

Town of Winchester Additional Renewal License Provisions

Additional Renewal License Provisions*

***These Additional Renewal License General Provisions Do Not Include A Number of The Major Substantive Matters and/or Corresponding Renewal License Provisions Addressed In The Body of The “RFR” (e.g. PEG Access Operating and Capital Support; PEG Access Channels and Video Origination and Cablecasting; or Extension of the Cable System) Which Matters Must Be Addressed and Included in Comcast’s Proposed Renewal License in Response to the “RFR”**

1. Definitions.

For the purpose of this Renewal License, the following words, terms, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.¹

Access - The right of any Town resident and/or any Person affiliated with a Town institution to use designated facilities, equipment and/or channels of the Cable Television System, subject to the conditions and procedures established for such use by the Town and/or its designee for such use.

Access Channel - A video channel which the Licensee shall make available for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies; public schools; and educational, institutional and similar organizations.

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.

¹ The introduction to the Definitions should not state anything to the effect that “for the purpose of this Renewal License, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the “Cable Act”), and Massachusetts General Laws Chapter 166A (M.G.L.c.166A), as amended from time to time, unless otherwise defined herein.” The Town will not allow the intent of the License and its provisions to be interpreted outside of the terms as defined and their context. If the Licensee seeks to use and defined a term used in the “Cable Act”, that term should be specifically included in the definitions.

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Cable Service - (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 services.

Cable System - 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 Cable Act, except that such facility shall be considered a cable system (other than for purposes of Section 541(c) of this title) 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 this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

Drop – shall mean the cable or fiber that connects a home or building to the feeder cable of the Subscriber Network. [The definition of “Drop” should not be limited to a particular type of cable or fiber, such as “coaxial” cable. The Licensee should not be prohibited or otherwise restricted by the Renewal License from using a fiber drop.

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

Gross Annual Revenues – shall mean the revenues received by the Licensee and/or its Affiliates derived from the operation of the Cable System to provide Cable Service, accrued in accordance with generally accepted accounting principles (GAAP) in the United States, and shall include, 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 from Subscribers; installation, reconnection, downgrade, upgrade and any similar charges; interest earned on all Subscriber fees and/or charges collected; all digital Cable Service revenues; fees paid on all Subscriber fees (“Fee-on Fee”); all Commercial Subscriber Cable Service revenues (including bulk account revenues); Pay Cable, Premium Services and Pay-Per-View revenues; video on demand Cable Services; converter, remote control and other Cable Service-related equipment rentals and/or leases or sales; fees paid for channels designated for commercial use; home shopping revenues; and advertising revenues. In the event that an Affiliate and/or any other Person is responsible for advertising, advertising revenues for purposes herein shall be deemed to be the pro-rata portion of the advertising revenues accrued by such Affiliate or other Person for such Affiliate’s or other Person’s use of the Cable System for the carriage of advertising. Gross Annual Revenues shall also include the gross revenue of any other Person which is

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derived directly from or in connection with the operation of the Cable System to the extent that said revenue is derived through a means which has the effect of avoiding payment of Franchise Fees to the Town that would otherwise be paid herein. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with GAAP; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

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

Person - Any corporation, partnership, limited partnership, limited liability company, association, trust, organization, other business entity, individual or group of individuals acting in concert.

Prime Rate – The prime rate of interest at the Federal Reserve Bank of Boston or its successor.

Public Way – Either the definition of “Public Way” or the body of the Renewal License should make clear that reference to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Licensee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

2. Police and Regulatory Powers.

By executing this Renewal License, the Licensee acknowledges that its rights are subject to the powers of the Town and its right to adopt and enforce generally applicable by-laws in the lawful exercise of its police powers to the extent permitted by applicable law, with respect to the safety and welfare of the public. The Licensee shall comply with all applicable, Town by-laws and lawful regulations, provided such are not specific to this License, the Licensee and/or Cable System. Any conflict between the terms of this Renewal License and any present or future lawful exercise of the Town’s police and regulatory powers shall be resolved in favor of the former. Nothing in this Section shall be deemed to prohibit the right of the Licensee to challenge the legality of a Town by-law or regulation.

3. 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 (2) the ownership of the Cable Television System is transferred to another Person with written approval by the Issuing Authority in accordance with applicable law and pursuant to the terms of this Renewal License, the Licensee shall remove all of its supporting structures, poles, transmission

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and distribution systems, and other appurtenances from the Public Ways and other Town-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 Town resulting from the removal, disposal and site restoration pursuant to this Section shall be paid to the Town by the Licensee within thirty (30) days of written request.

4. Transfer of Renewal License and Effect of Unauthorized Transfer.

(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 therefor 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.

(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 Town in and to the Streets and Public Ways or any other rights of the Town 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 six (6) 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.

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

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(g) Any attempted transfer of the Cable System that fails to comply with the terms of this Renewal License shall be null and void, and shall be deemed a material breach of this Renewal License.

5. Subscriber Network.

(a) The Licensee shall continue to own, operate, maintain and make available to all residents of the Town a Subscriber Network of at least 750 MHz. Said Cable System shall be fully capable of carrying a minimum of seventy-eight (78) NTSC video channels in the downstream direction.

(b) The Licensee shall install and maintain, throughout the term of the Renewal License, standby power at its Headend. Such standby power shall provide continuous capability, contingent upon the availability of fuel necessary to operate the standby generators, and shall become automatically activated upon the failure of the Licensee's normal power supply.

(c) The Licensee shall transmit all Cable Service to Subscribers in stereo, provide that such Cable Service is furnished to the Licensee in stereo.

6. Emergency Alert Override Capacity.

(a) In accordance with the provisions of FCC Rules and Regulations Part 11, Subpart D, Section 11.51(h)(1), and as such provisions may from time to time be amended, the Licensee shall install, maintain and comply with an Emergency Alert System (EAS). As allowed by FCC Order FCC 97-338, Paragraph 33, the Licensee shall transmit all national, state, and local activations of the Federal EAS, utilizing the four-part message protocol specified in FCC Rules and Regulations Part 11, Subpart B, or successor protocols. This shall include such local and state-wide situations as may be designated to be an emergency by the Local Primary (LP), the State Primary (SP) and/or other authorities identified and defined within FCC Rules and Regulations, Part 11 or the Local and State Plans provided for under those rules.

(b) The Licensee shall comply with all applicable laws and regulations of the Commonwealth of Massachusetts regarding emergency alert.

7. Parental Control Capability.

The Licensee shall provide, upon request, Subscribers with the capability to control the reception of any channels being received on their television sets.

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8. Cable System Technical Specifications.

The Cable System shall conform to the FCC technical specifications, including 47 CFR 76.05 which are incorporated herein by reference. At all times throughout the Renewal License, the Licensee shall meet all applicable FCC technical standards.

9. Service Available To All Residents.

The Licensee shall make its Cable Services available to all residents of the Town, provided that the Licensee is able to obtain any necessary easements, permits and/or permission from owners of property and multiple dwelling units.

10. Location of Cable System.

The Licensee shall own, operate and maintain the Cable Television System within the Town. Poles, towers and other obstructions shall be erected so as not to interfere with vehicular or pedestrian traffic over Public Ways. The erection and location of all poles, towers and other obstructions shall be in accordance with all applicable state and local law.

11. Standard Installation Rate For Drop

Any dwelling unit within one hundred fifty feet (150 ft.) from an aerial or underground cable facility shall be entitled to a Standard Installation rate, unless the sub-surface requires boring through rock or a similar hard surface (i.e. concrete, asphalt, etc.). Distances greater than 150 feet shall have the first 150 feet installed at the Standard Installation rate. As with build-out density, the Licensee benefits from the fact that the vast majority of dwelling units in the Town are in close proximity to the street, and thus the Licensee should not object to so serving the rare exception by providing a standard installation for dwelling units no further than the distances set out herein.

12. Underground Facilities.

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

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

13. Tree Trimming.

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

14. Restoration To Prior Condition.

Whenever the Licensee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. 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.

15. Temporary Relocation.

The Licensee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person holding a building moving permit issued by the Town. The expense of such raising or lowering shall be paid by the Licensee, unless otherwise required or permitted by applicable law. The Licensee shall be given reasonable notice necessary to maintain continuity of service.

16. Disconnection and Relocation.

The Licensee shall, without charge to the Town, protect, support, temporarily disconnect, relocate in the same Street or other Public Way or place, or remove from any other Public Way or place, any of its property as required by the Issuing Authority and/or its designee(s) by reason of traffic conditions, public safety, street construction, change or

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establishment of street grade, or the construction of any public improvement or structure by any Town department acting in a governmental capacity.

17. Emergency Removal of Plant.

If, at any time, in case of fire or disaster in the Town, it shall become necessary in the reasonable judgment of the Issuing Authority or any designee(s), to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the Cable Television System, the Town shall have the right to do so at the sole cost and expense of the Licensee. [The Town shall not be required to provide notice for such actions or limited to acting by and through its Board of Selectmen.]

18. Removal and Relocation.

The Issuing Authority shall have the power at any time to order and require the Licensee to remove or relocate any pole, wire, cable or other structure owned by the Licensee that is dangerous to life or property. In the event that the Licensee, after notice, fails or refuses to act within a reasonable time, the Issuing Authority shall have the power to remove or relocate the same at the sole cost and expense of the Licensee. In such event, the Licensee may require an itemized invoice including but not limited to, the number of hours, the hourly rate used, materials used and any other miscellaneous costs incurred as a result of said removal or relocation. The Licensee shall reimburse the Issuing Authority the cost and expense of such removal within sixty (60) days of submission of a bill therefore.

19. Construction, Maintenance and Safety Standards.

(a) The Licensee shall operate, maintain and remove the Cable Television System in conformance with Occupational Safety and Health Administration regulations, the Massachusetts Electrical Code, the National Electrical Code, the National Electrical Safety Code, the National Television Standards code, the rules and regulations of the Cable Division and the FCC, all State and local laws, 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.

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20. Cable System Tests and Inspections.

The Town by its designee(s) shall have the right to inspect the plant, equipment and other property of the Licensee in the Town, including, but not limited to all construction, installation and or upgrade of work performed, and to make such tests as deemed necessary to ensure compliance with the terms and conditions of this Renewal License and all other applicable laws and regulations. Any such inspection shall not interfere with the Licensee's operations, except in emergency situations.

21. 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 applicable Town by-laws, rules and regulations. All such Pedestals shall be shown on the construction maps submitted to the Town in accordance with this Renewal License. If required by applicable law, by-laws or regulations, abutters shall be notified of such new Pedestals and given an opportunity to comment prior to any approval by the Town. 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.

22. Private Property.

The Licensee shall be subject to all laws regarding private property in the course of constructing, installing, operating and maintaining the Cable Television System in the Town. The Licensee shall, at its sole cost and expense, promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the construction, installation, operation, maintenance or removal of the Cable System. The Renewal License shall include a provision similar to the following: "Nothing in this Renewal License shall be construed as authorizing access or entry onto private property, or any other property by the Licensee, where such right to access or entry is not otherwise provided by law, the Subscriber Services Agreement or this License."

23. Strand Maps.

The Licensee must maintain and provide a complete set of strand maps of the Cable System plant, and shall provide an electronic copy of such strand maps and any other maps required to show that portion of the Licensee's cable system which is in the public way. The Licensee shall not be required to provide a particular type of electronic format which is different from the electronic format the Licensee maintains as long as the

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electronic format is in a source format commonly used in the industry, non-proprietary, and capable of being imported into municipal geographical information systems (GIS). If changes are made in the Cable System, the Licensee shall file an updated map(s), including in electronic format as provided for herein, within thirty (30) days. Paper maps are not required to be filed with the Town, but should be provided to the Town upon written request if they are maintained by the Licensee.

24. Service Interruptions.

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

25. Service Outage Notification.

The Licensee shall, upon written request by the Issuing Authority, provide a written explanation of any service outages in the Town.

26. Commercial Establishments.

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

27. Dig Safe.

The Licensee shall comply with all applicable “dig-safe” provisions, pursuant to Massachusetts General Laws Chapter 82, Section 40.

28. Construction Projects.

During the course of any construction undertaken during the term of this Renewal License, including a rebuild or upgrade of the Cable System, that lasts longer than thirty (30) days, the Licensee shall submit monthly status reports to the Issuing Authority or its designee until such construction is complete.

29. Basic Service.

The Licensee shall make available Basic Service to all Subscribers in the Town, which shall include all Programming and signals which are required to be carried by a cable television system serving the Town pursuant to applicable law, and the PEG Access Channels required by this Renewal License, except to the extent prohibited by applicable

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law. Basic Service channels shall not be scrambled or the equivalent. Basic service shall be subject to and comply with all High Definition requirements contained in the Renewal License as set out in this Request for Response to Ascertainment, and as may be required by applicable law and/or regulations.

30. Programming.

(a) Pursuant to Section 624 of the Cable Act, the Licensee shall maintain the mix, quality and broad categories of Programming set forth in **Exhibit 5.2(a)**, attached hereto and made a part hereof. Pursuant to federal law, all Programming decisions (other than the PEG Access Channels provided in accordance with this Renewal License) are at the sole discretion of the Licensee.

(b) The Licensee shall provide the Issuing Authority and all Subscribers with notice of its intent substantially to change the Programming line-up at least thirty (30) days before any such change is to take place. At the same time, the Licensee shall also provide Subscribers with a channel line-up card or suitable marker showing the new channel line-up.

31. Leased Channels for Commercial Use.

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

32. VCR/DVD Cable Compatibility.

(a) In order that Subscribers to the Cable Television System have the capability to simultaneously view and record any channel, the Licensee shall provide to any Subscriber, upon request, the necessary equipment and/or software which will allow Subscribers to record and view any channel capable of being tuned by such owner's television set and recording device/equipment. Said equipment and/or software device shall be available to all Subscribers, at a cost in compliance with applicable law, no later than the Effective Date of this Renewal License.

(b) The Licensee shall not Scramble or otherwise encode, in any manner or form, (i) any of the PEG Access Channels or (ii) any channel not authorized under applicable law to be scrambled. The Licensee reserves its rights to Scramble or otherwise encode any cable channel(s), except as provided in subsections (i) and (ii) above, as may be reasonably necessary, in the Licensee's judgment, to protect the Licensee from unauthorized reception of Programming, in accordance with applicable law.

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33. PEG Access Channel Maintenance.

The Licensee shall monitor the PEG Access Channels, including video and audio, for technical quality and shall ensure that they are maintained at standards the same or better than those which apply to the Cable System's commercial channels and shall comply with the applicable FCC Technical Standards, provided, however, that the Licensee is not responsible for the production quality of PEG Access Programming productions, nor for any deficiencies in the source signal it receives from any party over which the Licensee has no control.

34. 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.

35. Non-Commercial Programming.

The Issuing Authority and its designee(s) shall not use the designated PEG Access channels, equipment, or other facilities to provide for-profit commercial programming. Nothing in this section shall prohibit the Issuing Authority or its designee from having memberships, sponsorships, underwriting or acknowledgements (such as the underwriting and acknowledgements displayed by the Public Broadcasting System), to the extent not otherwise prohibited by applicable law or regulations.

36. PEG Access Costs

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

37. Access Support Payments - certified by a duly authorized financial representative of the Licensee.

The Licensee shall file with each of the payments pursuant to paragraph (d) above a statement certified by a duly authorized financial representative of the Licensee documenting, in reasonable detail, the total Gross Annual Revenue as defined in the Renewal License for the preceding three (3) month reporting period. Said statement shall list all of the general categories comprising Gross Annual Revenues as defined in the definition section of this Renewal License, above and the gross revenue for each such category.

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38. License Fee Payments.

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

(b) In the event that the Town can collect a License Fee in the future expressed as a percentage, the Licensee shall, upon written notification by the Issuing Authority of such, immediately commence paying such a percentage License Fee to the Town 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 Town annually, on or before each anniversary of the Effective Date of this Renewal License.

39. Franchise Fee Limitation.

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; and (ii) the License Fee that is payable to the Town and to the State pursuant to Chapter 166A, provided, however, that said five percent (5%) shall not include the following: (a) the PEG Access Capital funding pursuant to this Renewal License; (b) PEG Access Channels and/or cablecasting; (c) any interest due to the Town 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; and (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.

40. Other Payments and Exclusions.

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

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(b) In accordance with Section 622(h) of the Cable Act, nothing in the Cable Act or this Renewal License shall be construed to limit 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 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 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.

41. Late Payment.

In the event that the License Fees herein required are not tendered to the Town on or before the dates required by this Renewal License or applicable law, interest due on such fee payment shall accrue from the date due at the rate of two percent (2%) per annum above the annual Prime Rate. Any payments to the Town pursuant to this Section shall not be deemed to be part of the License or Franchise Fees to be paid to the Town pursuant to this Renewal License and shall be within the exclusion to the term "Franchise Fee" for requirements incidental to enforcing the Renewal License pursuant to Section 622(g)(2)(D) of the Cable Act. (Interest is to be paid by the Licensee if it owes the Town or its designee due to its error. The Prime Rate has been, and remains, quite low, and will in all likelihood remain, significantly less than the 11.25% interest rate that the cable operator applies to its cable rates to recover franchise related costs arising from PEG capital and other payments. Additionally, this is within the control of the Licensee to prevent by complying with the terms of the License and making proper and timely payments to the Town and its designees. If Comcast proposes an interest rate for late payments to the Town or its designee in an amount of less than three percent (3%) above the Prime Rate, it should fully state the justification for such a low interest rate.)

42. Audit and Recomputation.

(a) Tender or acceptance of any payment made pursuant to this Renewal License shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the Issuing Authority may have for additional sums including interest payable under this Renewal License. All amounts paid shall be subject to audit and recomputation by the Issuing Authority, and there shall be no contractual (License) provision limiting the look-back period; which is six (6) years under the statute of limitations in the Commonwealth of Massachusetts.

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

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Authority may conduct an audit of such payment(s). The Licensee shall be responsible for making available to the Issuing Authority or its designee(s) all records which the Issuing authority or its designee(s) reasonably deem necessary or relevant to determine the accuracy of a payment or its recomputation.

(c) If, after such audit and recomputation, an additional fee is owed to the Town, such fee shall be paid within thirty (30) days after such audit and recomputation. The Licensee shall pay for the full cost of said audit, The Licensee shall pay for the full cost of said audit, up to the amount of the underpayment. The interest on such additional fee shall be charged from the due date at the rate of two percent (2%) per annum above the Prime Rate during the period that such additional amount is owed.

43. Affiliate 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 provided to the Town and/or its designee(s) pursuant to this Renewal License. All provisions of this Renewal License shall apply to Affiliates of the Licensee.

44. Notification of Rates and Charges.

(a) In accordance with applicable law, the Licensee shall file with the Issuing Authority schedules which shall describe all services offered by the Licensee, all rates and charges of any kind, and all terms or conditions relating thereto.

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

45. Franchise Related Costs – Externalizing, Line Iteming and Pass-Through.

If requested to do so by the Issuing Authority, the Licensee shall provide a written explanation of any externalized, line-itemed and/or passed-through costs such PEG Access costs, in sufficient detail to enable the Issuing Authority to understand how such costs have been externalized, line-itemed and/or passed-through as allowed or required by applicable law. Unless agreed to otherwise, the Licensee shall provide said written explanation to the Issuing Authority, in writing, within thirty (30) days of a request to do so by the Issuing Authority.

Town of Winchester Additional Renewal License Provisions

46. Insurance.

At all times during the term of this Renewal License, including the time for removal of facilities provided for herein, the Licensee shall obtain, maintain, pay all premiums for, and file with the Issuing Authority, on an annual basis, copies of the certificates of insurance for the following policies:

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

(b) Automobile liability insurance for owned automobiles and trucks, non-owned automobiles and trucks and/or rented automobiles and trucks in the minimum amount of: One Million Dollars (\$1,000,000.00) per occurrence.

(c) Workers Compensation insurance with Employer's Liability Limits of Five Hundred Thousand (\$500,000) each accident, \$500,000 each employee – disease.

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

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

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

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

(iii) Such insurance shall be obtained from brokers and 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.

Town of Winchester Additional Renewal License Provisions

(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 Town 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 Town, 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.

47. Performance Bond.

(a) The Licensee shall maintain, without charge to the Town, throughout the term of this Renewal License, a faithful performance bond running to the Town and in a form satisfactory to the Issuing Authority with good and sufficient surety licensed to do business in the Commonwealth of Massachusetts in the sum of no less than Fifty Thousand Dollars (\$50,000).

(b) The performance bond shall be conditioned upon the faithful performance and discharge of all obligations of this Renewal License. Said bond shall be a continuing obligation of the Renewal License and thereafter until the Licensee has satisfied all of its obligations to the Town pursuant to the terms and conditions of such bond. In the event that the Town recovers from said surety, the Licensee shall take immediate steps to reinstate the performance bond to the Fifty Thousand Dollars (\$50,000) required herein.

(c) The Licensee shall provide the Issuing Authority with a current performance bond. The performance bond shall contain, at a minimum, a requirement of not less than thirty (30) days notice prior to any cancellation or reduction in the bond amount. A new bond shall be provided by the Licensee to the Issuing Authority prior to the effective date of any renewal or new bond.

Town of Winchester Additional Renewal License Provisions

(d) Neither this Section, nor any recovery against the performance bond, shall limit the liability of the Licensee pursuant to this Renewal License.

(e) If the Licensee proposes a performance bond in an amount of less than \$50,000, the Licensee must include a reasonably completed written explanation for providing such lesser amount.

48. Indemnification.

The Licensee shall, at its sole cost and expense, indemnify, hold harmless, and faithfully defend (if requested by the Issuing Authority) the Town, 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, 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 Town Counsel. The Town shall give the Licensee timely written notice of any claim(s) for which indemnification is sought.

49. Regulatory Authority.

The Issuing Authority and/or its designee(s) shall be responsible for the day to day regulation of the Cable System. The Issuing Authority and/or its designee(s) shall monitor and enforce the Licensee's compliance with the terms and conditions of this Renewal License.

50. Performance Evaluation Hearing.

(a) The Licensee, if requested in writing by the Issuing Authority, shall attend a performance evaluation hearing by the Issuing Authority or its designee, once per year. All such evaluation hearings shall be open to the public unless otherwise required by applicable law. The purpose of said evaluation hearing shall be, among other things, (i) to review the Licensee's compliance with the terms and conditions of this Renewal License, with emphasis on PEG Access Channels, facilities and support; customer service and Complaint response; and Programming; and (ii) to hear comments, suggestions and/or Complaints from the public. The Issuing Authority shall provide the Licensee with advance, written notice regarding compliance matters.

(b) The Issuing Authority shall have the right to question the Licensee on any aspect of this Renewal License including, but not limited to, the construction, operation, maintenance

Town of Winchester Additional Renewal License Provisions

and/or removal of the Cable Television System. During review and evaluation by the Issuing Authority, the Licensee shall fully cooperate with the Issuing Authority and/or its designee(s), and produce such documents or other materials as are reasonably requested from the Town. Any Subscriber or other Person may submit comments during such review hearing, either orally or in writing, and such comments shall be duly considered by the Issuing Authority.

(c) Nothing in this Section shall prohibit the Issuing Authority from requesting that the Licensee attend other meetings or hearings held by the Issuing Authority or its designee or compelling attendance by the Licensee through any lawful means.

51. Jurisdiction and Venue.

Jurisdiction and venue over any dispute, action or suit arising from this Renewal License should be as follows: (i) with respect to an action brought in the Superior Court of Massachusetts, the venue shall be and remain in the Superior Court for Middlesex County in Woburn, Massachusetts; and (iii) with respect to an action brought in the U.S. District Court, the venue shall be and remain the U.S. District Court for the District of Massachusetts, located in Boston, MA. The parties by this instrument subject themselves to the personal jurisdiction of said courts for the entry of judgment and for the resolution of any dispute, action, or suit. **IN NO EVENT WILL IT BE ACCEPTABLE FOR THE PROPOSAL TO FAIL TO INCLUDE A JURISDICTION AND VENUE PROVISION WHICH LIMITS BOTH JURISDICTION AND VENUE TO THE COMMONWEALTH OF MASSACHUSETTS AND AS FURTHER SET OUT HEREIN.**

52. Liquidated Damages.

A reasonable and good cable license should include liquidated damage amounts that reflect the monetary damages the Town and those it represents will face with respect to a failure of the Licensee to meet License and/or legal requirements, and, at the same time, reasonably discourage such failures. Liquidated damages should be provided for in the License for the breach of any material provision of the Renewal License. Higher liquidated damage amounts should be imposed for more serious license violations. The dollar amount of liquidated damages should not be less whether in category or dollar amounts than included in the Licensee's current cable license. Liquidated damages shall be calculated from the receipt of the Issuing Authority notice by the Licensee. Each day the violation continues shall be a separate violation.

53. Revocation of Renewal License.

To the extent permitted by applicable law 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.

Town of Winchester Additional Renewal License Provisions

54. Termination of License.

The termination of this Renewal License and the Licensee's rights herein shall become effective upon the earliest to occur of: (i) the revocation of this Renewal License by action of the Issuing Authority, (ii) the abandonment of the Cable System, in whole or material part, by the Licensee without the express, prior approval of the Issuing Authority; and/or (iii) the expiration of the term of this Renewal License. In the event of any termination, the Town shall have all of the rights provided in this Renewal License.

55. Non-Exclusivity of Remedy.

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

56. Customer Service – Incorporation of Federal Regulations in License – 47 C.F.R. Sec. 76.309.

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

Customer Service Office License Requirement

The Licensee shall have a full-service (cable) customer service office, open during “Normal Business Hours” (some nights or weekends) at a location reasonably convenient to the majority of residents of the Town of Winchester, where subscribers can pick-up, exchange and return equipment, have customer service questions addressed in person and pay cable bills.

57. Business Practice Standards – 207 CMR 10.00 et. seq.

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

- (i) Notification of its Billing Practices;
- (ii) Notification of Services, Rates and Charges;
- (iii) Equipment Notification;
- (iv) Form of Bill;
- (v) Advance Billing, Issuance of Bills;

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

58. Complaint and Resolution Procedures.

- (a) The Licensee shall establish a procedure for resolution of Complaints by Subscribers.
- (b) Upon reasonable notice, the Licensee shall expeditiously investigate and resolve all Complaints regarding the quality of Service, equipment malfunctions and similar matters. In the event that a Subscriber is aggrieved, the Issuing Authority or its designee(s) shall be responsible for receiving and acting upon such Subscriber Complaints and/or inquiries, as follows:
 - (i) Upon the written request of the Issuing Authority or its designee(s), the Licensee shall, within fourteen (14) business days after receiving such request, send a written report to the Issuing Authority with respect to any Complaint. Such report shall provide a full explanation of the investigation, finding and corrective steps taken by the Licensee.
 - (ii) Should a Subscriber have an unresolved Complaint regarding cable television operations, the Subscriber shall be entitled to file his or her complaint with the Issuing Authority or its designee(s), who shall have primary responsibility for the continuing administration of this Renewal License and the implementation of Complaint procedures. The Subscriber shall thereafter meet jointly with the Issuing Authority or its designee(s) and a representative of the Licensee, within thirty (30) days of the Subscriber's filing of his or her Complaint, in order to fully discuss and resolve such matter. The Licensee shall notify each new Subscriber, at the time of initial installation of Cable Service, of the procedures for reporting and resolving all of such Complaints, and annually to all Subscribers.
- (c) Notwithstanding the foregoing, if the Issuing Authority or its designee(s) determines it to be in the public interest, the Issuing Authority or its designee(s) may investigate Complaints or disputes brought by Subscribers arising from the operations of the Licensee.
- (d) In the event that the Issuing Authority or its designee(s) find a pattern of multiple unresolved Subscriber complaints, the Issuing Authority or its designee(s) and the Licensee shall discuss, in good faith, possible amendments to the Licensee's procedures for the resolution of Complaints.

Town of Winchester Additional Renewal License Provisions

59. Remote Control Devices.

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

60. Employee Identification Cards.

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

61. Subscribe Privacy and Rights.

Protection of Subscriber Privacy.

(a) The Licensee shall respect the rights of privacy of every Subscriber and/or User of the Cable Television System and shall not violate such rights through the use of any device or signal associated with the Cable Television System, and as hereafter provided.

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

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

(d) The Licensee shall notify all third parties whose Cable Services are provided in conjunction with the Licensee, or independently over the Cable System, of the Subscriber privacy requirements contained in this Renewal License.

Privacy Written Notice.

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

Town of Winchester Additional Renewal License Provisions

Monitoring.

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

(b) The Licensee shall not record or retain any information transmitted between a Subscriber or User and any third party, except as required for lawful business purposes. The Licensee shall destroy all Subscriber information of a personal nature when such information is no longer necessary for the Licensee's lawful business purposes, or as required by applicable State and/or federal law.

Distribution of Subscribe Information.

(a) The Licensee shall not disclose personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned.

(b) The Licensee may disclose such information, if in accordance with applicable law, if the disclosure is:

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

(ii) made pursuant to a court order authorizing such disclosure, if the Subscriber is notified of such order by the person to whom the order is directed; or

(iii) a disclosure of the names and addresses of Subscribers to any Cable Service or other service, if (a) the Licensee has provided the Subscriber the opportunity to prohibit or limit such disclosure, and (b) the disclosure does not reveal, directly or indirectly, the (A) extent of any viewing or other use by the Subscriber of a Cable Service or other service provided by the Licensee, or (B) the nature of the transaction made by the Subscriber over the Cable System.

Polling by Cable.

No poll of a Subscriber or User shall be conducted or obtained, unless (i) the program shall contain an explicit disclosure of the nature, purpose and prospective use of the results of the

Town of Winchester Additional Renewal License Provisions

poll, and (ii) the program has an informational, entertainment or educational function which is self-evident. The Licensee or its agents shall release the results only in the aggregate and without individual references.

Information with Respect to Viewing Habits and Subscription Decisions.

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

Subscriber Right To Inspect and Verify Information.

(a) The Licensee shall make available for inspection by a Subscriber at a reasonable time and place all personal Subscriber information that the Licensee maintains regarding said Subscriber.

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

(c) A Subscriber or User may challenge the accuracy, completeness, retention, use or dissemination of any item of personal Subscriber information. Such challenges and related inquiries about the handling of Subscriber information shall be directed to the Licensee's General Manager. The Licensee shall change any such information upon a reasonable showing by any Subscriber that such information is inaccurate.

Privacy Standard Review

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

62. Reports, Audits and Performance Tests.

General

(a) Upon the written request of the Issuing Authority, the Licensee shall promptly submit to the Issuing Authority and/or its designee(s) any records, documents and/or information regarding the Licensee, its business and operations, and/or any Affiliated Person, with respect to the Cable System, in such form and containing such detail as may be reasonably specified by the Town 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.

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(b) If the Licensee believes that the documentation requested by the Issuing Authority involves proprietary information, then the Licensee shall submit the information to its counsel, who shall confer with the Town Counsel for a determination of the validity of the Licensee's claim of a proprietary interest. The Issuing Authority and its authorized designees, if any, shall take reasonable steps to protect the proprietary and confidential nature of any such documents, subject to applicable law.

Financial Reports

(a) In accordance with applicable law, after the end of the Licensee's fiscal year, the Licensee shall furnish the Issuing Authority and/or its designee(s) with the Cable Division Form 200 showing a balance sheet sworn to by the Licensee's authorized financial representative.

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

In-House Telephone Reports

To establish the Licensee's compliance with the requirements of this Renewal License, the Licensee shall provide the Issuing Authority, upon written request but not more than once annually, with a report of regional telephone traffic, generated from an in-house automated call accounting or call tracking system, covering Subscriber calls to the Licensee. Said reports shall include the following information and any other information that may be required by applicable law: (i) confirmation that, under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made (which standard shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis); and (ii) confirmation that, under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

Individual Complaint Reports

The Licensee shall, within fourteen (14) business days after receiving a written request from the Issuing Authority, send a written report to the Issuing Authority with respect to any Complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

Cable Division Subscriber Complaint Reports

In accordance with the regulations of the Cable Division, the Licensee shall submit a completed copy of the Cable Division Form 500 (a copy of which is attached hereto as an Exhibit) to the Issuing Authority.

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Proof of Performance Tests

The Licensee shall comply with the FCC Regulations set out in 47 C.F.R. §76.601 et seq. The Licensee shall provide copies of performance tests to the Issuing Authority.

Dual Filings

Each party shall notify the other of any petitions, communications, and/or requests for waiver or advisory opinion with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder and upon the other party's written request, shall make available at its own expense to the other party copies of any such petitions, communications or requests.

Additional Information

The Licensee shall not unreasonably deny any request of the Issuing Authority or its designee for further information which may be required to establish the Licensee's compliance with this Renewal License. At any time during the term of this Renewal License, upon the reasonable request of the Issuing Authority, the Licensee shall

Investigation.

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

63. 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 bylaws/regulations of general applicability and not specific to the Cable Television System, Licensee, or this License; or (c) be construed as a waiver or release of the rights of the Issuing Authority in and to the Public Ways. Any conflict between the terms of this Renewal License and any present or future exercise of the municipality's police and regulatory powers shall be resolved in favor of the later.

64. Employment/Non-Discrimination/Worker Rights

(a) Employment - The Licensee shall comply with all applicable State and federal laws and/or regulations regarding Equal Employment Opportunity.

Town of Winchester Additional Renewal License Provisions

(b) Non-Discrimination - The Licensee shall adhere to all federal and State laws prohibiting discrimination in employment practices.

(c) Worker's Rights - The Licensee shall comply with the National Labor Relations Act; all applicable State and federal Wage and Hour laws. The Licensee shall encourage a healthy relationship with its employees by respecting their right to organize and to bargain collectively with their employer, and to engage in other protected, concerted activities to improve their wages and working conditions.

65. Level Playing Field/Non-Exclusivity of License

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

(b) The grant of any additional cable television license(s) shall be at the sole discretion of the Issuing Authority.

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

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

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

Town of Winchester Additional Renewal License Provisions

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

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

66. Miscellaneous Provision.

Entire Agreement.

This instrument contains the entire agreement between the parties, supercedes 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.

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.

Severability.

In the event that a court or agency or legislature of competent jurisdiction acts or declares that any nonmaterial provision of this Renewal License is unenforceable according to its terms, or is otherwise void, said provision shall be considered a separate, distinct, and independent part of this License, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that a court or agency or legislature of competent jurisdiction acts so that any material provision of this Renewal License is unenforceable according to its terms, or is otherwise void, the parties agree to

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immediately enter into negotiations in good faith and make equitable amendments to restore the relative burdens and benefits of this Renewal License. Notwithstanding the foregoing, if a party believes a provision is not material, it must so notify the other party within thirty (30) days of a request by such other party that it enter into negotiations to make amendments, or else the claim of non-materiality is waived. The obligation to negotiate is not tolled by, and the parties must discharge their negotiation responsibility notwithstanding, a dispute as to materiality. The remedies provided for herein do not prevent a party from contending that a particular provision is enforceable, or foreclose any remedies if a provision is enforceable.

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 or indirectly in the construction, installation, maintenance or operation of the Cable System as if the acts or omissions of such Affiliates were the acts or omissions of the Licensee.

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.

Warranties.

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

- (i) the Licensee is duly organized, validly existing and in good standing under the laws of the State;
- (ii) the Licensee has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the Effective Date of 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;
- (iii) this Renewal License is enforceable against the Licensee in accordance with the provisions herein, subject to applicable State and federal law;
- (iv) there is no action or proceeding pending or threatened against the Licensee as of the Effective Date of this Renewal License that would interfere with its performance of this Renewal License; and

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

Force Majeure.

If by reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivision, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; and unavailability of essential equipment, services and/or materials and/or other matters beyond the reasonable control of the party, provided the party takes immediate and diligent steps to comply as soon as possible under the circumstance with the Renewal License without endangering the health or safety of the Licensee's employees or property, or the health or safety of the residents or employees of the Town or the public, or their property. In the event that any such delay in performance or failure to perform affects only part of the party's capacity to perform, the party shall perform to the maximum extent it is able to do so in as expeditious a manner as possible. The party claiming force majeure shall notify the other party in writing of the occurrence of an event covered by this Section within five (5) business days of the date upon which the party learns of its occurrence.

Application of Renewal License.

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

No Recourse Against Issuing Authority.

Pursuant to Section 635A(a) of the Cable Act, the Licensee shall have no recourse against the Issuing Authority, the Town and/or its officials, boards, commissions, committees, members, agents or employees other than through injunctive or declaratory relief, arising from: (i) the regulation of Cable Service(including any provision of this Renewal License, or the enforcement of this Renewal License) or (ii) from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Renewal License.

Town of Winchester Additional Renewal License Provisions

Guarantee By Ultimate Corporate Parent

The Licensee's obligations under the Renewal License must be guaranteed by the Licensee's ultimate parent corporation (ultimate corporate parent). (The draft Renewal License submitted by Comcast in response to this RFP should specifically state this ultimate corporate parent guarantee and the proposed Renewal License include such a provision.) This is an extremely important provision to the Town, even more so when the financial condition of a foreign entity such as Comcast of Winchester, Inc. is not provided by the Licensee as required in by RFP, and as it should be in order for the Town to ascertain and determine the financial condition and ability of the Licensee.

Term.

All obligations of the Licensee and the Issuing Authority set forth in this Renewal License shall commence upon the Effective Date of this Renewal License and shall continue for the term of the Renewal License (10 years).