



**TOWN OF SPENCER**

**COMMONWEALTH of MASSACHUSETTS**

**RENEWAL CABLE TELEVISION LICENSE**

**GRANTED TO**

**CHARTER COMMUNICATIONS ENTERTAINMENT I, LLC**

**l/k/a**

**Charter Communications**



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## **CHARTER FRANCHISE AGREEMENT**

This Franchise Agreement is between the Town of Spencer, hereinafter referred to as the "Issuing Authority" and Charter Communications Entertainment I, LLC I/k/a Charter Communications, hereinafter referred to as the "Licensee."

WHEREAS, the Issuing Authority of the Town of Spencer, Massachusetts ("Town"), pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts, as inserted by Chapter 1103 of the Acts of 1971, as amended, is authorized to grant one or more non-exclusive, renewal licenses to construct, upgrade, operate and maintain a Cable Television System within the Town of Spencer and

WHEREAS, the Issuing Authority finds that the Licensee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Licensee appears to be sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, both parties agree that this statement shall in no way eliminate, reduce or abridge any of the lawful rights and remedies available to the Town or Licensee in the future, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Issuing Authority desires to enter into this Franchise with the Licensee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Issuing Authority and Licensee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, the Franchise Authority and Licensee agree as follows:

# **1 Definition of Terms**

## **1.1 Terms**

For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1. "Affiliate or Affiliated Person" shall mean another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
2. "Cable Act" shall mean Public Law No. 98-549, 98 Stat. 2779 (1984) (the Cable Communications Policy Act of 1984), as amended, 47 U.S.C. §§ 521, et. seq. by Public Law No. 102-385, 106 Stat. 1460 (1992) (the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"), as further amended by Public Law No. 104-458, 110 Stat. 110 (1996) (the Telecommunications Act of 1996).
3. "Cable System," "Cable Service," "Cable Operator" and "Basic Cable Service" shall be defined as set forth in the Cable Act
4. "Cable Division" shall mean the Cable Television Division of the Massachusetts Department of Telecommunications and Cable.
5. "Drop or Cable Drop" shall mean the cable that connects each home or building to the feeder line of the Cable System.
6. "Effective Date" or "Execution Date shall mean the date when both parties execute the License.
7. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto
8. "Franchise" or "License" shall mean the non-exclusive rights granted pursuant to this franchise to construct and operate a Cable System along the public ways within all or a specified area in the Service Area.
9. "Franchise Fee" shall mean the payments to be made by the Licensee to the Town of Spencer, which shall have the meaning as set forth in Section 622(g) of the Cable Act and M.G.L. Chapter 166A.
10. "Gross Revenue" means any revenue received by the Licensee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any taxes, fee or assessment of general applicability collected by the Licensee from Subscribers for pass-through to a government agency, including the FCC User Fee; (2) un-recovered bad debt; and (3) any Franchise Fee, PEG or I-Net amounts recovered from Subscribers.
11. "Installation" shall mean the connection of the Cable System from feeder cable to Subscribers' terminals.
12. "Issuing Authority" shall mean the Board of Selectmen of Spencer.
13. "Licensee or Franchisee" shall mean Charter Communications Entertainment I, LLC I/k/a Charter Communications or its lawful successor, transferee or assignee.
14. "License Fee" shall mean the payments to be made to the Issuing Authority by Licensee pursuant to M.G. L. Chapter 166A.
15. "PEG" shall mean the acronym for "public, educational and governmental," used in conjunction with Access

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Channels, support and facilities.

16. "PEG Access Channels" shall mean any channel(s) made available for the presentation of PEG Access Programming.
17. "Person" shall mean an individual, partnership, association, organization, corporation or any lawful successor, transferee or assignee of said individual, partnership, association, organization or corporation.
18. "Public School" shall mean any school at any educational level operated within the Service Area by any public school system, but limited to, elementary, junior/middle high school, and high school.
19. "Public Way or Street" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights-of-way and similar public ways and extensions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Issuing Authority in the Service Area, which shall entitle the Licensee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System..
20. "Reasonable notice" shall be written notice addressed to the Licensee at its principal office or such other office as the Licensee has designated to the Issuing Authority as the address to which notice should be transmitted to it.
21. "Renewal License" shall mean the non-exclusive Cable Television Renewal License granted to the Licensee by this instrument. "Service Area" shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.
22. "Signal" shall mean any transmission of electromagnetic or optical energy which carries Programming from one location to another.
23. "State" shall mean the Commonwealth of Massachusetts.
24. "Subscriber" shall mean any person lawfully receiving Cable Service from the Licensee.
25. "Town" shall mean the Town of Spencer, Massachusetts.
26. "Trunk and Distribution System" shall mean that portion of the Cable System for the delivery of Signals, but not including Drop cables to Subscriber's residences.



## **2 Grant of Franchise**

### **2.1 Grant**

(a) PURSUANT to the authority of Chapter 166A of the General Laws of the Commonwealth of Massachusetts, (M.G.L. c. 166A) as inserted by Chapter 1103 of the Acts of 1971, as amended, and to federal law, the Board of Selectmen as the Issuing Authority of the Town of Spencer, Massachusetts ("Town"), shall grant a non-exclusive renewal Cable Television License to Charter Communications Entertainment I, LLC ("Licensee") a Delaware Statutory Trust established for such purpose, authorizing and permitting said Licensee to operate a Cable Television System within the corporate limits of the Town of Spencer, Massachusetts. The Renewal License is granted pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts, as amended, and with all rules and regulations of the FCC, the rules and regulations of Cable Division, the Cable Act, as amended, and all other rules and regulations in force and effect upon the date hereof.

(b) Subject to the terms and conditions herein, the Issuing Authority shall grant to Licensee the right to upgrade, install, operate and maintain a Cable System in, under, over, along, across, through or upon the Public Ways, including streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town of Spencer within the municipal boundaries and subsequent additions thereto, including property over which the Town has an easement or right-of-way, Private Ways and also through public and private easements, which are within the Town, that have been dedicated for compatible uses. In exercising rights pursuant to the Renewal License, Licensee shall not endanger or interfere with the lives of persons or, without prior written permission, unlawfully interfere with any installations of the Town, any public utility serving the Town or any other persons permitted to use public ways and places. Grant of the Renewal License does not establish priority for use over other present or future permit holders or the Town's own use of public ways and places. Disputes between Licensee and other parties regarding use of public ways and places shall be resolved in accordance with the Spencer Department of Public Works regulations, or governing applicable law or bylaw.

### **2.2 Term**

The Franchise and the rights, privileges and authority hereby granted shall be for a term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in subsection 15.11, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

### **2.3 Franchise Requirements For Other Franchise Holders.**

(a) The Renewal License shall not affect the right of the Issuing Authority to grant to any other person a license or right to occupy or use the streets, or portions thereof, for the construction, installation, operation or maintenance of a Cable Television System within the Town, or the right of the Issuing Authority to permit the use of the public ways and places of the Town for any purpose whatever. Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses. Issuing Authority shall not permit or authorize any person or entity to operate a cable system without a License or franchise, as defined by 47 U.S.C. § 522(9).

(b) The Issuing Authority agrees that any grant of additional franchises or licenses, by the Issuing Authority to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way, shall require that services be provided for the same territorial area of the Issuing Authority as required by this Franchise and shall be competitively neutral and not be on terms and conditions (including, without limitation, the service area, PEG capital grants and the franchise fee obligations) more favorable or less burdensome to the Person(s) of any such additional franchise or licenses, than those which are set forth herein. In the event federal, state or local law, rules or regulations are amended, modified or created that have the lawful effect of modifying the terms and conditions of this Franchise during the Term or any extension thereof, then the parties shall modify this Franchise in such a way that is mutually agreeable to both parties.

### **2.4 Police Powers and Conflicts with Franchise**

By executing the Renewal License, the Licensee acknowledges that its rights are subject to the powers of

the Town to adopt and enforce general by-laws necessary to the safety and welfare of the public. The Licensee shall comply with all applicable State and Town laws, by-laws, rules, and regulations governing construction within a Public Way. In the event of any conflict between this Franchise and any Issuing Authority ordinance or regulation, apart from the lawful police powers of the Town, materially contradicting the applicable provisions of this Franchise, this Franchise will prevail. This Franchise is a contract and except as to those changes, which are the result of the Issuing Authority's exercise of its general police power, the Issuing Authority may not take any unilateral action, which materially changes the explicit mutual promises in this contract. Nor may the Franchisee take any unilateral action, which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Licensee and the Issuing Authority.

## **2.5 Removal or Abandonment**

Upon termination of this Renewal License, or of any renewal thereof by passage of time or otherwise, the Licensee shall remove all of its supporting structures, poles, transmission and distribution systems, and other appurtenances from the Public Ways and shall restore the areas to their original condition. If such removal is not complete within six (6) months of such termination, the Issuing Authority may deem any property not removed as having been abandoned.

## **2.6 Cable System Franchise Required**

No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise and in accordance with state and federal regulations.

### **3 Franchise Renewal**

#### **3.1 Procedures for Renewal**

The Issuing Authority and the Licensee agree that any proceedings undertaken by the Issuing Authority that relate to the renewal of the Licensee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute, as well as governing the statutes and regulations of the Commonwealth of Massachusetts.

## **4 Indemnification and Insurance**

### **4.1 Indemnification**

The Licensee shall, by acceptance of the Franchise granted herein, defend the Town, its officers, boards, commissions, agents, servants and employees for all claims for injury to any Person or property caused by the negligence of Licensee in the construction, maintenance and operation of the Cable System and in the event of a determination of liability shall indemnify and hold the Town, its officers, boards, commissions, agents, servants, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Licensee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System. In the event any such claim arises, the Town shall tender the defense thereof to the Licensee and the Licensee shall have the right to defend, settle or compromise any claims arising hereunder and the Town shall cooperate fully herein. If the Town determined in good faith that the Licensee cannot represent its interests, the Licensee shall be excused from any obligation to represent the Town. Notwithstanding the foregoing, the Licensee shall not be obligated to indemnify the Town for any damages, liability or claims resulting from the willful misconduct or negligence of the Town or for the Town's use of the Cable System, including any PEG channels.

Indemnification under this provision shall be contingent upon the Issuing Authority giving to a Licensee such reasonable notice as not to prejudice the Licensee's ability to defend the Issuing Authority or Town.

### **4.2 Insurance**

A. The Licensee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence, Combined Single Liability (C.S.L.) [\$2,000,000] General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos Umbrella Liability	[\$1,000,000] per occurrence C.S.L.
Umbrella Liability	[\$1,000,000] per occurrence C.S.L.

B. The Issuing Authority shall be added as an additional insured to the above Commercial General Liability and Umbrella Liability insurance coverage.

C. The Licensee shall furnish the Issuing Authority with current certificates of insurance evidencing such coverage.

### **4.3 Performance Bond**

The Licensee shall submit and maintain throughout the License a bond with corporate surety satisfactory to

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the Issuing Authority in the amount of ten thousand dollars (\$10,000.00) conditioned on the following terms:

(1) The satisfactory operation of the Cable System in accordance with the provisions of M.G.L. c. 166A §§ 5(a), (m) & (n) and this License.

(2) The satisfactory restoration of pavements, sidewalks and other improvements in accordance with M.G.L. c. 166A § 5(g) and as approved by the Issuing Authority and Superintendent of Streets of the Town;

(3) The slighty preservation of trees and the vegetation in accordance with M.G.L..c. 166A § 5(g) and as approved by the Issuing Authority and Tree Warden;

(4) The indemnification of the Town in accordance with M.G.L. .c. 166A § 5(b);

(5) The satisfactory removal of the cable system in accordance with M.G.L. .c.166A § 5(f) and within six (6) months from the date of lawful notice from the Issuing Authority to so remove the cable system.

(6) Substantial compliance with material terms of license

This bond may be terminated or cancelled by Surety by thirty (30) days prior notice in writing to Principal and to Obligee at the end of the term of the current License or earlier if the bond can be terminated due to a change in state or federal law. Such termination or cancellation shall not affect any liability incurred or accrued under this bond prior to the effective date of such termination or cancellation. No claim, suit or action under this bond by reason of any such default shall be brought against Surety unless asserted or commenced within (12) months after the effective date of any termination or cancellation of this bond. The liability of the Surety shall be limited to the amount set forth above and is not cumulative.

## **5 Subscriber Rights And Consumer Protection**

### **5.1 Customer Service Hours and Telephone Response Service**

The Licensee shall maintain a publicly listed toll-free telephone number for subscriber access to customer service representatives and its hours of service shall meet or exceed the F.C.C. definition of normal business hours, see 47 Code of Federal Regulations, §. 76.309(c) (4).

### **5.2 Billing Practices Information And Procedures**

(a) The Licensee shall inform all prospective Subscribers of complete information respecting billing and collection procedures, procedures for ordering changes in or termination of service, and refund policies, upon solicitation of service and prior to the consummation of any agreement for installation of service.

(b) All billing practices and procedures will be governed by the procedures set forth in 207 CMR § 10.00, et seq., as may be amended from time to time.

### **5.3 Notification Of Rates And Charges**

The Licensee shall inform the Issuing Authority of all rates and charges of any kind, and all terms or conditions relating thereto. Thereafter, the Licensee shall inform the Issuing Authority of all changes in service, rates and charges of any kind, and all terms and conditions relating thereto in such time and manner as necessary to comply with law and regulations, and to the extent such service charges are under Licensee's control. The Licensee shall notify all Subscribers of any impending rate increases in such time and manner as necessary to comply with law and regulations.

### **5.4 Disconnection and Termination Of Cable Services**

The account of a Subscriber shall be considered delinquent and therefore subject to disconnection only in accordance with Licensee's payment policy and subject to all applicable laws and regulations.

### **5.5 F.C.C. Customer Service**

The Licensee shall comply with the F.C.C. Customer Service Standards (47 C.F.R. § 76.309.c). The Town may, upon written request, receive a quarterly report of the Licensee's telephone statistics in order to measure the Licensee's compliance with reasonable telephone standards. Should the Town, in writing, request clarification of the Licensee's telephone report, the Licensee shall, upon invitation by the Town, schedule a meeting with the Town to review said report and advise the Town what measures are being employed by the Licensee to meet a reasonable telephone response standard.

### **5.6 Response to Service Calls and Service Complaints**

(a) Licensee shall meet or exceed F.C.C. Customer Service Standards when responding to all complaint calls or requests for service.

(b) Licensee shall ensure that there are stand-by personnel on-call at all times after normal business hours.

(c) Licensee shall respond to System Outages as soon as practicable, twenty-four (24) hours a day seven (7) days a week.

(d) Nothing herein shall be construed to require Licensee to violate applicable provisions of federal and Massachusetts Law concerning Subscriber privacy.

## **5.7 Complaint Resolution Procedures**

(a) In compliance with law, the Licensee shall establish a procedure for resolution of billing disputes and other complaints by Subscribers. The Licensee shall provide, on an annual basis, a written description of said procedures, including telephone numbers to call for complaints and other services, to all Subscribers.

(b) If the Issuing Authority determines it to be in the public interest, the Issuing Authority or its designee may investigate any multiple complaints or disputes that are both specific and similar, brought by Subscribers arising from the operations of the Licensee, provided said Subscribers have made good faith effort to comply with the procedures specified in Section 5.7(a) above for the resolution of complaints.

(c) In the event that the Issuing Authority finds a pattern of multiple specific and similar unresolved subscriber complaints, the Issuing Authority may request appropriate and reasonable amendments to the Licensee's procedures for the resolution of complaints.

## **5.8 Change of Service**

Upon notification by a Subscriber to disconnect or downgrade a Basic or Premium Service, the Licensee shall cease and/or adjust said Subscriber's monthly service charges immediately or as of the Subscriber's specified disconnect or downgrade date.

## **5.9 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/or operation of the Cable System, including repair and sales personnel, shall be required to carry an employee photo identification card issued by the Licensee.

## **5.10 Protection of Subscribers Privacy**

The Licensee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

## **5.11 Parental Control**

Upon request, and at no separate additional charge, the Licensee shall provide customers with the capability to control the reception of any channel on the Cable System. That the parental control capability may be part of a converter box and the Licensee may charge Subscriber for use of said box.

## **5.12 No Discrimination.**

Licensee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex. Licensee shall comply with all Federal and State Regulations concerning non-discrimination.

## **5.13 Notification of Service Procedures**

The Licensee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Licensee's name, address and local telephone number. Licensee shall give the Issuing Authority thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

## **6 Service Availability**

### **6.1 Service Area**

The Licensee shall make Cable Service distributed over the Cable System available to all residents of the Town within seven (7) days of a request; provided, however, that (i) all such homes are on the Public Way or a Private Way (ii) such Public Ways or Private Ways can be accessed by Licensee from a Public Way without crossing a Town boundary; and (iii) to the extent that Licensee shall require easements, attachment to utility poles or other rights not granted herein, then such easements, attachments or other rights are available to Licensee on reasonable terms and conditions. Nothing herein shall be construed to preclude Licensee from charging a fee to any Subscriber or potential Subscriber for a standard or non-standard installation, as may be applicable. The Licensee may elect to provide Cable Service to areas not meeting the above standard. Licensee retains full ownership rights and interest in all portions of its Cable Television System, including, but not limited to, converters that it leases to subscribers, the Distribution Plant, the Cable Drops, the Outlets, the Subscriber Network, and the Trunk and Distribution System, as authorized in accordance with applicable law.

### **6.2 Standard Drops/Line Extension**

- (a) Installation costs shall conform with the 1992 Cable Act, and regulations thereunder. Any dwelling unit within 150 aerial feet of the Cable System distribution plant shall be entitled to a standard installation rate, and the additional costs associated with completing installations located more than 150 feet from the Cable System distribution plant shall be charged to the Subscriber, after provision of a written itemization, on a cost of labor and materials basis only.
- (b) the Licensee will provide service to all areas with an average of 25 homes per aerial mile or greater without contribution in aid of construction by subscribers; In cases of a request for service not meeting the above criteria, the Franchisee will extend service to prospective subscribers who are willing to contribute to the cost of construction in accordance with the formula  $C/LE - CA/P = SC$  where C equals the cost of construction of new plant; CA equals the average cost of construction per mile in the primary service area; P equals the minimum number of dwelling units per mile which would require the Franchisee to provide service in the primary service area; LE equals the number of dwelling units requesting service in the line extension area; SC equals subscriber contribution-in-aid of construction in the line extension area.
- (c) Whenever a potential subscriber located in a line extension area requests service, the Franchisee shall, within 30 days of the request, conduct a survey to determine the number of potential subscribers located in the line extension area and shall inform each of the potential subscribers of the contribution-in-aid of construction. During a three year period commencing with initiation of service to a particular line extension, a pro-rated refund shall be paid to previous subscribers of said extension as new subscribers are added to the extension. The amount of such refund, if any, shall be determined by application of the SC formula each time a new subscriber is added. The refunds shall be paid annually to subscribers, or former subscribers entitled to receive them.

### **6.3 New Development Underground**

In cases of new construction or property development where utilities are to be placed underground, the Issuing Authority agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Licensee at least thirty (30) days prior notice of such construction or development, and of the particular dates on which open trenching will be available for Licensee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Licensee's expense. Licensee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Licensee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by Licensee.



#### **6.4 Commercial Establishments**

The Licensee shall make cable services available to any commercial establishments in the Town, which are located on the residential Subscriber Network, subject to the Licensee and each commercial establishment reaching a reasonable agreement regarding the terms and costs of initial installation and service which may or may not differ from the terms and costs that apply to residential Subscribers. It is herein acknowledged that certain programming services may not be available to commercial establishments, or may be available only upon certain terms and conditions, pursuant to law or the Licensee's agreements with its program suppliers.

## **7 Construction and Technical Standards**

### **7.1 Compliance with Codes**

All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.

### **7.2 Construction Standards and Requirements**

All of the Licensee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

### **7.3 Safety**

The Licensee shall at all time employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents, which are likely to cause damage.

### **7.4 Network Technical Requirements**

The Cable System shall be operated so that it is capable of continuous twenty-four (24) hour daily operation, capable of meeting or exceeding all applicable federal technical standards, as they may be amended from time to time, and operated in such a manner as to comply with all applicable FCC regulations.

### **7.5 Performance Monitoring**

Licensee shall test the Cable System consistent with the FCC regulations.

## **8 Conditions on Street Occupancy**

### **8.1 General Conditions**

Licensee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property until the written approval of the Issuing Authority is obtained, which approval shall not be unreasonably withheld.

### **8.2 Underground Construction**

The facilities of the Licensee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Licensee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Issuing Authority, the Licensee shall likewise place its facilities underground.

### **8.3 Permits**

The Issuing Authority shall cooperate with the Licensee in granting any permits required, providing such grant and subsequent construction by the Licensee shall not unduly interfere with the use of such Streets.

### **8.4 System Construction**

All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Licensee shall, at all times, employ reasonable care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Licensee shall be placed in such a manner as not to interfere with the usual travel on such public way.

### **8.5 Restoration of Streets**

Licensee shall, at its own expense, restore any damage or disturbance caused to a street as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Street immediately prior to such damage or disturbance to such standard as required of utilities operating within the Town.

Whenever the Licensee excavates, opens 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 the 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. For the purpose of this section, "reasonable expense" shall provide for restoration to a condition similar to the original condition.

### **8.6 Removal in Emergency**

Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Issuing Authority to remove any of the Licensee's facilities, no charge shall be made by the Licensee against the Issuing Authority for restoration and repair, unless such acts amount to gross negligence by the Issuing Authority.

### **8.7 Tree Trimming**

In the installation, maintenance, operation and repair of the poles, cables, wires and all appliances or equipment of the cable system, the Licensee shall avoid damage to trees whether on public or private property in the Town and shall cut or otherwise prune such trees only to the least extent necessary. No cutting of trees on Town property shall be done except upon a permit in writing from the Town Department of Public Works or other appropriate municipal official or in accordance with the applicable regulations or requirements of the Town. Licensee shall secure the permission of the property owner prior to reasonable trimming of trees on private property.

### **8.8 Relocation for the Issuing Authority**

The Licensee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Licensee when lawfully required by the Issuing Authority pursuant to its police powers. Licensee shall be responsible for any costs associated with these obligations to the same extent all other users of the Issuing Authority rights-of-way are responsible for the costs related to their facilities.

### **8.9 Relocation for a Third Party**

The Licensee shall, on the request of any person holding a lawful permit issued by the Issuing Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Licensee, provided that the expense of such is paid by any such person benefiting from the relocation and the Licensee is given reasonable advance written notice to prepare for such changes. The Licensee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business day in the event of a temporary relocation and no less than one hundred twenty days (120) for a permanent relocation.

### **8.10 Reimbursement of Costs**

If funds are available to any person using the Streets for the purpose of defraying the cost of any of the foregoing, the Issuing Authority shall reimburse the Licensee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Issuing Authority shall make application for such funds on behalf of the Licensee.

### **8.11 Emergency Use**

Licensee shall comply with all federal and state Emergency Alert System ("EAS"), requirements

### **8.12 Private Property**

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

### **8.13 Reservation of Rights**

Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or implied, by the Licensee or by the Town of any legal rights which either party may have or may be subsequently determined to have, either by subsequent legislation or court decisions.