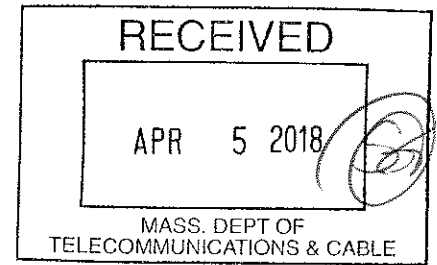


**CABLE TELEVISION  
RENEWAL LICENSE**



**Granted To**

**Time Warner Cable Northeast LLC**

**Granted By**

**MAYOR  
CITY OF NORTH ADAMS  
MASSACHUSETTS**

**Renewal Term**

**October 1, 2014 – September 1, 2024**

**(see Section 2.2)**

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# RENEWAL LICENSE

This Cable Television Renewal License entered into this \_\_\_\_ day of December, 2014, by and between the City of North Adams, Massachusetts, and through its Mayor, as Issuing Authority, for the grant of a cable television license pursuant to M.G.L. c. 166A, and Time Warner Cable Northeast LLC.

## WITNESSETH

WHEREAS, the Issuing Authority of the City of North Adams, Massachusetts (its Mayor), 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 City of North Adams;

WHEREAS, the Issuing Authority conducted a public hearing pursuant to 207 CMR 3.05;

WHEREAS, the Issuing Authority and Time Warner engaged in good faith negotiations and did agree on terms and provisions for Time Warner's continued operations and maintenance of its Cable Television System in the City of North Adams; and

WHEREAS, the Issuing Authority has determined that it is in the best interests of the City of North Adams to grant a non-exclusive Renewal License to Time Warner Cable Northeast LLC.

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 1.0---DEFINITIONS

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

Access – The right of any North Adams resident and/or any Person affiliated with a North Adams institution to use designated facilities, equipment and/or channels of the Cable Television System as provided herein, subject to the conditions and procedures established for such use by the City and/or its designee for such use.

Access Corporation – shall mean the non-profit corporation, group or entity designated by the Issuing Authority for the purpose of operating and managing the use of Public, Educational and Government (“PEG”) Access, including PEG Access Programming, channels and equipment, and PEG Access funding provided in accordance with this Renewal License.

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.

Basic Service - That service tier required and defined by applicable federal law which includes the retransmission of local television broadcast signals and any Public, Educational and Government Access Channels required by this Renewal License.

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

Cable Service – shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming services, and (B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.



Cable System or Cable Television System – shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designated to provide cable service which includes video programming and which is provided to multiple subscribers within a community, 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 Communications Act, except that such facility shall be considered a cable system (other than for purposes of Section 621(c) [Section 541(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; or (d) an open video system that complies with Section 653 of Title II, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

City – The City of North Adams, Massachusetts.

Complaint – shall mean any oral or written communication from a Subscriber, the primary purpose of which is to express dissatisfaction with the service, policies and/or procedures of the Licensee.

Drop – shall mean the cable or fiber that connects a home or building to the feeder cable of the Subscriber Network.

Effective Date – shall mean October 1, 2014 or as otherwise provided in Section 2.2.

FCC – shall mean the Federal Communications Commission or any successor government entity.

Franchise Fee – shall mean the payments to be made by the Licensee to the City, which shall have the meaning as set forth in Section 622(g) of the Cable Act.

Gross Annual Revenues – shall mean all revenues and consideration derived by the Licensee and/or its Affiliates from the operation of the Cable System to provide Cable Service within the City, including, without limitation: the revenues derived from the distribution of any Cable Service over the Cable System; Basic Service monthly fees and all other Cable Service fees; any and all Cable Service fees and/or charges received; installation, reconnection, downgrade, upgrade and any similar charges; all digital Cable Service revenues; fees paid on all Subscriber fees; all Commercial Subscriber Cable revenues (including bulk account revenues); Pay Cable, Premium Service and Pay-Per-View revenues; late fees to the extent revenue; fees paid for channels designated for commercial use; converter, remote control and other Cable Service-related equipment rentals and/or leases or sales; home shopping revenues; and advertising revenues. Advertising revenues and other revenues not received from Subscribers in the City shall be subject to fees in a proportion based on the number of Subscribers in the City divided by the total number of subscribers covered in the transaction from which the revenue is derived. Gross Annual Revenues shall also include the gross revenue of any other Person which is derived directly or indirectly from the operation of the Cable System to provide Cable Service to the extent that said revenue is derived, through a means which has the

effect of avoiding payment of Franchise Fees to the City that would otherwise be paid hereunder. Gross Annual Revenues shall not include actual bad debt that is properly written off, provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

Issuing Authority – shall mean the Mayor of the City of North Adams, Massachusetts, or the lawful designee thereof.

License Fee - The payments to be made by the Licensee to the City, which shall have the meaning set forth in M.G.L. Chapter 166A, Section 9.

Licensee – shall mean Time Warner Cable Northeast LLC, or any successor or transferee in accordance with the terms and conditions in this Renewal License.

Normal Business Hours – shall mean those hours during which most similar businesses in the City are open to serve customers. In all cases, Normal Business Hours shall include some evening hours at least one night per week and/or some weekend hours.

Outlet – An interior receptacle, generally mounted in a wall, that connects a Subscriber's or user's equipment to the Cable System.

Pay Cable or Premium Services – shall mean programming delivered for a fee or charge to Subscribers on a per-channel or group-of-channels basis.

Pay-Per-View: – shall mean programming delivered for a fee or charge to Subscribers on a per-program or per-event basis.

PEG Access Channel - A video channel which the Licensee shall make available to the Issuing Authority and its designee(s), including the Access Corporation, for the purpose of transmitting non-commercial programming by Access users.

PEG Access Programming – shall mean non-commercial programming produced by any North Adams, Adams, Clarksburg or Cheshire residents or organizations, schools and government entities and the use of designated facilities, equipment and/or channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal License.

Person – shall mean any corporation, partnership, limited partnership, limited liability company, association, trust, organization, other business entity, individual or group of individuals acting in concert.

Prime Rate – shall mean the prime rate of interest as reported by the Federal Reserve or its successor, however, if a prime rate is reported by the Federal Reserve Bank of Boston it shall be the "Prime Rate" for purposes of this Renewal License.

Public Way or Street – shall mean 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 City, now or hereafter existing held by the City for compatible uses.

Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the City 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 City greater than those already possessed by the City.

Renewal License or License – shall mean this Renewal License and any amendments or modifications in accordance with the terms herein.

State – shall mean the Commonwealth of Massachusetts.

Subscriber – shall mean any Person, firm, corporation or other entity in the City who or which elects to subscribe to, for any purpose, a service provided by the Licensee by means of, or in connection with, the Cable Television System.

Upstream Channel: A channel over which Signals travel to the System Headend from origination points within the Cable System.

Video Programming: – shall mean Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **ARTICLE 2**

### **GRANT OF RENEWAL LICENSE**

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

Pursuant to the authority of M.G.L. c. 166A, and the Cable Act the Issuing Authority hereby grants a non-exclusive Renewal License to Time Warner Cable Northeast LLC, a Delaware limited liability company, authorizing and permitting the Licensee to construct and operate a Cable System in, along, across, over, through, above and under the Public Ways in the City, as more specifically provided for in this Renewal License, in order to provide Cable Service in the City.

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

This Renewal License of this non-exclusive Renewal License shall be for a period of ten (10) years, commencing on October 1, 2014 through September 1, 2024, provided that the Towns of Adams, Cheshire and Clarksburg have approved similar renewal licenses to Licensee by that date. If all those Towns have not done so by that date, the term of this License shall commence on the first day of the month following approval by all three Towns.

#### **SECTION 2.3--- RENEWAL**

(a) In accordance with the provisions of federal law, M.G.L. c. 166A, §13 and applicable regulations, this Renewal License shall be subject to additional renewals for the periods not to exceed ten (10) years or such other periods as allowed by law.

(b) In accordance with applicable law, any such renewal or renewals shall be upon mutual written agreement by Licensee and the Issuing Authority and shall contain such terms as Licensee and the Issuing Authority may then agree.

#### **SECTION 2.4---RESERVATION OF AUTHORITY**

Nothing in this Renewal License shall: (a) abrogate the right of the Issuing Authority to perform any public works or public improvements of any description; (b) be construed as a waiver of any codes or ordinances/regulations of general applicability and not specific to the Cable Television System, Licensee, or this Renewal License; or (c) be construed as a waiver or release of the rights of the Issuing Authority in and to the Public Ways.

## **SECTION 2.5---NON-EXCLUSIVITY OF RENEWAL LICENSE**

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

(b) Subject to applicable law, the grant of any additional cable television license(s) shall be at the sole discretion of the Issuing Authority.

Should any such additional cable television license(s) be granted or amended on terms and conditions taken as a whole more favorable or less burdensome than those contained in this Renewal License, the Issuing Authority agrees to amend this Renewal License (effective upon the grant to said other person) to overall provide such greater benefits or lesser burdens.

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

(d) In the event an application for a new cable television license is filed with the Issuing Authority, proposing to serve the City, in whole or in part, the Issuing Authority shall serve a copy of such application upon the Licensee within a reasonable time thereafter.

## **SECTION 2.6---POLICE AND REGULATORY POWERS**

By executing this Renewal License, the City does not waive the right to exercise its police powers with respect to the welfare and safety of the public. The Licensee shall comply with all applicable federal and State laws and regulation, and City ordinances and regulations, provided such City ordinances and regulations are not specific to this Renewal License, the Licensee and/or Cable System; however, the Licensee does not waive its right to challenge such exercise on any grounds, including that such exercise impairs its contractual rights. Any such challenge shall be determined in accordance with applicable law in a court of competent jurisdiction.

## **SECTION 2.7--- REMOVAL OR ABANDONMENT**

Upon the expiration or earlier termination of this Renewal License, unless (1) the Licensee has its license renewed for another term or the Cable Act renewal process is still underway; (2) the ownership of the Cable System is transferred to another Person with written approval by the Issuing Authority in accordance with applicable law and pursuant to the terms of this Renewal License; or (3) the Licensee is otherwise operating the Cable System under the terms of this Renewal License as allowed by applicable law, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and other appurtenances from the Public Ways and other City-owned places and shall restore the areas to their original condition. If such removal is not complete within six (6)

months following such expiration or earlier termination, the Issuing Authority may deem any property not removed as having been abandoned and may dispose of, and/or utilize, any such property in any way or manner it deems appropriate. Any reasonable costs incurred by the City resulting from the removal, disposal and site restoration pursuant to this Section shall be paid to the City by the Licensee within thirty (30) days of written request. The provisions of this Section are subject to the rights the Licensee may have applicable law (including the Cable Act) and this Renewal License to renew this Renewal License.

## **SECTION 2.8--- TRANSFER OF THE RENEWAL LICENSE**

(a) Subject to applicable law, neither this Renewal License, nor control thereof, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any Person holding such Renewal License to any other Person, 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 prescribed by the Cable Division and/or the FCC. The application for consent to a transfer or assignment 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. No consent shall be required for a transfer to an Affiliate for which the Issuing Authority has a reasonable basis, based on the totality of facts and circumstances, including any correspondence or information the Licensee chooses to provide, to conclude that the Affiliate has the financial, management, technical and legal qualifications to operate a cable system under the existing Renewal License.

(b) Pursuant to 207 CMR 4.04, as it may be amended, and applicable federal law, in considering a request to transfer control of this Renewal License, the Issuing Authority shall consider such factors as the transferee's financial, management, technical and legal qualifications and may consider any and all other criteria allowable under law.

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

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

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

Any successor licensee approved by the Issuing Authority shall be subject to all of the terms and conditions contained in this Renewal License.

#### **SECTION 2.9--- EFFECT OF UNAUTHORIZED TRANSFER ACTION**

(a) Any transfer of the Cable System without the Licensee and the transferee complying with Section 2.8 above shall be deemed a material breach of this Renewal License.

(b) If the Issuing Authority denies its consent to any such action and a transfer has nevertheless been effected, the Issuing Authority may revoke and terminate this Renewal License consistent with the procedures of Sections 11.1 and 11.3 of this 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 City.

## **ARTICLE 3**

### **SYSTEM DESIGN**

#### **SECTION 3.1--- SUBSCRIBER NETWORK**

(a) The Licensee shall make available to all Subscribers in the City an 860 MHz Subscriber Network fed by means of a hybrid fiber-optic/coaxial cable network. The Cable System shall be capable of providing at least one hundred ten (110) video channels in the downstream direction.

(b) The Licensee shall transmit all of its signals to Subscribers in stereo, provided that such signals are delivered to the Licensee in stereo.

#### **SECTION 3.2--- STAND-BY POWER**

The Licensee shall maintain three (3) hour, standby power at the Headend Facility and critical node facilities. Such stand-by power at the Headend shall have continuous capability, contingent upon availability of fuel necessary to operate generators, shall become activated automatically upon the failure of normal power supply.

#### **SECTION 3.3--- EMERGENCY ALERT SYSTEM**

The Licensee shall comply with the Emergency Alert System in accordance with the requirements of applicable federal and State law, including the FCC's Emergency Alert System ("EAS") regulations at 47 C.F.R., Part 11.

The Licensee shall cooperate with the Issuing Authority with respect to the Emergency Alert System as required by applicable Federal and state laws and regulations.

#### **SECTION 3.4--- PARENTAL CONTROL CAPACITY**

Subject to applicable regulation(s), the Licensee shall provide Subscribers, upon request, with the capacity to control the reception of any channels being received on their television sets.

#### **SECTION 3.5--- SIGNAL QUALITY**

The system design and operation of the Cable Television System shall conform to all applicable FCC technical specifications. At all times throughout the Renewal License, the Licensee shall meet all applicable FCC technical standards.



## **ARTICLE 4**

### **LOCATION, CONSTRUCTION, INSTALLATION, LINE EXTENSION**

#### **SECTION 4.1---SERVICE AREA**

The service area shall be the entire City of North Adams and Cable Service shall be available to all residential dwelling units in City, subject to Sections 4.2 below. With respect to areas not built as of the Effective Date of this Renewal License, the Cable Television System shall be extended upon request, at the Licensee's sole cost and expense, from existing cable plant to any and all areas of the City containing twenty (20) dwelling units per mile of cable plant (regardless of whether the distribution plant is aerial or underground) (Being prorated for distances less than or greater than a mile.) (Hereinafter all references in this Renewal License to "twenty (20) dwelling units per mile of cable plant" as described herein shall be referred to without the above reference to its applicability to both aerial and/or underground plant and without reference to being prorated for distances less than or greater than a mile, but shall be mean the same as if such wording were specifically repeated therein.) Said service shall be made available and fully activated to requesting Subscribers no later than sixty (60) days after the Licensee's receipt of permission to attach cable to poles. The Licensee shall make a timely request and application to the pole owner for such attachment rights.

#### **SECTION 4.2---LINE EXTENSION**

(a) Subject to the provisions of the following paragraphs (b), (c), (d) and (e), any potential Subscriber located in an area of the City without Cable Service, may request Cable Service from the Licensee. The Licensee shall extend Cable Service to such area promptly, but in no case later than sixty (60) days after all necessary permits are obtained. The Licensee shall expeditiously seek all necessary permits.

(b) The Cable Television System shall be extended automatically, at the Licensee's sole cost and expense, from existing cable plant to any and all areas of the City containing twenty (20) dwelling units per mile of cable plant thereof. Said Cable Service shall be made available and fully activated to requesting Subscribers no later than sixty (60) days after the Licensee's receipt of permission to attach cable to poles. The Licensee shall make a timely request and application to the pole owner for such attachment rights.

(c) Any potential residential Subscriber located in an area of the City without Cable Service may request such service from the Licensee. In areas meeting the requirements of Section 4.2(b) above, the Licensee shall extend Cable Service to the area promptly, but in no case later than sixty (60) days after the Licensee's receipt of permission to attach cable to poles. The Licensee shall expeditiously seek all necessary permits. In those areas with

less than twenty (20) residences per aerial and/or underground mile of cable plant (all being pro-rated for distances less than or greater than a mile), the Licensee shall, within thirty (30) days following a request for service, conduct a survey to determine the number of homes in the immediate area and shall inform each potential Subscriber of the total cost of the extension and the range of possible contributions (see Section 4.2 (c) above) that will be charged. The cost of wiring such areas shall be calculated by taking the cost of extending such service divided by the number of Subscribers in such area minus the costs of extending twenty (20) residences per aerial and/or underground cable mile of cable plant. The resulting cost shall equal the per Subscriber contribution relating to line extension of Cable Service in that particular area of City, or:

$$\frac{C}{LE} - (\text{minus}) \frac{CA}{P} = SC$$

- \* C equals the cost of construction of new plant from the termination of existing cable plant;
- \* CA equals the actual cost of construction per mile in the primary service area;
- \* LE equals the number of dwelling units requesting service in the line extension area;
- \* P equals the twenty (20) (aerial and/or underground) dwelling units per linear mile of plant; and
- \* SC equals the per Subscriber contribution in aid of construction in the line extension area.

The Licensee shall apply for permission to attach cables to poles within fourteen (14) days of receiving the contribution(s) from prospective Subscribers. The Cable System shall be extended to all such roads within sixty (60) days of the Licensee's receipt of permission to attach cables to poles. The Licensee shall make a timely request and application to the pole owner for such attachment rights. Cable Service(s) shall be made available and fully activated to all requesting Subscribers who made a contribution within the same sixty (60) day time period.

#### **SECTION 4.3---STANDARD INSTALLATION**

Installation charges shall be non-discriminatory. Any dwelling unit within two hundred feet (200 ft.) of the Licensee's nearest feeder cable(s) shall be entitled to a standard installation rate. Any installation in excess of two hundred feet (200 ft.) shall be provided upon payment of the Licensee's actual costs, for those portions in excess of two hundred feet (200 ft.). A written itemization shall be provided by the Licensee to those Subscribers who, in accordance with the provisions of this Section, are charged more than the standard installation rate.

#### **SECTION 4.4---LOCATION OF CABLE TELEVISION SYSTEM**

The Licensee shall construct, upgrade, install, operate and maintain the Cable Television System within the City of North Adams. Poles, towers and other obstructions shall be erected so as not to interfere with vehicular or pedestrian traffic over Public Ways

and places. The erection and location of all poles, towers and any other obstructions shall be in accordance with generally applicable City ordinances and regulations.

#### **SECTION 4.5---UNDERGROUND FACILITIES**

Upon receiving due notice of the installation of telephone, electric and all other utility lines underground, the Licensee shall likewise place its facilities underground at its sole cost and expense unless the City pays the expense of placing underground the facilities of the affected telephone, electric or other utility company utilizing the right of way in which case it shall pay such expenses of Licensee. Such payment by the City shall not be required in circumstances when its payment to the telephone, electric or other utility company is mandated by state or federal statute or regulation. Underground cable lines shall be placed according to any Public Works or other City ordinance or regulation and in accordance with applicable state law. It is the policy of the City that underground installation is preferable to the placement of additional poles, provided that said underground placement is required of other utilities. When possible, Licensee shall use the underground conduit maintained by the City provide that such use: (i) is found by the Mayor or his/her designee to be reasonable and at the sole cost and expense of the Licensee; and (ii) does not interfere with the City's use or anticipated use of said conduit(s). Any such use by the Licensee shall be subject to the advanced notification and approval of the City and the right of the City to supervise any such use. Licensee shall maintain membership and participate in the Massachusetts "DIG-SAFE" program.

#### **SECTION 4.6---TREE TRIMMING**

In the installation of amplifiers, poles, other appliances or equipment and in stringing of cables authorized herein, the Licensee shall avoid all unnecessary damage and/or injury to any and all shade trees in and along the streets, alleys, public ways and places, and private property in the City. The Licensee shall comply with all generally applicable rules established by the Issuing Authority or its designee. The Licensee shall be subject to M.G.L. Chapter 87 and shall comply with all rules established by the Issuing Authority and/or its designee(s) during the term of the Renewal License. All tree and/or root trimming and/or pruning provided for herewith shall be done pursuant to appropriate generally applicable regulations of the City.

#### **SECTION 4.7---RESTORATION TO PRIOR CONDITION**

Whenever the Licensee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon 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 4.8---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 City. The expense of such raising or lowering shall be paid in accordance with applicable Federal or State law or regulation, and if there is no such applicable law or regulation by the Person making the request shall be responsible for said expense. However, in no event shall the City be responsible for any such costs. If requested in writing by the person making the request for such temporary relocation, the Licensee shall timely provide a reasonably detailed written estimate of the cost for said temporary relocation. The Licensee shall be given reasonable notice necessary to maintain continuity of Cable Service.

#### **SECTION 4.9---DISCONNECTION AND RELOCATION**

The Licensee shall, without charge to the Issuing Authority and/or the City, 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 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 City department acting in a governmental capacity.

#### **SECTION 4.10---SAFETY STANDARDS**

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

(b) Any contractor or subcontractor used for work or construction, installation, operation, maintenance or repair of the Cable System must be properly licensed, and each contractor or subcontractor shall have the same obligations with respect to the work as the Licensee would have if the work were performed by the Licensee. The Licensee shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with the requirements of this Renewal License and applicable laws and regulations. The Licensee shall be responsible for the acts and omissions of its contractors and subcontractors, including responsibility for promptly correcting such work.

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

#### **SECTION 4.11---PEDESTALS**

In any cases in which Pedestals housing active and passive devices are to be utilized in Public Ways or within the public lay-out, such equipment must be installed in accordance with generally applicable City by-laws, rules and regulations. All such Pedestals shall be shown on the construction maps submitted to the City in accordance with this Renewal License. All such equipment shall be shown on the strand maps, submitted to the City in

accordance with Section 4.14 below. In the event that the Licensee is no longer using any such Pedestal(s) for the provision of Cable Service, the Licensee shall expeditiously remove any such Pedestals from the Public Way(s) or place(s) and restore such Public Way(s) or place(s) to their pre-existing condition.

#### **SECTION 4.12---PRIVATE PROPERTY**

The Licensee shall be subject to all generally applicable laws, ordinances and/or regulations regarding private property in the course of constructing, installing, operating and maintaining the Cable Television System in the City. The Licensee shall promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, installation, operation, maintenance or removal of the Cable System without charge to the Issuing Authority or affected Subscriber(s).

#### **SECTION 4.13---INSPECTION**

Upon written notice to the Licensee, which written notice shall not be required in the case of an emergency, the Issuing Authority and/or its designee(s) shall have the right to inspect the plant, equipment or other property of the Licensee in the Public Way of the City during normal business hours or in case of an emergency at any necessary time. The Licensee may be present, and shall fully cooperate with the Issuing Authority, during such inspection(s).

#### **SECTION 4.14---STRAND MAPS**

Upon written request, the Licensee shall file with the Issuing Authority strand map(s) showing the location of all Cable System plants in, along, across, over, through, above and under the Public Ways. Strand maps shall also be provided electronically in a non-proprietary source format commonly used in the industry. If changes are made in the Cable System on the Public Way, the Licensee shall file updated maps, including in electronic format as required herein, within thirty (30) days of said changes.

#### **SECTION 4.15---SERVICE INTERRUPTION**

Except where there exists an emergency situation necessitating a more expeditious procedure, the Licensee may interrupt Cable Service for the purpose of repairing or testing the Cable Television System only during periods of minimal use and in accordance with any applicable laws and regulations.

#### **SECTION 4.16---SERVICE OUTAGE NOTIFICATION**

The Licensee shall, upon written request by the Issuing Authority or the Cable Advisory Committee, provide a written explanation of any service outages in the City.

#### **SECTION 4.17---RELOCATION OF FIRE ALARMS**

The Licensee shall not relocate any fire alarm cable or equipment except with the consent and approval of the Fire Chief or his designee. Any transfer of fire alarm cables or

equipment shall be performed by the Fire Department or its designee. The Licensee shall reimburse the City for any reasonable expenses, including materials and labor caused by the relocation of any fire alarm cable or equipment to make poles ready for the Licensee's cable.

#### **SECTION 4.18---EMERGENCY REMOVAL OF PLANT**

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

#### **SECTION 4.19---REMOVAL AND RELOCATION**

The Issuing Authority shall have the authority 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 authority to remove or relocate the same, which cost the Licensee shall reimburse to the City.

## **ARTICLE 5**

### **SERVICES AND PROGRAMMING**

#### **SECTION 5.1---BASIC SERVICE**

The Licensee shall provide a Basic Service as required by applicable law and regulations which shall include at least: (1) all broadcast television signals in the North Adams, Massachusetts area which are required to be carried by a Cable Television System serving the City pursuant to statute or regulation; and (2) the PEG Access Channels for public, educational and governmental access use as required by Section 6.2 of this Renewal License.

#### **SECTION 5.2---PROGRAMMING**

(a) Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the discretion of Licensee.

(b) Licensee shall comply with 76.1603(c)(3)(i)(b) of the FCC Rules and Regulations as well as 207 CMR 10.02 of the Massachusetts Cable Television Division Rules and Regulations regarding notice of programming changes.

#### **SECTION 5.3---STEREO TV TRANSMISSIONS**

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

#### **SECTION 5.4---LEASED CHANNELS FOR COMMERCIAL USE**

(a) Pursuant to 47 U.S.C. 532 (Section 612 of the Cable Act), Licensee shall make available channel capacity for commercial use by Persons unaffiliated with Licensee. Rates for use of commercial access channels shall be established in accordance with federal law.

(b) The Licensee shall upon ninety (90) days written notice by the Issuing Authority, lease a leased access channel to the City and/or the Access Corporation for an arts, culture and events channel and related programming at a nominal annual consideration of One Dollar (\$1.00) per year.

## **SECTION 5.5---CENSORSHIP**

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

## **SECTION 5.6---CONTINUITY OF SERVICE**

It shall be the right of all Subscribers to receive service insofar as their financial and other obligations to the Licensee are honored. The Licensee shall ensure that all Subscribers receive continuous, uninterrupted service, except for necessary service interruptions. When necessary service interruptions can be anticipated, the Licensee shall notify Subscribers in advance if practical.

## **SECTION 5.7---FREE CONNECTIONS AND MONTHLY SERVICE TO PUBLIC BUILDINGS AND SCHOOLS**

(a) The Licensee shall continue to provide a Drop and Outlet and the monthly Basic Service and Expanded Basic Service, without charge, to municipal and public school buildings listed in Exhibit 5.7. Upon the written request of the Issuing Authority, the Licensee shall provide a Drop and Outlet to any other public schools, police and fire stations, public libraries and other municipal buildings along the Cable System route. The Licensee shall discuss the location of each connection with the proper officials of each of the buildings entitled to such free Drop and Outlet. If required to obtain and view said Cable Service, the Licensee shall, at no cost to the City and/or the affected public building or school, supply one converter or such other appropriate equipment ("Converter") per public building/school as needed. The Licensee shall maintain, and replace as needed, the converters for normal wear and tear, however the City shall be responsible for repairs and replacement necessitated by acts of vandalism or negligence.

(b) Upon request, the Licensee shall provide the City, at cost, with cable and/or equipment in order that the City can install its own additional Drops and/or Outlets in buildings where cable service is installed pursuant to Section 5.7(a). The Licensee shall also provide technical advice regarding such installation, at no charge to the City.

## **SECTION 5.8---COMMERCIAL ESTABLISHMENTS**

The Licensee shall make available its Cable Service(s) to any commercial establishments in the City along its cable routes; provided, however, that in the event that there are any exceptional costs, such as excessive undergrounding or distance from existing Cable System plant in excess of two hundred feet (200'), associated with providing such Cable Service, the parties are able to reach a reasonable agreement regarding the terms and costs of initial installation and that the Licensee has reasonable access to conduits, poles and/or other appropriate facilities in order to serve such commercial establishments.



## **ARTICLE 6**

### **PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS, ANNUAL SUPPORT AND CAPITAL FUNDING**

#### **SECTION 6.1---PEG ACCESS CHANNELS**

(a) The Licensee shall continue to make available to the City and/or the Access Corporation three (3) channels for PEG Access purposes. The Access Channels shall be subject to the control and management of the City, other local governments served by the the Access Corporation. Said PEG Access Channels shall be included in the Licensee's Basic Service to the extent the Basic Service tier is required by applicable law or regulations or otherwise provided by the Licensee, but nevertheless, may be placed on an additional or different tier upon mutual written agreement by the Issuing Authority and the Licensee.

(b) The Licensee shall not move or otherwise relocate the channel locations of the three (3) PEG Access Channels without thirty (30) days advance, written notice to the Issuing Authority and the Access Corporation. In the event that the Licensee does relocate a PEG Access Channel, the Licensee shall reimburse the Access Corporation for its for reasonable expenses incurred as a result of said relocation, not to exceed Two Thousand Dollars (\$2,000). In addition, the Licensee shall, if needed, provide, at Licensee's cost, any additional equipment needed to transmit the programming as a result of the channel relocation.

(c) The PEG Access Channels shall be provided on the Basic Cable Service tier to the extent said tier is required pursuant to applicable law or regulations or is otherwise provided by the Licensee. In addition, the PEG Access channels, whether analog or digital shall be cablecast without scrambling or its equivalent as long any other cable channel on the Licensee's Cable System in the City is unscrambled.

(d) Except as provided by applicable law, there shall be no charges to the Issuing Authority, its designees, the City, the Access Corporation and/or Subscribers for use of said PEG Access Channels.

#### **SECTION 6.2---PEG ACCESS CABLECASTING**

(a) During the period beginning on the Effective Date of this Renewal License until the Access Corporation's new Access facility/studio ("PEG Access Studio") becomes operational (the "Transition Date"), the Licensee shall continue to return PEG Access Program on a live basis by means of the upstream capacity over its Cable System from all existing PEG Access Origination sites. At the Headend, said PEG Access Programming

shall be retransmitted on the appropriate Downstream PEG Access Channel(s) by the Licensee. The Transition Date shall be on or before June 30, 2015.

(b) By the Transition Date, the Licensee shall install fiber between each of the PEG Access Origination Sites listed in Exhibit 6.2A and the new PEG Access Studio to be located at 69 Union Street, North Adams, for the further transmission of PEG Access Programming to Subscribers as set out in this Section 6.2. The Issuing Authority or the Access Corporation shall provide a minimum forty-five (45) days written notice to the Licensee of the anticipated Transition Date.

(c) On and after the Transition Date, the Licensee shall provide the facilities and technology as it determines, subject to the requirements of Section 6.2(f) below, for the transmission of PEG Access Programming from the PEG Access Origination Sites listed in Exhibit 6.2B to the new PEG Access Studio located at 69 Union Street, North Adams for the further transmission of PEG Access Programming to Subscribers as set out in this Section 6.2.

(d) By the Transition Date, the Licensee shall install, and thereafter during the term of this Renewal License operate, maintain and repair, a dedicated pathway between the PEG Access Studio located at 69 Union Street and the Headend by means of a point to point fiber optic link, to allow for transmission of all three (3) PEG Access Channels from the PEG Access Studio to the Headend for cablecasting by the Licensee to Subscribers. The Access Corporation, and not the Licensee, shall be responsible for repairing and/or replacing the optical and/or processing equipment in the PEG Access Studio damaged by the negligence or intentional act of the Access Corporation or by someone for whom it is responsible for. At the Headend, said PEG Access Programming shall be retransmitted on the appropriate Downstream PEG Access Channel(s) by the Licensee.

(e) The Licensee shall provide, operate, maintain and repair the PEG Access origination sites and video return equipment and responsibilities, including transmission, without charge to the City or Access Corporation.

(f) The Licensee shall monitor the PEG Access Channels for signal quality and maintain said Channels standards and PEG Access cablecasting commensurate with those which apply to other Cable System channels, provided, however, that the Issuing Authority hereby acknowledges that the Licensee is not responsible for the technical quality of the actual PEG Access programming.

(g) The Licensee and the Issuing Authority shall negotiate in good faith any difficulties that arise regarding the cablecasting of PEG Access programming.

### **SECTION 6.3---ANNUAL SUPPORT FOR ACCESS CORPORATION**

The Licensee shall provide an annual payment to the Access Corporation for PEG Access purposes, equal to four percent (4%) of the Licensee's Gross Annual Revenues. Said annual payments shall be used for salary, operating and other related expenses connected with PEG Access programming and operations.

Said annual four percent (4%) PEG Access payment shall be made to the Access Corporation on a quarterly basis, as follows:

<u>Due Date</u>	<u>Quarter</u>
February 28 <sup>th</sup>	October 1 <sup>st</sup> – December 31 <sup>st</sup>
May 31 <sup>st</sup>	January 1 <sup>st</sup> – March 30 <sup>th</sup>
August 31 <sup>st</sup>	April 1 <sup>st</sup> – June 30 <sup>th</sup>
November 30 <sup>th</sup>	July 1 <sup>st</sup> – September 30 <sup>th</sup>

(c) The Licensee shall file with each such payment a statement signed by the Licensee's financial representative listing the categories and associated revenues comprising the total of all Gross Annual Revenues of the Licensee during the preceding payment period.

(d) In no case shall said four percent (4%) payment include (nor shall any deduction be made for) any of the following: (i) the PEG Access Capital Funding required by Section 6.5; (ii) the Municipal Access and Technology Fund required by Section 6.10; (iii) the License Fee payment, required by Section 7.1; (iii) the FCC Fee; (iv) an assessment made pursuant to M.G.L. c.25C, Section 7; and/or (v) any other fees or payments required by applicable law.

(e) Licensee shall notify the Issuing Authority if Licensee knows that, any Person, including a Leased Access User is charging Subscribers for any cable service distributed over the Cable System and the payments by subscribers are not received by the Licensee.

#### **SECTION 6.4---PEG ACCESS CAPITAL FUNDING**

(a) Subject to the approval of franchise renewal agreements containing this same obligation in the Towns of Adams, Cheshire and Clarksburg, within ninety (90) days of the Effective Date of this Renewal License, the Licensee shall make a total payment of Two Hundred Forty-Eight Thousand Dollars (\$248,000) to the Access Corporation for PEG Access equipment and capital facilities uses on behalf of the Issuing Authorities of the City of North Adams and the Towns of Adams, Cheshire and Clarksburg.

(b) In no case shall said annual PEG Access capital funding provided for in Section 6.5(a) above be included in, and/or be a part of: (i) the Annual Support for the Access Corporation required by Section 6.4, (ii) the Municipal Access and Technology Fund required by Section 6.8; or (iii) the License Fee payment, required by Section 7.1 and Chapter 166A of the General Laws of the Commonwealth of Massachusetts; and/or (iv) any other fees or payments required by applicable law.

(c) The Access Corporation shall own and maintain all PEG Access equipment and facilities purchased with funding pursuant to Section 6.5 above.

(d) Upon request, the Issuing Authority shall provide the License with information regarding the expenditure of the funds provided hereunder.

## **SECTION 6.5---NO EDITORIAL CONTROL**

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

## **SECTION 6.6---UNDERWRITING**

Consistent with the current underwriting standards for non-commercial stations, such as the member stations of the Public Broadcasting Stations (PBS), notice of support and underwriting shall be permitted on the Access Channels, including periodic acknowledgment of the Licensee's support of the same.

## **SECTION 6.7---PEG ACCESS PROGRAMMING COSTS**

There shall be no charges to the Issuing Authority, its designee(s), the Access Corporation, and/or PEG Access Users for use of the PEG Access facilities and/or services required in this Article 6. Charges and/or costs to Subscribers shall comply with Section 8.5 below.

## **SECTION 6.8---MUNICIPAL ACCESS AND TECHNOLOGY FUND**

The Licensee shall provide annual payments to the Issuing Authority equal to one percent (1%) of Gross Annual Revenues which may be used, at the discretion of the Issuing Authority for Government and Educational Access; telecommunications services; and equipment which support Government and Educational Access, including institutional network substitutes and related technology needs, including end-user equipment and services. Said one percent (1%) payment shall be made to the City on a quarterly basis, as follows:

<u>Due Date</u>	<u>Quarter</u>
February 28 <sup>th</sup>	October 1 <sup>st</sup> – December 31 <sup>st</sup>
May 31 <sup>st</sup>	January 1 <sup>st</sup> – March 30 <sup>th</sup>
August 31 <sup>st</sup>	April 1 <sup>st</sup> – June 30 <sup>th</sup>
November 30 <sup>th</sup>	July 1 <sup>st</sup> – September 30 <sup>th</sup>

(c) The Licensee shall file with each such payment a statement signed by the Licensee's financial representative listing categories and associated revenues comprising the Gross Annual Revenues of the Licensee during the preceding payment period.

(d) In no case shall said one percent (1%) payment include (nor shall any deduction be made for) any of the following: (i) the PEG Access Capital Funding required by Section 6.5; (ii) Annual Support For Access Corporation required by Section 6.3; (iii) the FCC Fee (unless and until a court of competent and applicable jurisdiction determines that the FCC fee is a Franchise Fee as defined in Section 622(g) of the Cable Act, as amended); (iv) an assessment made pursuant to M.G.L. c.25C, Section 7, (unless and until a court of competent and applicable jurisdiction determines that such assessment FCC fee is a

Franchise Fee as defined in Section 622(g) of the Cable Act, as amended); and/or (v) any other fees or payments required by applicable law.

## **ARTICLE 7**

### **RENEWAL LICENSE FEES AND OTHER PAYMENT REQUIREMENTS**

#### **SECTION 7.1---LICENSE FEE PAYMENTS**

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

(b) In the event that applicable law changes so that the City can collect a License Fee in the future expressed as a percentage, the Licensee shall, upon written notification by the Issuing Authority of such, immediately commence paying such a percentage License Fee to the City in accordance with applicable law and based on Gross Annual Revenues and file with the Issuing Authority, with each such percentage License Fee payment, a statement certified by the Licensee's regional financial representative documenting, in reasonable detail, the total of all Gross Annual Revenues as defined in the Renewal License derived during the previous year. Unless specified otherwise by applicable law, the Licensee shall make such Gross Annual Revenue percentage payments to the City annually, on or before March 15th of each year.

(c) The Licensee shall not be liable for a total Franchise Fee pursuant to this Renewal License and applicable law in excess of five percent (5%) of its Gross Annual Revenues; provided, however, that said five percent (5%) shall include: (i) the PEG Access Annual Funding pursuant to this Renewal License; (ii) the Municipal Access and Technology fund pursuant to this Renewal License and (iii) the License Fee that is payable to the City and to the State pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts, provided, however, that said five percent (5%) shall not include the following: (a) the PEG Access Capital funding pursuant to this Renewal License; (b) the existing PEG Access/Community Programming equipment; (c) any interest due to the City because of late payments to the Issuing Authority or its designee(s); (d) any payment excluded from the definition of the term "franchise fee" pursuant to Sections 622(g)(2) of the Cable Act; (e) the FCC regulatory fee, unless and until said FCC regulatory fee is determined to be a Franchise Fee by the FCC or a court of competent jurisdiction for the City; and the regulatory assessment (referred to as the "Special Assessment" by the Licensee), unless said assessment is determined to be a Franchise Fee by a court of competent jurisdiction for the City.

## **SECTION 7.2---OTHER PAYMENT OBLIGATIONS AND EXCLUSIONS**

(a) To the extent consistent with applicable law, the payments made by the Licensee pursuant to Article VI of this Renewal License ("Article VI payments") and the License Fee payments pursuant to Section 7.1 above, shall be in addition to and shall not constitute an offset or credit against any and all taxes, assessments (including, but not limited to any assessment imposed by the Department of Telecommunications and Cable pursuant to M.G.L. c.166A, sec. 2) or other fees or charges of general applicability which Licensee or any Affiliated Person shall be required to pay to the City, or to any state or federal agency or authority as required herein or by law (including the FCC Fee, unless and until a court of competent and applicable jurisdiction determines that the FCC fee is a Franchise Fee as defined in Section 622(g) of the Cable Act, as amended, and including an assessment by the Department of Telecommunications and Cable, pursuant to M.G.L. c.25C, sec. 7). The payment of said taxes, assessments (including, but not limited to any assessment imposed by the Department of Telecommunications and Cable, including pursuant to M.G.L. c.25C, sec. 7), fees or charges shall not constitute a credit or offset against the Article VI payments or License Fee payments, which shall be a separate and distinct obligation of the Licensee and each Affiliated Person.

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

## **SECTION 7.3---LATE PAYMENT**

In the event that any payment or fee required of the Licensee pursuant to this Renewal License or applicable law is not tendered on or before the date fixed in this Renewal License or applicable law, interest due on such fee shall accrue from the date due at the rate of two percent (2%) above the Prime Rate. Any payments to the City pursuant to this Section 7.3 shall not be deemed to be part of the Franchise Fees to be paid to the City pursuant to Section 7.1 hereof and shall be within the exclusion to the term "franchise fee" for requirements incidental to enforcing the franchise pursuant to Section 622(g)(2)(D) of the Cable Act.

## **SECTION 7.4---RECOMPUTATION**

Tender or acceptance of any payment, including an interest payment, shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the City may have for additional sums including interest payable under this Renewal License. If, after audit and recomputation, an additional fee is owed to the City, such fee shall be paid within thirty (30) days after such audit and recomputation. If the Issuing Authority has reason to believe that any such

payment(s) are incorrect, the Licensee shall have thirty (30) days after a request from the Issuing Authority to provide the City with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Issuing Authority does not believe that such documentation supports the accuracy of such payment(s), the Issuing Authority may conduct an audit of such payment(s). If, after such audit and recomputation, an additional fee or payment is owed to the City or Access Corporation, such fee shall be paid within thirty (30) days after such audit and recomputation. If the discrepancy is more than ten percent (10%) or Five Thousand Dollars (\$5,000), whichever is greater, the Licensee shall pay the entire cost of the audit, but in no event more than the amount determined by such audit to be due and payable. The interest on such additional fee shall be charged from the due date at two percent (2%) above the Prime Rate during the period that such additional amount is owed.

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

Use of the Cable System by Affiliates shall be in compliance with applicable state and/or federal laws, and shall not detract from the provisions of this Renewal License or the consideration (including, but not limited to financial payments) provided to the City and/or its designee(s) pursuant to this Renewal License. All provisions of this Renewal License shall apply to Affiliates of the Licensee to the extent such Affiliate is engaged in the operation of the Cable System.

#### **SECTION 7.6---METHOD OF PAYMENT**

All payments by the Licensee to the Issuing Authority pursuant to this Article 7 shall be made payable to the City.



## **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 applicable federal law.

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

(a) The Licensee shall file with the Issuing Authority schedules which shall describe all Cable services offered by the Licensee, all rates and charges of any kind, and all terms or conditions relating thereto. The Licensee shall notify all Subscribers and the Issuing Authority of any impending rate increases no later than thirty (30) days prior to such increase and provide each Subscriber with a schedule describing existing and proposed rates for each service offered; provided, however, that this Section 8.2 shall not prohibit the Licensee from offering or discontinuing promotional discounts upon less than thirty (30) days notice.

(b) 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 downgrade or termination charge. Change of service policies shall be in compliance with 207 CMR 10.00 et seq.

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

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

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

In the event that the Licensee's Cable Service to any Subscriber is interrupted for twenty-four (24) or more consecutive hours, provided that said interruption is not caused by the Subscriber, the Licensee shall grant such Subscriber a pro rata credit or rebate upon request (however, no request by a Subscriber shall be required if this License requirement for such a request is in conflict with applicable law or regulations).

## **SECTION 8.5---FRANCHISE RELATED COSTS-- EXTERNALIZING, LINE ITEMS AND PASS-THROUGH**

The Licensee reserves its rights under federal law and FCC rules and regulations to pass through and itemize certain external costs of franchise requirements, in accordance with said law, rules and regulations. If requested to do so by the Issuing Authority, the Licensee shall provide a detailed written explanation of any such costs, in sufficient detail to enable the Issuing Authority to understand the costs and how they have been allocated, passed-through, line-itemed or otherwise incorporated in charges to Subscribers. Unless agreed to otherwise, the Licensing Authority shall provide said written explanation of costs to the Issuing Authority, in writing, within thirty (30) days of a written request to do so by the Issuing Authority.

## **ARTICLE 9**

### **INSURANCE AND BONDS**

#### **SECTION 9.1---INSURANCE**

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

(a) A general comprehensive liability policy naming the City, its officers, boards, commissions, committees, agents and employees as additional insureds on all claims on account of injury to or death of a person or persons occasioned by the construction, installation, maintenance or operation of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000.00).

(b) A property damage insurance policy naming the City, its officers, boards, commissions, committees, agent and employees as additional insureds and save them harmless from any and all claims of property damage, real or personal, occasioned or alleged to have been so occasioned by the construction, installation, maintenance or operation of the Cable Television System, with a minimum liability of One Million Dollars (\$1,000,000).

(c) Automobile liability insurance for owned automobiles and trucks, non-owned automobiles and trucks and/or rented automobiles and trucks rented by Licensee in the minimum amount of: One Million Dollars (\$1,000,000) per occurrence.

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

(e) The Licensee shall carry excess liability in the minimum amount of Five Million Dollars (\$5,000,000) in umbrella form over all other insurance required by this Section 9.1.

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

(i) Such insurance shall commence no later than the Effective Date of the Renewal License. All liability insurance shall be written on an "occurrence basis".

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

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

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

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

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

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

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

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

(x) The Licensee shall provide a certificate of insurance to the Issuing Authority which Certificate shall contain, at a minimum, a requirement of not less than thirty (30) days notice prior to any cancellation or reduction in the coverage amount(s). A new certificate of insurance shall be provided by the Licensee to the Issuing Authority prior to the effective date of any renewal, new or additional insurance.

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## **SECTION 9.2---PERFORMANCE BOND**

(a) The Licensee shall maintain, without charge to the City, a faithful performance bond running to the City, with good and sufficient surety licensed to do business in the Commonwealth in the sum of Fifty Thousand Dollars (\$50,000). Said bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by this Renewal License.

(b) The performance bond shall be effective throughout the term of the Renewal License, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that the Licensee shall fail to comply with any one or more provisions of the Renewal License, or to comply with any order, permit or direction of any department, agency, commission, board, division or office of the City having jurisdiction over its acts, or to pay any claims, liens or taxes due the City which arise by reason of the construction, maintenance, operation or removal of the Cable Television System, the City shall recover from the surety of such bond all damages suffered by the City as a result thereof, pursuant to the provisions of Section 11.1(e)(iv) below.

(c) The performance bond shall be a continuing obligation of this Renewal License. In the event that the City recovers from the surety, the Licensee shall take immediate steps to reinstate the performance bond to the appropriate amount required herein. Neither this Section, any bond accepted pursuant thereto, or any damages recovered thereunder shall limit the liability of the Licensee under the Renewal License.

### **SECTION 9.3--NOTICE OF CANCELLATION OR REDUCTION OF COVERAGE**

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

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

### **SECTION 9.4---INDEMNIFICATION**

The Licensee shall, at its sole cost and expense, indemnify, hold harmless, and faithfully defend (if requested by the Issuing Authority) the City, its officials, boards, commissions, committees, agents and/or employees against all claims, suits, causes of action, proceedings, judgment, damages, liabilities, costs and expenses, whether arising in law or in equity, to the extent arising out of or relating to: (i) this Renewal License, (ii) the construction, installation, operation, maintenance or removal of the Cable System by the Licensee, its officers, employees or agents, or (iii) the acts or omissions of the Licensee or its officers, employees or agents, including by way of example, but not limitation, damages, injuries (personal or otherwise) or death to any persons or damage to real or personal property. Indemnified expenses shall include, without limitation, all out-of-pocket expenses, such as attorneys' fees, including the reasonable value of any services rendered by the City Attorney. The City shall give the Licensee timely written notice of any claim(s) for which indemnification is sought.

## **ARTICLE 10**

### **ADMINISTRATION AND REGULATION**

#### **SECTION 10.1---REGULATORY AUTHORITY**

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

#### **SECTION 10.2---PERFORMANCE EVALUATION HEARINGS**

(a) The Issuing Authority may hold a performance evaluation hearing every year of this Renewal License. The Licensee shall be provided at least twenty-one (21) days written notice of any such hearing. All such evaluation hearings shall be open to the public. The purpose of said evaluation hearing shall be to, among other things, (i) review the Licensee's compliance with the terms and conditions of this Renewal License, with emphasis on the Subscriber Network operation, customer service and Complaint response, and PEG Access Channels, facilities and support; (ii) review current technological developments in the cable television field; and (iii) hear comments, suggestions and/or Complaints from the public.

(b) The Issuing Authority shall have the right to question the Licensee on any aspect concerning Licensee's performance under the terms of this Renewal License. During review and evaluation by the Issuing Authority, the Licensee shall cooperate fully with the Issuing Authority and/or its designee(s), and produce such documents or other materials as are reasonably requested from the City, pursuant to Section 12.1 below. 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) If inadequacies are found which result in a violation of any of the provisions of this Renewal License, the Issuing Authority shall notify the Licensee in writing of any instance of non-compliance pursuant to Section 11.1 below. The Licensee shall subsequently respond and if it agrees that it is non-compliant propose a plan for implementing any changes or improvements necessary or, if it believes it is in compliance, submit a written explanation of such contention. The Issuing Authority may also issue a written report with respect to the adequacy of Cable System performance and quality of service. (See Section 11.1 below for provision regarding determination of breach.)

(d) Nothing in this Section 10.2 shall prohibit or limit any right of the City or its Issuing Authority to request the attendance of the Licensee before a hearing or meeting or to compel its attendance if so authorized by applicable law.

### **SECTION 10.3—CABLE UPDATE**

If requested by the Issuing Authority, the Licensee shall, no more than once each year, have the Licensee's Area Director of Government Affairs or such other individual of equal or greater authority provide an informal update regarding the Cable System and Cable Services to the Issuing Authority (or the Issuing Authority's designee) at a public meeting. This update shall be in addition to the performance evaluation hearings referenced in Section 10.2 above.

### **SECTION 10.4---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 City, sex, sexual preference, disability, age, marital status, or status with regard to public assistance. The Licensee shall be subject to all other requirements of federal and State laws or regulations, relating to nondiscrimination through the term of the Renewal License.

### **SECTION 10.5---JURISDICTION**

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

## **ARTICLE 11**

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

#### **SECTION 11.1---DETERMINATION OF BREACH**

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

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

(c) 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 (or such longer intervals as agreed to by the parties) as to the Licensee's efforts, indicating the steps taken by the Licensee to cure any such default and reporting the Licensee's progress until any such default is cured.

(d) In the event that (i) the Licensee fails to respond to such notice of default; (ii) the Licensee fails to cure the default or to take reasonable steps to cure the default within the required period; and/or (iii) the Issuing Authority is not satisfied with the Licensee's response(s) or lack thereof or the Licensee's efforts to cure, the Issuing Authority may promptly schedule a public hearing no sooner than twenty-one (21) 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. 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 this Renewal License.

(e) In the event that the Issuing Authority, after such hearings, determines that the Licensee is in default, the Issuing Authority may determine to pursue any of the following remedies:

(i) seek compensation for damages suffered;



- (ii) seek specific performance of any provision of the Renewal License which reasonably lends itself to such remedy as an alternative to damages;
- (iii) commence an action at law for monetary damages;
- (iv) foreclose on all or any appropriate part of the security provided pursuant to Section 9.2 herein;
- (v) declare the Renewal License to be revoked subject to Section 11.3 below and applicable law;
- (vi) invoke any other remedy available to the City.

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

In the event that the Licensee fails to comply with any material provision of this Renewal License, the Issuing Authority may revoke the Renewal License granted herein, subject to the procedures of Section 11.1 above and applicable law.

## **SECTION 11.3---NOTICE TO OTHER PARTY OF LEGAL ACTION**

In the event that either party intends to take legal action against the other party for any reason, such moving party shall, unless there is a threat to the public health or safety, first (i) give the other party at least thirty (30) days notice that an action will be filed, (ii) meet with the other party before it files any such action, and (iii) negotiate the issue, which is the subject of any proposed legal action, in good faith with the other party.

## **SECTION 11.4---NON-EXCLUSIVITY OF REMEDY**

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

## **SECTION 11.5---NO WAIVER-CUMULATIVE REMEDIES**

(a) Subject to Section 626(d) of the Cable Act, no failure on the part of the Issuing Authority to exercise, and no delay in exercising, any right in this Renewal License shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other right, all subject to the conditions and limitations contained in this Renewal License.

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

(c) A waiver of any right or remedy by the Issuing Authority at any one time shall not affect the exercise of such right or remedy or any other right or remedy by the Issuing

Authority at any other time. In order for any waiver of the Issuing Authority to be effective, it shall be in writing. The failure of the Issuing Authority 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 to take any action permitted by this Renewal License at any other time in the event that such breach has not been cured, or with respect to any other breach by the Licensee.

(d) Acceptance of the terms and conditions of this Renewal License will not constitute, or be deemed to constitute, a waiver, either expressly or implied, by the Licensee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions.

## **ARTICLE 12**

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

#### **SECTION 12.1---CUSTOMER SERVICE OFFICE**

The Licensee shall maintain and operate a full service customer service office in the City of North Adams for general purposes, including accepting payments, receiving and resolving customer complaints (including those regarding service, equipment malfunctions, and billing and collection questions and disputes), and the exchange and return of Subscriber equipment. The customer service office shall be open for walk-in customer service business for a minimum of eight (8) hours each day Monday through Friday, except that for a minimum of one day per week, the office shall be open a minimum of two (2) additional evening hours, or on Saturdays it shall be open for a minimum of three (3) hours unless the Issuing Authority and the Licensee mutually agree to a different weekly schedule, including alternative hours.

#### **SECTION 12.2---TELEPHONE ACCESS/E-MAIL ADDRESS**

(a) The Licensee shall comply with the FCC's Customer Service Obligations, at 47 C.F.R. 76.309(c)(1)(A)-(D), and attached hereto as Exhibit 12.4. Under Normal Operating Conditions, as defined, 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.

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

(c) The Licensee shall maintain an e-mail address, to which Subscribers may forward inquiries or complaints which could otherwise be addressed to and by said customer service office. The Licensee shall respond to such e-mails from Subscribers in a responsible and timely manner.

#### **SECTION 12.3---ANSWERING SERVICE**

(a) At all other times that its customer service office is not open and answering Subscriber calls, the Licensee shall maintain, throughout the entire term of this Renewal License, a telephone answering service to handle Subscriber inquiries, Complaints and emergencies, and provide proper referral regarding billing and other subscriber

information. All such after-hours calls shall be logged by the Licensee. Said answering service shall (i) forward all inquiries and/or Complaints to the Licensee the morning of the next business day and (ii) inform each Subscriber calling that his or her Complaint will be referred to the Licensee's customer service department for response. If requested or reasonably warranted by the reported nature of the Subscriber's problem or inquiry, the Licensee shall promptly contact the Subscriber to follow-up on their individual problem or inquiry. The Licensee shall promptly contact each individual Subscriber to follow-up on their individual problem and/or inquiry.

(b) All after-hours telephone calls of an emergency nature shall be acted upon promptly, and one of the Licensee's on-call personnel shall be contacted.

#### **SECTION 12.4---FCC CUSTOMER SERVICE OBLIGATIONS**

The Licensee shall comply with the FCC's Customer Service Obligations, codified at 47 C.F.R. Section 76.309, which standards as currently in effect are attached hereto as Exhibit 12.4 as incorporated herein.

#### **SECTION 12.5---INSTALLATIONS AND SERVICE CALLS**

(a) The Licensee shall provide Cable Service(s) in all areas of the City to those residents whose homes are passed by the Cable System and who have requested Service and have paid a deposit for such service, if required, within fourteen (14) days of said request and deposit.

(b) In arranging appointments for installations and service calls, the Licensee shall comply with the FCC's Customer Service Regulations at 47 C.F.R. 76.309(c)(2), attached hereto as Exhibit 12.5.

(c) The Licensee shall remove all Subscriber Drops, within seven (7) calendar days of receiving a request from a Subscriber to do so.

#### **SECTION 12.6---SUBSCRIBER SOLICITATION PROCEDURES**

Upon request, the Licensee shall inform all prospective Subscribers of the availability of the materials required by 47 C.F.R. 76.309(c)(3)(A). These materials shall be provided to all Subscribers (i) at the time of installation of service; (ii) at least annually; and (iii) at any other time, upon request. Such information shall also include:

(a) Notice of the availability of detailed information on parental lockout devices.

(b) Written information concerning the Licensee's privacy policies, pursuant to State and federal law.

## **SECTION 12.7---BILLING AND TERMINATION OF SERVICE**

The Licensee shall comply with 207 CMR 10.00 et seq., "Billing and Termination of Service", incorporated by reference herein, as the same may exist or as may be amended from time:

## **SECTION 12.8---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 complaint/inquires, as follows:

Upon the written request of the Issuing Authority or its designee(s), and subject to applicable privacy laws, the Licensee shall, within the (10) 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 Renewal License and the implementation of complaint procedures. Thereafter, if the Subscriber wished to participate in further processing of the complaint, the Subscriber shall meet jointly in North Adams 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 12.9---DISCONNECTION AND TERMINATION OF CABLE SERVICES**

In no event shall the Licensee disconnect a Subscriber's Cable Service for nonpayment unless it does so in compliance with applicable law and regulations.

## **SECTION 12.10---RESPONSE TO SERVICE CALLS AND SERVICE COMPLAINTS**

(a) The Licensee shall respond to all requests for service that are received under Normal Operating Conditions, as defined in 47 C.F.R. §76.309 (Exhibit 12.4) in compliance with FCC regulations.

(b) Calls for repair service after Normal Business Hours and on Saturdays, Sundays and holidays shall be scheduled by the Licensee's personnel according to normal repair service policies.

(c) The Licensee shall ensure that there are stand-by personnel on-call at all times after Normal Business Hours. The answering service shall be required to notify the stand-by personnel of an unusual number of calls or a number of similar Complaint calls or a number of calls coming from the same area.

## **SECTION 12.11---COMPLAINT RESOLUTION PROCEDURES**

(a) The Licensee shall establish a procedure for resolution of billing and privacy disputes and Complaints by Subscribers as required by applicable law. The Licensee shall provide, on an annual basis, a written description of said procedures to all Subscribers, as well as the Issuing Authority as required by applicable law.

(b) Upon request, the Licensee shall provide written information to the Issuing Authority regarding a Subscriber Complaint in North Adams, if the Subscriber has requested the City's assistance in resolving the Subscriber Complaint. If the Issuing Authority or its designee(s) determines it to be in the public interest, the Issuing Authority or its designee(s) may investigate any multiple Complaints or disputes brought by Subscribers arising from the operations of the Licensee, provided that the Subscribers make a good faith effort to comply with the Licensee's procedures specified in paragraph (a) above for the resolution of Complaints.

(c) In the event that the Issuing Authority or its designee(s) finds a pattern of multiple unresolved subscriber Complaints, the Issuing Authority and the Licensee may discuss appropriate amendments to this Renewal License.

## **SECTION 12.12---REMOTE CONTROL DEVICES**

If required by law or regulation, 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.

## **SECTION 12.13---LOSS OF SERVICE-SIGNAL QUALITY**

The Licensee shall comply with all applicable FCC statutes, regulations and standards relating to quality of the Signals transmitted over the Cable Television System. Upon a showing of a number of complaints from Subscribers that indicates a general or area-wide Signal quality problem concerning consistently poor or substandard Signal quality in the System, the Issuing Authority shall, after giving the Licensee fourteen (14) days notice and

an opportunity to cure said deficiency, order the Licensee to correct said Signal quality deficiencies, within fourteen (14) days of said order; provided, however, that the Licensee may request additional time from the Issuing Authority in which to correct said deficiency, which permission shall not be unreasonably denied. The Issuing Authority and the Licensee shall enter into good faith discussions concerning possible remedies for consistent Signal degradation.

#### **SECTION 12.14---EMPLOYEE AND AGENT IDENTIFICATION CARDS**

All of the Licensee's employees and agents entering upon private property, in connection with the construction, installation, maintenance and operation of the Cable System, including repair and sales personnel, shall be required to carry an identification card.

#### **SECTION 12.15---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, pursuant to applicable law and regulations, shall not violate such rights through the use of any device or signal associated with the Cable Television System, and as hereafter provided.

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

(c) The Licensee shall be responsible for complying with applicable law and regulations and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected in accordance with applicable law and regulations.

#### **SECTION 12.16---PRIVACY WRITTEN NOTICE**

At the time of entering into an agreement to provide Cable Service to a Subscriber and at least once a year thereafter, the Licensee shall provide all Subscribers with the written notice as required in Section 631(a)(1) of the Cable Act.

#### **SECTION 12.17---DISTRIBUTION OF SUBSCRIBER INFORMATION**

The Licensee and its agents or employees shall comply with Section 631 of the Cable Act regarding the distribution of Subscriber information.

## **SECTION 12.18---INFORMATION WITH RESPECT TO VIEWING HABITS AND SUBSCRIPTION DECISIONS**

The Licensee shall not make available to any third party, including the City, information concerning the viewing habits or subscription package decisions of any individual Subscriber in violation of law.

## **SECTION 12.19---SUBSCRIBER'S RIGHT TO INSPECT AND VERIFY INFORMATION**

(a) Upon request, the Licensee shall make available for inspection by a Subscriber at a reasonable time and place all personal subscriber information that the Licensee maintains regarding said Subscriber, except as may be prohibited by applicable law.

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

(c) A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information, except as may be prohibited by applicable law.



## **ARTICLE 13**

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

#### **SECTION 13.1---GENERAL**

(a) Upon the written request of the Issuing Authority, the Licensee shall promptly submit to the City any information regarding the Licensee, its business and operations, or any Affiliated Person, with respect to the Cable System or any service, in such form and containing such detail as may be specified by the City pertaining to the subject matter of this Renewal License which may be reasonably required to establish the Licensee's compliance with its obligations pursuant to this Renewal License.

(b) The Issuing Authority shall to the extent permitted by law maintain as confidential any information provided to it by Licensee under the terms of this License which Licensee has designated as confidential. In the event that Issuing Authority believes at any time that it is required or entitled by law to disclose such information to a third party, the Issuing Authority will so notify Licensee at a time prior to any such disclosure that affords Licensee a reasonable opportunity to take such action as it deems necessary to prevent such disclosure, including seeking relief in court.

#### **SECTION 13.2---CABLE SYSTEM INFORMATION**

The Licensee shall file annually with the Issuing Authority upon request a statistical summary of the operations of the Cable System. Said report shall include, but not be limited to, (i) the number of Basic Service Subscribers, (ii) the number of dwelling units passed, and (iii) the number of plant miles in construction/upgrade or completed.

#### **SECTION 13.3---IN-HOUSE TELEPHONE REPORTS**

Upon written request, on a semi-annual basis, the Licensee shall make available to the Issuing Authority copies of all in-house telephone reports that track the activity and effectiveness of the Licensee's telephone system with respect to the requirements of this Renewal License.

#### **SECTION 13.4---SUBSCRIBER COMPLAINT LOG**

(a) The Licensee shall keep a record or log of all written Complaints received regarding quality of service, equipment malfunctions, billing procedures, employee relations with Subscribers and similar matters. Such records shall be maintained by the Licensee for a period of two (2) years. For the purposes of this Section 13.4, a Complaint shall mean any verbal or written inquiry, allegation or assertion made by a Person which requires

subsequent corrective action to the System or any portion thereof, or any subsequent investigation, research and/or a service call to be undertaken by the Licensee, its employees or agents.

(b) Such record(s) shall contain the following information for each Complaint received:

- (i) Date, time and nature of the Complaint;
- (ii) Investigation of the Complaint; and
- (iii) Manner and time of resolution of the Complaint.

(iv) If the Complaint regards equipment malfunction or the quality of reception, the Licensee shall file a report indicating the corrective steps it has taken, with the nature of the problem stated.

(v) The Licensee shall make available to the Issuing Authority records of such Complaints, as allowed by applicable law.

### **SECTION 13.5---INDIVIDUAL COMPLAINT REPORTS**

The Licensee shall, within ten (10) business days after receiving a request from the City, send a written report to the Issuing Authority with respect to any Complaint made to the Issuing Authority. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken, as allowed by applicable law.

### **SECTION 13.6---OUTAGE LOG**

The Licensee shall maintain an outage log showing the date, approximate time, duration, type and probable cause of all Headend, Trunk and/or Distribution line service failures due to causes other than routine testing or maintenance at reasonable times. Said logs shall be available in the City to the Issuing Authority, or its designee, and maintained by the Licensee for a period of not less than three (3) years.

### **SECTION 13.7---SEMI-ANNUAL PERFORMANCE TESTS**

The Licensee shall conduct performance tests, in accordance with FCC regulations, as set out in 47 C.F.R. Section 76.601 et seq. so as to comply with the applicable FCC's Technical Standards.

### **SECTION 13.8---QUALITY OF SERVICE**

(a) Where there exists evidence which, in the reasonable judgment of the Issuing Authority, casts doubt upon whether the reliability or technical quality of Cable Service(s) meets the requirements of this Renewal License or otherwise may be required pursuant to applicable law or regulations, the Issuing Authority shall have the right and authority to require the Licensee to test, analyze and report on the performance of the Cable System.

The Licensee shall fully cooperate with the Issuing Authority in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after written notice for the same.

(b) Said report shall include the following information:

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

If the report demonstrates that Licensee is in compliance with the terms of the License, Licensing Authority shall bear the costs of the test.

(c) At the end of said thirty day (30) period, in the event that the Cable System fails to meet the FCC's technical standards, additional tests may be required by the Issuing Authority. Such tests shall be supervised by a professional engineer at terms satisfactory to both the Licensee and the Issuing Authority; provided, however, that the Licensee shall receive fourteen (14) days notice and a reasonable opportunity to cure. The Licensee shall pay for the costs of such engineer only if the tests performed show that the quality of Cable Service is below the FCC's Technical Standards.

### **SECTION 13.9---DUAL FILINGS**

(a) Upon written request, the Licensee shall make available to the City and copying at the Licensee's expense, copies of any petitions or communications with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder.

(b) In the event that either the Issuing Authority or the Licensee requests from any State or federal agency or commission a waiver or advisory opinion pertaining to any material aspect of the Cable System operation hereunder, it shall immediately notify the other party in writing of said request, petition or waiver.

### **SECTION 13.10---ADDITIONAL INFORMATION**

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

### **SECTION 13.11---INVESTIGATION**

The Licensee and any Affiliated Person(s) shall cooperate fully and faithfully with any lawful investigation, audit, or inquiry conducted by a City governmental agency regarding compliance with this License as required by law.

## **ARTICLE 14**

### **EMPLOYMENT**

#### **SECTION 14.1---EQUAL EMPLOYMENT OPPORTUNITY**

The Licensee shall comply with all applicable State and federal laws regarding Equal Employment Opportunity.

#### **SECTION 14.2---NON-DISCRIMINATION**

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

## **ARTICLE 15**

### **MISCELLANEOUS PROVISIONS**

#### **SECTION 15.1---ENTIRE AGREEMENT**

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

#### **SECTION 15.2---CAPTIONS**

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

#### **SECTION 15.3---SEVERABILITY**

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

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

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

#### **SECTION 15.5---RENEWAL LICENSE EXHIBITS**

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

#### **SECTION 15.6---WARRANTIES**

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

(a) The Licensee is duly organized, validly existing and in good standing under the laws of the State of Delaware and authorized to do business in the Commonwealth of Massachusetts;

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

(c) To the best of the Licensee's knowledge, there is no action or proceedings pending or threatened against the Licensee which would interfere with performance of this Renewal License.

#### **SECTION 15.7---FORCE MAJEURE**

If by reason of force majeure either party (hereinafter "the respective party") is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Massachusetts or any of their departments, agencies, political subdivision, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; and unavailability of essential equipment and/or materials beyond the control of the respective party.

#### **SECTION 15.8---REMOVAL OF ANTENNAS**

The Licensee shall not remove any television antenna of any Subscriber and if required by applicable law, shall offer to sell 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---STATEMENT OF THE LICENSEE**

As of the Execution Date, the performance of all terms and conditions in this Renewal License is commercially practicable.

#### **SECTION 15.10---APPLICABILITY OF RENEWAL LICENSE**

All of the provisions in this Renewal License shall apply to, and are enforceable against, the City, the Licensee, and their respective successors and assignees.

### **Section 15.11---NO THIRD PARTY BENEFICIARIES**

This Renewal License is not intended to, and does not create any rights or benefits on behalf of any person other than the parties to this License.

### **SECTION 15.12---NOTICES**

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

Mayor  
City of North Adams  
City Hall, 10 Main Street  
North Adams, Massachusetts 01247

with copies to:

Executive Director  
North Berkshire Community Television  
Heritage State Park, Bldg #6  
North Adams, Massachusetts 01247

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

Time Warner Cable  
400 Old County Road  
Rockland, ME 04841  
Attn: Government Relations

with copies to:

Time Warner Cable Law Department  
60 Columbus Circle  
New York, NY 10023  
Attn: Regulatory

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

### **SECTION 15.13---CITY'S RIGHT OF INTERVENTION**

The City hereby reserves to itself, and the Licensee acknowledges the City's right as authorized by applicable law or regulation to intervene in any suit, action or proceeding involving this Renewal License, or any provision in this Renewal License.



#### **SECTION 15.14---NO RECOURSE AGAINST THE ISSUING AUTHORITY**

Pursuant to Section 635A(a) of the Cable Act, in any court proceeding involving any claim against the Issuing Authority or other governmental entity or any official, member, employee, or agent of the Issuing Authority or such governmental entity, arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Renewal License, any relief, to the extent such relief is required by any other provision of federal, State or local law, shall be limited to injunctive relief and declaratory relief. Nothing herein is intended to invalidate Section 635(A)(b), (c) and (d).

#### **SECTION 15.15---TERM**

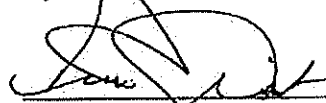
All obligations of the Licensee and the Issuing Authority set forth in the Renewal License shall commence upon the execution of this Renewal License and shall continue for the term of the Renewal License except as expressly provided for herein.

## SIGNATURE PAGE


WITNESS OUR HANDS AND OFFICIAL SEAL, THIS 31st DAY OF ~~DECEMBER~~,  
~~2014~~ MARCH  
2015.

**CITY OF NORTH ADAMS**

By its Mayor

  
\_\_\_\_\_  
Richard J. Alcombright

Approved as to legal form:

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

**Time Warner Cable Northeast LLC**

By:

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

Print: Mark H. Frohman

## **EXHIBITS**

## **EXHIBIT 5.7**

### **FREE CONNECTIONS AND MONTHLY SERVICE TO PUBLIC BUILDINGS AND SCHOOLS**

City Hall, 10 Main Street

Police Station, 11 Summer Street

Fire Station, 40 American Legion Drive

North Adams Public Library, 4 Church Street

Brayton Elementary School, 89 Barbour Street

Greylock Elementary School, Phelps Avenue

Sullivan Elementary School, Kemp Avenue

Johnson School, School Street

Silvio O. Conte Middle School, 24 Church Street

Drury High School, 1130 South Church Street

Charles H. McCann Vocational Technical High School, Hodges Crossroad

North Berkshire Community Television Studio, Heritage State Park, Bldg. #6  
(At the PEG Access Studio "Transition Date" (see Section 6.2) 69 Union Street,  
North Adams.)

Vietnam Veterans Ice Rink, 1267 South Church Street

Mary Spitzer (Senior Center), Ashland Street

## **EXHIBIT 6.2A**

### **PEG ACCESS ORIGINATION SITES (FIBER LINES)**

City Hall, 10 Main Street

Drury High School, 1130 South Church Street

North Berkshire Community Television Studio, 69 Union Street.

## **EXHIBIT 6.2B**

### **PEG ACCESS ORIENTATION SITES (PEG ACCESS VIDEO RETURN FACILITIES AND TECHNOLOGY DETERMINED BY LICENSEE PURSUANT TO THE PROVISIONS OF SECTION 6.2(B))**

Charles H. McCann Vocational Technical High School, Hodges Crossroad

American Legion Hall, 91 American Legion Drive

Holiday Inn, 40 Main Street

Massachusetts College of Liberal Arts TV Studio, Hopkins Hall, 375 Church Street

State Street Parade Location, 225 State Street

Vietnam Veterans Ice Rink, 1267 South Church Street

## EXHIBIT 12.4

### FCC CUSTOMER SERVICE OBLIGATIONS

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

PART 76--CABLE TELEVISION SERVICE

Subpart H--General Operating Requirements

Sec. 76.309 Customer Service Obligations

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this Section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards. (b) Nothing in this rule should be construed to prevent or prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Notifications to subscribers--

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

(1) Products and services offered;

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

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and,

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

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

(ii) Billing--

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

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

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

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

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

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

(4) Definitions--



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

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

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