

*5. 10. 2011*

**COMMUNITY ACCESS ORGANIZATION (“CAO”)  
GRANT AND USE AGREEMENT  
BY AND BETWEEN  
TIME WARNER ENTERTAINMENT COMPANY, L.P.  
AND  
MANHATTAN COMMUNITY ACCESS CORPORATION  
D/B/A MANHATTAN NEIGHBORHOOD NETWORK**

## CAO GRANT AND USE AGREEMENT

THIS AGREEMENT (the "Agreement") made on this \_\_\_\_\_ day of \_\_\_\_\_, 2011, is entered into by and between Time Warner Entertainment Company, L.P., a limited partnership duly organized under the applicable laws of the State of Delaware and Time Warner NY Cable LLC a limited liability company duly organized under the applicable laws of the State of Delaware (together referred to herein as "Time Warner Cable"), with their place of business at 120 East 23rd Street, New York, New York 10010 and Manhattan Community Access Corporation d/b/a Manhattan Neighborhood Network, a New York not-for-profit corporation (the "CAO") designated by the Borough President of Manhattan (the "Borough President"), with a place of business at 537 West 59th Street, New York, New York 10019.

WHEREAS, the City of New York (the "City"), is entering into Franchise Agreements granting Time Warner Cable nonexclusive franchises ("Franchise Agreements") to operate a Cable System (the "System") in the Borough of Manhattan (service area hereinafter defined); and

WHEREAS, Time Warner Cable has directly and independently negotiated with the CAO and has agreed to provide the CAO with the grants and services pursuant to the terms hereof for the benefit of the Residents of the Borough of Manhattan; and

WHEREAS, the Franchise Agreement requires Time Warner Cable to make available CAO Access Channels on the System, to be known as public access channels ("Public Access Channels"), to fulfill certain technical requirements with respect to such channels and to provide to the CAO any support payments and Cash Grants (as hereinafter defined) as may be agreed upon between the CAO and Time Warner Cable as described herein; and

WHEREAS, the CAO is a not-for-profit corporation organized pursuant to New York State law and has been designated by the Borough President as the CAO to receive such grants as shall be made available by Time Warner Cable pursuant to this Agreement; and

WHEREAS, the CAO has been organized to operate for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (the "Code"), including, among other purposes, the administration and management of Public Access Channels in the Borough, and such other purposes which shall qualify the CAO as exempt under Section 501(c)(3) of the Code; and

WHEREAS, the CAO shall obtain the funds necessary to carry out its purposes and objectives from the grants provided for herein and from any other lawful sources; and

WHEREAS, Time Warner Cable desires to support the purposes and objectives of the CAO in the CAO's objectives of the development and production of public services and programming to be distributed on the Public Access Channels and to be made available to all cable television subscribers in the Borough of Manhattan; and

WHEREAS, the CAO will engage in activities and will develop programming to be distributed on the Public Access Channels for the benefit of Subscribers to the System, thereby increasing the public service potential of cable television in the City;

NOW THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, and the mutual agreements herein contained, the parties agree as follows:

### **SECTION I - DEFINITIONS**

1.1 **Borough**: The entire existing territorial boundaries of the Borough of Manhattan, and such additional areas as may be annexed or acquired.

1.2 **Effective Date**: The Effective Date shall be the date on which the New York Public Service Commission issues a certificate of confirmation for the Franchise Agreement.

1.3 All other capitalized terms used herein, but not otherwise defined, shall have the meanings ascribed to such terms in the Franchise Agreement.

### **SECTION II - GRANT OF SUPPORT TO THE CAO**

#### **2.1 Public Access Channel Grant**

2.1.01 Time Warner Cable shall make a Public Access Channel grant to be used in support of the CAO's development and production of local public access programming ("Public Access Channel Grant").

2.1.02 The Public Access Channel Grant provided by Time Warner Cable hereunder shall be in the form of a per month, per Subscriber grant for the Term of the Franchise Agreement in accordance with the following schedule:

**Year 1 - Year 2**: The Public Access Channel Grant shall be in the amount of NINETY CENTS (\$.90) per month, per Subscriber until the second anniversary of the Effective Date;

**Year 3 – Year 5**: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR AND FIVE CENTS (\$1.05) per month, per Subscriber until the fifth anniversary of the Effective Date;

**Year 6-8**: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR AND TWENTY-FIVE CENTS (\$1.25) per month, per Subscriber until the eighth anniversary of the Effective Date;

**Year 9 Forward**: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR AND THIRTY CENTS (\$1.30) per month, per Subscriber until Time Warner Cable no longer operates under the Franchise Agreement or under any subsequent Temporary Operating Authority authorized by the NYS Public Service Commission.

The per-month, per-Subscriber payments detailed herein will be calculated based on the number of Subscribers to Time Warner Cable Basic Service tier in the Borough. The Public Access Channel Grant payment, along with a brief summary of the Subscriber information upon which it is based certified by a financial representative of Time Warner Cable, shall be delivered to the CAO within forty-five (45) days after the end of each calendar quarter. Time Warner Cable shall file a copy of said statement with DoITT.

2.1.03 Subject to Section 2.5, each Public Access Channel Grant payment shall be non-refundable.

2.1.04 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.1 shall not affect Time Warner Cable's payment obligations under this Section 2.1.

2.1.05 The other provisions of this Section II notwithstanding, in no event shall the Public Access Channel Grant rate provided by Time Warner Cable per subscriber exceed in any month the Public Access Channel Grant per subscriber rate paid to the CAO by Verizon.

## 2.2 Cash Grant

2.2.01 Time Warner Cable shall make cash grants to the CAO (each, a "Cash Grant") payable as follows:

TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) shall be due and payable within thirty (30) days of the Effective Date;

FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) shall be due and payable within thirty (30) days of the first anniversary of the Effective Date,

SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) shall be due and payable within thirty (30) days of the fourth anniversary of the Effective Date; and

SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) shall be due and payable within thirty (30) days of the fifth anniversary of the Effective Date.

2.2.02 Each Cash Grant shall be non-refundable.

2.2.03 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.2 shall not affect Time Warner Cable's payment obligations under this Section 2.2.

## 2.3 Use of Funds

Such Public Access Channel Grant and Cash Grant shall be used by the CAO in its discretion for public access costs, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, cameras, office equipment, renovation or construction of Public Access Channel facilities, local public access programming

development by the CAO, and other public access costs as may be determined by the CAO and its Board of Directors.

## 2.4 Recovery of Costs

2.4.01 Nothing in this Agreement shall in any way be held to waive or limit Time Warner Cable's rights, to the extent permitted by applicable law, to recover the costs of any Public Access Channel Grant and Cash Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill or to otherwise pass-through such costs to Subscribers, but the recovery of such costs shall not be a condition precedent or subsequent to the payment obligation of Time Warner to the CAO.

2.4.02 Other Agreements. In the event that the CAO (i) enters into a new agreement or a renewal agreement or amends any existing agreement with any holder of a cable television franchise from the City that covers the Borough and such agreement, renewal agreement and/or amendment contains obligations, taken as a whole, that are lesser than the obligations imposed on Time Warner Cable in Section 2.1 (such lesser obligations, "Lesser Obligations"), Time Warner Cable's obligations under Section 2.1 shall be reduced to equal such Lesser Obligations.

2.4.03 Any agreement after the date hereof between the CAO and a non-franchised provider of multi-channel video programming serving more than 999 customers in the Borough for the exhibition of the CAO's Public Access Channels by such provider shall require such provider to assume payment obligations to the CAO equivalent to those provided in Section 2.1.02.

## 2.5 Delivery of Payments; Interest

All payments by Time Warner Cable to the CAO pursuant to this Agreement shall be made payable to the CAO and shall be delivered to the address designated in writing therefore by the Executive Director or Chief Financial Officer of the CAO. In the event that a Public Access Channel Grant or Cash Grant payment is not received by the CAO by the respective due date set forth herein, following at least thirty (30) days written notice from the CAO that such payment has not been received, Time Warner Cable shall pay interest on such overdue Public Access Channel Grant or Cash Grant at the then-current interest rate set forth in Section 5004 of the New York Civil Practice Law and Rules (which as of the date of execution of this Agreement is nine percent (9%) per annum) to the CAO retroactive to the first day that such Public Access Channel Grant or Cash Grant payment was originally due. Time Warner Cable shall be allowed to submit or correct any payments that were incorrectly omitted, and may offset against future payments any payments that were incorrectly submitted, within ninety (90) days after the close of the calendar year for which such payments were applicable.

## 2.6 Publicity for Access Services

At the time of installation, Time Warner Cable shall provide each Subscriber with certain literature. Such literature, which need not be bound together, shall constitute the "Welcome Kit." If provided to Time Warner Cable by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO, Time Warner Cable shall reproduce and include in the

Welcome Kit the following information, materially accurate as of the first day of the previous month, in a clear, complete and comprehensible form: (A) a listing of the currently available Public Access Channels; (B) a description of the purposes and uses of such Public Access Channels; and (C) general information regarding how a Person can utilize or obtain further information regarding such Public Access Channels. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable's technical capability to do so, including, but not limited to, limitations with respect to character capacity.

## 2.7 Mailing to Subscribers

On an annual basis, if requested by the CAO, Time Warner Cable shall reproduce and mail, consistent with the privacy protection policies of Time Warner Cable, in Time Warner Cable's annual notification to Subscribers; such materials provided by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO with respect to programming on the Public Access Channels and the activities of the CAO, as may be reasonably specified by the CAO. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Subject to the CAO providing the above-referenced materials in a format mutually agreeable to both Time Warner Cable and the CAO in a sufficient period of time, but no less than eighty (80) days prior to such mailing, Time Warner Cable shall also include these materials in its Welcome Kit to Subscribers in the Borough. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable's technical capability to do so, including, but not limited to, limitations with respect to character capacity. Time Warner Cable shall provide the CAO with at least thirty (30) days notice of the date by which such materials referenced in this Section 2.7 will be required.

## 2.8 Additional Obligations of Time Warner Cable

2.8.01 Each Public Access Channel provided in Section 4.2 shall be delivered with transmission quality compliant with all applicable FCC standards and at least the same as the transmission quality of any other channel on Time Warner Cable's tier of service that includes local broadcast channels, provided, however, that Time Warner Cable shall have no responsibility to improve upon or modify the quality of any Public Access Channel's content provided to Time Warner Cable by the CAO.

2.8.02 Subject to the service availability requirements set forth in the Franchise Agreement, Time Warner Cable shall provide to the CAO, without charge, one service outlet activated for Basic Service at each of the following CAO's locations: 537 West 59th Street, New York, New York 10019 and 175 East 104th Street, New York, NY. Cable Service may not be resold or otherwise used in contravention of Time Warner Cable's rights with third parties respecting programming. Equipment provided by Time Warner Cable, if any, shall be replaced at retail rates if lost, stolen or damaged.

2.8.03 In the event that Time Warner Cable does collect for itself specific standalone public access viewership information, Time Warner Cable may make such specific information available to the CAO at the CAO's cost and expense subject to any limitation of applicable law including, without limitation, 47 U.S.C. §551.

2.8.04 To the extent technically feasible and commercially reasonable, Time Warner Cable shall display Public Access Channel program content titles in electronic on-screen channel listings in the same manner as it designates all other programming on the System; provided, however, that Time Warner Cable shall not be responsible for any inaccuracies in such information.

2.8.05 In the event Time Warner Cable is required by law or regulation to adhere to technical standards not currently necessary for the production or distribution of the CAO's programming over the System, and such requirement necessitates the acquisition of new equipment not currently contemplated by the parties hereto, Time Warner Cable shall make such equipment available at no cost to the CAO.

2.8.06 Time Warner Cable will provide 100 "avails" or listing of spots each month for the CAO to use for promotional or public interest purposes.

### **SECTION III - OBLIGATIONS OF THE CAO**

#### **3.1 Cash Grant and Public Access Channel Grant; Use for Educational or Charitable Purposes**

The CAO shall: (i) administer and manage the Public Access Channels provided for its use by Time Warner Cable and the use of the CAO's facilities, equipment, and supplies in a fair and reasonable manner; and (ii) develop and support programming to be cablecast on the Public Access Channels, which is responsive to the needs and interests of the Residents of the Borough. The CAO shall use the Public Access Channels and the Cash Grant and Public Access Channel Grant provided by Time Warner Cable to the CAO primarily for educational or charitable purposes within the meaning of Section 501(c)(3) of the Code, and as deemed necessary by the Board of Directors of the CAO.

#### **3.2 Maintenance of Tax-Exempt Status**

The CAO shall conduct its activities so as to maintain its tax exempt status under Section 501(c)(3) of the Code or other applicable laws.

#### **3.3 Public Access Channel Rules and Regulations**

3.3.01 The CAO shall maintain reasonable rules and regulations to provide for open access to Public Access Channel time, facilities, equipment, supplies, and training on a non-discriminatory basis and to the extent required by applicable law. Said rules and regulations providing for open access may dedicate segments of Public Access Channel time and/or specific channels to particular or related subject matters or uses.

3.3.02 If the CAO provides programming grants, it shall establish reasonable rules and regulations governing the procedure for applying to the CAO for such grants and the selection of grant recipients by the CAO.

3.3.03 The CAO shall make all rules and regulations publicly available.

3.4 Compliance with Privacy Law

The CAO shall comply with the requirements of applicable law regarding privacy protection.

3.5 Annual Expenditure Report

The CAO shall prepare and mail to Time Warner Cable each year an annual income and expenditure report for the preceding year.

**SECTION IV - PUBLIC ACCESS CHANNEL SERVICES**

4.1 Compliance with Federal, State and Local Law

Time Warner Cable and the CAO shall comply with all applicable local, state, and federal laws with respect to program content on the Public Access Channels.

4.2 Public Access Channel Set Aside

4.2.01 Time Warner Cable shall carry Public Access Channels as provided in its franchise, including, without limitation, Section 8.16(a) of the Franchise Agreement. Two of such channels shall be carried on Time Warner Cable's system in high definition ("HD") 1080P format. Time Warner Cable shall initially carry the programming on each of the respective Public Access Channels as indicated in Appendix J to the Franchise Agreement. Time Warner Cable shall not arbitrarily or capriciously change such channel assignments and Time Warner Cable shall minimize the number of such changes. However, Time Warner Cable may change such channel assignments as it deems appropriate so long as (i) Time Warner Cable gives the CAO ninety (90) days notice of such change (if commercially practicable) but in no event less than forty-five (45) days, unless the change is required by law and there is no reasonable opportunity to provide such notice; and (ii) Time Warner Cable provides, free of charge, notice of such changes that shall include (a) to the extent Time Warner Cable has availability, giving notice of such Public Access Channel changes on advertising inserts on local channels carrying non-satellite programming in prime time at least thirty (30) seconds per day, for the time period of thirty (30) to fifteen (15) days prior to such change and two (2) minutes per day for the fourteen (14) days prior to such change (provided, however, that if Time Warner Cable does not have advertising availability at the commencement of the thirty (30) to fifteen (15) day period, as soon as advertising space becomes available, Time Warner Cable shall then provide the advertising contemplated under this Section 4.2.01), and (b) providing notice of such changes in at least two (2) monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one (1) monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event Time Warner Cable provides the requisite notice of such changes to all Subscribers in a letter separate from their bill. If Time Warner Cable changes

the channel location of any Public Access channel, the location after such change shall be contiguous with other Public Access channels.

4.2.02 The provisions of 16 NYCRR §895.4 (c)(12) shall apply to this Agreement.

4.2.03 During the term of its franchise, for as long as Time Warner Cable makes video on demand ("VOD") programming available on its system in Manhattan, it will include in the VOD programming available at any given time at least 25 hours of public access programming selected by the CAO, provided such programming is provided to Time Warner Cable by the CAO in an encoded format so that it can be accessed by Time Warner Cable customers from the VOD platform without further technical or formatting modification by Time Warner Cable. This twenty five hours of public access programming will be available to Time Warner Cable customers at any time, 24 hours per day, seven days a week. It is agreed that this is a designation of channel capacity for public access use but not an offset of the total number of channels required in the Franchise Agreement. Time Warner Cable will provide, upon request and to the extent practical and permitted by law, any aggregate data regarding subscriber use of the CAO's programming on the VOD platform.

#### 4.3 Rights to Public Channel Programming

4.3.01 Time Warner Cable shall have no rights to programming carried on the Public Access Channels by virtue of cablecasting or distributing such programming over its System, except for Time Warner Cable right to transmit such programming to its Subscribers. All rights to the programming content are intellectual property of the owner, regardless of the individual or entity requesting transmission. Time Warner Cable shall have no editorial control over programming on the Public Access Channels

#### 4.4 Public Access Channel Connection

4.4.01 Time Warner Cable, shall maintain the connection at its expense, of its Cable System to the CAO's master control headend at 537 West 59th Street, New York, New York 10019 ("Public Access Channel connection site").

4.4.02 In addition, within one year of the Effective Date, Time Warner Cable shall provide a HD/ASI connection to its Cable System at the additional programming injection sites listed on Exhibit A, provided that Time Warner can do so at an aggregate installation cost no greater than \$58,000. In the event the CAO desires to substitute an alternate location for a location currently designated on Exhibit A, Time Warner Cable agrees to commence good faith discussions with the CAO regarding the substitution of such location within thirty (30) days of Time Warner Cable's receipt of written notice from the CAO of the CAO's desire to commence such discussions. The cost of providing a HD/SDI connection to any alternate location shall not exceed the cost to Time Warner Cable for constructing a connection to the original site designated on Exhibit A.

4.4.03 The CAO shall provide to Time Warner Cable at each Public Access Channel connection site a suitable video and audio signal(s) for each Public Access Channel. Time Warner Cable, upon receipt of the suitable video signal(s), shall provide, install and maintain in good working order the equipment necessary for transmitting the Public Access Channel signals from the Public Access Channel connection site to its customers.

4.4.04 The CAO hereby authorizes Time Warner Cable to transmit all Public Access Channel programming within the Borough's jurisdictional boundaries and without the Borough's jurisdictional boundaries to the extent such programming is transmitted to another CAO.

## SECTION V - MISCELLANEOUS PROVISIONS

### 5.1 Effective Date and Term

5.1.01 This Agreement shall take effect on the Effective Date.

5.1.02 This Agreement shall remain in effect throughout the Term of the Franchise Agreement, as provided in the Franchise Agreement, provided that the designation of the CAO by the Borough President remains in effect. The period of time during which this Agreement is in effect shall be "the term of this Agreement." In the event that the Franchise Agreement is terminated for any lawful reason prior to the scheduled expiration of the Term, then the term of this Agreement shall expire and all rights and obligations of the CAO and Time Warner Cable under this Agreement shall cease. Notwithstanding the foregoing, in the event Time Warner Cable continues to provide Cable Service in the Service Area, after the termination or expiration of the Term of the Franchise Agreement pursuant to any Temporary Operating Authority from the NY Public Service Commission, then Time Warner Cable shall be bound by all of the obligations under this Agreement for the period of such continuing provision of Cable Service in the Service Area.

### 5.2 Application to Successors

This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

### 5.3 Confidential Information

Except as may be required by applicable law, the CAO shall treat any information disclosed by Time Warner Cable (and so designated by Time Warner Cable) as confidential and proprietary, and shall only disclose it to employees, directors, the Borough President, DoITT, the Comptroller, representatives, and agents thereof who have a need to know, or in order to enforce the provisions hereof. Notwithstanding anything to the contrary set forth herein, Time Warner Cable shall not be required to publicly disclose or allow the CAO to copy information that it reasonably deems to be proprietary or confidential in nature in connection with Time Warner Cable disclosure of information pursuant to this Agreement. For purposes of this Agreement, "proprietary or confidential" information shall be defined as any information that is reasonably determined by Time Warner Cable to be competitively sensitive. For purposes hereof, confidential information shall not include: (i) information that is available or becomes generally

available to the public other than through a breach by the CAO or (ii) information that becomes available to the CAO from a source other than Time Warner Cable that has legally obtained such information and provided that such source is not prohibited from disclosing such information by a contractual or legal obligation to Time Warner Cable. If the CAO receives a request for the disclosure of information that Time Warner Cable has designated as confidential, trade secret or proprietary, the CAO shall notify Time Warner Cable of such request. If the CAO determines in good faith that public disclosure of the requested information is required, the CAO shall so notify Time Warner Cable, and before making disclosure shall give Time Warner Cable a reasonable period of time to seek to obtain judicial redress to preclude public disclosure. Time Warner Cable shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. §551.

#### 5.4 Separability

If any section, subsection, sub-subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by a final order of any court of competent jurisdiction or by a final order of any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Agreement.

#### 5.5 Entire Agreement

This Agreement constitutes the entire agreement between Time Warner Cable and the CAO and it supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof. Any local laws or parts of local laws that materially conflict with the provisions of this Agreement are superseded by this Agreement.

#### 5.6 Amendments and Modifications

Amendments and/or modifications to this Agreement shall not be effective unless mutually agreed to in writing by the parties.

#### 5.7 Captions and Headings

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

#### 5.8 Recitals

The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

#### 5.9 Construction of Agreement

The provisions of this Agreement shall be liberally construed to effectuate their objectives.

5.10 Governing Law

This Agreement shall be deemed to be executed in the City of New York, State of New York, and shall be governed by and construed in accordance with federal law and the laws of the State of New York.

5.11 No Third Party Beneficiaries

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement.

5.12 No Joint Venture

Nothing in this Agreement shall be interpreted to provide that Time Warner Cable and CAO are partners, joint venturers, agents or assignees of the other.

5.13 Force Majeure

Subject to the procedures set forth in the last sentence of this Section 5.12, Time Warner Cable shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged default occurred or were caused by a Force Majeure; provided, however, that in the event that any delay in performance resulting from such a Force Majeure affects only part of Time Warner Cable capability to perform, Time Warner Cable shall perform to the extent it is able to do so and shall take all steps, reasonably within its ability, to minimize the length and effect of such Force Majeure delay. Time Warner Cable shall notify the CAO in writing of the occurrence of an event of Force Majeure, or a series of related events constituting an event of Force Majeure, which resulted in or is resulting in a delay in performance, such notice to be provided within twenty (20) business days of the event or series of events, or if notification within such period is not practicable under the circumstances, as soon as practicable.

5.14 Enforceability

Each party represents and warrants to the other that this Agreement (i) has been duly executed and delivered by such party and (ii) constitutes the valid and legally binding obligation of such party, enforceable in accordance with its terms.

5.15 Counterparts

The parties hereby agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.16 Notices

Every notice, order, petition, document, or other direction or communication to be served upon the CAO or Time Warner Cable shall be in writing and shall be sufficiently given if sent by registered or certified mail, return receipt requested, or by a nationally recognized overnight delivery service, to the following addresses:

If to Time Warner Cable, to:

Time Warner Cable  
120 East 23rd Street  
New York, NY 10010  
Attention: Public Affairs

with a copy to:

Time Warner Cable  
Law Department  
60 Columbus Circle  
New York, NY 10023  
Attention: Regulatory

If to the CAO, to:

Executive Director  
Manhattan Community Access Corporation  
537 West 59th Street  
New York, New York 10019

With a copy to:

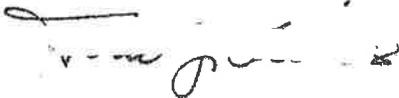
Cozen O'Connor  
277 Park Avenue  
New York, NY 10172  
Attention: Stuart Shorestein

Except as otherwise provided herein, the receipt of such notice, direction, or order shall be equivalent to direct personal notice and shall be deemed to have been given when received. Either party may change the above notice addresses by notice to the other party.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first above written.

MANHATTAN COMMUNITY ACCESS  
CORPORATION  
D/B/A MANHATTAN NEIGHBORHOOD  
NETWORK

ATTEST:



BY:

Name:

DANIEL COHEN

Title:

TIME WARNER ENTERTAINMENT  
COMPANY, L.P.

ATTEST:

*[Handwritten signature]*

LOIS C. DUFFY  
NOTARY PUBLIC-STATE OF NEW YORK

Commission # NYS Reg. No.

Qualified in Sullivan County

Commission Expires May 23, 2013

BY: \_\_\_\_\_

Name: Howard Szarfarc

Title: Regional Vice President/  
Operations

TIME WARNER NY CABLE LLC

BY: \_\_\_\_\_

Name: Howard Szarfarc

Title: Regional Vice President  
Operations

## EXHIBIT A

The Malcolm X & Dr. Betty Shabazz Memorial and Educational Center  
3940 Broadway, 2nd floor  
New York, NY 10032

El Museo del Barrio  
Main Auditorium, Ground Floor  
1230 5th Avenue  
New York, NY 10029

Democracy Now!  
207 W. 25th St., Floor 11  
New York, NY 10001

Downtown Community Television  
87 Lafayette Street, 2nd Floor  
New York, NY 10013

Execution Document

**COMMUNITY ACCESS ORGANIZATION (“CAO”)  
GRANT AND USE AGREEMENT  
BY AND BETWEEN  
TIME WARNER ENTERTAINMENT COMPANY, L.P.  
AND  
BRIC ARTS | MEDIA | BKLYN, INC.**

## CAO GRANT AND USE AGREEMENT

THIS AGREEMENT (the "Agreement") made on this \_\_\_\_\_ day of \_\_\_\_\_, 2011, is entered into by and between Time Warner Entertainment Company, L.P., a limited partnership duly organized under the applicable laws of the State of Delaware (referred to herein as "Time Warner Cable"), with place of business at 120 East 23rd Street, New York, New York 10010 and Bric Arts | Media | Bklyn, Inc., a New York not-for-profit corporation (the "CAO") designated by the Borough President of Brooklyn (the "Borough President"), with a place of business at 647 Fulton Street, Brooklyn, NY 11217.

WHEREAS, the City of New York (the "City"), is entering into a Franchise Agreement granting Time Warner Cable a nonexclusive franchise ("Franchise Agreement") to operate a Cable System (the "System") in the Borough of Brooklyn (service area hereinafter defined); and

WHEREAS, Time Warner Cable has directly and independently negotiated with the CAO and has agreed to provide the CAO with the grants and services pursuant to the terms hereof for the benefit of the Residents of the Borough of Brooklyn; and

WHEREAS, the Franchise Agreement requires Time Warner Cable to make available CAO Access Channels on the System, to be known as public access channels ("Public Access Channels"), to fulfill certain technical requirements with respect to such channels and to provide to the CAO any support payments and Cash Grants (as hereinafter defined) as may be agreed upon between the CAO and Time Warner Cable as described herein; and

WHEREAS, the CAO is a not-for-profit corporation organized pursuant to New York State law and has been designated by the Borough President as the CAO to receive such grants as shall be made available by Time Warner Cable pursuant to this Agreement; and

WHEREAS, the CAO has been organized to operate for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (the "Code"), including, among other purposes, the administration and management of Public Access Channels in the Borough, and such other purposes which shall qualify the CAO as exempt under Section 501(c)(3) of the Code; and

WHEREAS, the CAO shall obtain the funds necessary to carry out its purposes and objectives from the grants provided for herein and from any other lawful sources; and

WHEREAS, Time Warner Cable desires to support the purposes and objectives of the CAO in the CAO's objectives of the development and production of public services and programming to be distributed on the Public Access Channels and to be made available to all cable television subscribers in the Borough of Brooklyn; and

WHEREAS, the CAO will engage in activities and will develop programming to be distributed on the Public Access Channels for the benefit of Subscribers, to the System, thereby increasing the public service potential of cable television in the City;

NOW THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, and the mutual agreements herein contained, the parties agree as follows:

### SECTION I - DEFINITIONS

- 1.1 **Borough:** The portions of the Borough of Brooklyn defined as "Initial Service Area" in the Franchise Agreement.
- 1.2 **Effective Date:** The Effective Date shall be the date on which the New York Public Service Commission issues a certificate of confirmation for the Franchise Agreement.
- 1.3 All other capitalized terms used herein, but not otherwise defined, shall have the meanings ascribed to such terms in the Franchise Agreement.

### SECTION II - GRANT OF SUPPORT TO THE CAO

#### 2.1 Public Access Channel Grant

2.1.01 Time Warner Cable shall make a Public Access Channel grant to be used in support of the CAO's development and production of local public access programming ("Public Access Channel Grant").

2.1.02 The Public Access Channel Grant provided by Time Warner Cable hereunder shall be in the form of a per month, per Subscriber grant subject to a cap on the number of Subscribers ("Subscriber Cap") for the Term of the Franchise Agreement in accordance with the schedule attached to this Agreement as Exhibit 1. The Public Access Channel Grant payment, along with a brief summary of the Subscriber information upon which it is based certified by a financial representative of Time Warner Cable, shall be delivered to the CAO within forty-five (45) days after the end of each calendar quarter. Time Warner Cable shall file a copy of said statement with DoITT. The CAO has the right to request, not more often than once every three years, an independent audit at Time Warner Cable's offices of the payment of the Public Access Channel Grant. The costs of such audit shall be borne by the CAO unless the audit shows that Time Warner Cable has underpaid the Public Access Channel Grant by more than 10% in which case Time Warner Cable shall be responsible for the costs of the audit up to a maximum of \$20,000.

2.1.03 In the event that Time Warner Cable extends its Service in the Borough to areas not within the its current Service area, the Subscriber Cap in Exhibit 1 shall be adjusted proportionally to the number of homes passed in the current Service area and the number of homes passed in the extended Service area.

2.1.04 Subject to Section 2.5, each Public Access Channel Grant payment shall be non-refundable.

2.1.05 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.1 shall not affect Time Warner Cable's payment obligations under this Section 2.1.

2.1.06 The other provisions of this Section II notwithstanding, in no event shall the Public Access Channel Grant rate provided by Time Warner Cable per subscriber exceed in any month the Public Access Channel Grant per subscriber rate paid to the CAO by Verizon or Cablevision.

## 2.2 Cash Grant

2.2.01 Time Warner Cable shall make cash grants to the CAO (each, a "Cash Grant") payable as follows:

FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) shall be due and payable within thirty (30) days of the Effective Date.

FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) shall be due and payable within thirty (30) days of the first anniversary of the Effective Date,

2.2.02 Each Cash Grant shall be non-refundable.

2.2.03 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.2 shall not affect Time Warner Cable's payment obligations under this Section 2.2.

## 2.3 Use of Funds

Such Public Access Channel Grant and Cash Grant shall be used by the CAO in its discretion for public access costs, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, cameras, office equipment, renovation or construction of Public Access Channel facilities, local public access programming development by the CAO, and other public access costs as may be determined by the CAO and its Board of Directors.

## 2.4 Recovery of Costs

2.4.01 Nothing in this Agreement shall in any way be held to waive or limit Time Warner Cable's rights, to the extent permitted by applicable law, to recover the costs of any Public Access Channel Grant and Cash Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill or to otherwise pass-through such costs to Subscribers, but the recovery of such costs shall not be a condition precedent or subsequent to the payment obligation of Time Warner to the CAO.

2.4.02 In the event that the CAO enters into a new agreement or a renewal agreement or amends any existing agreement with any holder of a cable television franchise from the City that covers the Borough and such agreement, renewal agreement and/or amendment contains obligations, taken as a whole, that are lesser than the obligations imposed on Time Warner Cable in Section 2.1 (such lesser obligations, "Lesser Obligations"), Time Warner Cable's obligations under Section 2.1 shall be reduced to equal such Lesser Obligations. Time Warner Cable acknowledges that the Subscriber Cap in Exhibit 1 may be adjusted upward or

downward for other franchised cable service providers in proportion to the homes in the Borough required to be served (whether currently served or not) by the franchise for that provider.

2.4.03 Any agreement after the date hereof between the CAO and a non-franchised provider of multi-channel video programming serving more than 999 customers in the Time Warner Cable Service area in the Borough for the exhibition of the CAO's Public Access Channels by such provider shall require such provider to assume payment obligations to the CAO that are *pari passu* and ratably equivalent to those provided in Section 2.1.02.

## 2.5 Delivery of Payments; Interest

All payments by Time Warner Cable to the CAO pursuant to this Agreement shall be made payable to the CAO and shall be delivered to the address designated in writing therefore by the Executive Director or Chief Financial Officer of the CAO. In the event that a Public Access Channel Grant or Cash Grant payment is not received by the CAO by the respective due date set forth herein, following at least thirty (30) days written notice from the CAO that such payment has not been received, Time Warner Cable shall pay interest on such overdue Public Access Channel Grant or Cash Grant at the then-current interest rate set forth in Section 5004 of the New York Civil Practice Law and Rules (which as of the date of execution of this Agreement is nine percent (9%) per annum) to the CAO retroactive to the first day that such Public Access Channel Grant or Cash Grant payment was originally due. Time Warner Cable shall be allowed to submit or correct any payments that were incorrectly omitted, and may offset against future payments any payments that were incorrectly submitted, within ninety (90) days after the close of the calendar year for which such payments were applicable.

## 2.6 Publicity for Access Services

At the time of installation, Time Warner Cable shall provide each Subscriber with certain literature. Such literature, which need not be bound together, shall constitute the "Welcome Kit." If provided to Time Warner Cable by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO, Time Warner Cable shall reproduce and include in the Welcome Kit the following information, materially accurate as of the first day of the previous month, in a clear, complete and comprehensible form: (A) a listing of the currently available Public Access Channels; (B) a description of the purposes and uses of such Public Access Channels; and (C) general information regarding how a Person can utilize or obtain further information regarding such Public Access Channels. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable's technical capability to do so, including, but not limited to, limitations with respect to character capacity.

## 2.7 Mailing to Subscribers

On an annual basis, if requested by the CAO, Time Warner Cable shall reproduce and mail, consistent with the privacy protection policies of Time Warner Cable's, in Time Warner

Cable annual notification to Subscribers, such materials provided by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO with respect to programming on the Public Access Channels and the activities of the CAO, as may be reasonably specified by the CAO. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Subject to the CAO providing the above-referenced materials in a format mutually agreeable to both Time Warner Cable and the CAO in a sufficient period of time, but no less than eighty (80) days prior to such mailing, Time Warner Cable shall also include these materials in its Welcome Kit to Subscribers in the Borough. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable technical capability to do so, including, but not limited to, limitations with respect to character capacity. Time Warner Cable shall provide the CAO with at least thirty (30) days notice of the date by which such materials referenced in this Section 2.7 will be required.

## 2.8 Additional Obligations of Time Warner Cable

2.8.01 Each Public Access Channel provided in Section 4.2 shall be delivered with transmission quality compliant with all applicable FCC standards and at least the same as the transmission quality of any other channel on Time Warner Cable's tier of service that includes local broadcast channels, provided, however, that Time Warner Cable shall have no responsibility to improve upon or modify the quality of any Public Access Channel's content provided to Time Warner Cable by the CAO.

2.8.02 Subject to the service availability requirements set forth in the Franchise Agreement, Time Warner Cable shall provide to the CAO, without charge, seven service outlets activated for Basic Service at 647 Fulton Street, Brooklyn, NY 11217 as well as at the CAO's interim location at 242 Third Street, Brooklyn, NY (the "Interim Location"). Such service outlets, and boxes, are in addition to any master control boxes or outlets used to monitor the signal as returns. Cable Service may not be resold or otherwise used in contravention of Time Warner Cable's rights with third parties respecting programming. Equipment provided by Time Warner Cable, if any, shall be replaced at retail rates if lost, stolen or damaged.

2.8.03 In the event that Time Warner Cable does collect for itself specific standalone public access viewership information, Time Warner Cable may make such specific information available to the CAO at the CAO's cost and expense subject to any limitation of applicable law including, without limitation, 47 U.S.C. §551.

2.8.04 To the extent technically feasible and commercially reasonable, Time Warner Cable shall display Public Access Channel program content titles in electronic on-screen channel listings in the same manner as it designates all other programming on the System; provided, however, that Time Warner Cable shall not be responsible for any inaccuracies in such information.

2.8.05 In the event Time Warner Cable is required by law or regulation, to adhere to technical standards not currently necessary for the production or distribution of the CAO's programming over the System, and such requirement necessitates the acquisition of new

equipment not currently contemplated by the parties hereto, Time Warner Cable shall make such equipment available at no cost to the CAO.

2.8.06 Time Warner Cable will provide 100 "avails" or listing of spots in each month for the CAO to use for promotional or public interest purposes.

### **SECTION III - OBLIGATIONS OF THE CAO**

#### **3.1 Cash Grant and Public Access Channel Grant: Use for Educational or Charitable Purposes**

The CAO shall: (i) administer and manage the Public Access Channels provided for its use by Time Warner Cable and the use of the CAO's facilities, equipment, and supplies in a fair and reasonable manner; and (ii) develop and support programming to be cablecast on the Public Access Channels, which is responsive to the needs and interests of the Residents of the Borough. The CAO shall use the Public Access Channels and the Cash Grant and Public Access Channel Grant provided by Time Warner Cable to the CAO primarily for educational or charitable purposes within the meaning of Section 501(c)(3) of the Code, and as deemed necessary by the Board of Directors of the CAO.

#### **3.2 Maintenance of Tax-Exempt Status**

The CAO shall conduct its activities so as to maintain its tax exempt status under Section 501(c)(3) of the Code or other applicable laws.

#### **3.3 Public Access Channel Rules and Regulations**

3.3.01 The CAO shall maintain reasonable rules and regulations to provide for open access to Public Access Channel time, facilities, equipment, supplies, and training on a non-discriminatory basis and to the extent required by applicable law. Said rules and regulations providing for open access may dedicate segments of Public Access Channel time and/or specific channels to particular or related subject matters or uses.

3.3.02 If the CAO provides programming grants, it shall establish reasonable rules and regulations governing the procedure for applying to the CAO for such grants and the selection of grant recipients by the CAO.

3.3.03 The CAO shall make all rules and regulations publicly available.

#### **3.4 Compliance with Privacy Law**

The CAO shall comply with the requirements of applicable law regarding privacy protection.

#### **3.5 Annual Expenditure Report**

The CAO shall prepare and mail to Time Warner Cable each year an annual income and expenditure report for the preceding year.

## SECTION IV - PUBLIC ACCESS CHANNEL SERVICES

### 4.1 Compliance with Federal, State and Local Law

Time Warner Cable and the CAO shall comply with all applicable local, state, and federal laws with respect to program content on the Public Access Channels.

### 4.2 Public Access Channel Set Aside

4.2.01 Time Warner Cable shall carry Public Access Channels as provided in its franchise, including, without limitation, Section 8.16(a) of the Franchise Agreement. Two of such channels shall be carried on Time Warner Cable's system in high definition ("HD") 1080P format. Time Warner Cable shall initially carry the programming on each of the respective Public Access Channels as indicated in Appendix J to the Franchise Agreement. Time Warner Cable shall not arbitrarily or capriciously change such channel assignments and Time Warner Cable shall minimize the number of such changes. However, Time Warner Cable may change such channel assignments as it deems appropriate so long as (i) Time Warner Cable gives the CAO ninety (90) days notice of such change (if commercially practicable) but in no event less than forty-five (45) days, unless the change is required by law and there is no reasonable opportunity to provide such notice; and (ii) Time Warner Cable provides, free of charge, notice of such changes that shall include (a) to the extent Time Warner Cable has availability, giving notice of such Public Access Channel changes on advertising inserts on local channels carrying non-satellite programming in prime time at least thirty (30) seconds per day, for the time period of thirty (30) to fifteen (15) days prior to such change and two (2) minutes per day for the fourteen (14) days prior to such change (provided, however, that if Time Warner Cable does not have advertising availability at the commencement of the thirty (30) to fifteen (15) day period, as soon as advertising space becomes available, Time Warner Cable shall then provide the advertising contemplated under this Section 4.2.01), and (b) providing notice of such changes in at least two (2) monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one (1) monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event Time Warner Cable provides the requisite notice of such changes to all Subscribers in a letter separate from their bill. If Time Warner Cable changes the channel location of any Public Access channel, the location after such change shall be contiguous with other Public Access channels.

4.2.02 The provisions of 16 NYCRR §895.4 (c)(12) shall apply to this Agreement.

4.2.03 During the term of its franchise, for as long as Time Warner Cable makes video on demand ("VOD") programming available on its system in Brooklyn, it will include in the VOD programming available at any given time at least 25 hours of public access programming selected by the CAO, provided such programming is provided to Time Warner Cable by the CAO in an encoded format so that it can be accessed by Time Warner Cable customers from the VOD platform without further technical or formatting modification by Time Warner Cable. This twenty five hours of public access programming will be available to Time Warner Cable customers at any time, 24 hours per day, seven days a week. It is agreed that this is a designation of channel capacity for public access use but not an offset of the total number of

channels required in the Franchise Agreement. Time Warner Cable will provide, upon request and to the extent practical and permitted by law, any aggregate data regarding subscriber use of the CAO's programming on the VOD platform.

#### 4.3 Rights to Public Channel Programming

Time Warner Cable shall have no rights to programming carried on the Public Access Channels by virtue of cablecasting or distributing such programming over its System, except for Time Warner Cable right to transmit such programming to its Subscribers. All rights to the programming content are intellectual property of the owner, regardless of the individual or entity requesting transmission. Time Warner Cable shall have no editorial control over programming on the Public Access Channels.

#### 4.4 Public Access Channel Connection

4.4.01 Time Warner Cable, shall maintain the connection at its expense, of its Cable System to the CAO's master control headend at 647 Fulton Street, Brooklyn, New York, New York 11217 ("Public Access Channel connection site") and the Interim Location.

4.4.02 In addition, within one year of the Effective Date, Time Warner Cable shall provide an HD/ASI connection to its Cable System at the additional programming injection sites listed on Exhibit A, provided that Time Warner can do so at an aggregate cost of installation no greater than \$29,000. In the event the CAO desires to substitute a location currently designated on Exhibit A with an alternate location, Time Warner Cable agrees to commence good faith discussions with the CAO regarding the substitution of such location within thirty (30) days of Time Warner Cable's receipt of written notice from the CAO of the CAO's desire to commence such discussions. The cost related to any substitution shall be subject to the aggregate \$29,000 as described above.

4.4.03 The CAO shall provide to Time Warner Cable at each Public Access Channel connection site a suitable video and audio signal(s) for each Public Access Channel. Time Warner Cable, upon receipt of the suitable video signal(s), shall provide, install and maintain in good working order the equipment necessary for transmitting the Public Access Channel signals from the Public Access Channel connection site to its customers.

4.4.04 The CAO hereby authorizes Time Warner Cable to transmit all Public Access Channel programming within the Borough's jurisdictional boundaries and without the Borough's jurisdictional boundaries to the extent such programming is transmitted to another CAO.

### SECTION V - MISCELLANEOUS PROVISIONS

#### 5.1 Effective Date and Term

5.1.01 This Agreement shall take effect on the Effective Date.

5.1.02 This Agreement shall remain in effect throughout the Term of the Franchise Agreement, as provided in the Franchise Agreement, provided that the designation of

the CAO by the Borough President remains in effect. The period of time during which this Agreement is in effect shall be "the term of this Agreement." In the event that the Franchise Agreement is terminated for any lawful reason prior to the scheduled expiration of the Term, then the term of this Agreement shall expire and all rights and obligations of the CAO and Time Warner Cable under this Agreement shall cease. Notwithstanding the foregoing, in the event Time Warner Cable continues to provide Cable Service in the Service Area, after the termination or expiration of the Term of the Franchise Agreement pursuant to any Temporary Operating Authority from the NY Public Service Commission, then Time Warner Cable shall be bound by all of the obligations under this Agreement for the period of such continuing provision of Cable Service in the Service Area.

#### 5.2 Application to Successors

This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

#### 5.3 Confidential Information

Except as may be required by applicable law, the CAO shall treat any information disclosed by Time Warner Cable (and so designated by Time Warner Cable) as confidential and proprietary, and shall only disclose it to employees, directors, the Borough President, DoITT, the Comptroller, representatives, and agents thereof who have a need to know, or in order to enforce the provisions hereof. Notwithstanding anything to the contrary set forth herein, Time Warner Cable shall not be required to publicly disclose or allow the CAO to copy information that it reasonably deems to be proprietary or confidential in nature in connection with Time Warner Cable disclosure of information pursuant to this Agreement. For purposes of this Agreement, "proprietary or confidential" information shall be defined as any information that is reasonably determined by Time Warner Cable to be competitively sensitive. For purposes hereof, confidential information shall not include: (i) information that is available or becomes generally available to the public other than through a breach by the CAO or (ii) information that becomes available to the CAO from a source other than Time Warner Cable that has legally obtained such information and provided that such source is not prohibited from disclosing such information by a contractual or legal obligation to Time Warner Cable. If the CAO receives a request for the disclosure of information that Time Warner Cable has designated as confidential, trade secret or proprietary, the CAO shall notify Time Warner Cable of such request. If the CAO determines in good faith that public disclosure of the requested information is required, the CAO shall so notify Time Warner Cable, and before making disclosure shall give Time Warner Cable a reasonable period of time to seek to obtain judicial redress to preclude public disclosure. Time Warner Cable shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. §551.

#### 5.4 Separability

If any section, subsection, sub-subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by a final order of any court of competent jurisdiction or by a final order of any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection,

sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Agreement.

#### 5.5 Entire Agreement

This Agreement constitutes the entire agreement between Time Warner Cable and the CAO and it supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof. Any local laws or parts of local laws that materially conflict with the provisions of this Agreement are superseded by this Agreement.

#### 5.6 Amendments and Modifications

Amendments and/or modifications to this Agreement shall not be effective unless mutually agreed to in writing by the parties.

#### 5.7 Captions and Headings

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

#### 5.8 Recitals

The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

#### 5.9 Construction of Agreement

The provisions of this Agreement shall be liberally construed to effectuate their objectives.

#### 5.10 Governing Law

This Agreement shall be deemed to be executed in the City of New York, State of New York, and shall be governed by and construed in accordance with federal law and the laws of the State of New York.

#### 5.11 No Third Party Beneficiaries

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement.

#### 5.12 No Joint Venture

Nothing in this Agreement shall be interpreted to provide that Time Warner Cable and CAO are partners, joint venturers, agents or assignees of the other.

#### 5.13 Force Majeure

Subject to the procedures set forth in the last sentence of this Section 5.12, Time Warner Cable shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged default occurred or were caused by a Force Majeure; provided, however, that in the event that any delay in performance resulting from such a Force Majeure affects only part of Time Warner Cable capability to perform, Time Warner Cable shall perform to the extent it is able to do so and shall take all steps, reasonably within its ability, to minimize the length and effect of such Force Majeure delay. Time Warner Cable shall notify the CAO in writing of the occurrence of an event of Force Majeure, or a series of related events constituting an event of Force Majeure, which resulted in or is resulting in a delay in performance, such notice to be provided within twenty (20) business days of the event or series of events, or if notification within such period is not practicable under the circumstances, as soon as practicable.

#### 5.14 Enforceability

Each party represents and warrants to the other that this Agreement (i) has been duly executed and delivered by such party and (ii) constitutes the valid and legally binding obligation of such party, enforceable in accordance with its terms.

#### 5.15 Counterparts

The parties hereby agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

#### 5.16 Notices

Every notice, order, petition, document, or other direction or communication to be served upon the CAO or Time Warner Cable shall be in writing and shall be sufficiently given if sent by registered or certified mail, return receipt requested, or by a nationally recognized overnight delivery service, to the following addresses:

If to Time Warner Cable, to:

Time Warner Cable  
120 East 23rd Street  
New York, NY 10010  
Attention: Public Affairs

with a copy to:

Time Warner Cable  
Law Department  
60 Columbus Circle  
New York, NY 10023  
Attention: Regulatory

If to the CAO, to:

Executive Director  
BRIC Arts | Media | Bklyn, Inc.  
647 Fulton Street  
Brooklyn, New York 11217

with a copy to:

Cozen O'Connor  
277 Park Avenue  
New York, NY 10172  
Attention: David Bronston

Notwithstanding the foregoing, until further notice all payments and notices shall be delivered to:

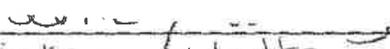
Executive Director  
BRIC Arts | Media | Bklyn, Inc.  
45 Main Street  
Suite 530  
Brooklyn, NY 11201

Except as otherwise provided herein, the receipt of such notice, direction, or order shall be equivalent to direct personal notice and shall be deemed to have been given when received. Either party may change the above notice addresses by notice to the other party.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first above written.

BRIC ARTS | MEDIA | BKLYN, INC.

ATTEST

BY:   
Name: Leslie G. Schultz  
Title: Executive Director

TIME WARNER ENTERTAINMENT  
COMPANY, L.P.

ATTEST:

BY: \_\_\_\_\_  
Name: Howard Szarfarc  
Title: Regional Vice President/  
Operations

LOIS C. DUFFY  
NOTARY PUBLIC-STATE OF NEW YORK  
Commission # NYS Reg. No.  
Qualified in Sullivan County  
Commission Expires May 23, 2013

EXHIBIT A

1. Brooklyn Borough Hall  
209 Joralemon Street  
Brooklyn, NY 11201
2. Long Island University Brooklyn Campus

EXHIBIT 1

Year	Amount Per Subscriber Per Month	Subscriber Cap (Actual number of Subscribers but not more than the Subscriber Cap)	Cash Grant
1	\$1.40	66,975	\$500,000
2	\$1.40	72,912	\$500,000
3	\$1.40	88,112	\$
4	\$1.40	95,712	\$
5	\$1.40	95,712	\$
6	\$1.40	111,150	\$
7	\$1.40	111,150	\$
8	\$1.40	111,150	\$
9	\$1.40	111,150	\$

Executed Document

**COMMUNITY ACCESS ORGANIZATION ("CAO")  
GRANT AND USE AGREEMENT  
BY AND BETWEEN  
TIME WARNER ENTERTAINMENT COMPANY, L.P  
AND  
STATEN ISLAND COMMUNITY TELEVISION, INC.**

**CAO GRANT AND USE AGREEMENT**

THIS AGREEMENT (the "Agreement") made on this \_\_\_\_\_ day of \_\_\_\_\_, 2011, is entered into by and between Time Warner Entertainment Company, L.P., a limited partnership duly organized under the applicable laws of the State of Delaware ("Time Warner Cable"), with a place of business at 120 East 23<sup>rd</sup> Street, New York, New York 10010 and Staten Island Community Television Inc., a New York not-for-profit corporation (the "CAO") designated by the Borough President of Staten Island (the "Borough President"), with a place of business at 100 Cable Way, Staten Island, NY 10303.

WHEREAS, the City of New York (the "City"), is entering into a Franchise Agreement granting Time Warner Cable a nonexclusive franchise ("Franchise Agreement") to operate a Cable System (the "System") in the Borough of Staten Island (service area hereinafter defined); and

WHEREAS, Time Warner Cable has negotiated with the CAO and has agreed to provide the CAO with the grants and services pursuant to the terms hereof for the benefit of the Residents of the Borough of Staten Island; and

WHEREAS, the Franchise Agreement requires Time Warner Cable to make available CAO Access Channels on the System, to be known as public access channels ("Public Access Channels"), and to provide to the CAO any support payments and Cash Grants (as hereinafter defined) as may be agreed upon between the CAO and Time Warner Cable as described herein; and

WHEREAS, the CAO is a not-for-profit corporation organized pursuant to New York State law and has been designated by the Borough President as the CAO to receive such grants as shall be made available by Time Warner Cable pursuant to this Agreement; and

WHEREAS, the CAO has been organized to operate for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (the "Code"), including, among other purposes, the administration and management of Public Access Channels in the Borough, and such other purposes which shall qualify the CAO as exempt under Section 501(c)(3) of the Code; and

WHEREAS, the CAO shall obtain the funds necessary to carry out its purposes and objectives from the grants provided for herein and from any other lawful sources; and

WHEREAS, Time Warner Cable desires to support the purposes and objectives of the CAO in the CAO's objectives of the development and production of public services and programming to be distributed on the Public Access Channels and to be made available to all cable television subscribers in the Borough of Staten Island; and

WHEREAS, the CAO will engage in activities and will develop programming to be distributed on the Public Access Channels for the benefit of Subscribers, to the System, thereby increasing the public service potential of cable television in the City;

NOW THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, and the mutual agreements herein contained, the parties agree as follows:

### SECTION I - DEFINITIONS

1.1 Borough: The entire existing territorial boundaries of the Borough of Staten Island, and such additional areas as may be annexed or acquired.

1.2 Effective Date The Effective Date shall be the date on which the New York Public Service Commission issues a certificate of confirmation for the Franchise Agreement.

1.3 All other capitalized terms used herein, but not otherwise defined, shall have the meanings ascribed to such terms in the Franchise Agreement.

### SECTION II - GRANT OF SUPPORT TO THE CAO

#### 2.1 Public Access Channel Grant

2.1.01 Time Warner Cable shall make a Public Access Channel grant to be used in support of the CAO's development and production of local public access programming ("Public Access Channel Grant").

2.1.02 The Public Access Channel Grant provided by Time Warner Cable hereunder shall be in the form of a per-month, per Subscriber grant for the Term of the Franchise Agreement in accordance with the following schedule:

Year 1 - Year 5: The Public Access Channel Grant shall be in the amount of ONE DOLLAR (\$1.00) per month, per Subscriber until the fifth anniversary of the Effective Date;

Year 6: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR FIVE CENTS (\$1.05) per month, per Subscriber until the sixth anniversary of the Effective Date;

Year 7: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR TEN CENTS (\$1.10) per month, per Subscriber until the seventh anniversary of the Effective Date.

Year 8: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR FIFTEEN CENTS (\$1.15) per month, per Subscriber until the eighth anniversary of the Effective Date;

Year 9: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR TWENTY CENTS (\$1.20) per month, per Subscriber until the ninth anniversary of the Effective Date.

Year 10 Forward: Should Time Warner Cable operate under the Franchise Agreement past the ninth anniversary of the Effective Date (which would be past the original term of the Franchise Agreement), the Public Access Channel Grant shall increase to and remain at ONE DOLLAR TWENTY-FIVE CENTS (\$1.25) per month, per Subscriber until Time Warner Cable no longer operates under the Franchise Agreement.

The per-month, per-Subscriber payments detailed herein will be calculated based on the number of Subscribers to Time Warner Cable Basic Service tier in the Borough. The Public Access Channel Grant payment, along with a brief summary of the Subscriber information upon which it is based certified by a financial representative of Time Warner Cable, shall be delivered to the CAO within forty-five (45) days after the end of each calendar quarter. Time Warner Cable shall file a copy of said statement with DoITT.

2.1.03 Subject to Section 2.5, each Public Access Channel Grant payment shall be non-refundable.

2.1.04 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.1 shall not affect Time Warner Cable's payment obligations under this Section 2.1.

2.1.05 The other provisions of this Section II notwithstanding, in no event shall the Public Access Channel Grant provided by Time Warner Cable per subscriber exceed in any month the Public Access Channel Grant per subscriber paid to CAO by Verizon provided that Verizon is still providing cable service in Staten Island.

## 2.2 Cash Grant

2.2.01 Time Warner Cable shall make a cash grant to the CAO in the amount of EIGHT HUNDRED EIGHTY THOUSAND DOLLARS (\$880,000.00) which shall be due and payable within thirty (30) days of the Effective Date and Time Warner Cable shall make an additional cash grant to the CAO in the amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) which shall be due and payable within thirty (30) days of the first anniversary of the Effective Date.

2.2.02 The Cash Grant shall be non-refundable.

2.2.03 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.2 shall not affect Time Warner Cable's payment obligations under this Section 2.2.

2.3 Time Warner Cable shall, for as long as it maintains its own office at 100 Cable Way, Staten Island, New York, make available to CAO at a charge of \$5,835 per month the space at that location currently occupied by CAO with services and other terms as presently provided including, but not limited to, the provision of heat, internet service and

security, and the inclusion of real estate tax in the monthly charge. The space will be used by the CAO for studio and offices generally similar to current utilization. It is agreed by the parties that the monthly charge is less than the current market rental value of the space.

2.3.01 In the event that Time Warner Cable relocates its offices from said address to another location, it will provide CAO equivalent space to that licensed to the CAO at 100 Cable Way, Staten Island, NY at no cost and expense to the CAO.

#### 2.4 Use of Funds

Such Public Access Channel Grant and Cash Grant shall be used by the CAO in its discretion for public access costs, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, cameras, office equipment, renovation or construction of Public Access Channel facilities, local public access programming development by the CAO, and other public access costs as may be ascertained by the CAO and its Board of Directors.

#### 2.5 Recovery of Costs

2.5.01 Nothing in this Agreement shall in any way be held to waive or limit Time Warner Cable's rights, to the extent permitted by applicable law, to recover the costs of any Public Access Channel Grant and Cash Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill or to otherwise pass-through such costs to Subscribers.

2.5.02 The CAO shall negotiate and seek to impose equivalent obligations to the obligations contained in Section II of this Agreement on all providers of Cable Service or cable service (as such term may be defined by other providers) in the Borough pursuant to any new agreement or the modification, amendment or renewal of any existing agreement between the CAO and any cable provider. In the event that any new, modified or amended agreement or any renewal agreement between the CAO and any provider of Cable Service or cable service (as such term may be defined by other providers) in the Borough contains obligations, taken as a whole, are not substantially equivalent to the obligations imposed in Section II, Time Warner Cable's obligations under Section II shall be reduced to an equivalent amount. This Section 2.5.02 does not apply to any other agreement as in effect at the time of execution of this Agreement.

#### 2.6 Delivery of Payments; Interest

All payments by Time Warner Cable to the CAO pursuant to this Agreement shall be made payable to the CAO and shall be delivered to the address designated in writing therefore by the Executive Director or Chief Financial Officer of the CAO. In the event that a Public Access Channel Grant or Cash Grant payment is not received by the CAO by the respective due date set forth herein, following at least thirty (30) days written notice from the CAO that such payment has not been received, Time Warner Cable shall pay interest on such overdue Public Access Channel Grant or Cash Grant at the then-current interest rate set forth in Section 5004 of the New York Civil Practice Law and Rules (which as of the date of execution of this Agreement is

nine percent (9%) per annum) to the CAO retroactive to the first day that such Public Access Channel Grant or Cash Grant payment was originally due. Time Warner Cable shall be allowed to submit or correct any payments that were incorrectly omitted, and may offset against future payments any payments that were incorrectly submitted, within ninety (90) days after the close of the calendar year for which such payments were applicable.

## 2.7 Publicity for Access Services

At the time of installation, Time Warner Cable shall provide each Subscriber with certain literature. Such literature, which need not be bound together, shall constitute the "Welcome Kit." If provided to Time Warner Cable by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO, Time Warner Cable shall reproduce and include in the Welcome Kit the following information, materially accurate as of the first day of the previous month, in a clear, complete and comprehensible form: (A) a listing of the currently available Public Access Channels; (B) a description of the purposes and uses of such Public Access Channels; and (C) general information regarding how a Person can utilize or obtain further information regarding such Public Access Channels. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable's technical capability to do so, including, but not limited to, limitations with respect to character capacity.

## 2.8 Mailing to Subscribers

On an annual basis, if requested by the CAO, Time Warner Cable shall reproduce and mail, consistent with the privacy protection policies of Time Warner Cable's, in Time Warner Cable annual notification to Subscribers, such materials provided by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO with respect to programming on the Public Access Channels and the activities of the CAO, as may be reasonably specified by the CAO. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Subject to the CAO providing the above-referenced materials in a format mutually agreeable to both Time Warner Cable and the CAO in a sufficient period of time, but no less than eighty (80) days prior to such mailing, Time Warner Cable shall also include these materials in its Welcome Kit to Subscribers in the Borough. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable technical capability to do so, including, but not limited to, limitations with respect to character capacity. Time Warner Cable shall provide the CAO with at least thirty (30) days notice of the date by which such materials referenced in this Section 2.7 will be required.

## 2.9 Additional Obligations of Time Warner Cable

2.9.01 Each Public Access Channel shall be delivered with transmission quality compliant with any applicable FCC standard and at least the same as the transmission quality of any other channel on Time Warner Cable's lowest tier of service, provided, however,

that Time Warner Cable shall have no responsibility to improve upon or modify the quality of any Public Access Channel's content provided to Time Warner Cable by the CAO.

2.9.02 Subject to the service availability requirements set forth in the Franchise Agreement, Time Warner Cable shall provide to the CAO, without charge, number service outlets activated for Basic Service at the location of the CAO's master control with a current address of 100 Cable Way, Staten Island, NY 10303. Cable Service may not be resold or otherwise used in contravention of Time Warner Cable's rights with third parties respecting programming. Equipment provided by Time Warner Cable, if any, shall be replaced at retail rates if lost, stolen or damaged.

2.9.03 In the event that Time Warner Cable does collect for itself specific standalone public access viewership information, Time Warner Cable may make such specific information available to the CAO at the CAO's cost and expense subject to any limitation of applicable law including, without limitation, 47 U.S.C. §551.

2.9.04 To the extent technically feasible and commercially reasonable, Time Warner Cable shall display Public Access Channel program content titles in electronic on-screen channel listings in the same manner as it designates all other programming on the System; provided, however, that Time Warner Cable shall not be responsible for any inaccuracies in such information.

2.9.05 Time Warner Cable will have no obligation with respect to playback or digitization of programming carried on the public access channels.

### **SECTION III - OBLIGATIONS OF THE CAO**

#### **3.1 Cash Grant and Public Access Channel Grant; Use for Educational or Charitable Purposes**

The CAO shall: (i) administer and manage the Public Access Channels provided for its use by Time Warner Cable and the use of the CAO's facilities, equipment, and supplies in a fair and reasonable manner; and (ii) develop and support programming to be cablecast on the Public Access Channels, which is responsive to the needs and interests of the Residents of the Borough. The CAO shall use the Public Access Channels and the Cash Grant and Public Access Channel Grant provided by Time Warner Cable to the CAO primarily for educational or charitable purposes within the meaning of Section 501(c)(3) of the Code, and as deemed necessary by the Board of Directors of the CAO.

#### **3.2 Maintenance of Tax-Exempt Status**

The CAO shall conduct its activities so as to maintain its tax exempt status under Section 501(c)(3) of the Code or other applicable laws.

#### **3.3 Public Access Channel Rules and Regulations**

3.3.01 The CAO shall maintain reasonable rules and regulations to provide for open access to Public Access Channel time, facilities, equipment, supplies, and

training on a non-discriminatory basis. Said rules and regulations providing for open access may dedicate segments of Public Access Channel time to particular or related subject matters or uses.

#### 3.4 Compliance with Privacy Law

The CAO shall comply with the requirements of applicable law regarding privacy protection.

#### 3.5 Annual Expenditure Report

The CAO shall prepare and mail to Time Warner Cable each year an annual income and expenditure report for the preceding year.

### SECTION IV - PUBLIC ACCESS CHANNEL SERVICES

#### 4.1 Compliance with Federal, State and Local Law

Time Warner Cable and the CAO shall comply with all applicable local, state, and federal laws with respect to program content on the Public Access Channels.

#### 4.2 Public Access Channel Set Aside

4.2.01 Time Warner Cable shall carry Public Access Channels as provided in its franchise. Upon request of the CAO, up to two of such channels shall be carried on Time Warner Cable's system in high definition ("HD") format. Time Warner Cable shall initially carry the programming on each of the respective Public Access Channels as indicated in Appendix B to the Franchise Agreement. Time Warner Cable may change such channel assignments as it deems appropriate so long as (i) Time Warner Cable gives the CAO ninety (90) days notice of such change (if commercially practicable) but in no event less than forty-five (45) days, unless the change is required by law and there is no reasonable opportunity to provide such notice; and (ii) Time Warner Cable provides, free of charge, notice of such changes that shall include (a) to the extent Time Warner Cable has availability, giving notice of such Public Access Channel changes on advertising inserts on local channels carrying non-satellite programming in prime time at least thirty (30) seconds per day, for the time period of thirty (30) to fifteen (15) days prior to such change and two (2) minutes per day for the fourteen (14) days prior to such change (provided, however, that if Time Warner Cable does not have advertising availability at the commencement of the thirty (30) to fifteen (15) day period, as soon as advertising space becomes available, Time Warner Cable shall then provide the advertising contemplated under this Section 4.2.01), and (b) providing notice of such changes in at least two (2) monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one (1) monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event Time Warner Cable provides the requisite notice of such changes to all Subscribers in a letter separate from their bill.

4.2.02 The provisions of 16 NYCRR §895.4 (c)(12) shall apply to this Agreement.

4.2.03 During the term of its franchise, for as long as Time Warner Cable makes video on demand ("VOD") programming available on its system in Staten Island, it will include in the VOD programming available at any given time at least twenty-five hours of public access programming selected by the CAO, provided such programming is provided to Time Warner Cable by the CAO in an encoded format so that it can be accessed by Time Warner Cable customers from the VOD platform without further technical or formatting modification by Time Warner Cable. This twenty-five hours of public access programming will be available to Time Warner Cable customers at any time, 24 hours per day, seven days a week. It is agreed that this is a designation of channel capacity for public access use.

#### 4.3 Rights to Public Channel Programming

Time Warner Cable shall have no rights to programming carried on the Public Access Channels by virtue of cablecasting or distributing such programming over its System, except for Time Warner Cable right to transmit such programming to its Subscribers. All rights to the programming content are intellectual property of the owner, regardless of the individual or entity requesting transmission. Time Warner Cable shall have no editorial control over programming on the Public Access Channels.

#### 4.4 Public Access Channel connection

4.4.01 Time Warner Cable, shall maintain the connection at its expense, of its Cable System to the CAO's master control headend which is presently located at 100 Cable Way, Staten Island, NY 10303 ("Public Access Channel connection site").

4.4.02 The CAO shall provide to Time Warner Cable at the Public Access Channel connection site a suitable video and audio signal(s) for each Public Access Channel. Time Warner Cable, upon receipt of the suitable video signal(s), shall provide, install and maintain in good working order the equipment necessary for transmitting the Public Access Channel signals from the Public Access Channel connection site to its customers.

4.4.03 The CAO hereby authorizes Time Warner Cable to transmit all Public Access Channel programming within the Borough's jurisdictional boundaries and without the Borough's jurisdictional boundaries to the extent such programming is transmitted to another.

### SECTION V - MISCELLANEOUS PROVISIONS

#### 5.1 Effective Date and Term

5.1.01 This Agreement shall take effect on the Effective Date.

5.1.02 This Agreement shall remain in effect throughout the Term of the Franchise Agreement, as provided in the Franchise Agreement, provided that the designation of the CAO by the Borough President remains in effect. The period of time during which this Agreement is in effect shall be "the term of this Agreement." In the event that the Franchise Agreement is terminated for any lawful reason prior to the scheduled expiration of the Term, then the term of this Agreement shall expire and all rights and obligations of the CAO and Time

Warner Cable under this Agreement shall cease. Notwithstanding the foregoing, in the event Time Warner Cable continues to provide Cable Service in the Service Area under the terms of the Franchise Agreement, after the termination or expiration of the Term of the Franchise Agreement, then Time Warner Cable shall be bound by all of the obligations under this Agreement for the period of such continuing provision of Cable Service in the Service Area.

#### 5.2 Application to Successors

This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

#### 5.3 Confidential Information

Except as may be required by applicable law, the CAO shall treat any information disclosed by Time Warner Cable (and so designated by Time Warner Cable) as confidential and proprietary, and shall only disclose it to employees, directors, the Borough President, DoITT, the Comptroller, representatives, and agents thereof who have a need to know, or in order to enforce the provisions hereof. Notwithstanding anything to the contrary set forth herein, Time Warner Cable shall not be required to publicly disclose or allow the CAO to copy information that it reasonably deems to be proprietary or confidential in nature in connection with Time Warner Cable disclosure of information pursuant to this Agreement. For purposes of this Agreement, "proprietary or confidential" information shall be defined as any information that is reasonably determined by Time Warner Cable to be competitively sensitive. If the CAO receives a request for the disclosure of information that Time Warner Cable has designated as confidential, trade secret or proprietary, the CAO shall notify Time Warner Cable of such request. If the CAO determines in good faith that public disclosure of the requested information is required, the CAO shall so notify Time Warner Cable, and before making disclosure shall give Time Warner Cable a reasonable period of time to seek to obtain judicial redress to preclude public disclosure. Time Warner Cable shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. §551.

#### 5.4 Separability

If any section, subsection, sub-subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by a final order of any court of competent jurisdiction or by a final order of any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Agreement.

#### 5.5 Entire Agreement

This Agreement constitutes the entire agreement between Time Warner Cable and the CAO and it supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof. Any local laws or parts of local laws that materially conflict with the provisions of this Agreement are superseded by this Agreement.

#### 5.6 Amendments and Modifications

Amendments and/or modifications to this Agreement shall not be effective unless mutually agreed to in writing by the parties.

#### 5.7 Captions and Headings

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

#### 5.8 Recitals

The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

#### 5.9 Construction of Agreement

The provisions of this Agreement shall be liberally construed to effectuate their objectives.

#### 5.10 Governing Law

This Agreement shall be deemed to be executed in the City of New York, State of New York, and shall be governed by and construed in accordance with federal law and the laws of the State of New York.

#### 5.11 No Third Party Beneficiaries

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement. Nothing in this Agreement shall be interpreted to provide that Time Warner Cable and the CAO are partners, joint venturers, agents or assignees of the other.

#### 5.12 Force Majeure

Subject to the procedures set forth in the last sentence of this Section 5.12, Time Warner Cable shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged default occurred or were caused by a Force Majeure; provided, however, that in the event that any delay in performance resulting from such a Force Majeure affects only part of Time Warner Cable capability to perform, Time Warner Cable shall perform to the extent it is able to do so and shall take all steps, reasonably within its ability, to minimize the length and effect of such Force Majeure delay. Time Warner Cable shall notify the CAO in writing of the occurrence of an event of Force Majeure, or a series of related events constituting an event of Force Majeure, which resulted in or is resulting in a delay in performance, such notice to be provided within twenty (20) business days of the event or series of events, or if notification within such period is not practicable under the circumstances, as soon as practicable.

### 5.13 Enforceability

Each party represents and warrants to the other that this Agreement (i) has been duly executed and delivered by such party and (ii) constitutes the valid and legally binding obligation of such party, enforceable in accordance with its terms.

### 5.14 Counterparts

The parties hereby agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

### 5.15 Notices

Every notice, order, petition, document, or other direction or communication to be served upon the CAO or Time Warner Cable shall be in writing and shall be sufficiently given if sent by registered or certified mail, return receipt requested, or by a nationally recognized overnight delivery service, to the following addresses or to such other address as the other party may direct in writing:

If to Time Warner Cable, to:

Time Warner Cable  
120 East 23rd Street  
New York, NY 10010  
Attention: Public Affairs

with a copy to:

Time Warner Cable  
Law Department  
60 Columbus Circle  
New York, NY 10023  
Attention: Regulatory

If to the CAO, to:

Executive Director  
Staten Island Community Television, Inc.  
100 Cable Way  
Staten Island, NY 10303

With a copy to:

**COMMUNITY ACCESS ORGANIZATION ("CAO")**  
**GRANT AND USE AGREEMENT**  
**BY AND BETWEEN**  
**TIME WARNER ENTERTAINMENT COMPANY, L.P**  
**AND**  
**QUEENS PUBLIC COMMUNICATIONS CORPORATION**

## CAO GRANT AND USE AGREEMENT

THIS AGREEMENT (the "Agreement") made on this 8th day of December, 2010, is entered into by and between Time Warner Entertainment Company, L.P., a limited partnership duly organized under the applicable laws of the State of Delaware ("Time Warner Cable"), with a place of business at 120 East 23<sup>rd</sup> Street, New York, New York 10010 and Queens Public Communications Corporation, a New York not-for-profit corporation (the "CAO") designated by the Borough President of Queens (the "Borough President"), with a place of business at 41-61 Kissena Blvd., Flushing, NY 11355.

WHEREAS, the City of New York (the "City"), is entering into a Franchise Agreement granting Time Warner Cable a nonexclusive franchise ("Franchise Agreement") to operate a Cable System (the "System") in the Borough of Queens (service area hereinafter defined); and

WHEREAS, Time Warner Cable has negotiated with the CAO and has agreed to provide the CAO with the grants and services pursuant to the terms hereof for the benefit of the Residents of the Borough of Queens; and

WHEREAS, the Franchise Agreement requires Time Warner Cable to make available CAO Access Channels on the System, to be known as public access channels ("Public Access Channels"), and to provide to the CAO any support payments and Cash Grants (as hereinafter defined) as may be agreed upon between the CAO and Time Warner Cable as described herein; and

WHEREAS, the CAO is a not-for-profit corporation organized pursuant to New York State law and has been designated by the Borough President as the CAO to receive such grants as shall be made available by Time Warner Cable pursuant to this Agreement; and

WHEREAS, the CAO has been organized to operate for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (the "Code"), including, among other purposes, the administration and management of Public Access Channels in the Borough, and such other purposes which shall qualify the CAO as exempt under Section 501(c)(3) of the Code; and

WHEREAS, the CAO shall obtain the funds necessary to carry out its purposes and objectives from the grants provided for herein and from any other lawful sources; and

WHEREAS, Time Warner Cable desires to support the purposes and objectives of the CAO in the CAO's objectives of the development and production of public services and programming to be distributed on the Public Access Channels and to be made available to all cable television subscribers in the Borough of Queens; and

WHEREAS, the CAO will engage in activities and will develop programming to be distributed on the Public Access Channels for the benefit of Subscribers, to the System, thereby increasing the public service potential of cable television in the City;

NOW THEREFORE, in consideration of the foregoing clauses, which clauses are hereby made a part of this Agreement, and the mutual agreements herein contained, the parties agree as follows:

### SECTION I - DEFINITIONS

- 1.1 Borough: The entire existing territorial boundaries of the Borough of Queens, and such additional areas as may be annexed or acquired.
- 1.2 Effective Date The Effective Date shall be the date on which the New York Public Service Commission issues a certificate of confirmation for the Franchise Agreement.
- 1.3 All other capitalized terms used herein, but not otherwise defined, shall have the meanings ascribed to such terms in the Franchise Agreement.

### SECTION II - GRANT OF SUPPORT TO THE CAO

#### 2.1 Public Access Channel Grant

2.1.01 Time Warner Cable shall make a Public Access Channel grant to be used in support of the CAO's development and production of local public access programming ("Public Access Channel Grant").

2.1.02 The Public Access Channel Grant provided by Time Warner Cable hereunder shall be in the form of a per month, per Subscriber grant for the Term of the Franchise Agreement in accordance with the following schedule:

Year 1 - Year 2: The Public Access Channel Grant shall be in the amount of SIXTY-FIVE CENTS (\$.65) per month, per Subscriber until the second anniversary of the Effective Date;

Year 3 - Year 5: The Public Access Channel Grant shall increase to and remain at EIGHTY CENTS (\$.80) per month, per Subscriber until the fifth anniversary of the Effective Date;

Year 6 Forward: The Public Access Channel Grant shall increase to and remain at ONE DOLLAR (\$1.00) per month, per Subscriber until Time Warner Cable no longer operates under the Franchise Agreement.

The per-month, per-Subscriber payments detailed herein will be calculated based on the number of Subscribers to Time Warner Cable cable service in the Borough. The Public Access Channel Grant payment, along with a brief summary of the Subscriber information upon which it is based certified by a financial representative of Time Warner Cable, shall be delivered to the CAO within forty-five (45) days after the end of each calendar quarter. Time Warner Cable shall file a copy of said statement with DoITT.

2.1.03 Subject to Section 2.5, each Public Access Channel Grant payment shall be non-refundable.

2.1.04 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.1 shall not affect Time Warner Cable's payment obligations under this Section 2.1.

2.1.05 In the event that Time Warner Cable pays another New York City Borough CAO a monthly Public Access Channel grant that exceeds an average of seventy-eight cents (\$.78) per subscriber based on more than 100,000 subscribers in any month in years one through two of this agreement ("First Threshold Amount"), then Time Warner Cable shall pay a monthly Public Access Channel grant to the CAO in the amount of sixty-five cents (\$.65) plus the amount by which the average per subscriber grant to the other CAO exceeds seventy-eight cents (\$.78) for each month in which the average grant to the other CAO exceeded seventy-eight cents (\$.78). Such payment to the CAO shall be retroactive to the time of the payments of the First Threshold amount.

In the event that Time Warner Cable pays another New York City Borough CAO a monthly Public Access Channel grant that exceeds an average of ninety-three cents (\$.93) per subscriber based on more than 100,000 subscribers in years three through five of this agreement ("Second Threshold Amount"), then Time Warner Cable shall pay a monthly Public Access Channel grant to the CAO in the amount of eighty cents (\$.80) plus the amount by which the average per subscriber grant to the other CAO exceeds ninety-three cents (\$.93) for each month in which the average grant to the other CAO exceeded ninety-three cents (\$.93). Such payment to the CAO shall be retroactive to the time of the payments of the Second Threshold amount.

In the event that Time Warner Cable pays another New York City Borough CAO a monthly Public Access Channel grant that exceeds an average of one dollar and thirteen cents (\$1.13) per subscriber based on more than 100,000 subscribers in years 6 through the date Time Warner Cable no longer operates under the Franchise Agreement ("Third Threshold Amount"), then Time Warner Cable shall pay a monthly Public Access Channel grant to the CAO in the amount of one dollar (\$1.00) plus the amount by which the average per subscriber grant to the other CAO exceeds one dollar and thirteen cents (\$1.13) for each month in which the average grant to the other CAO exceeded one dollar and thirteen cents (\$1.13). Such payment to the CAO shall be retroactive to the time of the payments of the Third Threshold amount.

The other provisions of this Section II notwithstanding, in no event shall the Public Access Channel Grant provided by Time Warner Cable per subscriber exceed in any month the Public Access Channel Grant per subscriber paid to QPTV by Verizon.

## 2.2 Cash Grant

2.2.01 Time Warner Cable shall make cash grants to the CAO (each, a "Cash Grant") payable as follows:

FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) shall be due and payable within thirty (30) days of the Effective Date, and

FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) shall be due and payable within thirty (30) days of the first anniversary of the Effective Date, and

FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) shall be due and payable within thirty (30) days of the fourth anniversary of the Effective Date.

2.2.02 Each Cash Grant shall be non-refundable.

2.2.03 The failure of the CAO to fully allocate or expend any monies provided pursuant to this Section 2.2 shall not affect Time Warner Cable's payment obligations under this Section 2.2.

2.3 Time Warner Cable shall, for as long as it maintains its own office at 41-61 Kissena Boulevard, Flushing, New York, make available to CAO without charge the space at that location currently occupied by CAO and indicated on the attached Exhibits A and B. The space will be used by the CAO for studio and offices generally similar to current utilization. It is agreed that the current annual benefit to the CAO of this commitment by TWC is approximately \$400,000.

2.3.01 In the event that Time Warner Cable relocates its offices from said address to another location, it will provide CAO equivalent space to that licensed to the CAO at 41-61 Kissena Boulevard, Flushing, NY at no cost and expense to the CAO and shall pay the CAO's reasonable moving and leasehold improvement expenses in an amount not to exceed \$2,000,000. The space to which the CAO is relocated under this provision shall be located in Queens County; shall enable CAO to conduct its business as at present; shall have reasonable access to public transportation; and shall have access to parking and amenities equivalent to those at 41-61 Kissena Boulevard.

2.3.02 Time Warner Cable agrees that it will not include as a separate and exclusive line item charge on its bills for cable service to customers the costs of leasehold improvements resulting from a relocation described in Section 2.3.01.

#### 2.4 Use of Funds

Such Public Access Channel Grant and Cash Grant shall be used by the CAO in its discretion for public access costs, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, cameras, office equipment, renovation or construction of Public Access Channel facilities, local public access programming development by the CAO, and other public access costs as may be ascertained by the CAO and its Board of Directors.

#### 2.5 Recovery of Costs

2.5.01 Nothing in this Agreement shall in any way be held to waive or limit Time Warner Cable's rights, to the extent permitted by applicable law, to recover the costs of any Public Access Channel Grant and Cash Grant from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill or to otherwise pass-through such costs to Subscribers.

2.5.02 The CAO shall negotiate and seek to impose equivalent obligations to the obligations contained in Section II of this Agreement on all providers of Cable Service or cable service (as such term may be defined by other providers) in the Borough pursuant to any new agreement or the modification, amendment or renewal of any existing agreement between the CAO and any cable provider. In the event that any new, modified or amended agreement or any renewal agreement between the CAO and any provider of Cable Service or cable service (as such term may be defined by other providers) in the Borough contains obligations, taken as a whole, that are lesser in amount or aggregate value than the obligations imposed in Section II, Time Warner Cable's obligations under Section II shall be reduced to an equivalent amount. This Section 2.5.02 does not apply to any other agreement as in effect at the time of execution of this Agreement.

#### 2.6 Delivery of Payments: Interest

All payments by Time Warner Cable to the CAO pursuant to this Agreement shall be made payable to the CAO and shall be delivered to the address designated in writing therefore by the Executive Director or Chief Financial Officer of the CAO. In the event that a Public Access Channel Grant or Cash Grant payment is not received by the CAO by the respective due date set forth herein, following at least thirty (30) days written notice from the CAO that such payment has not been received, Time Warner Cable shall pay interest on such overdue Public Access Channel Grant or Cash Grant at the then-current interest rate set forth in Section 5004 of the New York Civil Practice Law and Rules (which as of the date of execution of this Agreement is nine percent (9%) per annum) to the CAO retroactive to the first day that such Public Access Channel Grant or Cash Grant payment was originally due. Time Warner Cable shall be allowed to submit or correct any payments that were incorrectly omitted, and may offset against future payments any payments that were incorrectly submitted, within ninety (90) days after the close of the calendar year for which such payments were applicable.

#### 2.7 Publicity for Access Services

At the time of installation, Time Warner Cable shall provide each Subscriber with certain literature. Such literature, which need not be bound together, shall constitute the "Welcome Kit." If provided to Time Warner Cable by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO, Time Warner Cable shall reproduce and include in the Welcome Kit the following information, materially accurate as of the first day of the previous month, in a clear, complete and comprehensible form: (A) a listing of the currently available Public Access Channels; (B) a description of the purposes and uses of such Public Access Channels; and (C) general information regarding how a Person can utilize or obtain further information regarding such Public Access Channels. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable's technical capability to do so, including, but not limited to, limitations with respect to character capacity.

## 2.8 Mailing to Subscribers

On an annual basis, if requested by the CAO, Time Warner Cable shall reproduce and mail, consistent with the privacy protection policies of Time Warner Cable's, in Time Warner Cable annual notification to Subscribers, such materials provided by the CAO in a format mutually agreeable to both Time Warner Cable and the CAO with respect to programming on the Public Access Channels and the activities of the CAO, as may be reasonably specified by the CAO. The cost of reproducing and distributing any materials provided to Time Warner Cable by the CAO pursuant to this Section shall be borne solely by Time Warner Cable, provided, however, that the CAO shall be solely responsible for any costs associated with each original production of such materials. Subject to the CAO providing the above-referenced materials in a format mutually agreeable to both Time Warner Cable and the CAO in a sufficient period of time, but no less than eighty (80) days prior to such mailing, Time Warner Cable shall also include these materials in its Welcome Kit to Subscribers in the Borough. Time Warner Cable shall also make the foregoing information available on its website, subject to Time Warner Cable technical capability to do so, including, but not limited to, limitations with respect to character capacity. Time Warner Cable shall provide the CAO with at least thirty (30) days notice of the date by which such materials referenced in this Section 2.7 will be required.

## 2.9 Additional Obligations of Time Warner Cable

2.9.01 Each Public Access Channel shall be delivered with transmission quality compliant with any applicable FCC standard and at least the same as the transmission quality of any other channel on Time Warner Cable's lowest tier of service, provided, however, that Time Warner Cable shall have no responsibility to improve upon or modify the quality of any Public Access Channel's content provided to Time Warner Cable by the CAO.

2.9.02 Subject to the service availability requirements set forth in the Franchise Agreement, Time Warner Cable shall provide to the CAO, without charge, four service outlets activated for Basic Service at the location of the CAO's master control with an address of 41-61 Kissena Boulevard, Flushing, NY 11355. Cable Service may not be resold or otherwise used in contravention of Time Warner Cable's rights with third parties respecting programming. Equipment provided by Time Warner Cable, if any, shall be replaced at retail rates if lost, stolen or damaged.

2.9.03 In the event that Time Warner Cable does collect for itself specific standalone public access viewership information, Time Warner Cable may make such specific information available to the CAO at the CAO's cost and expense subject to any limitation of applicable law including, without limitation, 47 U.S.C. §551.

2.9.04 To the extent technically feasible and commercially reasonable, Time Warner Cable shall display Public Access Channel program content titles in electronic on-screen channel listings in the same manner as it designates all other programming on the System; provided, however, that Time Warner Cable shall not be responsible for any inaccuracies in such information.

2.9.05 In the event Time Warner Cable is required by law or regulation, to adhere to technical standards not currently necessary for the production or distribution of the CAO's programming over the System, and such requirement necessitates the acquisition of new equipment not currently contemplated by the parties hereto, Time Warner Cable shall make such equipment available at no cost to the CAO.

### SECTION III - OBLIGATIONS OF THE CAO

#### 3.1 Cash Grant and Public Access Channel Grant; Use for Educational or Charitable Purposes

The CAO shall: (i) administer and manage the Public Access Channels provided for its use by Time Warner Cable and the use of the CAO's facilities, equipment, and supplies in a fair and reasonable manner; and (ii) develop and support programming to be cablecast on the Public Access Channels, which is responsive to the needs and interests of the Residents of the Borough. The CAO shall use the Public Access Channels and the Cash Grant and Public Access Channel Grant provided by Time Warner Cable to the CAO primarily for educational or charitable purposes within the meaning of Section 501(c)(3) of the Code, and as deemed necessary by the Board of Directors of the CAO.

#### 3.2 Maintenance of Tax-Exempt Status

The CAO shall conduct its activities so as to maintain its tax exempt status under Section 501(c)(3) of the Code or other applicable laws.

#### 3.3 Public Access Channel Rules and Regulations

3.3.01 The CAO shall maintain reasonable rules and regulations to provide for open access to Public Access Channel time, facilities, equipment, supplies, and training on a non-discriminatory basis. Said rules and regulations providing for open access may dedicate segments of Public Access Channel time to particular or related subject matters or uses.

3.3.02 If the CAO provides programming grants (herein defined as use of CAO's facilities, equipment and services), it shall establish reasonable rules and regulations governing the procedure for applying to the CAO for such grants and the selection of grant recipients by the CAO. Grant recipients must be not-for-profit 501(c)(3) entities based in the Borough of Queens or local, state and federal agencies.

3.3.03 The CAO shall publish all rules and regulations in a pamphlet, copies of which shall be available to the public at the office of the CAO.

#### 3.4 Compliance with Privacy Law

The CAO shall comply with the requirements of applicable law regarding privacy protection.

### 3.5 Annual Expenditure Report

The CAO shall prepare and mail to Time Warner Cable each year an annual income and expenditure report for the preceding year.

## SECTION IV - PUBLIC ACCESS CHANNEL SERVICES

### 4.1 Compliance with Federal, State and Local Law

Time Warner Cable and the CAO shall comply with all applicable local, state, and federal laws with respect to program content on the Public Access Channels.

### 4.2 Public Access Channel Set Aside

4.2.01 Time Warner Cable shall carry Public Access Channels as provided in its franchise. One of such channels shall be carried on Time Warner Cable's system in high definition ("HD") format. Time Warner Cable shall initially carry the programming on each of the respective Public Access Channels as indicated in Appendix B to the Franchise Agreement. Time Warner Cable may change such channel assignments as it deems appropriate so long as (i) Time Warner Cable gives the CAO ninety (90) days notice of such change (if commercially practicable) but in no event less than forty-five (45) days, unless the change is required by law and there is no reasonable opportunity to provide such notice; and (ii) Time Warner Cable provides, free of charge, notice of such changes that shall include (a) to the extent Time Warner Cable has availability, giving notice of such Public Access Channel changes on advertising inserts on local channels carrying non-satellite programming in prime time at least thirty (30) seconds per day, for the time period of thirty (30) to fifteen (15) days prior to such change and two (2) minutes per day for the fourteen (14) days prior to such change (provided, however, that if Time Warner Cable does not have advertising availability at the commencement of the thirty (30) to fifteen (15) day period, as soon as advertising space becomes available, Time Warner Cable shall then provide the advertising contemplated under this Section 4.2.01), and (b) providing notice of such changes in at least two (2) monthly Subscriber bill inserts prior to such change (if commercially practicable) but in no event less than one (1) monthly Subscriber bill insert; provided, however, that such bill inserts shall not be necessary in the event Time Warner Cable provides the requisite notice of such changes to all Subscribers in a letter separate from their bill.

4.2.02 The provisions of 16 NYCRR §895.4 (c)(12) shall apply to this Agreement.

4.2.03 During the term of its franchise, for as long as Time Warner Cable makes video on demand ("VOD") programming available on its system in Queens, it will include in the VOD programming available at any given time at least 12 hours of public access programming selected by the CAO, provided such programming is provided to Time Warner Cable by the CAO in an encoded format so that it can be accessed by Time Warner Cable customers from the VOD platform without further technical or formatting modification by Time Warner Cable. This twelve hours of public access programming will be available to Time

Warner Cable customers at any time, 24 hours per day, seven days a week. It is agreed that this is a designation of channel capacity for public access use.

#### 4.3 Rights to Public Channel Programming

Time Warner Cable shall have no rights to programming carried on the Public Access Channels by virtue of cablecasting or distributing such programming over its System, except for Time Warner Cable right to transmit such programming to its Subscribers. All rights to the programming content are intellectual property of the owner, regardless of the individual or entity requesting transmission. Time Warner Cable shall have no editorial control over programming on the Public Access Channels.

#### 4.4 Public Access Channel connection

4.4.01 Time Warner Cable, shall maintain the connection at its expense, of its Cable System to the CAO's master control headend at 41-61 Kissena Blvd., Flushing, NY 11355 ("Public Access Channel connection site").

4.4.02 The CAO shall provide to Time Warner Cable at the Public Access Channel connection site a suitable video and audio signal(s) for each Public Access Channel. Time Warner Cable, upon receipt of the suitable video signal(s), shall provide, install and maintain in good working order the equipment necessary for transmitting the Public Access Channel signals from the Public Access Channel connection site to its customers.

4.4.03 The CAO hereby authorizes Time Warner Cable to transmit all Public Access Channel programming within the Borough's jurisdictional boundaries and without the Borough's jurisdictional boundaries to the extent such programming is transmitted to another.

### SECTION V - MISCELLANEOUS PROVISIONS

#### 5.1 Effective Date and Term

5.1.01 This Agreement shall take effect on the Effective Date.

5.1.02 This Agreement shall remain in effect throughout the Term of the Franchise Agreement, as provided in the Franchise Agreement, provided that the designation of the CAO by the Borough President remains in effect. The period of time during which this Agreement is in effect shall be "the term of this Agreement." In the event that the Franchise Agreement is terminated for any lawful reason prior to the scheduled expiration of the Term, then the term of this Agreement shall expire and all rights and obligations of the CAO and Time Warner Cable under this Agreement shall cease. Notwithstanding the foregoing, in the event Time Warner Cable continues to provide Cable Service in the Service Area under the terms of the Franchise Agreement, after the termination or expiration of the Term of the Franchise Agreement, then Time Warner Cable shall be bound by all of the obligations under this Agreement for the period of such continuing provision of Cable Service in the Service Area.

## 5.2 Application to Successors

This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

## 5.3 Confidential Information

Except as may be required by applicable law, the CAO shall treat any information disclosed by Time Warner Cable (and so designated by Time Warner Cable) as confidential and proprietary, and shall only disclose it to employees, directors, the Borough President, DoITT, the Comptroller, representatives, and agents thereof who have a need to know, or in order to enforce the provisions hereof. Notwithstanding anything to the contrary set forth herein, Time Warner Cable shall not be required to publicly disclose or allow the CAO to copy information that it reasonably deems to be proprietary or confidential in nature in connection with Time Warner Cable disclosure of information pursuant to this Agreement. For purposes of this Agreement, "proprietary or confidential" information shall be defined as any information that is reasonably determined by Time Warner Cable to be competitively sensitive. If the CAO receives a request for the disclosure of information that Time Warner Cable has designated as confidential, trade secret or proprietary, the CAO shall notify Time Warner Cable of such request. If the CAO determines in good faith that public disclosure of the requested information is required, the CAO shall so notify Time Warner Cable, and before making disclosure shall give Time Warner Cable a reasonable period of time to seek to obtain judicial redress to preclude public disclosure. Time Warner Cable shall not be required to provide Subscriber information in violation of Section 631 of the Communications Act, 47 U.S.C. §551.

## 5.4 Separability

If any section, subsection, sub-subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by a final order of any court of competent jurisdiction or by a final order of any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Agreement.

## 5.5 Entire Agreement

This Agreement constitutes the entire agreement between Time Warner Cable and the CAO and it supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof. Any local laws or parts of local laws that materially conflict with the provisions of this Agreement are superseded by this Agreement.

## 5.6 Amendments and Modifications

Amendments and/or modifications to this Agreement shall not be effective unless mutually agreed to in writing by the parties.

### 5.7 Captions and Headings

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

### 5.8 Recitals

The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

### 5.9 Construction of Agreement

The provisions of this Agreement shall be liberally construed to effectuate their objectives.

### 5.10 Governing Law

This Agreement shall be deemed to be executed in the City of New York, State of New York, and shall be governed by and construed in accordance with federal law and the laws of the State of New York.

### 5.11 No Third Party Beneficiaries

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any Person other than the parties to this Agreement.

### 5.12 Force Majeure

Subject to the procedures set forth in the last sentence of this Section 5.12, Time Warner Cable shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged default occurred or were caused by a Force Majeure; provided, however, that in the event that any delay in performance resulting from such a Force Majeure affects only part of Time Warner Cable capability to perform, Time Warner Cable shall perform to the extent it is able to do so and shall take all steps, reasonably within its ability, to minimize the length and effect of such Force Majeure delay. Time Warner Cable shall notify the CAO in writing of the occurrence of an event of Force Majeure, or a series of related events constituting an event of Force Majeure, which resulted in or is resulting in a delay in performance, such notice to be provided within twenty (20) business days of the event or series of events, or if notification within such period is not practicable under the circumstances, as soon as practicable.

### 5.13 Enforceability

Each party represents and warrants to the other that this Agreement (i) has been duly executed and delivered by such party and (ii) constitutes the valid and legally binding obligation of such party, enforceable in accordance with its terms.

#### 5.14 Counterparts

The parties hereby agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

#### 5.15 Notices

Every notice, order, petition, document, or other direction or communication to be served upon the CAO or Time Warner Cable shall be in writing and shall be sufficiently given if sent by registered or certified mail, return receipt requested, or by a nationally recognized overnight delivery service, to the following addresses:

If to Time Warner Cable, to:

Time Warner Cable  
120 East 23rd Street  
New York, NY 10010  
Attention: Public Affairs

with a copy to:

Time Warner Cable  
Law Department  
60 Columbus Circle  
New York, NY 10023  
Attention: Regulatory

If to the CAO, to:

Executive Director  
Queens Public Communications Corporation  
41-61 Kissena Blvd.  
Flushing, NY 11355

Except as otherwise provided herein, the receipt of such notice, direction, or order shall be equivalent to direct personal notice and shall be deemed to have been given when received. Either party may change the above notice addresses by notice to the other party.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first above written.

QUEENS PUBLIC COMMUNICATIONS  
CORPORATION

ATTEST:

BY: \_\_\_\_\_  
Name: Stuart Dornber  
Title: President

TIME WARNER ENTERTAINMENT  
COMPANY, L.P.

ATTEST:

BY: /s/ \_\_\_\_\_  
Name: Howard Szarfate  
Title: Regional Vice President/  
Operations  
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Drawn by *ch. l.* of *George Tark*

PLEASE NOTE: QPTV IS OUTLINED IN BLACK

TOTAL  
7,400 sq

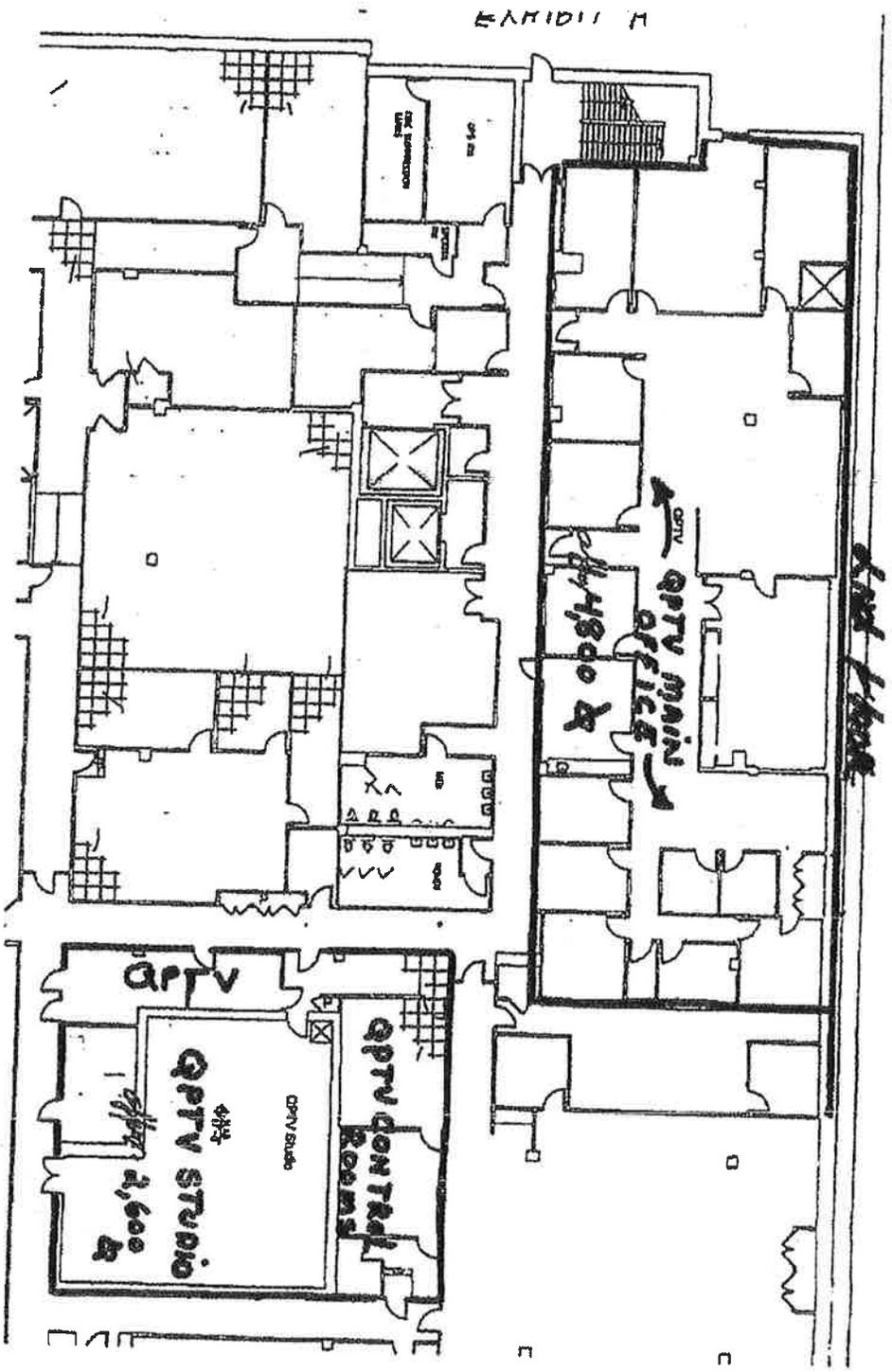
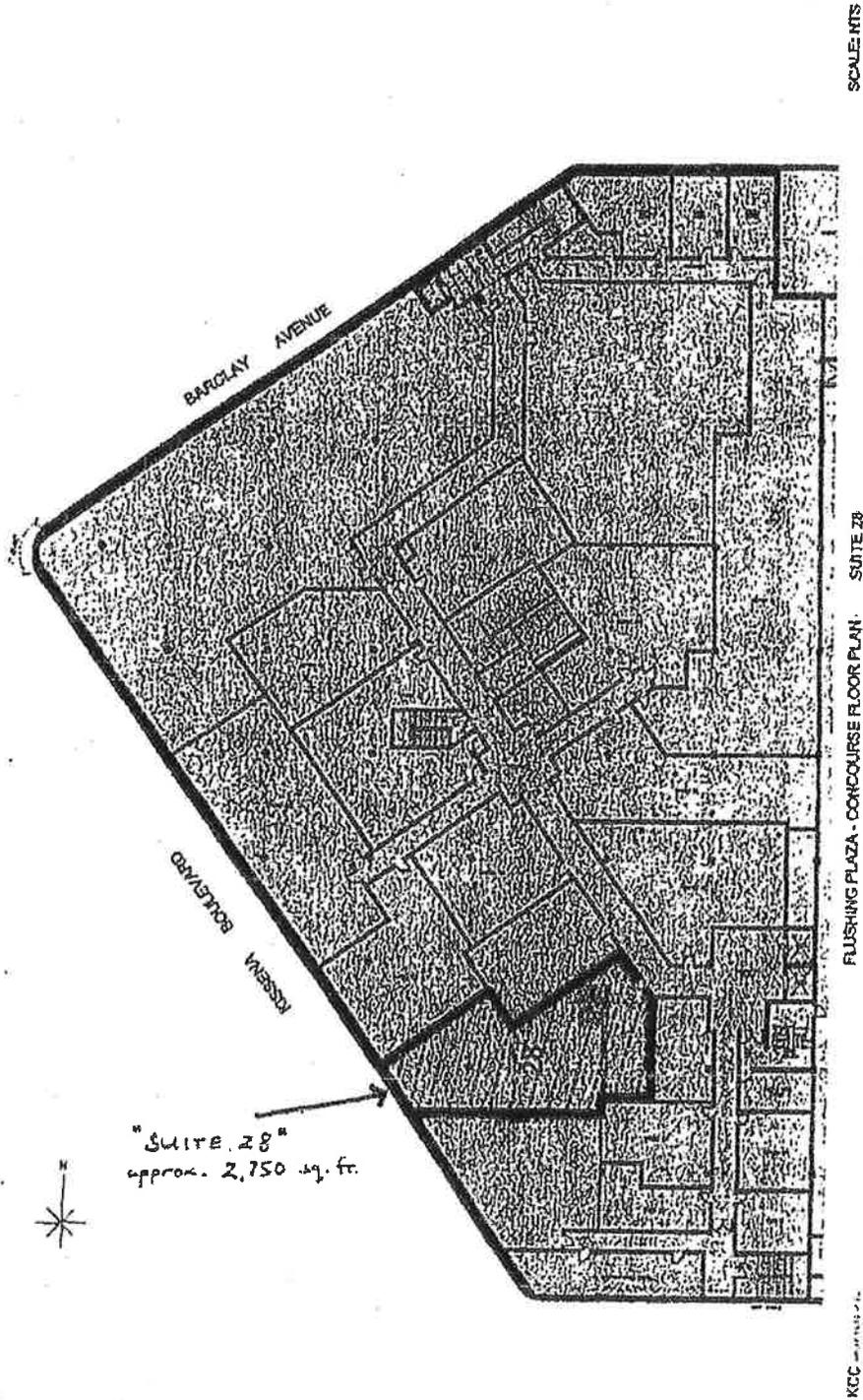


EXHIBIT B

Additional Premises





Howard Szarfarc  
Regional Vice President of Operations  
East Region

August 16, 2011

Via Federal Express

Mr. Stuart Domber  
President  
Queens Public Communications Corporation  
41-61 Kissena Boulevard  
Flushing, NY 11355

**Re: QPTV**

Dear Mr. Domber:

Reference is made to the Grant and Use Agreement by and between Time Warner Entertainment Company, L.P. ("Time Warner Cable") and Queens Public Communications Corporation dated December 8, 2010. Pursuant to Section 2.105 of that Agreement and based on agreements which Time Warner Cable has entered into with other New York City Borough CAO's, the Public Access Channel Grant per month, per subscriber set forth in Section 2.1.02 should be changed to the following: Years 1 and 2: \$.77; Years 3, 4, and 5: \$.92; Years 6, 7, and 8: \$1.12; and Year 9 and any years thereafter: \$1.17.

This letter agreement constitutes an amendment and clarification of the said December 8, 2010 Agreement.

Please indicate the Agreement of Queens Public Communications Corporation by countersigning in the space provided below.

Sincerely,

Howard Szarfarc

Agreed to:

Queens Public Communications Corporation

by \_\_\_\_\_