

B 36.23

ANGASTER COUNTY, NEB  
Dan Galt  
REGISTERED SURVEYOR

May 7 2 33 PM '97

INST. NO 97

017049

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Access Sub on 2nd St and 5th St. Sub 39-10-7  
from lots 4 and 5 by west part for street

**CABLE TELEVISION INSTALLATION AND SERVICE AGREEMENT**

**BULK BILLED UNITS**

This Agreement is entered into this 28th day of April 1997, by and between CableVision, a division of Time Warner Entertainment/Advance Newhouse, hereinafter called ("CableVision") and Lincoln Forum Non Profit Organization dba Carriage Glen ("Facility").

WHEREAS, CableVision operates a cable television system in Lincoln, Nebraska pursuant to a Franchise dated August 5, 1985, enacted by the City of Lincoln ("Franchise"); and

WHEREAS, Facility owns and operates the Carriage Glen Apartments in Lincoln, Nebraska containing 52 total units at 7005 Shamrock Rd., Lincoln, NE 68506 (the "Premises").

WHEREAS, if a master antenna system is currently installed in the Premises, and if modified as contemplated herein, such master antenna is capable of distributing CableVision service to each of the individual rooms located in the Premises;

WHEREAS, CableVision delivers to the Premises all television channels available to subscribers in the Franchise and Facility chooses to distribute, via its master antenna system, only those signals described in Section 2A herein (the "Service").

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants provided herein, the parties agree as follows:

1. TERM

The initial term of this Agreement is for a period of five years, commencing on the date hereof. This Agreement shall be automatically renewed for successive 5 year periods, beginning on the anniversary date hereof, unless earlier terminated as provided in Section 11 (eleven) hereof.

In the event of termination prior to 28th day of April 2002, by Facility without cause or by CableVision by reason of Facility's breach of this Agreement, Facility agrees to pay to CableVision upon demand \$ - 0 -, or the unamortized portion thereof. Such amount will represent liquidated damages for unrecovered costs of installation and service due to early cancellation. CableVision may also pursue any other remedy to which it may be entitled pursuant to law or this Agreement.

2. SERVICE

- A. CableVision will provide Premises the following service package:

Full Basic Cable  
(Full Basic Cable is currently Channels 2-54, 70, 71, and 78)

\*Programming availability not guaranteed

Individual residents of the Premises, upon the property site, may subscribe directly with CableVision for services not provided in the Bulk Billed Service Agreement to the Premises by CableVision. CableVision shall be granted access to the property site to market and deliver additional service not provided by Facility. Facility is not responsible for the cost of these services. CableVision shall be solely responsible for the collection of any fees or charges for any such services from subscribers who reside on the property, and Facility shall not be liable or responsible for any non-payment of delinquent payments by subscribers to CableVision for these same services.

3. RATES

- A. CableVision agrees to provide the Service and Facility agrees to pay CableVision according to the following schedule, subject to adjustment: \$13.75 per unit.

Plus Applicable Franchise fees and sales tax.

The initial rate will be based upon units as they become occupied. Facility agrees to pay a monthly rate based upon actual occupancy prior to July 1, 1997. Facility agrees to report units to CableVision as they become occupied. Beginning July 1, 1997, Facility agrees to pay a monthly rate based on 100% of 52 units.

Rates above will remain constant for one year from the date hereof. Adjustments beyond the date will be based on the commercial rate schedule. Any increases to the commercial rate schedule shall not exceed the percentage of increase applied to Lincoln CableVision's regular residential subscribers for the same period.

CableVision may increase rates no more than once in a 12 month period.  
CableVision will provide Facility 30 day written notice of any rate adjustments.

All payments will be billed one month in advance and are due upon receipt and may be subject to a late charge if not promptly paid.

4. METHOD OF DELIVERY

CableVision will provide cable television service by the following method:

- A. Connection of Facility's existing MATV system to coaxial cable from CableVision's street easements utilizing Facility's easements as provided below.
- B. Facility shall deliver Premium Service to guest rooms only, and Premium Service shall not be shown in bars, lounges, hallways, lobbies or other common areas of the Premises. Facility shall not permit any advertising, program delay, interruption, editing, insertion, deletions or any alteration in the Premium Service feed delivered to Facility by CableVision. Facility shall not authorize and shall take reasonable steps to prevent copying or videotaping of Premium Service by anyone on the Premises. Facility shall not charge guests staying at the Premises any fee for Premium Service.

5. INSTALLATION AND MAINTENANCE OF CABLE DISTRIBUTION SYSTEM

The wires, cabling, earth station antennas and associated electronic devices used to deliver the service to individual rooms in the Premises will consist of two parts (collectively, the "System"): The first part will consist of coaxial cable from CableVision's street easements and/or earth station antenna television system. The second part shall consist of MATV system as previously installed together with additions and modifications thereto as required hereunder, which will distribute CableVision's service throughout the Premises utilizing easements provided below. Facility must provide required space for all signal processing equipment including earth station antenna(s). Facility will maintain temperature in internal housing required for electronic equipment at manufacturer and/or CableVision specifications. Facility is responsible for payment of electric service required to operate the System.

6. OWNERSHIP AND MAINTENANCE

All equipment installed on the premises by CableVision, including without limitation, cable and signal processing equipment, shall at all times be and remain the property of CableVision and shall not be merged or otherwise annexed to any real or personal property connected with the Premises. CableVision shall maintain all such equipment at its sole cost. If requested by CableVision, Facility shall join with CableVision in the execution and filing of a UCC-1 financing statement or statements to evidence CableVision's ownership interest in the equipment it installs pursuant to this Agreement. The MATV system shall be and remain the property of the Facility and Facility shall maintain the MATV system at its cost from the connection point and throughout the Premises. Facility agrees that degradation of picture quality deemed to be a result of Facility's MATV system and/or interference from other signal

amplification equipment will be corrected at Facility's expense according to CableVision's specification. CableVision agrees that degradation of picture quality deemed to be a result of CableVision's System will be corrected at CableVision's expense.

7. EASEMENT: ACCESS

Facility hereby grants CableVision an easement in gross covering routing necessary for installation of CableVision equipment, and shall provide reasonable access to the Premises so that CableVision may install, maintain or remove such equipment.

8. DAMAGE TO PREMISES

Any damage to Premises caused by CableVision, its agents or employees will be promptly repaired to the reasonable satisfaction of Facility. Any damages caused to CableVision's equipment by Facility, its agents or employees will promptly be repaired to the reasonable satisfaction of CableVision. Facility will take all reasonable precautions to notify its contractors, agents or employees of the location of CableVision's equipment and shall require its contractors, agents or employees to reimburse CableVision for the cost of repairing or replacing any damage to CableVision's equipment within 30 days after the occurrence of such damage. Upon default of such obligation by its contractors, agents or employees, Facility agrees to reimburse CableVision for the cost of repair or replacement.

9. RECEIVING ANTENNAE

Facility shall not install, or allow or cause to be installed, any outdoor devices or other form of receiving devices on the Premises during the term of this Agreement without the consent of CableVision. The purpose of this clause is to avoid the installation of any incompatible system which might interfere with the Services provided by CableVision. The Facility may use a MATV system to deliver off-air programming throughout the Premises provided such use does not interfere with the Service.

10. INDEMNITIES

CableVision shall hold harmless and indemnify Facility from and against any and all damages or claims for damage that may occur by reason of CableVision's construction and maintenance of the System, except loss or damage arising from a negligent act or omission of the Facility, its agents or employees. The Facility shall hold harmless and indemnify CableVision from and against any and all damage or claims for damage that

may occur by Facility's use or maintenance of the system, except loss or damage arising from any negligent act or omission of CableVision, its agents or employees.

## 11. TERMINATION

A. Either party may terminate this Agreement by Written notice to the other, effective upon not less than 30 days prior written notice, after the initial five year term of this Agreement or successive renewals.

### B. TERMINATION FOR DEFAULT

- a. In the event of material breach of the terms and conditions of this Agreement by CableVision, Facility may terminate this Agreement after 30 days written notice to CableVision of the breach. If the alleged default has been cured prior to the end of the notice period, this Agreement shall remain in full force and effect.
- b. In the event of default in the payments referred to herein by Facility, CableVision may terminate this Agreement after 30 days written notice to Facility of the breach. If the alleged default has been cured prior to the end of the notice period, this Agreement shall remain in full force and effect. If such default has not been cured, CableVision may either:
  1. Discontinue services and sue the Facility for its reasonable damages under the contract in addition to all monies due for services or equipment, plus cost for collecting said amounts, including attorneys fees to and through the appeals.
  2. Accelerate the obligation of Facility hereunder.
- c. Upon termination of this Agreement, CableVision shall have the option to remove, at its expense, any and all of the equipment originally installed or installed as replacements or repairs to that part of the System which CableVision owns hereunder. In connection with such removal, the Facility shall provide CableVision reasonable access to the Premises. Upon termination, any upgrade in the MATV system including wall plates, fittings, wiring, and DC's will remain the property of the Facility.

## 12. MISCELLANEOUS PROVISIONS

A. The provision of this Agreement may not be changed orally, but may be amended or supplemented by an Agreement in writing signed by both parties.

- B. The Facility agrees that this Agreement may be recorded at the request of CableVision in the real property records of the City of Lincoln, County of Lancaster, Nebraska. On the condition that the obligations of this Agreement shall be expressly assumed upon any transfer, either party shall have the right to assign this Agreement to any other financially solvent person or entity which shall be bound by the terms and provisions hereof.
- C. This instrument contains the entire Agreement of the parties and supersedes any and all previous agreements of whatever nature between them with respect to its subject matter. No amendment, modification, alteration or waiver of the terms of this agreement shall be binding unless the same shall be in writing, dated subsequent to the date of this agreement and duly executed by the parties hereto.
- D. This Agreement shall be governed by and construed in accordance with the laws of the state of Nebraska.
- E. All notices and other communications to be given pursuant to this Agreement shall be deemed to have been duly give (1) if personally delivered to the person being served, or to an officer of the corporate party being served, (2) if mailed by United States certified mail, return receipt requested, postage prepaid to the parties at the following address:

TO: **CableVision**  
**5400 South 16th Street**  
**Lincoln, NE 68512**

TO: **Jolee Urbanovsky**  
**Carriage Glen Apartments**  
**7005 Shamrock Rd.**  
**Lincoln, NE 68506**

Either party may designate a different place of places of notice by delivering written notice thereof to the party in accordance with this section.

- F. If any one or more of the clauses, covenants or provisions contained in this Agreement should be held to be unenforceable under the laws of the United States or of any state, such invalidity or unenforceability shall not affect the remainder of this Agreement, which shall remain in full force and effect, in accordance with its terms.
- G. The waiver by either party of the breach of any provision of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach thereof.
- H. Each of the parties hereto warrants and represents that the person executing this agreement on behalf of such party has the full authority to execute this Agreement

and to bind such party to all the terms and provisions hereof. Management company represents to cable company that it has the express, implied and apparent authority to enter into the terms and conditions of the agreement herein on behalf of the individual owner, Lincoln Forum Non Profit Organization dba Carriage Glen, of the Premises/Property served by company hereunder.

- I. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one in the same instrument.

CableVision of Lincoln Nebraska

Lincoln Forum Non Profit Organization  
dba Carriage Glen

By: Elizabeth Scarborough  
Title: President

By: Carla Bowers  
Title: Regional Property Manager

WITNESS:

WITNESS:

State of Nebraska County of Lancaster  
On May 6, 1997 before me, a Notary Public,  
in and for the County and State, personally  
appeared Elizabeth Scarborough  
known to me to be the President of  
CABLEVISION and acknowledged to me that  
he/she executed this document on behalf of said  
corporation, WITNESS my hand and official

State of Nebraska County of Lancaster  
On April 28, 1997 before me, a Notary Public,  
in and for the County and State, personally  
appeared Carla Bowers  
known to me to be the Regional Manager of  
Essex Corporation and acknowledged to me that  
he/she executed this document on behalf of said  
corporation, WITNESS my hand and official  
seal.

Billie J. Hazelwood  
Notary Public

Kay E. Semin  
Notary Public

