

TOWN OF BROOKLINE

STATE OF NEW HAMPSHIRE

RENEWAL CABLE TELEVISION FRANCHISE

GRANTED TO

CHARTER COMMUNICATIONS ENTERTAINMENT I, LLC

l/k/a

Charter Communications

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CHARTER RENEWAL FRANCHISE AGREEMENT

This Renewal Franchise Agreement is between the Town of Brookline, New Hampshire, hereinafter referred to as the “Franchising Authority” and Charter Communications Entertainment I, LLC I/k/a Charter Communications, hereinafter referred to as the “Franchisee.”

WHEREAS, the Franchising Authority of the Town of Brookline, New Hampshire, pursuant to RSA: 53-C is authorized to grant one or more nonexclusive, revocable cable television renewal franchises to construct, operate and maintain a Cable Television System within the Town of Brookline; and

WHEREAS, the Franchising Authority finds that the Franchisee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Franchisee 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 Franchisee in the future; and

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

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

WHEREAS, the Franchising Authority and the Franchisee did engage in good faith negotiations and did agree on various provisions regarding the Cable Television System in Brookline;

NOW, THEREFORE, the Franchising Authority and the Franchisee agree as follows:

1 Definition of Terms

1.1 Terms

For the purpose of this Renewal 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 a Person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
2. "Cable System," "Cable Service," "Cable Operator" and "Basic Cable Service" shall be defined as set forth in the Cable Act.
3. "Cable Act" shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
4. "Complaint" shall mean any written or verbal contact with the Franchisee in connection with subscription in which a Person expresses dissatisfaction with an act, omission, product or service that is (1) within the Franchisee's control, and (2) requires a corrective measure on the part of the Franchisee.
5. "Educational Access" shall mean the programming, channels and facilities allocated to the Town of Brookline for educational use in accordance with this Renewal Franchise and with applicable provisions of the Cable Act.
6. "Effective Date" shall mean the date when both parties have executed this Renewal Franchise.
7. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
8. "Franchising Authority" shall mean the Board of Selectmen, Town of Brookline.
9. "Franchise" or "Renewal Franchise" shall mean the non-exclusive rights granted pursuant to this Renewal Franchise to construct and operate a Cable System along the public ways within all or a specified area in the Service Area.
10. "Government Access" shall mean the programming, channels and facilities allocated to the Town of Brookline for governmental use in accordance with this Renewal Franchise and with applicable provisions of the Cable Act.
11. "Franchisee" shall mean Charter Communications Entertainment I, LLC I/k/a Charter Communications or its lawful successor, transferee or assignee.
12. "Gross Annual Revenues" shall mean revenues received by the Franchisee and/or its Affiliate/s from the carriage of Signals over the Cable Television System for the provision of Cable Service(s) including, without limitation: the distribution of any Cable Service over the Cable System; Basic Service monthly fees; any and all Cable Service fees and/or Cable Service charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; all digital Cable Service revenues; interest collected on Subscriber fees and/or charges; all Commercial Subscriber revenues; fees paid for channels designated for commercial use; converter, remote control and other equipment rentals, and/or leases or and/or sales; fees paid on all Subscriber fees; all home-shopping service(s) revenues; and advertising revenues. In the event that an Affiliate is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by an Affiliate for said Affiliate's use of the Cable System for the carriage of advertising. Gross Annual Revenues shall also include the Gross Revenue of any other Person which is derived directly from or in connection with the operation of the Cable System to the extent that said revenue is derived, through a means which has the effect of avoiding payment of Franchise Fees to the Town that would otherwise be paid herein. Gross Annual Revenues shall not include: any taxes, fees or assessments of general applicability

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collected by Franchisee from Subscribers for pass-through to a government agency, including the FCC user fee; any Franchise Fee or PEG related amounts recovered from Subscribers; and actual bad debt that is written off, consistent with Generally Accepted Accounting Principles; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of Affiliates and/or Persons relating to Signal carriage over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to such Signal carriage.

13. "Installation" shall mean the connection of the Cable System from feeder cable to Subscribers' terminals.
14. "PEG" shall mean the acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.
15. "'Person" shall mean an individual, partnership, association, organization, corporation or any lawful successor, transferee or assignee of said individual, partnership, association, organization or corporation.
16. "Public Access" shall mean the programming, channels and facilities allocated to the Town of Brookline for public use in accordance with this Renewal Franchise and with applicable provisions of the Cable Act.
17. "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.
18. "Public Ways" or "Streets" 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 and additions 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 Franchising Authority in the Service Area, which shall entitle the Franchisee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Franchisee shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.
19. "Reasonable notice" shall be written notice addressed to either party hereto at its principal office or such other office as has been designated to the other party as the address to which notice should be transmitted to it.
20. "Service Area" shall mean the geographic boundaries of the Town, and shall include any additions thereto by annexation or other legal means, subject to the exception in subsection 6.1 hereto.
21. "Signal" shall mean any transmission of electromagnetic or optical energy which carries Programming from one location to another.
22. "State" shall mean the State of New Hampshire.
23. "Subscriber" shall mean any Person lawfully receiving Cable Service from the Franchisee.
24. "Town" shall mean the Town of Brookline, New Hampshire.

2 Grant of Renewal Franchise

2.1 Grant

(a) Pursuant to the authority of RSA Chapter 53-C of the laws of the State of New Hampshire, and subject to the terms and conditions set forth herein, the Board of Selectmen of the Town of Brookline, New Hampshire, as the Franchising Authority of the Town, hereby grants a non-exclusive Cable Television Renewal Franchise to the Franchisee authorizing the Franchisee to continue to lawfully operate and maintain a Cable System within the corporate limits of the Town of Brookline.

(b) This Renewal Franchise is subject to the terms and conditions contained in RSA Chapter 53-C of the laws of New Hampshire; the regulations of the FCC; the Cable Act; and all Town, State and federal statutes and by-laws of general application, as all may be amended.

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

(d) Grant of this Renewal Franchise 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 the Franchisee and other parties regarding use of Public Ways and places shall be resolved in accordance with any applicable regulations of the Department of Public Works and any lawful special laws or Town by-laws and/or regulations enacted hereafter.

2.2 Term

This Renewal 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 Renewal Franchise, unless otherwise lawfully terminated in accordance with the terms of this Renewal Franchise.

2.3 Non-Exclusivity of Renewal Franchise

(a) This Renewal Franchise shall not affect the right of the Franchising Authority to grant to any other Person a franchise or right to occupy or use the Public Ways or Streets, or portions thereof, for the construction, installation, operation or maintenance of a Cable System within the Town, or the right of the Franchise Authority to permit the use of the Public Ways and places of the Town for any purpose whatever. Franchisee hereby acknowledges the Franchise Authority's right to make such grants and permit such uses. . Franchise Authority shall not permit or authorize any person or entity to operate a cable system without a Franchise or franchise, as defined by 47 U.S.C. § 522(9).

(b) The grant of any additional cable television franchise(s) shall not be on terms more favorable or less burdensome than those contained in this Renewal Franchise.

(c) If any other provider of cable services or video services (without regard to the technology used to deliver such services) is Franchised or otherwise lawfully authorized by the Franchise Authority or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Franchise Authority, the Franchise Authority shall within thirty (30) days of a written request from Franchisee, conduct a public hearing to determine whether the obligations applicable to Franchisee are no more burdensome than those imposed on the new competing provider. If the Franchise Authority finds that competitive

inequities exist, it shall have ninety (90) days to negotiate, in good faith, equitable amendments to this Renewal Franchise.

2.4 Police Powers and Conflicts with Renewal Franchise

By executing this Renewal Franchise, the Franchisee 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 Franchisee 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 Renewal Franchise and any Franchising Authority by-law or regulation, the terms of this Renewal Franchise shall prevail. This Renewal Franchise is a contract and, except for those changes which are the result of the Franchising Authority's exercise of its general police power, the Franchising Authority may not take any unilateral action which materially changes the explicit mutual obligations in this Renewal Franchise. The Franchisee shall not take any unilateral action which materially changes the explicit mutual obligations in this Renewal Franchise. Any changes to this Renewal Franchise shall be made in writing and signed by the Franchisee and the Franchising Authority. In the event of any conflict between this Renewal Franchise and any Franchising Authority by-law or regulation, this Renewal Franchise will prevail.

3 Franchise Renewal

3.1 Procedures for Renewal

The Franchising Authority and the Franchisee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of this Renewal Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as may be amended.

3.2 Indemnification

(a) The Franchisee shall, by acceptance of this Renewal Franchise granted herein, defend the Franchising Authority, its officers, boards, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence or intentional act(s) of the Franchisee, its officers, employees, agents or servants in the construction, maintenance and/or operation of the Cable System, including, but not limited to, any injury to any Person or property as a result of the negligence or intentional act(s) of the Franchisee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles and/or any other equipment of any kind or character used in connection with the operation of the Cable System. In the event of a determination of liability or settlement, the Franchisee shall indemnify and hold the Franchising Authority, the Town, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, judgments and/or costs arising out of the construction, maintenance and/or operation of the Cable System, including any injury to any Person or property as a result of the negligence or intentional act(s) of the Franchisee 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. The Franchising Authority shall give the Franchisee written notice of its obligation to indemnify and defend the Franchising Authority within fifteen (15) business days of receipt of a claim or action pursuant to this Section 4.1. Notwithstanding the foregoing, the Franchisee shall not be obligated to indemnify the Franchise Authority for any damages, liability or claims resulting from the willful misconduct or gross negligence of the Franchising Authority or for the Franchising Authority's use of the Cable System, including any PEG Access channels.

(b) Subject to paragraph (a) above, indemnification under this provision shall be contingent upon the Franchising Authority giving to a Franchisee such reasonable notice as not to prejudice the Franchisee's ability to defend the Franchising Authority or the Town.

(c) If the Franchisee is obligated to defend and indemnify the Town against such claims or actions, the Franchisee shall in its sole discretion control such defense, compromise or settlement or other resolution or disposition of such claim or proceeding. The Franchisee shall make good faith efforts to include the Franchising Authority in the participation of any such compromise, settlement or other such resolution or disposition of such claim or proceeding. In the event the Franchising Authority determines its interests cannot be represented in good faith by the Franchisee, the Franchising Authority may otherwise seek legal representation.

(d) The Franchising Authority shall fully cooperate with the reasonable requests of the Franchisee in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subparagraph (b) above.

3.3 Insurance

(a) The Franchisee 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	

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on all owned, non-owned or hired autos: [\$1,000,000] per occurrence C.S.L.

Umbrella Liability [\$1,000,000] per occurrence C.S.L.

(b) The Franchising Authority shall be added as an additional insured, arising out of work performed by Franchisee, to the above Commercial General Liability and Umbrella Liability insurance coverage.

(c) The Franchisee shall furnish the Franchising Authority with current certificates of insurance evidencing such coverage upon request.

(d) Should any of the policies be cancelled before the expiration date thereof, the Insurer affording coverage will endeavor to mail 30 days written notice to the certificate holder named herein, but failure to mail such notice shall impose no obligation or liability of any kind upon the Insurer affording coverage, its agents or representatives, or the issuer of this certificate.

3.4 Performance Bond

(a) The Franchisee shall submit and maintain throughout the Renewal Franchise a bond with corporate surety satisfactory to the Franchising Authority in the amount of Twenty Thousand Dollars (\$20,000.00) conditioned on the following terms:

(1) The satisfactory operation of the Cable System in accordance with the provisions of this Renewal Franchise.

(2) The satisfactory restoration of pavements, sidewalks and other improvements as approved by the Franchising Authority and Superintendent of Streets of the Town;

(3) The sightly preservation of trees and the vegetation as approved by the Franchising Authority and Tree Warden;

(4) The indemnification of the Town pursuant to Section 4.1 above;

(5) The satisfactory removal of the Cable System within six (6) months from the date of lawful notice from the Franchising Authority to the Franchisee to so remove the Cable System.

(b) This bond may be terminated or cancelled by Surety by thirty (30) days prior notice in writing to Principal and to Oblige. 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. The liability of the Surety shall be limited to the amount set forth above and is not cumulative.

4 Subscriber Rights And Consumer Protection

4.1 Customer Service Hours and Telephone Response Service

The Franchisee 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, as such term is defined in 47 Code of Federal Regulations, §76.309 (“Customer Service Obligations”).

4.2 Initial Installation And Service Call Procedures In Wired Areas

The Franchisee shall provide Cable Service to those residents whose homes are passed by the Cable System and who have requested service and have paid a deposit for such service, if required, within seven (7) business days of receipt of the request and deposit for standard aerial installations, provided that such request for Cable Service involves a standard installation. In arranging appointments for cable installation work or service calls, the Franchisee shall make its reasonable best efforts to specify to the resident, in advance, whether installation or service will occur in the morning or afternoon hours. The Franchisee shall make reasonable efforts to install or perform service at times convenient to residents, including times other than 9:00 a.m. to 5:00 p.m. weekdays. Failure to install within fourteen (14) days, or to make a service call as scheduled, without just cause or resident fault, shall require the Franchisee to automatically offer a priority cable installation or service call to the affected resident at a time mutually agreeable to the Franchisee and such affected resident, but in no case later than three (3) working days following the initial installation or service call date unless mutually agreed to otherwise by the parties.

4.3 Subscriber Solicitation Procedures

The Franchisee shall provide all prospective Subscribers with complete, clear and concise written information concerning all services and rates upon solicitation or prior to, or at the time of, installation of Cable Service. Such sales materials shall clearly and conspicuously disclose the price and other information concerning the Franchisee's lowest cost Cable Service tier, prices of optional and Premium Services, privacy policies, availability and price of equipment and billing practices. Nothing herein shall be otherwise construed to limit, restrict or prevent Franchisee from marketing, promoting or offering any services provided hereunder in accordance with applicable law.

4.4 Billing Practices Information And Procedures

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

4.5 Notification Of Rates And Charges

The Franchisee shall inform the Franchising Authority of all rates and charges of any kind, and all terms or conditions relating thereto. Thereafter, the Franchisee shall inform the Franchising 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 Franchisee's control. The Franchisee shall notify all Subscribers of any impending rate increases in such time and manner as necessary to comply with law and regulations, but in no event less than thirty (30) days in advance.

4.6 Disconnected and Termination Of Cable Services

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

4.7 Response To Service Calls And Service Complaints

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

(b) The Franchisee shall ensure that there are stand-by personnel on-call at all times after Normal Business Hours.

(c) The Franchisee 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 the Franchisee to violate applicable provisions of federal and/or State law concerning Subscriber privacy.

4.8 Complaint Resolution Procedures

(a) In compliance with law, the Franchisee shall establish a procedure for resolution of billing disputes and other Complaints by Subscribers. The Franchisee 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 Franchising Authority determines it to be in the public interest, the Franchising 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 Franchisee, provided said Subscribers have made good faith effort to comply with the procedures specified in Section 5.8(a) above for the resolution of Complaints.

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

4.9 Change Of Service

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

4.10 Employee And Agent Identification Cards

All of the Franchisee'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 Franchisee.

4.11 F.C.C. Customer Service

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

4.12 Protection Of Subscribers Privacy

The Franchisee shall comply with all privacy provisions contained in applicable laws, including, but not limited to, the provisions of 47 U.S.C. § 551.

4.13 Parental Control

Upon request, and at no separate additional charge, the Franchisee shall provide Subscribers with the capability to control the reception of any channel on the Cable System. The parental control capability may be part of a converter box and the Franchisee may charge Subscriber for use of such box in accordance with applicable law(s).

4.14 No Discrimination.

The Franchisee shall not deny Cable 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. The Franchisee shall comply with all federal and State regulations concerning non-discrimination.

4.15 Notification of Service Procedures

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

5 Service Availability

5.1 Service Area

The Franchisee shall make Cable Service distributed over the Cable System available to all residences in the Town within seven (7) days of a request; provided, however, that (i) all such residences are on the Public Way or a Private Way; (ii) such Public Ways or Private Ways can be accessed by Franchisee from a Public Way without crossing a Town boundary; and (iii) to the extent that Franchisee shall require public easements, then such public easements, attachments or other rights are available to Franchisee on reasonable terms and conditions. Nothing herein shall be construed to preclude the Franchisee from charging a fee to any Subscriber or potential Subscriber for a standard or non-standard installation, as may be applicable. The Franchisee may elect to provide Cable Service to areas not meeting the above standard. The Franchisee retains full ownership rights and interest in all portions of its Cable 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. In supplying Cable Service in accordance with this Section 6.1, all economically feasible efforts shall be made to give all residences the same channel line-up.

Pursuant to the provisions of this Section, the Franchisee shall make Cable Service available to the North Mason Road/Ben Farnsworth Road area of the Town, which had been excluded from the defined Service Area under the prior Franchise Agreement. Such new construction shall be completed within twelve (12) months of the Effective Date of this Renewal Agreement.

5.2 Standard Drops

- (a) Installation costs shall conform to the Cable Act, and regulations thereunder. Any dwelling unit within two hundred fifty (250) aerial feet of the Cable System shall be entitled to a standard installation rate. Additional incremental costs associated with completing installations located more than 250 feet from the Cable System distribution plant shall be charged to the requesting resident, after provision of a written itemization of such costs to the resident, on a cost of labor and materials basis only.
- (b) The Franchisee shall provide Cable Service to all areas of the Town that do not have such Cable Service on the Effective Date of this Renewal Franchise with an average of twenty-five (25) homes per aerial mile, or greater, without contribution in aid of construction by residents.
- (c) In cases of a request for Cable Service not meeting the criteria in paragraph (b) above, the Franchisee shall extend Cable 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 extended area; P equals the minimum number of dwelling units per mile which would require the Franchisee to provide Cable Service in the extended area; LE equals the number of dwelling units requesting service in the line extension area; and SC equals subscriber contribution-in-aid of construction in the line extension area.
- (d) Whenever a potential Subscriber located in a line extension area requests Cable Service, the Franchisee shall, within thirty (30) days of such 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.
- (e) During the three (3) year period commencing with initiation of Cable 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 particular extension. The amount of such refund, if any, shall be determined by application of the formula in Section 6.2(c) herein each time a new Subscriber is added. The refunds shall be paid annually to Subscribers or former Subscribers entitled to receive them.

5.3 New Development Underground

In cases of new construction or property development where utilities are to be placed underground, the Franchising Authority or its designee(s) shall make reasonable efforts to have any developer or property owner installing conduit in the Public Way give the Franchisee at least thirty (30) days prior notice of such construction or

development, and provide the particular dates on which open trenching shall be available for the Franchisee's installation of conduit, pedestals and/or vaults, and laterals, any and all of which shall be installed at the Franchisee's sole cost and expense. The Franchisee shall also provide specifications as needed for trenching. The costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; provided, however, that if the Franchisee 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 shall be borne by the Franchisee at its sole cost.

5.4 Commercial Establishments

The Franchisee shall make Cable Services available to any commercial establishments in the Town, which are located on the residential Subscriber Network route, subject to the Franchisee and each commercial establishment reaching a reasonable agreement regarding the terms and costs of initial installation and Cable 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 Franchisee's agreements with its program suppliers.

5.5 Inspections

The Franchising Authority or its designee shall have the right to inspect the plant, equipment or other property of the Franchisee within the Town upon reasonable notice. The Franchisee shall fully cooperate in such inspections.

6 Construction and Technical Standards

6.1 Compliance with Codes

The Franchisee shall construct and maintain a minimum 750 MHz Cable System in accordance with applicable technical standards and standards. During the term hereof, the Franchisee shall comply with all applicable FCC statutes, regulations and standards, including those relating to the quality of signals transmitted over the Cable System. The Franchisee shall construct, upgrade, install, operate, maintain and remove the Cable System in conformance with the New Hampshire Electrical Code, the National Electric Code, the National Electrical Safety Code, the National Electrical Code of the National Fire Protection Association, the National Cable Television Association Safety Manual, the rules and regulations of the FCC and the MDTE building and zoning codes, and land use restrictions as the same exist or may be amended hereafter. The Franchisee shall resolve any conflicts between said codes in accordance with applicable law and regulations.

6.2 Construction Standards and Requirements

All of the Franchisee's Cable System 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.

6.3 Safety

The Franchisee 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.

6.4 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 such standards may be amended from time to time, and operated in such a manner as to comply with all applicable FCC regulations.

6.5 Performance Monitoring

The Franchisee shall test the Cable System consistent with the FCC regulations.

6.6 Performance Evaluations.

The Franchising Authority may, at its discretion but not more than once a year, hold a performance evaluation session. All such evaluation sessions shall be open to the public. The purpose of said evaluation sessions shall be to, among other things, review the Franchisee's compliance to the terms and conditions of this Renewal Franchise, new technologies and hear comments, suggestions or Complaints from the public. The Franchising Authority shall provide the Franchisee with sixty (60) days, advance written notice of such performance evaluation session.

7 Conditions on Street Occupancy

7.1 General Conditions

The Franchisee shall have the right, with the permission of its owner(s), 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 Franchising Authority is obtained, which approval shall not be unreasonably withheld.

7.2 Underground Construction

The facilities of the Franchisee shall be installed underground in those areas of the Town where existing telephone and electric services are both underground. In areas where telephone and electric utility facilities are installed aerially, the Franchisee 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 Franchising Authority, the Franchisee shall likewise place its facilities underground.

7.3 Permits

The Franchising Authority shall cooperate with the Franchisee in securing any permits to the fullest extent permissible by law.

7.4 System Construction

All transmission lines, equipment and structures comprising the Cable System shall be so installed and located as to cause minimum interference with the rights 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 Franchisee 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 Franchisee shall be placed in such a manner as not to interfere with the usual travel on such Public Way.

7.5 Restoration of Streets

(a) The Franchisee shall, at its own expense, restore any damage or disturbance caused to a Public Way or Street as a result of its operation, construction, or maintenance of the Cable System to the condition of the Street immediately prior to such damage or disturbance.

(b) Whenever the Franchisee 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 Franchisee fails to make such restoration within a reasonable time, the Franchising Authority may fix a reasonable time for such restoration and repairs and shall notify the Franchisee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon the failure of the Franchisee to comply within the specified time period, the Franchising Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Franchisee upon demand by the Franchising Authority. For the purpose of this section, "reasonable expense" shall provide for restoration to the original condition.

7.6 Removal in Emergency

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

7.7 Tree Trimming

In the installation, maintenance, operation and repair of the poles, cables, wires and all appliances or equipment of the Cable System, the Franchisee 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 receiving 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. The Franchisee shall secure the advance, written permission of the property owner prior to reasonable tree trimming of trees on private property.

7.8 Relocation for the Franchising Authority

The Franchisee 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 the Franchisee when lawfully required by the Franchising Authority pursuant to its police powers. The Franchisee shall be responsible for any costs associated with these obligations to the same extent all other users of the Public Ways are responsible for the costs related to their facilities.

7.9 Relocation for a Third Party

The Franchisee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Franchisee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Franchisee is give reasonable advance written notice to prepare for such changes. The Franchisee may require such payment in advance. For purposes of this subsection, “reasonable advance written notice” shall be no less than ten (10) business days in the event of a temporary relocation and no less than sixty days (60) for a permanent relocation.

7.10 Reimbursement of Costs

If funds are available to any person using the Streets for the purpose of defraying the cost of any plant/equipment relocation or beautification project that requires Franchisee to move and/or relocate plant/equipment, the Franchising Authority shall reimburse the Franchisee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Franchisee.

7.11 Emergency Use

The Franchisee shall comply with all federal and State Emergency Alert System (“EAS”) requirements.

7.12 Private Property

The Franchisee shall be subject to applicable law regarding private property in the course of constructing, upgrading, installing, operating and/or maintaining the Cable System in the Town. The Franchisee 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, upgrade, installation, operation or maintenance of the Cable Television System. Pursuant to 47 U.S.C. § 541(a)(2), Franchisee is authorized herein to install, construct, operate, maintain and remove its facilities in easements which have been dedicated to compatible uses, subject to the conditions of applicable law.

7.13 Service Interruptions

Except where there exists an emergency necessitating a more expeditious procedure, the Franchisee shall use reasonable efforts to interrupt Cable Service for the purpose of system construction, routine maintenance or testing the Cable System only during period of minimum use.

7.14 Reservation of Rights

Acceptance of the terms and conditions of this Renewal Franchise shall not constitute, or be deemed to constitute, a waiver, either expressly or implied, by the Franchisee or by the Franchising Authority of any legal rights which

either party may have or may be subsequently determined to have, either by subsequent legislation or court decisions.

9 Rates, Charges And Programming

9.1 Rate Regulation

The Franchising Authority shall have the right to exercise rate regulation to the extent authorized by law for any period of time, at the sole discretion of the Franchising Authority. If and when exercising rate regulation, the Franchising Authority shall abide by the terms and conditions set forth by the FCC.

9.2 Continuity of Service

It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Franchisee are honored.

9.3 Senior Citizen Discount

(a) Current Subscribers receiving a Senior Citizen Discount as of the Execution Date of this Renewal Franchise shall continue, throughout the term of this Franchise, to receive an equivalent discount to that set forth in subsection (b) below, the following notwithstanding.

(b) For the term of this Franchise only, for those eligible pursuant to the provisions below, the Senior Citizen or Handicapped Citizen Discount shall be ten percent (10%) off of the price of the Basic Service tier of service, and shall not apply to any other channels or tiers and shall not apply to Cable Service packages.

(c) To be eligible for such discount, a resident must meet the following criteria: sixty-five (65) years of age or older or handicapped and head of household receiving one of the following: (i) Supplemental Security Income (SSI); (ii) Medicaid; (iii) Veterans' Services Benefits; (iv) the Town's income-based senior citizen real estate tax abatement, if any, pursuant to applicable law; or (v) any other suitable criteria that the Franchisee and the Franchise Authority mutually agree upon.

(d) To establish eligibility, a resident shall bring or mail a photocopy of a valid driver's license, birth certificate or other document definitively establishing age, plus a photocopy of documentation definitively establishing receipt by the resident at time of application for this discount of any one of the programs listed in (i)-(v) of Section 9.3(c). A resident need establish eligibility for this discount only once to continue receiving it so long as they remain a Subscriber.

9.4 Credits For Service Interruption

The Franchisee shall grant a pro rata credit or rebate upon request to any Subscriber whose Cable Service is interrupted for twenty-four (24) or more consecutive hours, if the interruption was not caused by the Subscriber and the Franchisee knew or should have known of the service interruption. If an entire tier or Premium Service of a Subscriber's Cable Service is interrupted for twenty-four (24) or more consecutive hours, the Franchisee shall provide a pro rata credit or rebate for each tier or Premium Service interruption.

9.5 Basic Service

The Franchisee shall provide a Basic Service, which shall include at least: (1) all broadcast television signals in the Brookline, New Hampshire area, which are required to be carried by a Cable System serving the Town pursuant to State or federal law, and the two (2) Downstream Channels for educational and governmental access use pursuant to section 13.3 supra.

10 Franchise Fee

10.1 Amount of Fee.

(a) The Franchisee shall pay to the Franchising Authority, throughout the term of this Renewal Franchise, a Franchise Fee equal to three percent (3%) of the Franchisee's Gross Annual Revenues, as defined herein.

(b) The Franchisee shall file with each of such annual payments a completed Gross Annual Revenues Reporting Form, attached hereto as **Exhibit 3**. Said Gross Annual Revenues Reporting Form shall list all of the general categories comprising Gross Annual Revenues as defined in herein. The Franchisee may substitute its own reporting form if it includes the same information as specified in Exhibit 3.

(c) In no case shall said 3% payments include (i) the PEG Access equipment/facilities payment required by Section 13.4 herein; (ii) any other fees or payments required by applicable law; (iii) any amounts excluded from the definition of "franchise fee" under federal law; and/or (iv) any interest due herein to the Franchising Authority because of late payments.

(d) In the event that the payments required herein are not tendered on or before the dates fixed herein, interest due on such payments shall accrue from the date due at one percent (1%) above the Prime Rate.

(e) The Franchisee shall not be liable for a total franchise fee pursuant to this Renewal Franchise and applicable law in excess of five percent (5%) of its Gross Annual Revenues.

10.2 Payment of Fee

The Franchise fees shall be paid to the Town annually by April 1st for the period covering the previous calendar year throughout the term of this Renewal Franchise. .

10.3 Other Payment Obligations and Exclusions

(a) The Franchise 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 which the Franchisee or any Affiliated Person as required herein or by law; the payment of said taxes, fees or charges shall not constitute a credit or offset against the Franchise Fee payments all of which shall be separate and distinct obligations of the Franchisee and each Affiliated Person. The Franchisee herein agrees that no such taxes, fees or charges shall be used as offsets or credits against the Franchise Fee payments.

(b) In accordance with Section 622(h) of the Cable Act (47 U.S.C. § 542[h]), it is the understanding of the parties hereto that nothing in the Cable Act or this Renewal Franchise shall be construed to limit any authority of the Franchising Authority to impose a non-discriminatory tax, fee or other assessment of any kind on any Person (other than the Franchisee) with respect to Cable Service or other communications service provided by such Person over the Cable System for which charges are assessed to Subscribers but not received by the Franchisee. For any twelve (12) month period, the fees paid by such Person with respect to any such Cable Service or any other communications Service shall not exceed five percent (5%) of such Person's gross revenues derived in such period from the provision of such service over the Cable System.

10.4 Audit and Limitation on Recovery

If the Franchising Authority, within twelve months of receipt, has reason to believe that any such payment(s) are incorrect, the Franchisee shall have thirty (30) business days after a request from the Franchising Authority to provide the Town with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Franchising Authority does not believe that such documentation supports the accuracy of such payment(s), the Franchising Authority may conduct an audit of such payment(s). If, after such audit and re-computation, an additional fee is owed to the Town, such fee shall be paid within thirty (30) days after such audit and re-computation. In the event that any franchise payment or recomputed payment is not made on or before the dates specified herein, the Franchisee shall pay an interest charge, computed from such due date, at the annual rate

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of one percent (1%) over the prime interest rate. The period of limitation for recovery of any franchise fee payable hereunder shall be twelve (12) months from the date on which payment was received by the Town.

11 Transfer of Franchise

11.1 Franchise Transfer

(a) The Renewal Franchise granted hereunder shall not be transferred or assigned, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving an application in accordance with applicable law for transfer, the Franchising Authority shall notify the Franchisee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Franchisee's request for transfer within one hundred twenty (120) days, or any other time as specified by State or federal law after receiving such request, consent by the Franchising Authority shall be deemed given.

(b) If the Franchise authority lawfully denies its consent to any such transfer and a transfer is or has nevertheless been affected, the Franchise Authority may revoke and terminate this Franchise.

11.2 Transfer to Affiliates

The foregoing requirements shall not apply to any sale, assignment or transfer to any Person that is owned or controlled by the Franchisee, or any Person that owns or controls the Franchisee. The Franchisee shall notify the Franchising Authority thirty (30) days prior to any such sale, assignment or transfer and must comply with all terms and conditions of this Franchise.

12. Records, Reports, Tests And Maps

12.1 Reports Required

The Franchisee's schedule of charges, contract or application forms for regular Subscriber Cable Service, policy regarding the processing of Subscriber Complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Franchisee's policy in connection with its Subscribers shall be filed with the Franchising Authority upon request.

12.2 Cable System Information

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

12.3 Individual Complaint Reports

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

12.4 Annual Performance Tests

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

12.5 Quality of Service

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

12.6 Dual Filings

To extent required by applicable law, either party shall notify the other of any petitions, communications, and/or requests for waiver or advisory opinion with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder, 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.

12.7 Additional Information

At any time during the term of the Renewal Franchise, upon the reasonable request of the Franchising Authority, the Franchisee shall not unreasonably deny any requests for further information, subject to trade secret, proprietary and confidentiality claims of the Franchisee, which may be required to establish the Franchisee's compliance with its obligations pursuant to the Renewal Franchise.

12.8 Records Required

The Franchisee shall at all times maintain all records according to State and FCC regulations:

(1) A record of all Complaints received regarding interruptions or degradation of Cable Service shall be maintained for one (1) year.

(2) A full and complete set of plans, records and strand maps showing the location of the Cable System.

12.9 Inspection of Records

The Franchisee shall permit any duly authorized representative of the Franchising Authority, upon receipt of advance written notice to examine during Normal Business Hours and on a non-disruptive basis any and all records as is reasonably necessary to ensure the Franchisee's compliance with this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Franchisee may organize the necessary books and records for easy access by the Franchising Authority. The Franchisee shall not be required by this Renewal Franchise to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for Complaints, which shall be kept for one (1) year as specified above. The Franchisee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. To the extent permitted by law, the Franchising Authority agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent such are deemed proprietary or confidential by applicable law or regulation and the Franchisee make the Franchising Authority aware of such confidentiality. If the Franchising Authority believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Franchisee in advance so that Franchisee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Franchising Authority agrees that, to the extent permitted by state and federal law, it shall deny access to any of Franchisee's books and records marked confidential, as set forth above, to any Person.

13. Public, Educational and Government Programming

13.1 Service to Schools and Buildings

Upon the written request of the Franchising Authority, the Franchisee shall provide one (1) Subscriber Network drop, one (1) outlet with Basic Service, without charge, to municipal schools, police and fire stations, municipal libraries, and other municipal buildings specifically designated in writing by the Franchise Authority. In addition, upon written request of the Franchising Authority, the Franchisee shall provide one Subscriber Network drop, outlet, and Basic Service without charge to newly constructed or newly occupied municipal or public school buildings. For any newly-constructed or newly-occupied building described above, the Franchising Authority or its designee shall be responsible for the additional cost of a non-standard installation: an aerial installation in excess of two hundred fifty feet (250') feet from the Franchisee's feeder cable, and an underground installation greater than one hundred twenty-five feet (125') from the Franchisee's feeder cable based on additional actual costs incurred in the installation. The Franchisee shall continue to provide, install and maintain free Basic service to all municipal buildings being served on the Effective Date of this Renewal Franchise and listed in **Exhibit 1** herein.

13.2 Limitations on Use

The Cable Service provided pursuant to this Section shall not be used for commercial purposes. The Franchising Authority shall take reasonable precautions to prevent any use of the Franchisee's Cable System that results in the inappropriate use thereof or any loss or damage to the Cable System.

13.3 Public, Educational and Government Access Channels

(a) The Franchisee shall make available to the Franchising Authority or its designee(s) sufficient bandwidth for two (2) channels for Educational and Government access programming use, as well as two (2) modulators. Use of these channels by the Town or schools and organizations or producers shall be strictly non-commercial in nature. Underwriter acknowledgments similar to those appearing on public broadcast stations shall be permitted. Said Educational and Governmental Access channels and signal quality thereto shall be shall be maintained by the Franchisee in compliance with applicable standards.

(b) The Franchisee shall be responsible, subject to the provisions of Section 6.2 herein, for ensuring that Educational and Governmental Access Programming can be originated from the remote locations listed in Exhibit 2, attached hereto and made a part hereof, and sent to the Headend or Hub on an upstream channel(s) provided by the Franchisee for interconnection with and on said Downstream Educational and Governmental Access Channels.

13.4 Public, Educational And Governmental Access Equipment/Facilities Funding

(a) The Franchisee shall provide, within sixty (60) days of receipt of a written request from Franchising Authority, a one-time cash payment to the Town's special Educational and Governmental Access account or a PEG Access corporation, if so designated by the Franchising Authority in writing, in the amount of five thousand dollars (\$5,000.00) to be used to purchase, lease, and/or improve Educational and Governmental Access equipment and facilities. As allowed by Federal law, the Franchisee shall be permitted to recover all PEG grant payments made to the Franchising Authority as line item pass through designated on Subscriber's monthly billing statements.

(b) In the event that the PEG Access funding payments herein required are not tendered on or before the date fixed in sections 13.4(a) above, interest due on such fees shall accrue from the date at the rate of one percent (1%) above the annual Prime Rate as published by Bank of America or its successors.

(c) The Franchising Authority or Access Designee shall prepare an annual report for the preceding calendar year which records how the annual payment for PEG operations was spent, and what amount remained unspent at the end of the calendar year. This report shall be submitted to the Franchisee annually upon payment of the annual PEG grant.

13.5 Equipment Ownership And Maintenance

The Town shall own all PEG access equipment and, accordingly, shall be responsible for maintenance, repair and replacement of all such PEG access equipment, except for the two (2) modulators which shall be provided by and maintained by the Franchisee.

13.6 Editorial Control

Neither the Franchisee nor the Franchising Authority may engage in any editorial control of the content of the access programming on the Cable System, except as otherwise required or permitted by applicable law. In furtherance thereof, the Town will require program producers to assume individual responsibility for any program-based liability, subject to applicable law. Nothing herein shall be construed to limit the Franchisee's right or ability to cablecast local programming that it produces on a channel other than the two (2) PEG access channels referenced in Section 13.3 above, at the Franchisee's sole discretion.

13.7 Access Coordinator

The Town shall designate a PEG Access Coordinator who shall be responsible for PEG operations, equipment purchase, equipment maintenance and management, production training, and other duties as assigned by the Franchising Authority.

14 Enforcement Or Revocation

14.1 Determination Of Breach

In the event that the Franchise Authority has reason to believe that the Franchisee has defaulted in the performance of any material provision of the Renewal Franchise, except as excused by force majeure, the Franchise Authority shall notify the Franchisee in writing, by certified mail, of the provision or provisions of which the Franchise Authority believes Franchisee to be in default and the details relating thereto. The Franchisee shall have thirty (30) days from the receipt of such notice to:

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

(b) Cure any such default within thirty (30) days of notice thereof, or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured.

(c) In the event that the Franchisee fails to respond to such notice of default, to cure the default or to take reasonable steps to cure the default, the Franchise Authority shall promptly schedule a public hearing no sooner than fourteen (14) days after a determination has been made by the Franchise Authority that the Franchisee has not appropriately responded, cured, nor taken appropriate measures to attempt to cure the default, and written notice, by certified mail, of such has been delivered to the Franchisee.

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

- (i) Seek specific performance of any provision in the Renewal Franchise that reasonably lends itself to such remedy;
- (ii) Commence an action at law for monetary damages;
- (iii) Foreclose on all or any appropriate part of the security provided pursuant to Section 4.3 herein;
- (iv) Declare the Renewal Franchise to be revoked subject to Section 14.3 below and applicable law;
- (v) Invoke any other lawful remedy available to the Town.

14.2 Revocation Of Renewal Franchise

In the event that the Franchise fails to comply with any material provision of the Renewal Franchise in any material fashion, the Franchise Authority may revoke the Renewal Franchise in accordance with applicable law(s). Upon revocation or termination, Franchise Authority may or may not apply the provision Section 627 of the Cable Act.

14.3 No Waiver

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

(b) The failure of the Franchise Authority or the Town to take any action in the event of any breach by the Franchisee shall not be deemed or construed to constitute a waiver of or otherwise affect the right of the Franchise Authority or the

Brookline, N.H./Charter Communications Cable Television Renewal Franchise

Town to take any action permitted by this Renewal Franchise at any other time in the event that such breach has not been cured, or with respect to any other breach by the Franchisee.

15. Miscellaneous Provisions

15.1 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 of New Hampshire or any of their departments, agencies, political subdivision, or officials, or any civil or military authority, whether legal or illegal; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; labor work actions and unavailability of essential equipment, personnel, services and/or materials beyond the reasonable control of the Franchisee; and the inability of Franchisee to obtain, on customary and reasonable terms, easements, permits or Franchises for the attachment or placement of the System, or parts thereof, to any pole or underground conduit not owned by Franchisee, or any other cause or event not reasonably within the control of the disabled party.

15.2 Action of Parties

In any action by the Franchising Authority or the Franchisee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

15.3 Warranties

The Franchisee warrants, represents and acknowledges that, as of the Execution Date of the Renewal Franchise:

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

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

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

(iv) There are no actions or proceedings pending or threatened against the Franchisee as of the Execution Date of this Renewal Franchise that would interfere with its performance of the Renewal Franchise; and

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

15.4 Notices

(a) Every notice and/or request to be served upon the Franchising Authority shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the Board of Selectmen, Town of Brookline, 1 Main Street, Brookline, New Hampshire 03033-0360, or such other address as the Franchise Authority may specify in writing to the Franchisee. Every notice served upon the Franchisee shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the VP/General Manager, Charter Communications, 95 Higgins Street, Worcester, Massachusetts 01606, with a copy sent to General Counsel, Charter Communications, Inc., Charter Plaza 12405 Powerscourt Drive, St. Louis, Missouri 63131, or such other address as the Franchisee may specify in writing to the Franchising Authority.

The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt of such notice.

(b) Subject to Section 15.4(a) above, all required notices shall be in writing.

15.5 Public Notice

Public notice of any public meeting relating to this Renewal Franchise, unless otherwise provided in this Renewal Franchise or by applicable law or regulation, shall be by posting on a PEG Access channel at least fourteen (14) days prior to the meeting and a posting at the administrative buildings of the Franchising Authority.

15.6 Severability

If any section, subsection, sentence, clause, phrase, or portion of this Renewal Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Renewal Franchise.

15.7 Acts or Omissions of Affiliates

During the term of the Renewal Franchise, the Franchisee 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 Franchisee.

15.8 Renewal Franchise Exhibits

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

15.9 Administration of Franchise

This Renewal Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Renewal Franchise must be made in writing, and signed by the Franchising Authority and the Franchisee.

15.10 No Recourse Against The Franchise Authority

Pursuant to Section 635A(a) of the Cable Act, the Franchisee shall have no recourse against the Franchising Authority, the Town and/or its officials, boards, commission, committees, advisors, designees, agents, and/or its employees other than injunctive relief or declaratory relief, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Renewal Franchise.

15.11 Town's Right of Intervention

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

15.12 Term

All obligations of the Franchisee and the Franchising Authority set forth in the Renewal Franchise shall commence upon the execution of this Renewal Franchise and shall continue for the term of the Renewal Franchise except as expressly provided for otherwise herein.

15.13 Jurisdiction

All provisions in this Renewal Franchise shall apply to the Town, the Franchisee and their successors and assigns. Jurisdiction and venue over any dispute, action or suit arising from this Renewal Franchise shall be in any court of appropriate venue and subject matter jurisdiction located in the State of New Hampshire and the parties by the instrument subject themselves to the personal jurisdiction of said court for the entry of any such judgment and for the resolution of any dispute, action, or suit.

15.14 Captions

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

15.15 Entire Agreement

This Renewal Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this Franchise. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby.

15.16 Effective Date

The effective date of this Franchise shall be the date when both parties execute the Renewal Franchise. This Franchise shall expire on the tenth anniversary of the Effective Date, unless extended by the mutual agreement of the parties.

SIGNATURE PAGE

Considered and approved this ____ day of _____, 2011 by the Franchising Authority and the Franchisee.

Town of Brookline

Chairman, Board of Selectmen

Member, Board of Selectmen

Member, Board of Selectmen

Member, Board of Selectmen

Member, Board of Selectmen

**Charter Communications Entertainment I, LLC
I/k/a Charter Communications**

Signature: _____
Steven E. Apodoca
President of Operations

EXHIBIT 1

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

The following public buildings and schools shall receive the following Drops and/or Outlets and monthly Basic Service at no charge in accordance with Section 13.1 *:

- (1) Brookline Town Hall;
- (2) Richard Maghakian Memorial School;
- (3) Captain Samuel Douglass Academy;
- (4) Brookline Police Department;
- (5) Brookline Fire Department;
- (6) Brookline Safety Complex
- (7) Brookline Public Library.

* And any and all public and/or Brookline Public School buildings that are constructed and/or put into use during the term of this Renewal Franchise.

EXHIBIT 2

BROOKLINE REMOTE ORIGINATION LOCATIONS

- (1) Brookline Town Hall
- (2) Richard Maghakian Memorial School
- (3) Captain Samuel Douglass Academy
- (4) Brookline Public Safety Complex, 3 Post Office Drive
- (5) Brookline Fire Department

EXHIBIT 3

GROSS ANNUAL REVENUES REPORTING FORM

CHARTER COMMUNICATIONS

TOWN OF BROOKLINE

Period: [enter period of which payment is based]

Totals

Totals by Service:

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

Subtotal: \$ [enter subtotal]

Totals by Non Service:

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

Subtotal: \$ [enter subtotal]

Total Gross Revenue \$ [enter total]

Franchise Fee (3%) \$[enter % of total]

Franchise Fee Due \$ [enter total due]

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

2 – Other Unregulated includes converter, remote, installation, TV Guide, wire maintenance, *etc.*

Authorized Charter Representative:

Print Name:

Title:

Date: