

\$35.50

INST. NO 2000

031976

Lincoln
REGISTER OF DEEDS
LANCASTER COUNTY, NE

BLOCK
10002
CH
ELECTED
Dug CAB

North Creek 2nd Addition Block 1 Lot 5

CABLE TELEVISION INSTALLATION AND SERVICE AGREEMENT

BULK BILLED UNITS

This Agreement is entered into this 10 day of April 2000, by and between Time Warner Cable – Nebraska Division, a division of Time Warner Entertainment/Advance Newhouse, hereinafter called (“Time Warner Cable”) and Lincoln Lodge & Suites L.L.C. dba American Lodge & Suites (“Facility”).

WHEREAS, Time Warner Cable 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 AmericInn Motel in Lincoln, Nebraska containing 55 units at 6555 N. 27th Street, Lincoln, NE 68504 (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 Time Warner Cable service to each of the individual rooms located in the Premises;

WHEREAS, Time Warner Cable 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:

I. 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 1 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 30 day of June 2005, by Facility without cause or by Time Warner Cable by reason of Facility's breach of this Agreement, Facility agrees to pay to Time Warner Cable upon demand \$ 8,833.23, or the unamortized portion thereof. Such amount will represent liquidated damages for unrecovered costs of installation and service due to early cancellation. Time Warner Cable may also pursue any other remedy to which it may be entitled pursuant to law or this Agreement.

Jerry Fischer
Time Warner Cable

II. SERVICE

A. Time Warner Cable will provide Premises the following service package:

Full Basic Cable with HBO 1

(*Full Basic Cable is currently Channels 2-56, 70 and 80)

*Programming availability not guaranteed

III. RATES

Time Warner Cable agrees to provide the Service and Facility agrees to pay Time Warner Cable according to the following schedule, subject to adjustment: \$9.00 per unit. Plus Applicable Franchise fees and sales tax.

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 Time Warner Cable's regular residential subscribers for the same period.

Time Warner Cable may increase rates no more than once in a 12 month period. Time Warner Cable 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.

Time Warner Cable agrees to reduce the per unit rate by 50¢ at such future time that Facility signs a 5 year bulk agreement with Time Warner Cable for an additional motel within Time Warner Cable's Lincoln cable service area.

IV. METHOD OF DELIVERY

Time Warner Cable will provide cable television service by the following method:

A. Connection of Facility's existing MATV system to coaxial cable from Time Warner Cable'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 Time Warner Cable. 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.

V. 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 Time Warner Cable'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 Time Warner Cable'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 Time Warner Cable specifications. Facility is responsible for payment of electric service required to operate the System.

VI. OWNERSHIP AND MAINTENANCE

All equipment installed on the premises by Time Warner Cable, including without limitation, cable and signal processing equipment, shall at all times be and remain the property of Time Warner Cable and shall not be merged or otherwise annexed to any real or personal property connected with the Premises. Time Warner Cable shall maintain all such equipment at its sole cost. If requested by Time Warner Cable, Facility shall join with Time Warner Cable in the execution and filing of a UCC-1 financing statement or statements to evidence Time Warner Cable'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 Time Warner Cable's specification. Time Warner Cable agrees that degradation of picture quality deemed to be a result of Time Warner Cable's System will be corrected at Time Warner Cable's expense.

VII. EASEMENT: ACCESS

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

VIII. DAMAGE TO PREMISES

Any damage to Premises caused by Time Warner Cable, its agents or employees will be promptly repaired to the reasonable satisfaction of Facility. Any damages caused

to Time Warner Cable's equipment by Facility, its agents or employees will promptly be repaired to the reasonable satisfaction of Time Warner Cable. Facility will take all reasonable precautions to notify its contractors, agents or employees of the location of Time Warner Cable's equipment and shall require its contractors, agents or employees to reimburse Time Warner Cable for the cost of repairing or replacing any damage to Time Warner Cable'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 Time Warner Cable for the cost of repair or replacement.

IX. 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 Time Warner Cable. The purpose of this clause is to avoid the installation of any incompatible system which might interfere with the Services provided by Time Warner Cable. The Facility may use a MATV system to deliver off-air programming throughout the Premises provided such use does not interfere with the Service.

X. INDEMNITIES

Time Warner Cable shall hold harmless and indemnify Facility from and against any and all damages or claims for damage that may occur by reason of Time Warner Cable'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 Time Warner Cable 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 Time Warner Cable, its agents or employees.

XI. 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

- 1) In the event of material breach of the terms and conditions of this Agreement by Time Warner Cable, Facility may terminate this Agreement after 30 days written notice to Time Warner Cable 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.

- 2) In the event of default in the payments referred to herein by Facility, Time Warner Cable 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, Time Warner Cable may either:
 - a) 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.
 - b) Accelerate the obligation of Facility hereunder.
- 3) Upon termination of this Agreement, Time Warner Cable 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 Time Warner Cable owns hereunder. In connection with such removal, the Facility shall provide Time Warner Cable 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.

XII. 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. This Agreement shall continue for the duration of five (5) years and any extensions thereof unless Time Warner Cable shall earlier determine that it is technically or economically impractical to continue to provide service hereunder. Time Warner Cable may transfer this agreement by written notice to Owner. If Owner sells, transfers or encumbers the Premises, such sale or encumbrance will be made subject to continuation of this Agreement, and in connection therewith, this Agreement may be recorded in the real property records of Lancaster County, Nebraska.
- 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: Time Warner Cable
5400 South 16th Street
Lincoln, NE 68512

TO: AmericInn Motel
Attn: General Manager
6555 N. 27th Street
Lincoln, Nebraska 68504

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 owner, Lincoln Lodge & Suites L.L.C. dba American Lodge & Suites, 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.

Time Warner Cable of Lincoln Nebraska

LINCOLN LODGE & SUITES, LLC
Lodges + Suites
~~AmericInn Motel~~

By: Elizabeth H. Scarborough
Title: President

By: John J. Seibert
Title: President

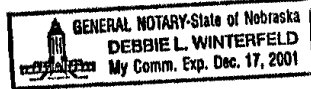
WITNESS:

State of Nebraska County of Lancaster.
On Apr. 14, 2000 before me, a Notary Public, in and for the County and State, personally appeared Elizabeth H. Scarborough known to me to be the President of Time Warner Cable and acknowledged to me that she executed this document on behalf of said corporation, WITNESS my hand and official seal.

WITNESS:

State of MINNESOTA, County of HENNEPIN On 16 APRIL, 2000 before me, a Notary Public, in and for the County and State, personally appeared JOHN J. SEIBERT known to me to be the PRESIDENT of LINCOLN LODGE & SUITES, LLC and acknowledged to me that he/she executed this document on behalf of said corporation, WITNESS my hand and official seal.

Debbie L. Winterfeld
Notary Public



Carol J. Seibert
Notary Public

