

**AGREEMENT
BY AND BETWEEN
THE TOWN OF ANDOVER
AND
ANDOVER COMMUNITY ACCESS AND MEDIA, INC.**

This Agreement is made this day of January 1, 2013 by and between the Town of Andover, Massachusetts, a municipal corporation, acting through its Town Manager, as authorized by the Board of Selectmen acting in its capacity as cable television license Issuing Authority (hereinafter also referred to as the "Town"), and Andover Community Access and Media, Inc. (hereinafter also referred to as "A-CAM" or the "Access Corporation"), a private, nonprofit, charitable, tax exempt access corporation duly established under the laws of the Commonwealth of Massachusetts, who agree as follows:

RECITALS

WHEREAS, the Board of Selectmen, as statutory cable license Issuing Authority, granted a Cable Television Renewal License to Comcast of Massachusetts, I, Inc., (hereinafter also referred to as "Comcast") for a ten (10) year term from October 15, 2007 through October 14, 2017;

WHEREAS, the Board of Selectmen, as statutory Issuing Authority, granted a Cable Television Final License (the "Verizon Final License") to Verizon New England, Inc. ("Verizon") for a ten (10) year term from September 25, 2006 through September 24, 2016;

WHEREAS, the respective cable television licenses referenced above provide to the Town and its residents certain PEG Access Channels, together with funding and support to the Town and/or its designee (i.e. an access corporation) for charitable PEG Access operations, facilities and equipment to benefit the Town and general public;

WHEREAS, a prior Agreement between the Parties expires on December 31, 2012 (the "Prior Agreement"), and A-CAM has stated its interest in continuing to provide PEG Access

programming, services, facilities and equipment to the Andover community, including, but not limited to its residents, and Andover institutions who substantially subscribe to the purposes of the Access Corporation (collectively hereinafter also referred to as "Access Users") and to the Town;

WHEREAS, the Town, pursuant to and consistent with its authority as a municipal corporation and as authorized by the cable license Issuing Authority under applicable federal and state law, and pursuant to the provisions of the aforesaid Comcast and Verizon Licenses (the "Licenses"), enters into this Agreement for the provision by A-CAM of PEG Access programming, services, facilities and equipment to the Town, its residents and Access Users, pursuant to the terms of this Agreement and applicable law;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this Agreement is for the provision of PEG Access programming, services, facilities and equipment pursuant to the terms of this Agreement, the Licenses and applicable law.

SECTION 2. TERM

(a) The Agreement shall be for a five (5) year term, commencing on January 1, 2013 and running through and until December 31, 2017 unless earlier terminated as provided herein. This Agreement may be extended by a written instrument signed by the authorized representative(s) of both parties subject to paragraph (b) of this Section 2.

(b) A-CAM shall give the Town Manager written notice of its request to renew this Agreement through December 31, 2022 at least six (6) months prior to the expiration of the five (5) year period referenced in Paragraph (a) above. In response to a written notice of request to renew from A-CAM, the Town Manager shall, within sixty days (60) days of receipt of said notice, provide a written response to A-CAM as to whether it is willing to renew this Agreement. If, as evidenced by the written notice(s) of A-CAM and a written response of the Town Manager, both parties are interested in renewing this Agreement, the parties shall exercise best efforts to

negotiate a renewal agreement prior to December 31, 2017.

(c) In the event of a renewal of or amendment(s) to either the Andover Comcast or Andover Verizon Licenses, the parties shall, upon the written request of either party, conduct good faith discussions about the possible need and/or the availability of financial resources for amendments to and/or clarification of any of the terms herein.

SECTION 3. SCOPE OF SERVICES, PEG ACCESS PROGRAMMING, SERVICES, FACILITIES AND EQUIPMENT

A-CAM shall provide Public, Educational and Government (“PEG”) Access programming services, facilities and equipment to the Town of Andover and Access Users (Andover residents and persons associated with an Andover business or organization), consistent with the funds provided to A-CAM pursuant to this Agreement and the reasonable availability of access personnel, contractors and volunteers, and in accordance with the Licenses, applicable law and consistent with the requirements of the Internal Revenue Service and the Commonwealth of Massachusetts applicable to the operation of an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended. (Unless otherwise provided in writing by the Board of Selectmen, said Access programming shall include Public, Educational and Government Access programming.) The services, facilities and equipment provided by A-CAM shall be provided to Access Users without unlawful discrimination. A-CAM’s responsibilities to provide access programming, services, facilities and equipment shall include the following, consistent with the funds available to A-CAM:

(a) Schedule, operate and maintain the PEG channels provided in accordance with the respective cable licenses. A-CAM and the Andover Public Schools shall coordinate and cooperate with respect to operation of the Educational Access Channel, unless otherwise directed by the Issuing Authority. A-CAM and the Town shall coordinate and cooperate with respect to operation of the Government Access Channel, unless otherwise directed by the Issuing Authority subject to such Government Access Channel requirements as are set forth in this Agreement.

(b) All programming on the PEG Access Channels shall comply with applicable laws and regulations. The dedicated Educational Access Channel and the dedicated Government Access Channel shall not be used for Public Access programming or programming unrelated to Educational Access or Government Access, respectively, unless otherwise authorized in writing by the Issuing Authority;

(c) Responsibly manage the annual funding provided to and raised by A-CAM, including

the funding provided pursuant to the Renewal License and pursuant to the Verizon Final License;

(d) Operate and maintain an Access studio, and purchase and/or lease equipment with the funds provided to and raised by A-CAM, including the funding provided pursuant to Section 7 below;

(e) Conduct and increase outreach and recruitment efforts and activities to increase membership and Access Users;

(f) Conduct training programs in the skills necessary to produce quality PEG Access programming. At a minimum, training programs shall be conducted and/or offered on an average of once per month over the course of each year, subject to availability of staff and/or volunteers as needed to provide such training;

(g) Provide technical assistance to Access Users, Town and School staff using Access Corporation staff and volunteers;

(h) Provide access to production and post-production equipment for Access Users;

(i) Establish rules, procedures and guidelines (including written Access User agreements, which shall be required for all Access Users) for use of the PEG Access Channels, facilities and equipment;

(j) Cablecast all public meetings of the Andover Board of Selectmen, the Andover School Committee, the Andover Planning Board, and the Andover Town Meetings, unless otherwise requested by the respective government body or unless unable to do so due to circumstances beyond the reasonable control of A-CAM, and such other Town of Andover meetings as requested, upon reasonable notice, by the respective government body and/or the Town Manager, subject to the funding provided A-CAM pursuant to this Agreement and the reasonable availability of Access personnel, contractors, and/or volunteers. Reasonable notice, which does not have to be written notice, shall be deemed to be five (5) business days. If the request for coverage of a government meeting is less than five (5) business days prior to the date of the meeting to be covered, A-CAM shall reasonably attempt to comply with such request, working out any equipment and staffing scheduling to the best of its ability. The Issuing Authority retains the right to establish priority with respect to the cablecasting of government meetings. A-CAM shall comply with any lawful rules and reasonable requirements of the respective government body with respect to the camera and sound coverage of a meeting. Nothing contained in this subsection is intended to interfere with the rights of any person to videotape a governmental meeting pursuant to the Open Meeting Law;

(k) A-CAM shall upon a timely request of the Board of Selectmen, Town Manager or the School Committee provide at no cost to the Town one (1) "DVD" (or other appropriate media) copy of a government meeting previously cablecast by A-CAM, to the extent available. Further to the foregoing, A-CAM agrees to maintain a system for archiving municipal meetings it has recorded, and upon request of the Board of Selectmen or Town Manager, to enter good faith negotiations with respect to developing a municipal meeting video records archive system that meets the needs of the Town in a manner that is cost-effective and feasible for the parties;

(l) Assist the Andover Public Schools, if requested by the Superintendent of Schools and the Issuing Authority, with Educational Access programming, including the provision of technical assistance (it is not the intent of this Agreement that A-CAM shall directly or indirectly provide for or fund a school media director or teacher).

(m) Accomplish such other tasks relating to the operation, scheduling and/or management of the PEG Access Channels, facilities and equipment as necessary and appropriate.

(n) With respect to dues for members of A-CAM, fees shall be reduced or eliminated for students of the Andover Public Schools, or for an Andover resident attending any other school up through high school.

(o) With respect to A-CAM's continued use of Andover school space for studio facilities, the Parties acknowledge that continued use of Andover school space for studio facilities is not within the control of the Board of Selectmen and/or Town Manager, and such school use shall be determined by the School Department or Superintendent of Schools as applicable and subject to applicable law. It shall be a condition hereof, subject to written approval of the Superintendent of Schools, that A-CAM annually pay to the Andover School Department such base rent as may be negotiated between the School Department and A-CAM and otherwise comply with such lease or school use agreement as may be entered into between the School Department and A-CAM.

(p) Further to A-CAM's performance hereunder, A-CAM acknowledges that the Town is providing A-CAM additional funding hereunder, as set forth in Section 7 below, subject to A-CAM's exercising diligent efforts to increase and further improve performance and services directed towards the following PEG Access goals and objectives consistent with the level of such additional funding:

- Promoting greater awareness and outreach of ACAM's resources for developing community PEG access programming;

- Facilitating and supporting the production of additional community PEG access programming;
- Providing and supporting cablecasting and broadcasting education and learning opportunities for Andover public school students;
- Increasing the amount of local government public meeting coverage to additional Town boards and committees;
- Establishing a standardized and advertised schedule for recablecasting the regular public meetings of Town boards;
- Improving the AV quality and reliability of both cable and internet streamed PEG program cablecasts, within the reasonable control of ACAM;
- Reducing the amount of PEG channel downtime caused by power and equipment failures, within the reasonable control of ACAM;
- Expanding the number of locations within town and school facilities that are available for PEG cablecasting of public meetings and events, subject to the Town providing additional funding to do so.

SECTION 4. PROVIDING OPEN AND EQUAL ACCESS TO ACCESS USERS

A-CAM agrees to keep the Public Access Channel open to all potential Access Users regardless of their viewpoint, subject to FCC regulations and other applicable laws and regulations. A-CAM shall develop and enforce policies and procedures which are designed to promote local use of the channel(s) and make programming accessible to residents, consistent with such time, manner, and place regulations, including safe harbor and reasonable scheduling provisions, as are appropriate and lawful to provide for and promote the use of PEG Access Channels, equipment and facilities. Notwithstanding the foregoing, A-CAM may implement lawful program disclaimer and/or disclosure requirements to provide viewers with advisories or

information about adult content of specific public access programs, and may require disclosure of the name(s) of program producers and/or the name of the person sponsoring submission of a program, and may otherwise take lawful steps to prevent copyright violations, defamation, obscenity or other unlawful content. Cablecasting of other programs may be subject to lawful scheduling or limitation, in accordance with Access Corporation operating rules and subject to applicable law. Notwithstanding the foregoing, the Town of Andover shall retain primary control over the policies and procedures governing access to and use of the Government and Educational Access channels.

SECTION 5. NON-COMMERCIAL PROGRAMMING

(a) All Access programming cablecast by A-CAM shall be non-commercial.

(b) Nothing in the Agreement shall prohibit A-CAM from including an appropriate underwriting acknowledgment before or after a Public, Government or Educational Access program, to the extent otherwise not prohibited by applicable law, including but not limited to Internal Revenue Service requirements regarding 501(c)(3) organizations, and or the terms of a cable license.

(c) A-CAM may charge a reasonable fee, subject to applicable Internal Revenue Service requirements regarding 501(c)(3) organizations, for the following:

- (i) Services lawfully provided to Access Users by a PEG access corporation for a fee; and
- (ii) Services lawfully provided to third parties for a fee, including tape dubbing (i.e. the provision of videotapes/dvds of particular access programs), to the extent otherwise not prohibited by applicable law.

SECTION 6. COPYRIGHT CLEARANCE

A-CAM shall, consistent with applicable law, require the respective Access User to obtain all rights, consents, releases and other authorizations as may be applicable to all material cablecast and clearances and authorizations from broadcast stations, networks, sponsors, music licensing organizations representatives, and without limitation from the foregoing, from any and all other person(s) as may be necessary to transmit its or their program material over the Access Channel in a lawful manner. A-CAM shall, consistent with applicable law, require the respective Access User to sign a user form or agreement wherein the Access User acknowledges responsibility for the Access User's own programs, content and acts and omissions, and

indemnifying A-CAM for any acts or omissions arising in connection with the Access User's access activities.

SECTION 7. FUNDING AND EQUIPMENT OF THE ACCESS CORPORATION

(a) The Town shall provide A-CAM with the following operational funding:

- (i) The Town shall provide a payment of Two Hundred and Seventy-Five Thousand Dollars (\$275,000) to A-CAM for the first contract year. The first payment shall be made within fifteen (15) days of the execution of this Access Agreement, in the amount of One Hundred Thirty-Seven Thousand Five Hundred Dollars (\$137,500) and the second payment of One Hundred Thirty-Seven Thousand Five Hundred (\$137,500) shall be made by July 15, 2013, with payments to be paid from PEG Access funding paid to date by Comcast to the Town, pursuant to Article 6 of the Comcast Renewal License; and paid from PEG Access funding payments paid to date by Verizon to the Town, pursuant to Article 5 of the Verizon License.
- (ii) No later than November 1, 2013 and each year thereafter, A-CAM shall submit a detailed annual operating budget to the Town, addressed to the attention of the Town Manager.
- (iii) The Town shall provide A-CAM with PEG Access funding in two (2) equal payments on or before January 15 and July 15 of each subsequent contract year from access funding payments received from Comcast and Verizon, subject to receipt of said funds from Comcast and Verizon in accordance with the applicable Licenses, and in accordance with the following. Payments for PEG Access funding in the second and subsequent years of this Agreement shall be increased relative to the first year payments set forth in Section 7(a)(i) above by an inflation escalator equal to two and one half percent (2.5 percent) per annum.
- (iv) In lieu of the Town providing said funding to A-CAM, the Board of Selectmen, may, in its discretion, instruct the cable Licensee, in writing, to make said PEG Access payments directly to A-CAM.

(b) Whereas pursuant to the Prior Agreement the Town transferred to A-CAM for consideration of the exchange of mutual covenants herein and other good consideration all equipment and furnishings purchased or acquired prior to the execution of the Prior agreement

by the Town for public access purposes located at Andover High School from Comcast, Verizon, or any other funding source, A-CAM shall continue to hold any such equipment and furnishings, as well as new equipment, furnishings, fixtures and capital assets acquired during the term of this Agreement, in accordance with the terms herein.

(c) A-CAM shall be responsible for the reasonable maintenance and repair of all A-CAM facilities and equipment, including all equipment provided to A-CAM pursuant to Subparagraph (b) above.

(d) If requested by the Town, A-CAM shall, within a reasonable time, not to exceed thirty (30) days provide copies of invoices for and/or inventories (including models and serial numbers) of all equipment, furnishings, fixtures and capital assets acquired and/or owned by A-CAM.

(e) It is further agreed that A-CAM shall be responsible for managing the operation of all existing live municipal (Town and School) broadcast sites listed in Appendix A, attached hereto, (except those municipal sites that may hereinafter be excluded in writing by the Town Manager), including installing, maintaining and replacing as necessary, PEG Access equipment, including cameras and cablecasting equipment, at the Andover Town Offices and other such town and/or school buildings as may hereinafter be designated in writing by the Town Manager. The Town shall be responsible for the cost for the purchase and/or replacement of the equipment for said live municipal broadcast sites, subject to Town prior approval of any purchase of equipment for which the Town is responsible for costs. A-CAM shall not be required to purchase, or replace any such equipment unless and until the Town first provides A-CAM with the necessary capital funding for such. A-CAM shall continue to be responsible for maintenance and repair of the PEG Access equipment. The Town Manager and A-CAM shall throughout the term of this Agreement consult regarding such capital needs and requirements. A-CAM shall consult with the Town Manager or its designee prior to purchasing and installing said equipment.

(f) To secure its obligations pursuant to this Section 7 in the event of dissolution or termination of this Agreement, A-CAM hereby grants the Town a security interest in all the assets and interests acquired or owned by A-CAM as a result of the funding provided pursuant to this Agreement, including, but not limited to, any equipment so provided or purchased and/or any real property obtained from funding provided pursuant to this Agreement. A-CAM agrees to take all steps reasonably requested by the Town to perfect and enforce the Town's security interest, including the execution and processing of financing statements and continuation statements

under the Uniform Commercial Code, the inclusion of a mortgage condition acceptable to the Board of Selectmen and/or entering a covenant. A-CAM may request that the Town, through the Board of Selectmen, agree to subordinate its interest if necessary to finance the purchase of equipment or property, including real property. The subordination, if granted by the Board of Selectmen, shall only be with respect to the specific equipment or property that A-CAM might wish to finance. Notwithstanding the foregoing, any exercise of rights under any security interests herein shall be implemented consistent with applicable Internal Revenue Service requirements and other federal and state law with respect to transfer of assets and/or property from a tax exempt charitable corporation to a government unit or tax exempt organization.

(g) Upon the dissolution of A-CAM, the termination of this Agreement and/or the expiration of a cable license(s) by the Town with a cable operator(s) without provision for the continued funding of PEG Access thereafter, A-CAM shall, if requested by the Town, return to the Town or to one or more charitable or educational institutions or organizations selected by the Board of Selectmen and created and organized for nonprofit purposes similar to those of the Corporation (including the operation and management of PEG Access Operations and Programming, which qualify as tax exempt §501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code) all equipment and property, including any real property, provided to A-CAM pursuant to this Agreement or purchased by or for A-CAM from funds provided pursuant to this Agreement and all unexpended funds previously provided to A-CAM pursuant to this Agreement. At the option of the Town said equipment, property (including any real property) and/or funds shall, upon the occurrence of one of the above referenced contingencies, be provided by A-CAM to such organization(s) designated by the Town to manage access, which shall at that time qualify as a tax exempt organization(s) under §501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code.

SECTION 8. ACCESS STUDIO

(a) The Access studio shall comply with all applicable laws and regulations.

(b) When the Access studio is operational, A-CAM shall establish reasonable and regular studio hours, with the specific hours based upon the reasonable needs of Access Users. Throughout the term hereof, the Access studio shall, absent special circumstances, on average, be open to Access Users a minimum of forty hours (40) per week, (including any hours considered for the use of the Andover Public Schools) including some evening and weekend

hours, subject to funding as contemplated by this Agreement. A-CAM shall inform the public, through cablecasts on the Public Access Channel, of the days and hours when the studio will be open and available pursuant to the regular schedule and, in addition, if by arrangement upon reasonable request. A-CAM shall inform the Town, in writing, of any non-temporary change in the regular hours of the Access Studio.

(c) The Access studio shall be for the exclusive use of Access Users as defined in Section 3, above notwithstanding the use of the access studio and equipment as defined in the agreement between the Andover School Committee and A-CAM which agreement shall be attached and become a part of this contract. The studio shall not be used for any other purpose or for the benefit of any persons other than Access Users or persons whose specific use of the studio benefits PEG Access in Andover, unless otherwise authorized by the Town, through its Town Manager.

SECTION 9. GOVERNANCE OF ACCESS CORPORATION

The governance of A-CAM shall comply with the By-Laws of the Corporation as of the date hereof, subject to such By-Laws amendments as may be lawfully adopted by the Corporation's Board of Directors. The Town Manager shall be provided not less than thirty (30) days advance notice of and opportunity to comment on amendments to the by-laws, if any, subject to such amendment procedures as otherwise required by applicable law and the Corporation's Bylaws. Directors and officers shall receive no compensation for their services provided as Directors, however, that a Director may be reimbursed for reasonable and necessary expenses incurred subject to and in accordance with any applicable Bylaws and applicable law.

SECTION 10. SEMI-ANNUAL WRITTEN REPORT

A-CAM shall semi-annually, within sixty (60) days of the end of each six month period, provide a reasonably detailed semi-annual report including a budget report of revenues and year-to-date expenditures to the town, addressed to the attention of the Town Manager, regarding the status of progress with respect to the current and future provision of PEG Access operations and programming in Andover.

SECTION 11. ANNUAL REPORT

At least once each calendar year, A-CAM shall submit to the Town, addressed to the attention of the Town Manager, a written report for the prior year (together with an electronic

copy) which shall contain, at a minimum, the following information:

- (a) A summary of programming and services provided;
- (b) List of future goals;
- (c) Current and complete listing of A-CAM's Board of Directors;
- (d) A complete current inventory of all equipment; and

(e) The year-end financial review or audit, prepared for A-CAM. Unless prohibited by applicable law, regulations or accounting standards, A-CAM may have a financial review, rather than an "audit", conducted. A-CAM shall use a "certified public accountant" for a financial review, however, use of a certified public accountant for such financial review may be waived where requested in advance and in writing by A-CAM and where approved in writing by the Board of Selectmen. However, the Board of Selectmen may in its discretion, where it finds circumstances warrant, require that A-CAM have a financial audit performed by a "certified public accountant", upon timely written notice to A-CAM.

SECTION 12. UPDATE MEETING BETWEEN TOWN AND A-CAM

(a) When requested by the Town Manager or his/her designee, A-CAM shall meet with the Town Manager and/or his/her designee(s) as applicable. The purpose of said meeting shall include reviewing A-CAM's compliance with the terms and conditions of this Agreement, and hearing comments and/or suggestions from the Town and the public.

(b) The Town Manager and/or his/her designee(s) shall have the right to question A-CAM regarding any aspect of its performance under this Agreement. A-CAM shall fully cooperate with the Town Manager or his/her designee(s), and shall produce, at its cost, such documents or other materials relevant to such review and evaluation as are reasonably requested by the Town, subject to applicable laws and regulations. Members of the public may submit comments during such review hearing, either orally or in writing, at the direction of the Town Manager or his designee.

(c) A-CAM shall provide notice of all such performance evaluation hearings by periodic messages on the Public Access channel.

(d) Nothing in this Section shall prohibit the Town of Andover from requesting that A-CAM attend other meetings or hearings, or compelling the attendance by A-CAM through any lawful means.

SECTION 13. PERFORMANCE REVIEW BY THIRD PARTY

A-CAM shall, if requested by the Town of Andover through its Town Manager, be required to engage or retain a person or entity that is knowledgeable and experienced in PEG Access operations in the Commonwealth of Massachusetts to conduct a performance review of A-CAM's operations. The cost of the foregoing shall be the responsibility of the Town, subject to A-CAM's participation in determining the scope and nature of such review. Upon completion, A-CAM shall submit a copy of the performance review to the Town Manager.

SECTION 14. RECORDS AND AUDIT

(a) A-CAM shall maintain all necessary books and records, in accordance with generally accepted accounting principles. Additionally, A-CAM shall:

- (i) implement effective internal financial and operating controls for the efficient use of all funds and other resources provided pursuant to this Agreement;
- (ii) maintain all necessary books and records, in accordance with generally accepted accounting principles;
- (iii) have a year-end financial review or audit as set out in Section 11e.
- (iv) make timely payment as due to persons and entities supplying labor, materials or services to A-CAM for any purpose under this Agreement; and
- (v) maintain generally accepted business and accounting practices with respect to its operations and investments, financial oversight and management.

(b) Upon request from the Town, A-CAM shall, at a reasonable time(s) during normal business hours, make available any or all of its records with respect to all matters covered by this Agreement.

(c) The Town shall, at its cost, have the right to have the financial books and records of A-CAM Access reviewed by a qualified individual or firm. Nothing herein shall be deemed to diminish the responsibility of A-CAM, if any, under applicable law or regulation, with respect to any financial record keeping or financial statement and/or audit requirements. Copies of any such financial records, statements or audits shall be provided to the Town upon request of the Issuing Authority.

(d) All capital equipment, assets and fixtures (including furniture) obtained by A-CAM will be inventoried and permanently marked, and an inventory, including invoice numbers, maintained and updated.

SECTION 15. INDEPENDENT CONTRACTOR

It is understood and agreed that A-CAM is an independent contractor and that no relationship of principal/agent or employer/employee exists between the Town and A-CAM. If in the performance of this Agreement any third persons are employed by A-CAM, such persons shall be entirely and exclusively under the control, direction and supervision of A-CAM. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment shall be determined by A-CAM and the Town shall have no right or authority over such persons or terms of employment. A-CAM shall retain the right and power to determine the details of implementation of any objectives or requirements herein to the extent necessary to act as an independent contractor.

SECTION 16. ASSIGNMENT AND TRANSFER

Neither this Agreement nor any interest or responsibility herein shall be assigned or transferred by A-CAM, except as expressly authorized in writing by the Town through its Town Manager.

SECTION 17. FUNDING FROM OTHER SOURCES

Nothing in this Agreement shall prohibit A-CAM from obtaining funding from other sources in a lawful manner, including, but not limited to, fundraising activities.

SECTION 18. INDEMNIFICATION

A-CAM shall indemnify, defend (through the provision of counsel in accordance with the provisions below), and hold harmless the Town, its officials, employees, volunteers and agents from and against any and all claims, suits, actions, causes of action, losses, damages, or liabilities of any kind, nature or description (including payment of reasonable attorneys' fees and litigation costs and expenses reasonably incurred by the Town prior to the provision of qualified legal counsel by A-CAM or its insurer for the Town as required herein, but only after the provision of written notice of such indemnification event by the Town to A-CAM) brought by any person or persons for or on account of any loss, damage or injury to person, property or any other interest, tangible or intangible, or death sustained by or accruing to any person or persons, howsoever the same may be caused or arising or resulting from any alleged act(s) or omission(s) of A-CAM, its officers, employees, volunteers, agents or subcontractors from or with respect to the performance of this Agreement or arising from or in connection with any claims, loss or damage to person or

property arising out of the failure to comply with any applicable laws, rules, regulations or other requirements or orders of local, state or federal authorities, for claims of libel, slander, invasion of privacy, or infringement of common law or statutory copyright, or for breach of contract or other injury or damage in law or at equity which claims result from A-CAM's use of channels, funds, equipment, facilities or staff granted under or obtained pursuant to the funding from this Agreement. The Town shall give the A-CAM written notice of its (A-CAM's) obligation to indemnify and defend the Town of a claim for which indemnification is sought. As to any matter arising under this indemnity provision, A-CAM or its insurer shall have the right to select qualified counsel of its choice, subject to any requirements of legal representation under applicable law, to represent the Town and above referenced Town indemnities hereunder. This indemnification requirement shall survive the termination or expiration of this Agreement. As to any matter arising under this indemnity provision, the Town reserves its right to select its own counsel, other than the counsel selected by and paid for by A-CAM or its insurer, subject to the Town paying costs for same. In the event that A-CAM has actual notice of a claim against the Town based on A-CAM acts or omissions, or based on acts or omissions of A-CAM's officers, employees, volunteers, agents or subcontractors, A-CAM shall notify the Town of such claim.

SECTION 19. INSURANCE

A-CAM shall, unless otherwise directed in writing by the Town, obtain and maintain in full force and effect at all times during the term of this Agreement all insurance required below by this Section.

(a) *Commercial General Liability Insurance* - Commercial general liability insurance policy, including protective liability, completed operations and broad form contractual liability, property damage and personal injury coverage, with a minimum coverage limit of One Million Dollars (\$1,000,000) per person and per occurrence, Two Million Dollars (\$2,000,000) aggregate. Said policy shall also include tenant legal liability for property damage, if requested by the Town of Andover.

(b) *Motor Vehicle Liability Insurance* - Automobile liability insurance for owned, leased or rented motor vehicles in the amount of One Million Dollars (\$1,000,000) combined single limit.

(c) *Excess/Umbrella Liability Insurance* - In the minimum amount of Two Million Dollars (\$2,000,000) over the insurance required by Subparagraphs (a) and (b) above.

(d) *Business Personal Property Insurance* - Business personal property insurance for

facilities and equipment in the amount of replacement cost.

(e) *Workers' Compensation* - Workers Compensation in the minimum amount of the statutory limit if and when A-CAM has an employee.

(f) *Cablecaster's Errors and Omission Insurance* - The Access Corporation shall obtain errors and omission insurance to cover the content of productions which are cablecast on an Access Channel to include, at minimum, the following areas: libel and slander; copyright or trademark infringement; infliction of emotional distress; invasion of privacy; plagiarism; misuse of musical or literary materials. This policy shall not be required to cover the personal liabilities, if any, of individual Access producers, however, the policy shall cover the liability of the Access Corporation and Town if and to the extent any such personal producer liability falls on the Access Corporation and/or Town. In furtherance of the foregoing, it shall be the responsibility of the Access Corporation to require that individual producers and users execute user forms assuming responsibility for their own acts and omissions in connection with cablecasting and producing programming. The minimum amount of said insurance shall be One Million Dollars (\$1,000,000).

(g) The following conditions shall apply to the insurance policies referenced above:

- (i) The Town shall be named as an additional insured on all aforementioned insurance coverages to the extent allowed by law, other than the workers' compensation policy. The policies shall provide that no cancellation, material change in coverage or expiration may be affected by the insurance company or A-CAM without first giving the Town thirty (30) days written notice prior to the effective date of such cancellation or change in coverage;
- (ii) Such insurance shall be primary with respect to any insurance or self-insurance maintained by the Town and shall not call on the Town's insurance for contributions;
- (iii) Such insurance shall be obtained from producers authorized to transact insurance business in the Commonwealth of Massachusetts and, unless otherwise agreed to in writing by the Town, shall be provided by an insurance carrier(s) licensed to do business for the coverage provided in the Commonwealth of Massachusetts by the Massachusetts Division of Insurance;
- (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 and follow the same form;

- (v) The cost of such insurance, including all premiums and deductibles, shall be borne by A-CAM;
- (vi) The parties shall periodically review the insurance coverage and coverage amounts required above to determine whether said insurance adequately protects the parties and is cost effective given available funding pursuant to this Agreement;
- (vii) The failure of A-CAM to maintain the insurance required herein shall be grounds for the Town to suspend this Agreement immediately, without resort to the termination procedures provided in Section 21 below; and
- (viii) If the Town's own minimum coverage amount for any of the insurance referenced above is higher than that required herein of A-CAM or otherwise increases, the Issuing Authority may require A-CAM to increase its corresponding insurance coverage within twelve (12) months written notification by the Issuing Authority to A-CAM, unless such increased insurance coverage is commercially unavailable to A-CAM.

(h) *Directors' and Officers' Liability Insurance* - A-CAM shall obtain directors' and officers' liability insurance for its directors and officers, if commercially available.

(i) *Tenant Legal Liability* - Tenant legal liability insurance in the amount of One Hundred Thousand Dollars (\$100,000).

(j) 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.

SECTION 20. COMPLIANCE WITH LAWS AND REGULATIONS

A-CAM shall be governed and operated in accordance with applicable laws and regulations.

SECTION 21. TERMINATION OF AGREEMENT . TRANSFER OF ASSETS

(a) The Town, through its Board of Selectmen, shall have the right upon ninety (90) days written notice to A-CAM to terminate this Agreement for the following, subject to A-CAM first having reasonable written notice of the alleged grounds for termination, and subject to A-CAM first having a reasonable opportunity to be heard with respect to same, and having a reasonable opportunity to cure any such matter, subject to paragraph (b) below:

- (i) Malfeasance, misfeasance, misappropriation or waste of funds provided pursuant to this Agreement;
- (ii) Loss of 501(c)(3) status by A-CAM;
- (iii) A-CAM filing a petition of bankruptcy, or for receivership or reorganization, has filed any other petition under the bankruptcy law, or has taken or committed an act preparatory to the filing of any such petition, has become insolvent or has committed any other act of bankruptcy or insolvency, or has a substantial portion of its assets assessed for the benefit of creditors, however, in the event of a bankruptcy filing, or other bankruptcy-related action as above, no termination shall occur if inconsistent with the requirements of a bankruptcy stay or if inconsistent with other bankruptcy law or court orders or;
- (iv) The loss of a substantial portion of PEG Access funding as a result of: a change in the financial terms of a cable license; a change in the status of a cable service provider; or a change in law; or
- (v) For any material breach of a material provision of this Agreement by A-CAM.

(b) A-CAM may avoid termination by curing any such breach within forty-five (45) days of written notification or such longer time as the Board of Selectmen determines. Upon a third material breach by A-CAM over the course of a twenty-four (24) month period, the Town may terminate the Agreement upon written notice provided without any cure period as long as said notice is provided within ninety (90) days after the material breach (each day a material breach continues shall be deemed to be an actionable day for purposes of this requirement to terminate within said 90-day period).

(c) A-CAM shall have the right upon sixty (60) days written notice to the Town to terminate this Agreement for material breach of any material provision of this Agreement by the Town. The Town may avoid termination by curing any such breach within said sixty (60) day period.

(d) All written notices of termination shall include a reasonably detailed description of the alleged breach.

(e) See Section 19(g)(vii) for immediate suspension or termination as a result of A-CAM's failure to maintain the required insurance.

(f) See Section 7(f) and (g) above regarding security interests, return of funds, return of equipment, real property, fixtures, contracts, leases, deposit accounts or other assets received by

or purchased by A-CAM with funds received pursuant to this Agreement.

SECTION 22. MISCELLANEOUS PROVISIONS

Section 22.1 Entire Agreement

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

Section 22.2 Cooperation

Each party agrees to cooperate with the other party to carry out the provisions of this Agreement.

Section 22.3 Captions

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

Section 22.4 Liability of Town Officials and Employees

To the fullest extent permitted by law, no official, employee, agent or representative of the Town or A-CAM shall be individually or personally liable on or for any obligation of the Town or A-CAM respectively, under this Agreement and with respect to obligations of the parties to each other

Section 22.5 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, provided the party takes immediate and diligent steps to comply as soon as possible under the circumstances with this Agreement without endangering the health or safety of the persons or property. The term "Force Majeure" as used herein shall include, but not be limited to, 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,

civil disturbances, explosions, strikes, and unavailability of essential equipment, service or materials, the unavailability of affordable insurance coverage, or other matters beyond the reasonable control of the party. In the event that any such delay in performance or failure to perform affects only part of the party's capacity to perform, the Licensee shall perform to the maximum extent it is able to do so in as expeditious a manner as possible. The party subject to Force Majeure shall notify the other party in writing of the occurrence of an event covered by this Section within ten (10) business days of the date upon which the party learns of its occurrence.

Section 22.6 Non-Waiver

Failure of either party to insist on strict performance of any portion of this Agreement or to exercise its rights or remedies hereunder upon the failure of performance or default of the other party, shall not be considered a waiver of the right to insist upon or to enforce any provision of this Agreement or to exercise any right or remedy occurring as a result of any future failure of performance or default.

Section 22.7 Severability

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

Section 22.8 Applicable Law

This Agreement shall be interpreted and enforced under the laws of the Commonwealth of Massachusetts.

Section 22.9 Notice

Official notice shall be in writing, and delivered or sent by certified mail return receipt requested or express mail signature required. Delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of delivery. Certified mail shall be deemed to have been given two (2) days after mailing and express mail shall be deemed to have been given the day after mailing. Notice shall be addressed as provided below or such other name, title and/or address as hereinafter provided in writing by the respective party:

TOWN OF ANDOVER

**ANDOVER COMMUNITY ACCESS
AND MEDIA, INC.**

Town Manager
Andover Town Offices
36 Bartlet Street
Andover, MA 01810

Executive Director
Andover Community Access and Media, Inc.
80 Shawsheen Road
Andover, MA 01810

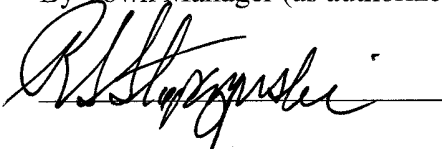
Section 22.10 Successor Parties

References to Comcast and Verizon in this Agreement shall apply to any and all transferees or successors to Comcast and Verizon and such transferees or successors shall be bound by the terms hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument as of the date first written above.

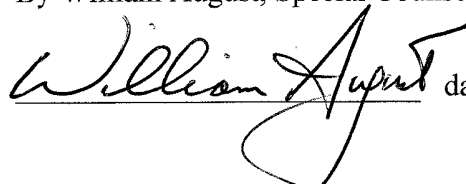
TOWN OF ANDOVER

By Town Manager (as authorized by the Board of Selectmen)

 date: 2/14/13

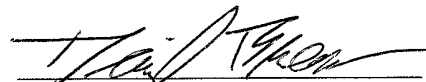
APPROVED AS TO FORM

By William August, Special Counsel

 date: 1.30.13

ANDOVER COMMUNITY ACCESS AND MEDIA, INC.

By its President (as authorized by a vote of its Board of Directors):

 date: 2/14/13

APPROVED AS TO FORM

By William Solomon, Special Counsel to A-CAM

 date: 2/7/13