetts, as Franchising Authority, and all terms and conditions are hereby agreed to by Breezeline (NH-ME), LLC this 13<sup>th</sup> day of SEPT., 2022.

**Town of Merrimac**

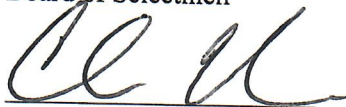
**By:**



Benjamin Beaulieu  
Chairman, Board of Selectmen

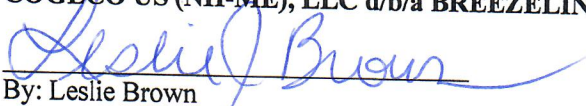


Joel D. Breen  
Board of Selectmen



Chris Manni  
Board of Selectmen

**COGECO US (NH-ME), LLC d/b/a BREEZELINE**



By: Leslie Brown  
Title: SVP & General Counsel