

ACCESS CORPORATION
AGREEMENT

BETWEEN

STOUGHTON MEDIA ACCESS
CORPORATION
("S.M.A.C.")

AND THE
TOWN OF STOUGHTON, MASS.

Article I – PREAMBLE

WHEREAS, the Town of Stoughton, which is a municipal corporation organized under the laws of the Commonwealth of Massachusetts (“MUNICIPALITY”), acting by and through its Select Board, issued a Cable Television Renewal License (“Renewal License”) to Comcast Cable Communications, Inc. (“Comcast”), as well as an initial cable television license to Verizon New England, Inc. (“Verizon”) (together, “Cable Licensees”) both for the provision of cable television services within its municipal boundaries, and

WHEREAS, the Cable Licenses provide for Comcast and Verizon to make to the MUNICIPALITY certain annual and periodic grants of money called “PEG Access Support” and

WHEREAS, it is the intent of the MUNICIPALITY that such annual grants and or any future funding source for PEG Access Programming (“Public Educational and Governmental Access”) should be used for the support and furtherance of PEG Access Channels pursuant to 47 U.S.C. §531, and

WHEREAS, Stoughton Media Access Corp. (“S.M.A.C.”) fulfills the mission of providing the PEG Access Channels provided by the LICENSEES to the MUNICIPALITY pursuant to 47 U.S.C. §531, and

WHEREAS, it is the intent of the Town of Stoughton to participate in the provision of PEG Access Services to the residents of Stoughton as more fully provided by the terms of this Agreement, and by the terms of the Cable Licenses issued by the Stoughton Select Board to Comcast and Verizon, and

NOW THEREFORE, it is agreed by and between the Town of Stoughton, acting by and through its Select Board, and S.M.A.C., acting by and through its Board of Directors (“the Parties”), as follows:

Article II – DEFINITIONS

For the purpose of this agreement the following words, terms, phrases, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the plural include the singular, and words used in the singular include the plural. The word “shall” is mandatory.

1. Access Agreement, or Agreement: The Access Corporation Agreement between the Stoughton Media Access Corporation, (“S.M.A.C.”), and the Town of Stoughton.

2. Access Channel: A video channel which the Licensee(s) shall make available without charge for the purpose of transmitting programming by members of the public, Town departments, and agencies, public schools, educational, institutional, and similar organizations.

3. Access Corporation: Stoughton Media Access Corporation ("S.M.A.C."), the ACCESS CORPORATION, designated by the Select Board of the Town of Stoughton pursuant to Article III of this Agreement, and to the relevant sections of the Cable Licenses for the Town of Stoughton.

4. Access Facility: The location from which the Access Corporation operates the public, educational and municipal access functions; at a studio to be located in the Town of Stoughton, Massachusetts.

5. Access Programming: Programs on the designated Access Channels which shall be non-commercial within the standards for underwriting applicable to the Public Broadcasting Service (PBS), or the standards necessary for S.M.A.C. to maintain its tax-exempt status within the applicable regulations of the Internal Revenue Service, and such programming excludes political advertising.

6. CATV: Cable Access Television.

7. Cable Advisory Committee: The Stoughton Cable Advisory Committee as appointed by the Select Board.

8. Cable Licenses, or Renewal Licenses: The license agreements between Stoughton and Comcast and Verizon (the current "LICENSEES"), authorizing LICENSEES to own, operate and maintain the Cable Television Systems in the MUNICIPALITY.

9. Commercial Program: Programming from which revenue is derived, by any party, and programming the purpose of which is to conduct trade or commerce. It shall not include programming supported by underwriting grants or contributions of any kind.

10. Downstream Channel: A channel over which signals travel from the system headend to an authorized location within the system.

11. Educational Access: Any channel or time thereon which has been allocated for educational use in accordance with this Agreement, the License Agreements, and 47 U.S.C. §531.

12. Governmental Access: Any channel or time thereon which has been allocated for governmental use by the MUNICIPALITY, the Issuing Authority, or municipal agencies in accordance with this Agreement and 47 U.S.C. §531.

13. Issuing Authority: The Select Board of the Town of Stoughton, who is party to this Agreement.

14. Licensee: Comcast or Verizon, or their authorized transferees or successors.

15. Municipality (or "Town"): The Town of Stoughton, Massachusetts.

16. Public Access: The availability for use by any resident of, or any organization based in or serving the MUNICIPALITY, of designated public access facilities, equipment, training and/or channels of the Cable Television System, as provided in the Cable Licenses with the MUNICIPALITY and in accordance with 47 U.S.C. §531.

17. “S.M.A.C.”: The non-profit corporation known as Stoughton Media Access Corporation, designated by the Select Board to manage and operate public, educational and municipal access in the Town of Stoughton in accordance with this Agreement and 47 U.S.C. §531.

18. Upstream Channels: A channel over which signals travel from an authorized location to the cable system headend.

Article III – DESIGNATION

Pursuant to the respective Articles and provisions in the Cable Licenses or as they may be hereafter amended or renewed, or as they may be supplanted or replaced by agreement or otherwise with any other method of distributing CATV or CATV-like content, the Select Board, as Issuing Authority, hereby Designates Stoughton Media Access Corporation (“S.M.A.C.”) as its Designee and ACCESS CORPORATION within the meaning of that term as currently employed in the Cable Licenses for the Town of Stoughton or as hereafter amended or renewed or supplanted or replaced by agreement or otherwise. This Designation hereby authorizes S.M.A.C. to receive certain PEG Access grants, as more fully set forth in the Cable Licenses for the Town of Stoughton, and further authorizes S.M.A.C. to operate for the MUNICIPALITY the PEG Access channels and services described in the relevant terms of the Cable Licenses.

Article IV – TERM OF DESIGNATION

Unless otherwise terminated with the Designation withdrawn for good cause shown as provided in Article VII of this Access Agreement, the term of this Designation shall become effective when executed by all Parties hereto, and this Access Agreement shall continue unless terminated for good cause shown as provided in Article VII.

Article V – OBLIGATIONS OF ACCESS CORPORATION

Section 1: Public Access Use: Operating Rules and Procedures.

S.M.A.C. shall be solely responsible for its management and the operation of Public Access Programming on the cable system in the MUNICIPALITY, including training, quality of originated signals in cooperation with Comcast or Verizon or successor Licensee(s), scheduling the Public Access Channel(s) and managing the Access Facilities and equipment. S.M.A.C. shall promulgate and maintain a set of access operating rules and procedures which ensure that training, equipment, facilities, and Access Channel time shall be available to residents of any organizations serving the respective MUNICIPALITY. These rules shall ensure the right to use Access Channels, facilities, and equipment on a non-discriminatory, first-come, first-served basis subject to the terms

of this Access Agreement and subject also to S.M.A.C.'s goal of establishing regularly scheduled programming. Access user compliance with such rules shall be monitored by S.M.A.C. and periodically reviewed by the Issuing Authority of the MUNICIPALITY.

Section 2: Programming on the Public Access Channel.

Editorial discretion, the content of programming and the liability for programming placed on those Access Channel(s) which are operated by S.M.A.C. shall solely reside in and be the sole responsibility of the access producers and S.M.A.C. and not the MUNICIPALITY nor their LICENSEES. Notwithstanding the foregoing, S.M.A.C. programming shall be designed to achieve the purposes set forth in S.M.A.C.'s Articles of Incorporation and By-Laws and shall consist of Access Programming as defined in the Cable Licenses and by law. To these ends:

- (a) S.M.A.C. shall not sell to a third party any proprietary interest that S.M.A.C. may have in any Access Programming without first offering LICENSEES the right to purchase such interest by matching the best good faith offer tendered in writing by the third party;
- (b) All liability, license and copyright fees associated with the programming produced by S.M.A.C. or placed on the access channels serving the MUNICIPALITY shall be the sole responsibility of S.M.A.C.

Section 3: Coverage of Local Meetings.

S.M.A.C. shall be solely responsible for providing live coverage of all regularly scheduled meetings of the Select Board, School Committee and Town Meeting for the MUNICIPALITY, to the fullest extent practicable and possible. In addition to the foregoing, S.M.A.C. shall provide live coverage of one additional public meeting, per quarter, if requested by the MUNICIPALITY, upon thirty (30) days written notice, to the fullest extent practicable and possible.

Section 4: Cooperation with School Department.

S.M.A.C. shall cooperate with the school department of the MUNICIPALITY in partnership and assist in the coverage of important or significant school events, provided the request is made in writing at least thirty (30) days prior to such event, and further provided that sufficient S.M.A.C. resources are available for the requested coverage.

Section 5: Cooperation with Municipal Government.

S.M.A.C. shall cooperate with the Issuing Authority of the MUNICIPALITY in the coverage of governmental meetings, based on available resources.

Section 6: Logs.

S.M.A.C. shall keep a log of all Access Programming transmitted on the Access Channel(s) and the names and addresses of all access producers. The logs will be available for public inspection and retained for not less than two years.

Section 7: Insurance.

(a) At all times during the term of this Access Agreement, S.M.A.C. shall obtain, pay premiums for, and keep current the following policies of insurance:

(1) A General Commercial liability policy with a minimum liability coverage of One Million Dollars (\$1,000,000.00) for injury or death to any one person in any one occurrence and Two Million Dollars (\$2,000,000.00) for injury to two (2) or more persons in any one occurrence arising out of any S.M.A.C. activity under this Access Agreement;

(2) Property damage insurance policy for any and all claims of property damage occasioned or alleged to be occasioned by any S.M.A.C. activity under this Access Agreement, including but not limited to the construction, installation, maintenance or operation of a cable television access studio under this Access Agreement, with a minimum liability coverage of One Million Dollars (\$1,000,000.00) for damage to the property of any one person in any one occurrence and Two Million Dollars (\$2,000,000.00) for damage to the property of two (2) or more persons in any one occurrence;

(3) Automobile liability insurance for owned, leased or borrowed by S.M.A.C. automobiles, non-owned automobiles and/or rented automobiles undertaking S.M.A.C. business in the amount of:

(A) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death per occurrence;

(B) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death to any one person; and

(C) Five Hundred Thousand Dollars (\$500,000.00) for property damage per occurrence.

(4) Worker's Compensation in the minimum amount provided by statute.

(5) Producers' Liability Insurance in the amount of One Million Dollars (\$1,000,000) to cover slander, libel, copyright infringement, infliction of emotional distress, and invasion of privacy or publicity rights.

(b) For all insurance policies required by this Access Agreement, the following conditions shall apply:

(1) Such Insurance shall commence no later than thirty (30) days following the establishment of the Access Corporation, or the date of the execution of this Agreement, whichever shall occur last;

(2) Such Insurance shall be primary with respect to any insurance maintained by the MUNICIPALITY and shall not call upon the MUNICIPALITY'S insurance for contribution;

(3) Such Insurance shall be obtained from brokers or carriers licensed to transact business in the Commonwealth of Massachusetts;

(4) Evidence of compliance in the form of certificates of Insurance shall be submitted to the MUNICIPALITY periodically during the term or terms of this Access Agreement.

Section 8. Indemnification.

(a) Indemnification by Access Corporation of MUNICIPALITY:

S.M.A.C. shall defend, indemnify and hold harmless the MUNICIPALITY, its officials, boards, commissions, agents and/or employees and LICENSEES, and their officers, employees, servants and agents, from and against any claim, without limitation, arising from S.M.A.C.'s activities under this Access Agreement, whether expressly authorized by such Agreement or otherwise, including but not limited to claims in the nature of libel, slander, copyright infringement, infliction of emotional distress, and invasion of privacy or publicity rights, non-compliance with applicable laws, license fees and reasonable attorneys' fees. In addition, S.M.A.C. shall, in its rules for public access, require every access user to indemnify LICENSEE, S.M.A.C. and the MUNICIPALITY, and to defend, indemnify and hold them harmless against any claims arising out of any program or program material produced and/or cablecast by it, including but not limited to claims in the nature of libel, slander, invasion of privacy, obscenity, civil rights or publicity rights, non-compliance with applicable laws, license fees, unauthorized use of copyrighted material, and infliction of emotional distress including reasonable attorneys' fees.

(b) Indemnification by Access Corporation of Employees:

The Access Corporation shall, at its sole cost and expense, defend, indemnify and hold harmless its officers, employees, boards, commissions, agents and/or members from and against all claims for damage due to the actions of the Access Corporation, its officers, employees, boards, commissions, agents and/or members, when acting in official capacity or on behalf of the Access Corporation, where such claims arise out of the operation of the Access Corporation or Access Facility, or the provision of Access Programming which is the subject matter of this Access Agreement. Indemnified costs shall include, without limitation, all out-of-pocket expenses, including reasonable attorneys' fees and the reasonable value of any services rendered by Town Counsel.

Section 9: Annual Report and/or Audit.

Reviews, reports or audits of its finances and operations shall be conducted and provided annually by S.M.A.C. as may be required by the regulations of the Attorney General, to its members, if any, to the Stoughton Cable Advisory Committee, to the Issuing Authority and MUNICIPALITY, and if requested, to LICENSEES within ninety (90) days after the close of S.M.A.C.'s fiscal year or within sixty (60) days after the filing of its state and federal tax returns, including any tax extensions filed by S.M.A.C., whichever is later, or at such other time as may be agreed upon by the Parties.

Review of S.M.A.C.'s performance by the MUNICIPALITY, its Issuing Authority, or its designee(s) ("Performance Review" or "Audit"), if conducted, shall be conducted upon receipt of the annual review, report, or audit from S.M.A.C. The Performance Review shall be conducted at a duly noticed meeting of the Select Board at which S.M.A.C. shall be heard. At any such Performance Review all S.M.A.C. officers, directors, attorneys, agents or managers requested by S.M.A.C., the MUNICIPALITY or its Issuing Authority or designees shall be in attendance. In the event the MUNICIPALITY determines it requires a designee or third party to conduct a Performance Review or Audit, such third party shall be impartial, objective, disinterested, and professionally qualified. Any substantive issues, deficiencies, breaches or defaults raised or found by the MUNICIPALITY, its Issuing Authority, or its designee as a result of the Performance Review shall be provided to the S.M.A.C. Board of Directors by written notice within sixty (60) days of the Performance Review and any determination shall follow the procedures set forth in Article VIII, Section 1 of this Agreement.

Section 10: Status as Non-Profit 501(c)(3) Corporation.

S.M.A.C. shall, throughout the term of this Access Agreement, maintain its status as a non-profit 501(c)(3) corporation, securing and maintaining all requisite legal designations, and filing all appropriate periodic statements, forms or reports as may be required from time to time by law or regulation. S.M.A.C. shall otherwise maintain compliance with all applicable laws, rules and regulations of the MUNICIPALITY, Commonwealth of Massachusetts, and the United States of America as shall be enacted from time to time.

Section 11: Maintenance of Records, Equipment and Property; Equipment Inventory.

S.M.A.C. shall maintain accurate books, records, and logs of its financial and programming activities, and it shall maintain the facilities and equipment provided to it in good repair and safekeeping. Annually, at the time of filing the Annual Review, Report and/or Audit, S.M.A.C. shall provide to the Issuing Authority an inventory of said equipment and facilities together with a statement of its condition and corrective action, if any needed, taken or recommended to be taken to maintain all items in satisfactory condition.

Section 12: Access to Records.

S.M.A.C. shall allow the MUNICIPALITY, and/or its authorized designees(s) access to the books, records, accounts, and facilities of S.M.A.C. referenced in Paragraph 11 at such reasonable times and in such reasonable places as the MUNICIPALITY may require to ensure compliance with this Access Agreement.

Section 13: Political Activities Prohibited.

No funds nor facilities nor equipment provided hereunder shall be used for any partisan political activity or to further the election or defeat of any particular candidate for public office. Such prohibition shall not apply to public interest forums, public presentations or the like where the facilities are available for the expression of all points of view for informational purposes.

Section 14: Reversion of Property Upon Termination.

Upon termination of this ACCESS AGREEMENT, title to all property, equipment, facilities, and undisbursed funds and all other assets of the Access Corporation shall be transferred to the MUNICIPALITY, or to its Issuing Authority, or to their designees and S.M.A.C. shall cooperate fully with the MUNICIPALITY and its Issuing Authority or designees in effecting a smooth and prompt transfer.

Article VI – ADDITIONAL TERMS

Additional terms, as may be mutually agreed upon by the Parties may be for any length of time to which the Parties may mutually agree in writing.

Article VII – TERMINATION

This Access Agreement, and/or any subsequent Designation or extension thereof made under authority of this Access Agreement, shall terminate upon the occurrence of any of the following events:

(A) The filing of bankruptcy of S.M.A.C.;

(B) The expiration of the then-current Term as defined in Article IV hereof, or any extension of the Term, including by course of dealing, of this Access Agreement, or in the event that the MUNICIPALITY terminates this Agreement with the Designation for good cause shown, in the manner provided in Article VIII, terminating S.M.A.C. as its PEG Access provider; or

(C) The withdrawal of Designation by the MUNICIPALITY arising from any breach of this Access Agreement by S.M.A.C. which remains outstanding and uncured in whole or in part following notice, opportunity to cure, and an opportunity to be heard at a duly noticed meeting of the Select Board as more fully provided in Article VIII of this Access Agreement.

Article VIII – BREACH AND SANCTIONS

Section 1: Determination of Breach.

Upon determining that a possible material breach of this Access Agreement may have occurred, the MUNICIPALITY shall serve written notice of such possible breach upon S.M.A.C. Upon receipt of such written notice of possible breach, S.M.A.C. shall have sixty (60) days to respond in one of the following ways: (1) cure such breach and report the cure to the MUNICIPALITY; (2) provide the MUNICIPALITY with proof that such breach did not occur; (3) if the breach was due to any fault on the part of S.M.A.C., but for reasons beyond its control, and such breach cannot be cured within sixty (60) days, provide proof of same to the MUNICIPALITY, and a reasonable, detailed timetable for correction and cure; or (4) if the breach was not due to any fault on the part of S.M.A.C. and cannot be cured within sixty (60) days, provide proof of same to the MUNICIPALITY and a reasonable, detailed timetable for cure. S.M.A.C. shall submit such response(s) for approval by the MUNICIPALITY which shall take up the issue within a reasonable time thereafter at a duly noticed meeting of the Select Board with an opportunity for S.M.A.C. to be heard and at which the Select Board shall make its determination whether a breach occurred, has been cured or is waived by the MUNICIPALITY.

If, after notification, opportunity to cure and to be heard as provided in this section, the MUNICIPALITY determines that a breach of this Access Agreement did occur, and that such breach was not cured or otherwise excused or waived within the time duly specified by the procedures set forth in this section, the MUNICIPALITY may elect one or more of the following remedies 10 days after sending written notice to S.M.A.C. of the determination: (1) withdraw its Designation of S.M.A.C. granted under Article III of this Access Agreement, and thereby terminate this Access Agreement; (2) impose Liquidated Damages as set forth in Section 2 of this Article; (3) impose any other sanction as may be determined to be reasonable under the circumstances; or (4) excuse or waive the breach for good cause shown. The MUNICIPALITY shall send S.M.A.C. notice of its determination of its election of remedies (1) – (4) within two (2) business days of its determination.

Section 2: Liquidated Damages.

Liquidated damages up to the amount set forth below, from the day of the notice of the MUNICIPALITY'S determination of its election in the final sentence of Section 1 above, may be assessed against S.M.A.C. by the MUNICIPALITY in the manner set forth in Section 1 determining a breach of this Access Agreement after notice and opportunity to cure as set forth in Section 1 of Article VIII. Upon assessment of such damages, the MUNICIPALITY may require S.M.A.C. to pay such damages to the MUNICIPALITY within thirty (30) days of its receipt of such a written demand for payment. Failure to pay such damages within thirty (30) days of receipt of a written demand shall itself constitute a breach of this Access Agreement. In the event of ongoing penalties, successive and non-cumulative written demands may be sent.

- (a) For failure to maintain qualified, fully trained, and competent personnel to manage and operate the Public Access Program, as required by Article V, Section 1, \$50.00 per day;

- (b) For failure to provide live coverage of local meetings as required by Article V, Section 3, \$50.00 per day;
- (c) For failure to maintain insurance policies required by Article V, Section 7, \$25.00 per day;
- (d) For failure to prepare or produce Annual Review, Report, Audit and/or Inventory, as required by Article V, Section 9; or for failure to maintain Access Programming Logs as required by Article V, Section 6, or for failure to grant to the Issuing Authority or its authorized representatives access to the books, records, accounts and facilities at such reasonable times and at such reasonable places as the Issuing Authority or its authorized representatives may require, as required by Article V, Section 14, \$25.00 per day; and
- (e) For any other breach of this Access Agreement as may be determined by the MUNICIPALITY as provided in Section 1, \$50.00 per day.

Liquidated damages are a non-exclusive remedy and may be used alone, or in combination with any other remedy for breach permitted under Article VIII, Section 1.

Article IX – FUNDING/ANNUAL SUPPORT/FUND RAISING

S.M.A.C. shall be funded by annual and/or periodic grant payments, or by a combination of the two, made to it directly by the LICENSEES, or any future funding source for PEG Access Programming and/or the MUNICIPALITY pursuant to the relevant provisions of the Cable Licenses or as those Licenses may be supplanted or replaced by agreement or otherwise with any other method of distributing CATV or CATV-like content. The grant payments provided by the Cable Licenses may be made by LICENSEES directly to S.M.A.C. in accordance with the terms of the respective Cable Licenses, and upon written request of the Issuing Authority to the LICENSEES. S.M.A.C. shall invoice the MUNICIPALITY monthly in arrears payable within thirty (30) days.

After providing fourteen (14) days written notice to the Issuing Authority, S.M.A.C. may also undertake its own non-profit fundraising campaigns or drives. S.M.A.C. may also directly receive, or through the MUNICIPALITY, any future funding for PEG Access from state, federal or other public or private entities.

Article X – CABLE ADVISORY COMMITTEE

At the discretion of the Issuing Authority, the Issuing Authority may vest S.M.A.C. with such power and authority as the Issuing Authority may lawfully and from time to time delegate to S.M.A.C. regarding a Cable Advisory Committee.

Article XI – ACCESS CORPORATION ORGANIZATION

Section 1: Board of Directors

The Access Corporation shall have a Board of Directors composed as provided by Article III of the Access Corporation's By-Laws as they currently exist or as they may from time to time be amended.

The Board of Directors shall have all of the usual overall policy setting and oversight powers customary for a corporate Board of Directors provided by law and by its By-Laws.

Section 2: Access Corporation Officers.

The selection, duties, and terms of the Access Corporate Officers shall be as provided by the Access Corporation's By-Laws.

Section 3: Access Corporation Members.

The Board of Directors may establish membership in the Access Corporation under such terms and conditions as it may deem necessary or desirable to promote public participation in, and funding of, the Access Corporation, and consistent always with the provisions of Article II of the Access Corporation By-Laws as they currently exist or as they may from time to time be amended.

Section 4: Access Corporation By-Laws.

The Access Corporation By-Laws, as adopted by the incorporators at the time of incorporation, shall serve as the effective By-Laws of the Access Corporation.

Article XII – MISCELLANEOUS

Section 1: Assignment and Successors Bound.

This Access Agreement shall inure to the benefit of the MUNICIPALITY and to their successors and assigns. No assignment of any legal right may be made by S.M.A.C. without the express written consent of the MUNICIPALITY.

Section 2: Waiver and Amendment.

Nothing in this Access Agreement shall prevent all Parties from agreeing to waive or amend any provisions of this Agreement by mutual agreement. Any such waiver must be confirmed by all Parties in writing. No amendment shall be made to this Access Agreement unless executed in full in the same form as the original Agreement. No waivers or amendments agreed, in writing, upon or pursuant to this section, shall prejudice any remaining provisions of this Access Agreement and all such remaining provisions shall at all times remain in full force and effect.

Section 3: Construction.

The headings herein are for reference and convenience only and shall not be a factor in the interpretation of this ACCESS AGREEMENT. This ACCESS AGREEMENT shall be interpreted and construed under the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provision(s). The Parties agree that any dispute arising out of or related to this Access Agreement shall be decided exclusively by the state or federal courts located in the Commonwealth of Massachusetts.

Section 4: Severability.

If any provision of this ACCESS AGREEMENT is determined to be illegal or unenforceable by any court, such determination shall have no effect upon the validity of all remaining sections of the Agreement which shall remain in full force and effect for the full term of this Agreement.

Section 5: Force Majeure.

If by any reason of Force Majeure any party is unable in whole or in part to carry out its obligations under this ACCESS AGREEMENT, that party shall not be deemed to be in breach or default during the pendency of such inability. The term "Force Majeure," as used in this ACCESS AGREEMENT shall have the following meanings: Act of God; act of public enemy; orders of any kind of the government of the United States of America, Commonwealth of Massachusetts or of any of their departments, subdivisions, officials, or of any civil or military authorities; insurrections; riot; epidemic; pandemic; landslide; lightning; earthquake; fires; hurricanes, volcanic activity; storms; floods; wash outs; droughts; civil disturbances; explosions; strikes; acts of terrorism; and unavailability of essential personnel, equipment, services, or material beyond the control of any Party.

Section 6: Entire Agreement.

This Access Agreement contains the entire agreement between the Parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed except by an instrument in writing executed by the Parties and in the same form as this Agreement.

Section 7: Notice.

Any notice delivered hereunder shall be valid if delivered in hand to or sent by a national, overnight delivery service that maintains and makes available proof of delivery to the following addresses which may be revised in writing by the Town of Stoughton or S.M.A.C.:

The MUNICIPALITY:

Town of Stoughton:

Chair, Select Board
Stoughton Town Hall
10 Pearl Street
Stoughton, MA 02072

Stoughton Media Access Corp.:

President, Stoughton Media Access Corp.
421 Page St., Suite 2
Stoughton, MA 02072

Article XIII – EXECUTION

TOWN OF STOUGHTON, MASSACHUSETTS,
By its Select Board,

Debra Roberts, Chair

Dated: _____

Joseph M. Mokrisky

Dated: _____

Stephen M. Cavey

Dated: _____

Scott Carrara

Dated: _____

Louis F. Gitto

Dated: _____

STOUGHTON MEDIA ACCESS CORP.
By its President,

Robert Mullen
President, Duly Authorized

Dated: _____

working draft 6-14-23

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3. Access Corporation: Stoughton Media Access Corporation ("S.M.A.C."), the ACCESS CORPORATION, designated by the Select Board of the Town of Stoughton pursuant to Article III of this Agreement, and to the relevant sections of the Cable Licenses for the Town of Stoughton.

4. Access Facility: The location from which the Access Corporation operates the public, educational and municipal access functions; at a studio to be-located in the Town of Stoughton, Massachusetts.

5. Access Programming: Programs on the designated Access Channels which shall be non-commercial within the standards for underwriting applicable to the Public Broadcasting Service (PBS), or the standards necessary for S.M.A.C. to maintain its tax-exempt status within the applicable regulations of the Internal Revenue Service, and such programming excludes political advertising.

6. CATV: Cable Access Television.

7. Cable Advisory Committee: The Stoughton Cable Advisory Committee as it may be appointed by the Select Board.

8. Cable Licenses, or Renewal Licenses: The license agreements between Stoughton and Comcast and Verizon (the current "LICENSEES"), authorizing LICENSEES to own, operate and maintain the Cable or similar Television Systems in the MUNICIPALITY.

9. Commercial Program: Programming from which revenue is derived, by any party, and programming the purpose of which is to conduct trade or commerce. It shall not include programming supported by underwriting grants or contributions of any kind.

10. Downstream Channel: A channel over which signals travel from the system headend to an authorized location within the system.

11. Educational Access: Any channel or time thereon which has been allocated for educational use in accordance with this Agreement, the License Agreements, and 47 U.S.C. §531.

12. Governmental Access: Any channel or time thereon which has been allocated for governmental use by the MUNICIPALITY, the Issuing Authority, or municipal agencies in accordance with this Agreement and 47 U.S.C. §531.

13. Issuing Authority: The Select Board of the Town of Stoughton, who is party to this Agreement.

14. Licensee: Comcast or Verizon, or their authorized transferees or successors in the provision of PEG Programming and Access Channels as herein defined.

15. Municipality (or "Town"): The Town of Stoughton, Massachusetts.

16. Public Access: The availability for use by any resident of, or any organization based in or serving the MUNICIPALITY, of designated public access facilities, equipment, training and/or channels of the Cable Television System, as provided in the Cable Licenses with the MUNICIPALITY and in accordance with 47 U.S.C. §531.

17. "S.M.A.C.": The non-profit corporation known as Stoughton Media Access Corporation, designated by the Select Board to manage and operate public, educational and government municipal Cable Access TV in the Town of Stoughton in accordance with this Agreement and 47 U.S.C. §531.

18. Upstream Channels: A channel over which signals travel from an authorized location to the cable system headend.

Article III – DESIGNATION

Pursuant to the respective Articles and provisions in the Cable Licenses or as they may be hereafter amended or renewed, or as they may be supplanted or replaced by agreement or otherwise with any other method of distributing CATV or CATV-like content, the Select Board, as Issuing Authority, hereby Designates Stoughton Media Access Corporation ("S.M.A.C.") as its Designee and ACCESS CORPORATION within the meaning of that term as currently employed in the Cable Licenses for the Town of Stoughton or as hereafter amended or renewed or supplanted or replaced by agreement or otherwise. This Designation hereby authorizes S.M.A.C. to receive certain PEG Access grants, as more fully set forth in the Cable Licenses for the Town of Stoughton, and further authorizes S.M.A.C. to operate for the MUNICIPALITY the PEG Access channels and services described in the relevant terms of the Cable Licenses.

Article IV – TERM OF DESIGNATION

Unless otherwise terminated with the Designation withdrawn for good cause shown as provided in Article VII of this Access Agreement, the term of this Designation shall become effective when executed by all Parties hereto, and this Access Agreement shall continue unless terminated for good cause shown as provided in Article VII.

Article V – OBLIGATIONS OF ACCESS CORPORATION

Section 1: Public Access Use: Operating Rules and Procedures.

S.M.A.C. shall be solely responsible for its management and the operation of Public Access Programming on the cable system in the MUNICIPALITY, including training, quality of originated signals in cooperation with Comcast or Verizon or successor Licensee(s), scheduling the Public Access Channel(s) and managing the Access Facilities and equipment. S.M.A.C. shall promulgate and maintain a set of access operating rules and procedures which ensure that training, equipment, facilities, and Access Channel time shall be available to residents of the Town of Stoughton and of any educational, governmental, health care, arts, religious, business, civic, and other entities, which are based in or serve the MUNICIPALITY organizations serving the respective

MUNICIPALITY. These rules shall ensure the right to use Access Channels, facilities, and equipment on a non-discriminatory, first-come, first-served basis subject to the terms of this Access Agreement and subject also to S.M.A.C.'s goal of establishing regularly scheduled programming. Access user compliance with such rules shall be monitored by S.M.A.C. and periodically reviewed by the Issuing Authority of the MUNICIPALITY.

Section 2: Programming on the Public Access Channel.

Editorial discretion, the content of programming and the liability for programming placed on those Access Channel(s) which are operated by S.M.A.C. shall solely reside in and be the sole responsibility of the access producers and S.M.A.C. and not the MUNICIPALITY nor their LICENSEES. Notwithstanding the foregoing, S.M.A.C. programming shall be designed to achieve the purposes set forth in S.M.A.C.'s Articles of Incorporation and By-Laws and shall consist of Access Programming as defined in the Cable Licenses and by law. To these ends:

- (a) S.M.A.C. shall not sell to a third party any proprietary interest that S.M.A.C. may have in any Access Programming without first offering LICENSEES the right to purchase such interest by matching the best good faith offer tendered in writing by the third party;
- (b) All liability, license and copyright fees associated with the programming produced by S.M.A.C. or placed on the access channels serving the MUNICIPALITY shall be the sole responsibility of S.M.A.C.

Section 3: Coverage of Local Meetings.

S.M.A.C. shall be solely responsible for providing live coverage of all regularly scheduled meetings of the Select Board, School Committee and Town Meeting for the MUNICIPALITY, to the fullest extent practicable and possible. In addition to the foregoing, S.M.A.C. shall provide live coverage of one additional public meeting, per quarter, if requested by the MUNICIPALITY, upon thirty (30) days written notice, to the fullest extent practicable and possible.

Section 4: Cooperation with School Department.

S.M.A.C. shall cooperate with the school department of the MUNICIPALITY in partnership and assist in the coverage of important or significant school events, provided the request is made in writing at least thirty (30) days prior to such event, and further provided that sufficient S.M.A.C. resources are available for the requested coverage.

Section 5: Cooperation with Municipal Government.

S.M.A.C. shall cooperate with the Issuing Authority of the MUNICIPALITY in the coverage of governmental meetings, based on available resources.

The president of the S.M.A.C. Board of Directors or his or her designee shall provide the Select Board with a quarterly update on the status of operations and capital planning to facilitate communication, transparency, and compliance with this Agreement.
Any representative of the MUNICIPALITY may attend meetings of the S.M.A.C. Board of Directors that are open to the public. The Select Board may designate any of its members or the Town Manager as the liaison to the S.M.A.C. Board of Directors to further facilitate communication, transparency, and compliance with this Agreement.

Section 6: Logs.

S.M.A.C. shall keep a log of all Access Programming transmitted on the Access Channel(s) and the names and addresses of all access producers. The logs will be available for public inspection and retained for not less than two years.

Section 7: Insurance.

(a) At all times during the term of this Access Agreement, S.M.A.C. shall obtain, pay premiums for, and keep current the following policies of insurance:

(1) A General Commercial liability policy with a minimum liability coverage of One Million Dollars (\$1,000,000.00) for injury or death to any one person in any one occurrence and Two Million Dollars (\$2,000,000.00) for injury to two (2) or more persons in any one occurrence arising out of any S.M.A.C. activity under this Access Agreement;

(2) Property damage insurance policy for any and all claims of property damage occasioned or alleged to be occasioned by any S.M.A.C. activity under this Access Agreement, including but not limited to the construction, installation, maintenance or operation of a cable television access studio under this Access Agreement, with a minimum liability coverage of One Million Dollars (\$1,000,000.00) for damage to the property of any one person in any one occurrence and Two Million Dollars (\$2,000,000.00) for damage to the property of two (2) or more persons in any one occurrence;

(3) Automobile liability insurance for owned, leased or borrowed by S.M.A.C. automobiles, non-owned automobiles and/or rented automobiles undertaking S.M.A.C. business in the amount of:

(A) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death per occurrence;

(B) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death to any one person; and

(C) Five Hundred Thousand Dollars (\$500,000.00) for property damage per occurrence.

(4) Worker's Compensation in the minimum amount provided by statute.

(5) Producers' Liability Insurance in the amount of One Million Dollars (\$1,000,000) to cover slander, libel, copyright infringement, infliction of emotional distress, and invasion of privacy or publicity rights.

(b) For all insurance policies required by this Access Agreement, the following conditions shall apply:

(1) Such Insurance shall commence no later than thirty (30) days following the establishment of the Access Corporation, or the date of the execution of this Agreement, whichever shall occur last;

(2) Such Insurance shall be primary with respect to any insurance maintained by the MUNICIPALITY and shall not call upon the MUNICIPALITY'S insurance for contribution;

(3) Such Insurance shall be obtained from brokers or carriers licensed to transact business in the Commonwealth of Massachusetts;

(4) Evidence of compliance in the form of certificates of Insurance shall be submitted to the MUNICIPALITY periodically during the term or terms of this Access Agreement.

Section 8. Indemnification.

(a) Indemnification by Access Corporation of MUNICIPALITY:

S.M.A.C. shall defend, indemnify and hold harmless the MUNICIPALITY, its officials, boards, commissions, agents and/or employees and LICENSEES, and their officers, employees, servants and agents, from and against any claim, without limitation, arising from S.M.A.C.'s activities under this Access Agreement, whether expressly authorized by such Agreement or otherwise, including but not limited to claims in the nature of libel, slander, copyright infringement, infliction of emotional distress, and invasion of privacy or publicity rights, non-compliance with applicable laws, license fees and reasonable attorneys' fees. In addition, S.M.A.C. shall, in its rules for public access, require every access user to indemnify LICENSEE, S.M.A.C. and the MUNICIPALITY, and to defend, indemnify and hold them harmless against any claims arising out of any program or program material produced and/or cablecast by it, including but not limited to claims in the nature of libel, slander, invasion of privacy, obscenity, civil rights or publicity rights, non-compliance with applicable laws, license fees, unauthorized use of copyrighted material, and infliction of emotional distress including reasonable attorneys' fees.

(b) Indemnification by Access Corporation of Employees:

The Access Corporation shall, at its sole cost and expense, defend, indemnify and hold harmless its officers, employees, boards, commissions and agents and/or members from and against all claims for damage due to the actions of the Access Corporation, its officers, employees, boards, commissions and agents and/or members, when acting in official capacity or on behalf of the Access Corporation, where such claims arise out of the operation of the Access Corporation or Access Facility, or the provision of Access Programming which is the subject matter of this Access Agreement. Indemnified costs shall include, without limitation, all out-of-pocket expenses, including reasonable attorneys' fees and the reasonable value of any services rendered by Town Counsel.

As to members, this indemnification shall be limited to the member(s)' programming activity at S.M.A.C.

If it is determined by a final judgment of a court of competent jurisdiction that the action(s) were wrongful, grossly negligent or constituted a breach of a fiduciary duty the indemnified party shall repay the amount paid under the indemnity, if any, within 30 days.

Section 9: Review, Annual Report and/or Audit.

Reviews, reports or audits of its finances and operations shall be conducted and provided annually by S.M.A.C. as may be required by the regulations of the Attorney General, to its members, if any, to the Stoughton Cable Advisory Committee, to the Issuing Authority and MUNICIPALITY, and if requested, to LICENSEES within ninety (90) days after the close of S.M.A.C.'s fiscal year or within sixty (60) days after the filing of its state and federal tax returns, including any tax extensions filed by S.M.A.C., whichever is later, or at such other time as may be agreed upon by the Parties.

Current Attorney General guidelines provide that an audit is required if an organization's gross support and revenue exceeds \$500,000 in a fiscal year. Organizations with gross support and revenue of more than \$200,000 up to \$500,000 in a fiscal year are required to complete an annual review.

Review of S.M.A.C.'s performance by the MUNICIPALITY, its Issuing Authority, or its designee(s) ("Performance Review" or "Audit"), if conducted, shall be conducted upon fifteen business days after receipt of the annual review, report, or audit from S.M.A.C. and written notice to S.M.A.C. or at such other time as mutually agreed by the Parties. The Performance Review shall be conducted at a duly noticed meeting of the Select Board at which S.M.A.C. shall be heard. At any such Performance Review all S.M.A.C. officers, directors, attorneys, agents, or managers requested by S.M.A.C., the MUNICIPALITY or its Issuing Authority or designees shall be in attendance. In the event the MUNICIPALITY determines it requires a designee or third party to conduct a Performance Review or Audit, such third party shall be impartial, objective, disinterested, and professionally qualified. Any substantive issues, deficiencies, breaches or defaults raised or found by the MUNICIPALITY, its Issuing Authority, or its designee as a result of the Performance Review shall be provided to the S.M.A.C. Board of Directors by written notice within sixty (60) days of the Performance Review and any determination shall follow the procedures set forth in Article VIII, Section 1 of this Agreement.

Section 10: Status as Non-Profit 501(c)(3) Corporation.

S.M.A.C. shall, throughout the term of this Access Agreement, maintain its status as a non-profit 501(c)(3) corporation, securing and maintaining all requisite legal designations, and filing all appropriate periodic statements, forms or reports as may be required from time to time by law or regulation. S.M.A.C. shall otherwise maintain compliance with all applicable laws, rules and regulations of the MUNICIPALITY, Commonwealth of Massachusetts, and the United States of America as shall be enacted from time to time.

Section 11: Maintenance of Records, Equipment and Property; Equipment Inventory.

S.M.A.C. shall maintain accurate books, records, and logs of its financial and programming activities, and it shall maintain the facilities and equipment provided to it in good repair and safekeeping. Annually, at the time of filing the Annual Review, Report and/or Audit, S.M.A.C. shall provide to the Issuing Authority an inventory of said equipment and facilities together with a statement of its condition and corrective action, if any needed, taken or recommended to be taken to maintain all items in satisfactory condition.

S.M.A.C. shall prepare and approve annually a revolving three (3) year capital budget that identifies equipment requiring replacement due to obsolescence or that has or will reach the expiration of its anticipated useful life during that three (3) year term. This information shall be included in the president's quarterly update to the Select Board, in accordance with Article V, Section 5 of this Agreement.

Section 12: Access to Records.

S.M.A.C. shall allow the MUNICIPALITY, and/or its authorized designee(s) access to the books, records, accounts, and facilities of S.M.A.C. referenced in Paragraph 11 at such reasonable times and in such reasonable places as the MUNICIPALITY may require to ensure compliance with this Access Agreement.

Section 13: Political Activities Prohibited.

No funds nor facilities nor equipment provided hereunder shall be used for any partisan political activity or to further the election or defeat of any particular candidate for public office. Such prohibition shall not apply to public interest forums, public presentations or the like where the facilities are available for the expression of all points of view for informational purposes.

Section 14: Reversion of Property Upon Termination.

Within such time as S.M.A.C. may wind down its operations, employment and contract obligations, including any real property or other lease(s) and financial obligations after Upon termination of this ACCESS AGREEMENT, title to all property, equipment,

facilities, and undisbursed funds and all other assets of the Access Corporation shall be transferred to the MUNICIPALITY, or to its Issuing Authority, or to their designees, and S.M.A.C. shall cooperate fully with the MUNICIPALITY and its Issuing Authority or designees in effecting a smooth and prompt transfer of its assets and transition of its services to alternative provider(s).

Article VI – ADDITIONAL TERMS

Additional terms, as may be mutually agreed upon by the Parties may be for any length of time to which the Parties may mutually agree in writing.

Article VII – TERMINATION

This Access Agreement, and/or any subsequent Designation or extension thereof made under authority of this Access Agreement, shall terminate upon the occurrence of any of the following events:

(A) The filing of bankruptcy of S.M.A.C.;

(B) The expiration of the then-current Term as defined in Article IV hereof, or any extension of the Term, including by course of dealing, of this Access Agreement, or in the event that the MUNICIPALITY terminates this Agreement with the Designation for good cause shown, in the manner provided in Article VIII, terminating S.M.A.C. as its PEG Access provider; or

(C) The withdrawal of Designation by the MUNICIPALITY arising from any breach of this Access Agreement by S.M.A.C. which remains outstanding and uncured in whole or in part following notice, opportunity to cure, and an opportunity to be heard at a duly noticed meeting of the Select Board as more fully provided in Article VIII of this Access Agreement.

Article VIII – BREACH AND SANCTIONS

Section 1: Determination of Breach.

Upon determining that a possible material breach of this Access Agreement may have occurred, the MUNICIPALITY shall serve written notice of such possible breach upon S.M.A.C. Upon receipt of such written notice of possible breach, S.M.A.C. shall have sixty (60) days to respond in one of the following ways: (1) cure such breach and report the cure to the MUNICIPALITY; (2) provide the MUNICIPALITY with proof that such breach did not occur; (3) if the breach was due to any fault on the part of S.M.A.C., but for reasons beyond its control, and such breach cannot be cured within sixty (60) days, provide proof of same to the MUNICIPALITY, and a reasonable, detailed timetable for correction and cure; or (4) if the breach was not due to any fault on the part of S.M.A.C. and cannot be cured within sixty (60) days, provide proof of same to the MUNICIPALITY and a reasonable, detailed timetable for cure. S.M.A.C. shall submit such response(s) for approval by the MUNICIPALITY which shall take up the issue within a reasonable time

thereafter at a duly noticed meeting of the Select Board with an opportunity for S.M.A.C. to be heard and at which the Select Board shall make its determination whether a breach occurred, has been cured or is waived by the MUNICIPALITY.

If, after notification, opportunity to respond including to cure and to be heard as provided in this section, the MUNICIPALITY determines that a breach of this Access Agreement did occur, and that such breach was not cured or otherwise excused or waived within the time duly specified by the procedures set forth in this section, the MUNICIPALITY may elect one or more of the following remedies 10 days after sending written notice to S.M.A.C. of the determination: (1) withdraw its Designation of S.M.A.C. granted under Article III of this Access Agreement, and thereby terminate this Access Agreement; (2) impose Liquidated Damages as set forth in Section 2 of this Article; (3) impose any other sanction as may be lawfully determined to be reasonable under the circumstances; or (4) excuse or waive the breach for good cause shown. The MUNICIPALITY shall send S.M.A.C. written notice of its determination of its election of remedies (1) – (4) within two (2) business days of its determination.

Section 2: Liquidated Damages.

Liquidated damages up to the amount set forth below, from the day of the notice of the MUNICIPALITY'S determination of its election in the final sentence of Section 1 above, may be assessed against S.M.A.C. by the MUNICIPALITY ~~in the manner set forth in Section 1~~ after determining a breach of this Access Agreement after notice and opportunity to respond including to cure as set forth in Section 1 of Article VIII. Upon assessment of such damages, the MUNICIPALITY may require S.M.A.C. to pay such damages to the MUNICIPALITY within thirty (30) days of its receipt of such a written demand for payment. Failure to pay such damages within thirty (30) days of receipt of a written demand shall itself constitute a breach of this Access Agreement. In the event of ongoing penalties, successive and non-cumulative written demands may be sent.

- (a) For failure to maintain qualified, fully trained, and competent personnel to manage and operate the Public Access Program, ~~as to ensure compliance with~~ required by Article V, Section 1, \$50.00 per day;
- (b) For failure to provide live coverage of local meetings ~~in accordance with~~ as required by Article V, Section 3, \$50.00 per day;
- (c) For failure to maintain insurance policies required by Article V, Section 7, \$25.00 per day;
- (d) For failure to prepare or produce Annual Review, Report ~~or~~, Audit and/or Inventory, ~~as required by~~ in accordance with Article V, Section 9; or for failure to maintain Access Programming Logs as required by Article V, Section 6, or for failure to grant to the Issuing Authority or its authorized representatives access to the books, records, accounts and facilities at such reasonable times and at such reasonable places as the Issuing Authority or its authorized

representatives may require, in accordance as required by with Article V, Section 12, \$25.00 per day; and

(e) For any other breach of this Access Agreement as may be determined by the MUNICIPALITY in the manner as provided in Article VIII, Section 1, \$50.00 per day.

Liquidated damages are a non-exclusive remedy and may be used alone, or in combination with any other remedy for breach permitted under Article VIII, Section 1.

Article IX – FUNDING/ANNUAL SUPPORT/FUND RAISING

S.M.A.C. shall be funded by annual and/or periodic grant payments, or by a combination of the two, made to it directly by the LICENSEES, or any future funding source for PEG Access Programming and/or the MUNICIPALITY pursuant to the relevant provisions of the Cable Licenses or as those Licenses may be supplanted or replaced by agreement or otherwise with any other method of distributing CATV or CATV-like content. The grant payments provided by the Cable Licenses may be made by LICENSEES directly to S.M.A.C. in accordance with the terms of the respective Cable Licenses, and upon written request of the Issuing Authority to the LICENSEES. S.M.A.C. shall invoice the MUNICIPALITY monthly in arrears payable within thirty (30) days.

S.M.A.C. shall maintain an account at a banking/financial institution located in Stoughton where operating funds are held. This requirement shall not interfere with S.M.A.C.'s ability or the Board of Director's or Officers' fiduciary duties to S.M.A.C. including to obtain favorable interest rates and to make the best use of the Corporation's assets.

After providing fourteen (14) days written notice to the Issuing Authority, S.M.A.C. may also undertake its own non-profit fundraising campaigns or drives. S.M.A.C. may also directly receive, or through the MUNICIPALITY, any future funding for PEG Access from state, federal or other public or private entities.

Article X – CABLE ADVISORY COMMITTEE

At the discretion of the Issuing Authority, the Issuing Authority may vest S.M.A.C. with such power and authority as the Issuing Authority may lawfully and from time to time delegate to S.M.A.C. regarding a Cable Advisory Committee.

Article XI – ACCESS CORPORATION ORGANIZATION

Section 1: Board of Directors.

The Access Corporation shall have a Board of Directors composed as provided by Article III of the Access Corporation's By-Laws as they currently exist or as they may from time to time be amended.

The Board of Directors shall have all of the usual overall policy setting and oversight powers customary for a corporate Board of Directors provided by law and by its By-Laws.

Section 2: Access Corporation Officers.

The selection, duties, and terms of the Access Corporate Officers shall be as provided by the Access Corporation's By-Laws and Policies, Rules and Procedures duly adopted or in use by S.M.A.C. ("Policies, Rules and Procedures").

Section 3: Access Corporation Members.

The Board of Directors may establish membership in the Access Corporation under such terms and conditions as it may deem necessary or desirable to promote public participation in, and funding of, the Access Corporation, and consistent always with the provisions of Article II of the Access Corporation By-Laws as they currently exist or as they may from time to time be amended and S.M.A.C.'s Policies, Rules and Procedures.

Section 4: Access Corporation By-Laws.

The Access Corporation By-Laws, as adopted by the incorporators at the time of incorporation and thereafter as may be amended, shall serve as the effective By-Laws of the Access Corporation.

Within forty-five (45) days of the full execution of this Agreement, S.M.A.C. shall update and amend its By-Laws as may be necessary or advisable to be consistent with this Agreement.

Article XII – MISCELLANEOUS

Section 1: Assignment and Successors Bound.

This Access Agreement shall inure to the benefit of the MUNICIPALITY and to their successors and assigns. No assignment of any legal right may be made by S.M.A.C. without the express written consent of the MUNICIPALITY except as may be required by law or necessary in the judgment of the employees, officer(s) and or director(s) of S.M.A.C. to discharge their fiduciary duties to S.M.A.C.

Section 2: Waiver and Amendment.

Nothing in this Access Agreement shall prevent all Parties from agreeing to waive or amend any provisions of this Agreement by mutual agreement. Any such waiver must be confirmed by all Parties in writing. No amendment shall be made to this Access Agreement unless executed in full in the same form as the original Agreement. No waivers or amendments agreed, in writing, upon or pursuant to this section, shall prejudice any remaining provisions of this Access Agreement and all such remaining provisions shall at all times remain in full force and effect.

Section 3: Construction.

The headings herein are for reference and convenience only and shall not be a factor in the interpretation of this ACCESS AGREEMENT. This ACCESS AGREEMENT shall be interpreted and construed under the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provision(s). The Parties agree that any dispute arising out of or related to this Access Agreement shall be decided exclusively by the state or federal courts located in the Commonwealth of Massachusetts.

Section 4: Severability.

If any provision of this ACCESS AGREEMENT is determined to be illegal or unenforceable by any court, to the maximum extent possible such determination shall have no effect upon the validity of all remaining sections of the Agreement which shall remain in full force and effect for the full term of this Agreement.

Section 5: Force Majeure.

If by any reason of Force Majeure any party is unable in whole or in part to carry out its obligations under this ACCESS AGREEMENT, that party shall not be deemed to be in breach or default during the pendency of such inability. The term "Force Majeure," as used in this ACCESS AGREEMENT shall have the following meanings: Act of God; act of public enemy; orders of any kind of the government of the United States of America, Commonwealth of Massachusetts or of any of their departments, subdivisions, officials, or of any civil or military authorities; insurrections; riot; epidemic; pandemic; landslide; lightning; earthquake; fires; hurricanes, volcanic activity; storms; floods; wash outs; droughts; civil disturbances; explosions; strikes; acts of terrorism; and unavailability of essential personnel, equipment, services, or material beyond the control of any Party.

Section 6: Entire Agreement.

This Access Agreement contains the entire agreement between the Parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed except by an instrument in writing executed by the Parties and in the same form as this Agreement.

Section 7: Notice.

Any notice delivered hereunder shall be valid if delivered in hand to or sent by a national, overnight delivery service that maintains and makes available proof of delivery to the following addresses which may be revised in writing by the Town of Stoughton or S.M.A.C.:

The MUNICIPALITY:

Town of Stoughton:

Chair, Select Board

Stoughton Town Hall
10 Pearl Street
Stoughton, MA 02072

Stoughton Media Access Corp.:

President, Stoughton Media Access Corp.
421 Page St., Suite 2
Stoughton, MA 02072

Article XIII – EXECUTION

TOWN OF STOUGHTON, MASSACHUSETTS,
By its Select Board,

Debra Roberts, Chair

Dated: _____

Joseph M. Mokrisky

Dated: _____

Stephen M. Cavey

Dated: _____

Scott Carrara

Dated: _____

Louis F. Gitto

Dated: _____

STOUGHTON MEDIA ACCESS CORP.
By its President,

Robert Mullen
President, Duly Authorized

Dated: _____

**ACCESS CORPORATION
AGREEMENT**

BETWEEN

**STOUGHTON MEDIA ACCESS
CORPORATION
("S.M.A.C.")**

**AND THE
TOWN OF STOUGHTON, MA.**

Article I – PREAMBLE

WHEREAS, the Town of Stoughton, which is a municipal corporation organized under the laws of the Commonwealth of Massachusetts (“MUNICIPALITY”), acting by and through its Select Board, issued a Cable Television Renewal License (“Renewal License”) to Comcast Cable Communications, Inc. (“Comcast”), as well as an initial cable television license to Verizon New England, Inc. (“Verizon”) (together, “Cable Licensees”) both for the provision of cable television services via cable and or fiber optics within its municipal boundaries, and

WHEREAS, the Cable Licenses provide for Comcast and Verizon to make to the MUNICIPALITY certain annual and periodic grants of money called “PEG Access Support” and

WHEREAS, it is the intent of the MUNICIPALITY that such annual grants and or any future funding source for PEG Access Programing (“Public Educational and Governmental Access”) should be used for the support and furtherance of PEG Access Channels pursuant to 47 U.S.C. §531, and

WHEREAS, Stoughton Media Access Corp. (“S.M.A.C.”) fulfills the mission of providing the PEG Access Channels provided by the LICENSEES to the MUNICIPALITY pursuant to 47 U.S.C. §531, and

WHEREAS, it is the intent of the Town of Stoughton to participate in the provision of PEG Access Services to the residents of Stoughton as more fully provided by the terms of this Agreement, and by the terms of the Cable Licenses issued by the Stoughton Select Board to Comcast and Verizon, and

NOW THEREFORE, it is agreed by and between the Town of Stoughton, acting by and through its Select Board, and S.M.A.C., acting by and through its Board of Directors (“the Parties”), as follows:

Article II – DEFINITIONS

For the purpose of this agreement the following words, terms, phrases, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the plural include the singular, and words used in the singular include the plural. The word “shall” is mandatory.

1. Access Agreement, or Agreement: The Access Corporation Agreement between the Stoughton Media Access Corporation, (“S.M.A.C.”), and the Town of Stoughton.
2. Access Channel: A video channel which the licensee(s) shall make available without charge for the purpose of transmitting programming by members of the public, Town departments, and agencies, public schools, educational, institutional, and similar organizations.

3. Access Corporation: Stoughton Media Access Corporation ("S.M.A.C."), the ACCESS CORPORATION, designated by the Select Board of the Town of Stoughton pursuant to Article III of this Agreement, and to the relevant sections of the Cable Licenses for the Town of Stoughton.

4. Access Facility: The location from which the Access Corporation operates the public, educational and municipal access functions; at a studio located in the Town of Stoughton, Massachusetts.

5. Access Programming: Programs on the designated Access Channels which shall be non-commercial within the standards for underwriting applicable to the Public Broadcasting Service (PBS), or the standards necessary for S.M.A.C. to maintain its tax-exempt status within the applicable regulations of the Internal Revenue Service, and such programming excludes political advertising.

6. CATV: Cable Access Television.

7. Cable Advisory Committee: The Stoughton Cable Advisory Committee as it may be appointed by the Select Board.

8. Cable Licenses, or Renewal Licenses: The license agreements between Stoughton and Comcast and Verizon (the current "LICENSEES"), authorizing LICENSEES to own, operate and maintain the Cable or similar Television Systems in the MUNICIPALITY.

9. Commercial Program: Programming from which revenue is derived, by any party, and programming the purpose of which is to conduct trade or commerce. It shall not include programming supported by underwriting grants or contributions of any kind.

10. Downstream Channel: A channel over which signals travel from the system headend to an authorized location within the system.

11. Educational Access: Any channel or time thereon which has been allocated for educational use in accordance with this Agreement, the License Agreements, and 47 U.S.C. §531.

12. Governmental Access: Any channel or time thereon which has been allocated for governmental use by the MUNICIPALITY, the Issuing Authority, or municipal agencies in accordance with this Agreement and 47 U.S.C. §531.

13. Issuing Authority: The Select Board of the Town of Stoughton, who is party to this Agreement.

14. Licensee: Comcast or Verizon, or their authorized transferees or successors in the provision of PEG Programming and Access Channels as herein defined.

15. Municipality (or "Town"): The Town of Stoughton, Massachusetts.

16. Public Access: The availability for use by any resident of, or any organization based in or serving the MUNICIPALITY, of designated public access facilities, equipment, training and/or channels of the Cable Television System, as provided in the Cable Licenses with the MUNICIPALITY and in accordance with 47 U.S.C. §531.

17. “S.M.A.C.”: The non-profit corporation known as Stoughton Media Access Corporation, designated by the Select Board to manage and operate public, educational and government Cable Access TV in the Town of Stoughton in accordance with this Agreement and 47 U.S.C. §531.

18. Upstream Channels: A channel over which signals travel from an authorized location to the cable system headend.

Article III – DESIGNATION

Pursuant to the respective Articles and provisions in the Cable Licenses or as they may be hereafter amended or renewed, or as they may be supplanted or replaced by agreement or otherwise with any other method of distributing CATV or CATV-like content, the Select Board, as Issuing Authority, hereby Designates Stoughton Media Access Corporation (“S.M.A.C.”) as its Designee and ACCESS CORPORATION within the meaning of that term as currently employed in the Cable Licenses for the Town of Stoughton or as hereafter amended or renewed or supplanted or replaced by agreement or otherwise. This Designation hereby authorizes S.M.A.C. to receive certain PEG Access grants, as more fully set forth in the Cable Licenses for the Town of Stoughton, and further authorizes S.M.A.C. to operate for the MUNICIPALITY the PEG Access channels and services described in the relevant terms of the Cable Licenses.

Article IV – TERM OF DESIGNATION

Unless otherwise terminated with the Designation withdrawn for good cause shown as provided in Article VII of this Access Agreement, the term of this Designation shall become effective when executed by all Parties hereto, and this Access Agreement shall continue unless terminated for good cause shown as provided in Article VII.

Article V – OBLIGATIONS OF ACCESS CORPORATION

Section 1: Public Access Use: Operating Rules and Procedures.

S.M.A.C. shall be solely responsible for its management and the operation of Public Access Programming on the cable system in the MUNICIPALITY, including training, quality of originated signals in cooperation with Comcast or Verizon or successor Licensee(s), scheduling the Public Access Channel(s) and managing the Access Facilities and equipment. S.M.A.C. shall promulgate and maintain a set of access operating rules and procedures which ensure that training, equipment, facilities, and Access Channel time shall be available to residents of the Town of Stoughton and educational, governmental, health care, arts, religious, business, civic, and other entities, which are based in or serve the MUNICIPALITY. These rules shall ensure the right to use Access Channels, facilities,

and equipment on a non-discriminatory, first-come, first-served basis subject to the terms of this Access Agreement and subject also to S.M.A.C.'s goal of establishing regularly scheduled programming. Access user compliance with such rules shall be monitored by S.M.A.C. and periodically reviewed by the Issuing Authority of the MUNICIPALITY.

Section 2: Programming on the Public Access Channel.

Editorial discretion, the content of programming and the liability for programming placed on those Access Channel(s) which are operated by S.M.A.C. shall solely reside in and be the sole responsibility of the access producers and S.M.A.C. and not the MUNICIPALITY nor their LICENSEES. Notwithstanding the foregoing, S.M.A.C. programming shall be designed to achieve the purposes set forth in S.M.A.C.'s Articles of Incorporation and Bylaws and shall consist of Access Programming as defined in the Cable Licenses and by law. To these ends:

- (a) S.M.A.C. shall not sell to a third party any proprietary interest that S.M.A.C. may have in any Access Programming without first offering LICENSEES the right to purchase such interest by matching the best good faith offer tendered in writing by the third party;
- (b) All liability, license and copyright fees associated with the programming produced by S.M.A.C. or placed on the access channels serving the MUNICIPALITY shall be the sole responsibility of S.M.A.C.

Section 3: Coverage of Local Meetings.

S.M.A.C. shall be solely responsible for providing live coverage of all regularly scheduled meetings of the Select Board, School Committee and Town Meeting for the MUNICIPALITY, to the fullest extent practicable and possible. In addition to the foregoing, S.M.A.C. shall provide live coverage of one additional public meeting, per quarter, if requested by the MUNICIPALITY, upon thirty (30) days written notice, to the fullest extent practicable and possible.

Section 4: Cooperation with School Department.

S.M.A.C. shall cooperate with the school department of the MUNICIPALITY in partnership and assist in the coverage of important or significant school events, provided the request is made in writing at least thirty (30) days prior to such event, and further provided that sufficient S.M.A.C. resources are available for the requested coverage.

Section 5: Cooperation with Municipal Government.

S.M.A.C. shall cooperate with the Issuing Authority of the MUNICIPALITY in the coverage of governmental meetings, based on available resources.

The president of the S.M.A.C. Board of Directors or his or her designee shall provide the Select Board with a quarterly update on the status of operations and capital

planning to facilitate communication, transparency, and compliance with this Agreement. Any representative of the MUNICIPALITY may attend meetings of the S.M.A.C. Board of Directors that are open to the public. The Select Board may designate any of its members and/or the Town Manager as the liaison to the S.M.A.C. Board of Directors to further facilitate communication, transparency, and compliance with this Agreement.

Section 6: Logs.

S.M.A.C. shall keep a log of all Access Programming transmitted on the Access Channel(s) and the names and addresses of all access producers. The logs will be available for public inspection and retained for not less than two years.

Section 7: Insurance.

(a) At all times during the term of this Access Agreement, S.M.A.C. shall obtain, pay premiums for, and keep current the following policies of insurance:

(1) A General Commercial liability policy with a minimum liability coverage of One Million Dollars (\$1,000,000.00) for injury or death to any one person in any one occurrence and Two Million Dollars (\$2,000,000.00) for injury to two (2) or more persons in any one occurrence arising out of any S.M.A.C. activity under this Access Agreement;

(2) Property damage insurance policy for any and all claims of property damage occasioned or alleged to be occasioned by any S.M.A.C. activity under this Access Agreement, including but not limited to the construction, installation, maintenance or operation of a cable television access studio under this Access Agreement, with a minimum liability coverage of One Million Dollars (\$1,000,000.00) for damage to the property of any one person in any one occurrence and Two Million Dollars (\$2,000,000.00) for damage to the property of two (2) or more persons in any one occurrence;

(3) Automobile liability insurance for owned, leased or borrowed by S.M.A.C. automobiles, non-owned automobiles and/or rented automobiles undertaking S.M.A.C. business in the amount of:

(A) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death per occurrence;

(B) One Million Dollars (\$1,000,000.00) for bodily injury and consequent death to any one person; and

(C) Five Hundred Thousand Dollars (\$500,000.00) for property damage per occurrence.

(4) Worker's Compensation in the minimum amount provided by statute.

(5) Producers' Liability Insurance in the amount of One Million Dollars (\$1,000,000) to cover slander, libel, copyright infringement, infliction of emotional distress, and invasion of privacy or publicity rights.

(b) For all insurance policies required by this Access Agreement, the following conditions shall apply:

- (1) Such Insurance shall commence no later than thirty (30) days following the establishment of the Access Corporation, or the date of the execution of this Agreement, whichever shall occur last;
- (2) Such Insurance shall be primary with respect to any insurance maintained by the MUNICIPALITY and shall not call upon the MUNICIPALITY'S insurance for contribution;
- (3) Such Insurance shall be obtained from brokers or carriers licensed to transact business in the Commonwealth of Massachusetts;
- (4) Evidence of compliance in the form of certificates of Insurance shall be submitted to the MUNICIPALITY periodically during the term or terms of this Access Agreement.

Section 8. Indemnification by Access Corporation of MUNICIPALITY.

S.M.A.C. shall defend, indemnify and hold harmless the MUNICIPALITY, its officials, boards, commissions, agents and/or employees and LICENSEES, and their officers, employees, servants and agents, from and against any claim made by a third party, without limitation, arising from S.M.A.C.'s activities under this Access Agreement, whether expressly authorized by such Agreement or otherwise, including but not limited to claims in the nature of libel, slander, copyright infringement, infliction of emotional distress, and invasion of privacy or publicity rights, non-compliance with applicable laws, license fees and reasonable attorneys' fees. In addition, S.M.A.C. shall, in its rules for public access, require every access user to indemnify LICENSEE, S.M.A.C. and the MUNICIPALITY, and to defend, indemnify and hold them harmless against any claims arising out of any program or program material produced and/or cablecast by it, including but not limited to claims in the nature of libel, slander, invasion of privacy, obscenity, civil rights or publicity rights, non-compliance with applicable laws, license fees, unauthorized use of copyrighted material, and infliction of emotional distress including reasonable attorneys' fees.

Section 9: Review, Annual Report and/or Audit.

Reviews, reports or audits of its finances and operations shall be conducted and provided annually by S.M.A.C. as may be required by the regulations of the Attorney General as they may be amended, to its members, if any, to the Stoughton Cable Advisory Committee, to the Issuing Authority and MUNICIPALITY, and if requested, to

LICENSEES within ninety (90) days after the close of S.M.A.C.'s fiscal year or within sixty (60) days after the filing of its state and federal tax returns, including any tax extensions filed by S.M.A.C., whichever is later, or at such other time as may be agreed upon by the Parties.

Current Attorney General guidelines provide that an audit is required if an organization's gross support and revenue exceeds \$500,000 in a fiscal year. Organizations with gross support and revenue of more than \$200,000 up to \$500,000 in a fiscal year are required to complete an annual review.

Review of S.M.A.C.'s performance by the MUNICIPALITY, its Issuing Authority, or its designee(s) ("Performance Review"), if conducted, shall be conducted fifteen business days after receipt of the annual review, report, or audit from S.M.A.C. and written notice to S.M.A.C. or at such other time as mutually agreed by the Parties. The Performance Review shall be conducted at a duly noticed meeting of the Select Board at which S.M.A.C. shall be heard. At any such Performance Review all S.M.A.C. officers, directors, attorneys, agents, or managers requested by S.M.A.C., the MUNICIPALITY or its Issuing Authority or designees shall be in attendance. In the event the MUNICIPALITY determines it requires a designee or third party to conduct a Performance Review or Audit, such third party shall be impartial, objective, disinterested, and professionally qualified. Any substantive issues, deficiencies, breaches or defaults raised or found by the MUNICIPALITY, its Issuing Authority, or its designee as a result of the Performance Review shall be provided to the S.M.A.C. Board of Directors by written notice within sixty (60) days of the Performance Review and any determination shall follow the procedures set forth in Article VIII, Section 1 of this Agreement.

Section 10: Status as Non-Profit 501(c)(3) Corporation.

S.M.A.C. shall, throughout the term of this Access Agreement, maintain its status as a non-profit 501(c)(3) corporation, securing and maintaining all requisite legal designations, and filing all appropriate periodic statements, forms or reports as may be required from time to time by law or regulation. S.M.A.C. shall otherwise maintain compliance with all applicable laws, rules and regulations of the MUNICIPALITY, Commonwealth of Massachusetts, and the United States of America as shall be enacted from time to time.

Section 11: Maintenance of Records, Equipment and Property; Equipment Inventory.

S.M.A.C. shall maintain accurate books, records, and logs of its financial and programming activities, and it shall maintain the facilities and equipment provided to it in good repair and safekeeping. Annually, at the time of filing the Annual Review, Report and/or Audit, S.M.A.C. shall provide to the Issuing Authority an inventory of said equipment and facilities together with a statement of its condition and corrective action, if any needed, taken or recommended to be taken to maintain all items in satisfactory condition.

S.M.A.C. shall prepare and approve annually a revolving three (3) year capital budget that identifies equipment requiring replacement due to obsolescence or that has or will reach the expiration of its anticipated useful life during that three (3) year term. This information shall be included in the president's quarterly update to the Select Board, in accordance with Article V, Section 5 of this Agreement.

Section 12: Access to Records.

S.M.A.C. shall allow the MUNICIPALITY, and/or its authorized designees(s) access to the books, records, accounts, and facilities of S.M.A.C. referenced in Paragraph 11 at such reasonable times and in such reasonable places as the MUNICIPALITY may require to ensure compliance with this Access Agreement.

Section 13: Political Activities Prohibited.

No funds nor facilities nor equipment provided hereunder shall be used for any partisan political activity or to further the election or defeat of any particular candidate for public office. Such prohibition shall not apply to public interest forums, public presentations or the like where the facilities are available for the expression of all points of view for informational purposes.

Section 14: Reversion of Property Upon Termination.

Within such time as S.M.A.C. may reasonably wind down its operations, employment and contract obligations, including any real property or other lease(s) and financial obligations after termination of this ACCESS AGREEMENT, title to all property, equipment, facilities, and undisbursed funds and all other assets of the Access Corporation shall be transferred to the MUNICIPALITY, or to its Issuing Authority, or to their designees. S.M.A.C. shall cooperate fully with the MUNICIPALITY and its Issuing Authority or designees in effecting a smooth and prompt transfer of its assets and transition of its services to alternative provider(s).

Section 15: Audio Video Recording of S.M.A.C. Meetings.

S.M.A.C. shall record by audio and video or livestream its Annual Meeting and make it available on the Access Channel. S.M.A.C. may record by audio and video or livestream Special Meetings or other meetings of the members of S.M.A.C. or its Board of Directors.

Section 16: Notice of Board of Directors Meetings.

While the Massachusetts Open Meeting Law (M.G.L. Ch. 30A, §§ 18-25) does not apply to S.M.A.C., S.M.A.C. shall provide notice of all meetings of the Board of Directors in the following manner: S.M.A.C. shall provide notice of the meeting to the Town Clerk's Office and post a notice on its website 48 hours before the meeting, excluding Saturdays, Sundays, and holidays; in an emergency, the notice shall be posted as soon as reasonably possible prior to the meeting.

Article VI – ADDITIONAL TERMS

Additional terms, for any length of time, may be mutually agreed upon by the Parties in writing.

Article VII – TERMINATION

This Access Agreement, and/or any subsequent Designation or extension thereof made under authority of this Access Agreement, shall terminate upon the occurrence of any of the following events:

(A) The filing of bankruptcy of S.M.A.C.;

(B) The expiration of the then-current Term as defined in Article IV hereof, or any extension of the Term, including by course of dealing, of this Access Agreement, or in the event that the MUNICIPALITY terminates this Agreement with the Designation for good cause shown, in the manner provided in Article VIII, terminating S.M.A.C. as its PEG Access provider; or

(C) The withdrawal of Designation by the MUNICIPALITY arising from any breach of this Access Agreement by S.M.A.C. which remains outstanding and uncured in whole or in part following notice, opportunity to cure, and an opportunity to be heard at a duly noticed meeting of the Select Board as more fully provided in Article VIII of this Access Agreement.

Article VIII – BREACH AND SANCTIONS

Section 1: Determination of Breach.

Upon determining that a possible material breach of this Access Agreement may have occurred, the MUNICIPALITY shall serve written notice of such possible breach upon S.M.A.C. Upon receipt of such written notice of possible breach, S.M.A.C. shall have sixty (60) days to respond in one of the following ways: (1) cure such breach and report the cure to the MUNICIPALITY; (2) provide the MUNICIPALITY with proof that such breach did not occur; (3) if the breach was due to any fault on the part of S.M.A.C., but for reasons beyond its control, and such breach cannot be cured within sixty (60) days, provide proof of same to the MUNICIPALITY, and a reasonable, detailed timetable for correction and cure; or (4) if the breach was not due to any fault on the part of S.M.A.C. and cannot be cured within sixty (60) days, provide proof of same to the MUNICIPALITY and a reasonable, detailed timetable for cure. S.M.A.C. shall submit such response(s) for approval by the MUNICIPALITY which shall take up the issue within a reasonable time thereafter at a duly noticed meeting of the Select Board with an opportunity for S.M.A.C. to be heard and at which the Select Board shall make its determination whether a breach occurred, has been cured or is waived by the MUNICIPALITY.

If, after notification, opportunity to respond including to cure and to be heard as provided in this section, the MUNICIPALITY determines that a breach of this Access Agreement did occur, and that such breach was not cured or otherwise excused or waived within the time duly specified by the procedures set forth in this section, the MUNICIPALITY may elect one or more of the following remedies 10 days after sending written notice to S.M.A.C. of the determination: (1) withdraw its Designation of S.M.A.C. granted under Article III of this Access Agreement, and thereby terminate this Access Agreement; (2) impose Liquidated Damages as set forth in Section 2 of this Article; (3) impose any other sanction as may be lawfully determined to be reasonable under the circumstances; or (4) excuse or waive the breach for good cause shown. The MUNICIPALITY shall send S.M.A.C. written notice of its determination of its election of remedies (1) – (4) within two (2) business days of its determination.

Section 2: Liquidated Damages.

Liquidated damages up to the amount set forth below, from the day of the notice of the MUNICIPALITY'S determination of its election in the final sentence of Section 1 above, may be assessed against S.M.A.C. by the MUNICIPALITY after determining a breach of this Access Agreement after notice and opportunity to respond including to cure as set forth in Section 1 of Article VIII. Upon assessment of such damages, the MUNICIPALITY may require S.M.A.C. to pay such damages to the MUNICIPALITY within thirty (30) days of its receipt of such a written demand for payment. Failure to pay such damages within thirty (30) days of receipt of a written demand shall itself constitute a breach of this Access Agreement. In the event of ongoing penalties, successive and non-cumulative written demands may be sent.

- (a) For failure to maintain qualified, fully trained, and competent personnel to manage and operate the Public Access Program, to ensure compliance with Article V, Section 1, \$50.00 per day;
- (b) For failure to provide live coverage of local meetings in accordance with Article V, Section 3, \$50.00 per day;
- (c) For failure to maintain insurance policies required by Article V, Section 7, \$25.00 per day;
- (d) For failure to prepare or produce Annual Review, Report or Audit in accordance with Article V, Section 9; or for failure to maintain Access Programming Logs as required by Article V, Section 6, or for failure to grant to the Issuing Authority or its authorized representatives access to the books, records, accounts and facilities at such reasonable times and at such reasonable places as the Issuing Authority or its authorized representatives may require, in accordance with Article V, Section 12, \$25.00 per day; and
- (e) For any other breach of this Access Agreement as may be determined by the MUNICIPALITY in the manner provided in Article VIII, Section 1, \$50.00 per day.

Liquidated damages are a non-exclusive remedy and may be used alone, or in combination with any other remedy for breach permitted under Article VIII, Section 1.

Article IX – FUNDING/ANNUAL SUPPORT/FUND RAISING

S.M.A.C. shall be funded by annual and/or periodic grant payments, or by a combination of the two, made to it directly by the LICENSEES, or any future funding source for PEG Access Programming and/or the MUNICIPALITY pursuant to the relevant provisions of the Cable Licenses or as those Licenses may be supplanted or replaced by agreement or otherwise with any other method of distributing CATV or CATV-like content. The grant payments provided by the Cable Licenses may be made by LICENSEES directly to S.M.A.C. in accordance with the terms of the respective Cable Licenses, and upon written request of the Issuing Authority to the LICENSEES. S.M.A.C. shall invoice the MUNICIPALITY monthly in arrears payable within thirty (30) days.

S.M.A.C. shall maintain an account at a banking/financial institution located in Stoughton where operating funds are held. This requirement shall not interfere with S.M.A.C.'s ability or the Board of Director's or Officers' fiduciary duties to S.M.A.C. including to obtain favorable interest rates and to make the best use of the Corporation's assets.

After providing fourteen (14) days written notice to the Issuing Authority, S.M.A.C. may also undertake its own non-profit fundraising campaigns or drives. S.M.A.C. may also directly receive, or through the MUNICIPALITY, funding for PEG Access from state, federal or other public or private entities.

Article X – CABLE ADVISORY COMMITTEE

At the discretion of the Issuing Authority, the Issuing Authority may vest S.M.A.C. with such power and authority as the Issuing Authority may lawfully and from time to time delegate to S.M.A.C. regarding a Cable Advisory Committee.

Article XI – ACCESS CORPORATION ORGANIZATION

Section 1: Board of Directors.

The Access Corporation agrees it shall have a Board of Directors composed of up to five directors: (1) Two directors shall be appointed by the Select Board for a term of two (2) years, one of whom should be a Senior Citizen (65 years or older) if possible, and each of whom shall be Stoughton residents; (2) One director shall be appointed by the School Committee for a term of two (2) years and shall be a Stoughton resident. The remaining directors shall be determined as provided by Article III of the Access Corporation's Bylaws as they may be amended.

The Access Corporation agrees its Board of Directors shall have all of the usual overall policy setting and oversight powers customary for a corporate Board of Directors provided by law and by its Bylaws as they may be amended.

Section 2: Access Corporation Officers.

The Access Corporation agrees the selection, duties, and terms of the Access Corporate Officers shall be as provided by the Access Corporation's Bylaws and Policies, Rules and Procedures as they may be amended.

Section 3: Access Corporation Members.

The Access Corporation agrees its Board of Directors may establish membership in the Access Corporation under such terms and conditions as it may deem necessary or desirable to promote public participation in, and funding of, the Access Corporation, and consistent with the provisions of Article II of the Access Corporation Bylaws and Policies and Procedures as they may be amended.

Section 4: Access Corporation Bylaws.

The Access Corporation Bylaws, as adopted by the incorporators at the time of incorporation and thereafter as may be amended, shall serve as the effective Bylaws of the Access Corporation.

The Access Corporation agrees that within forty-five (45) days of the full execution of this Agreement, S.M.A.C. shall update and amend its Bylaws as may be necessary or advisable to be consistent with this Agreement.

Article XII – MISCELLANEOUS

Section 1: Assignment and Successors Bound.

This Access Agreement shall inure to the benefit of the MUNICIPALITY and to their successors and assigns. No assignment of any legal right may be made by S.M.A.C. without the express written consent of the MUNICIPALITY except as may be required by law or necessary in the judgment of the employees, officer(s) and or director(s) of S.M.A.C. to discharge their fiduciary duties to S.M.A.C.

Section 2: Waiver and Amendment.

Nothing in this Access Agreement shall prevent all Parties from agreeing to waive or amend any provisions of this Agreement by mutual agreement. Any such waiver must be confirmed by all Parties in writing. No amendment shall be made to this Access Agreement unless executed in full in the same form as the original Agreement. No waivers or amendments agreed, in writing, upon or pursuant to this section, shall prejudice any remaining provisions of this Access Agreement and all such remaining provisions shall at all times remain in full force and effect.

Section 3: Construction.

The headings herein are for reference and convenience only and shall not be a factor in the interpretation of this ACCESS AGREEMENT. This ACCESS AGREEMENT shall be interpreted and construed under the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provision(s). The Parties agree that any dispute arising out of or related to this Access Agreement shall be decided exclusively by the state or federal courts located in the Commonwealth of Massachusetts.

Section 4: Severability.

If any provision of this ACCESS AGREEMENT is determined to be illegal or unenforceable by any court, to the maximum extent possible such determination shall have no effect upon the validity of all remaining sections of the Agreement which shall remain in full force and effect for the full term of this Agreement.

Section 5: Force Majeure.

If by any reason of Force Majeure any party is unable in whole or in part to carry out its obligations under this ACCESS AGREEMENT, that party shall not be deemed to be in breach or default during the pendency of such inability. The term "Force Majeure," as used in this ACCESS AGREEMENT shall have the following meanings: Act of God; act of public enemy; orders of any kind of the government of the United States of America, Commonwealth of Massachusetts or of any of their departments, subdivisions, officials, or of any civil or military authorities; insurrections; riot; epidemic; pandemic; landslide; lightning; earthquake; fires; hurricanes, volcanic activity; storms; floods; wash outs; droughts; civil disturbances; explosions; strikes; acts of terrorism; and unavailability of essential personnel, equipment, services, or material beyond the control of any Party.

Section 6: Entire Agreement.

This Access Agreement contains the entire agreement between the Parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed except by an instrument in writing executed by the Parties and in the same form as this Agreement.

Section 7: Notice.

Any notice delivered hereunder shall be valid if sent by a national, overnight delivery service that maintains and makes available proof of delivery to the following addresses which may be revised in writing by the Town of Stoughton or S.M.A.C.:

The MUNICIPALITY:

Town of Stoughton:

Chair, Select Board
Stoughton Town Hall

10 Pearl Street
Stoughton, MA 02072

Stoughton Media Access Corp.:

President, Stoughton Media Access Corp.
421 Page St., Suite 2
Stoughton, MA 02072

SIGNED AS A SEALED AGREEMENT:

TOWN OF STOUGHTON, MASSACHUSETTS,
By its Select Board,

Debra Roberts, Chair

Dated: _____

Joseph M. Mokrisky

Dated: _____

Stephen M. Cavey

Dated: _____

Scott Carrara

Dated: _____

Louis F. Gitto

Dated: _____

STOUGHTON MEDIA ACCESS CORP.
By its President,

Robert Mullen
President, Duly Authorized

Dated: _____