

36
 FORSYTH CO, NC FEE: \$ 32.00
 PRESENTED & RECORDED: 12/17/2002 10:25AM
 DICKIE C. WOOD REGISTER OF DEEDS BY: HODIVA

BK2306 P 189 - P 195

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mg. / to -
Randy J. Webster
Commercial Development
1410 Trade Mart Blvd.
Winston-Salem, NC 27127

Mailing Address:
P.O. Box 2954
Winston-Salem, NC 27102

Time Warner Cable
SERVICE AGREEMENT

Date: October 24, 2002

Owner: F&W Management

Provider: Time Warner Entertainment-Advance/Newhouse Partnership, doing business as Time Warner Cable of Winston-Salem.

Premises: The facility known as Falcon Pointe and consisting of 120 units, described on Exhibit A attached to this Agreement.

RECITALS:

1. Owner owns the Premises and wants Time Warner Cable to provide a wide array of cable services as permitted under local, state and federal law, hereinafter referred to as the "Services" to the "Premises".
2. Time Warner Cable operates a cable communications system in Winston Salem, North Carolina, pursuant to a franchise granted by the City of Winston Salem (the "Franchise").

AGREEMENT:

In consideration of the Recitals and of the mutual covenants provided herein, Owner and Time Warner Cable agree as follows:

- **SYSTEM.** Time Warner Cable agrees to design, install, and maintain a system and equipment, including without limitation all necessary equipment, software, communications links, internal wiring and other appurtenances, hereinafter referred to as "**Equipment**", reasonably required to furnish Services to the Premises. The Equipment shall at all times remain the property of Time Warner Cable. Maintenance of the Equipment will be provided by Time Warner Cable at no charge to the Owner, unless otherwise provided. Arrangements for hook-up, Service and billing individual residents of the Premises will be made directly between Time Warner Cable and such residents, unless provided otherwise and incorporated into this Agreement. The Owner hereby grants to Time Warner Cable the exclusive right to provide cable services to the Premises for the term of this agreement and shall not allow any other entity other than Time Warner Cable to provide Service to the Premises while this agreement is in effect.
- **EASEMENT.** Owner grants Time Warner Cable, its successors and assigns, an easement to the Premises to install, operate, maintain, upgrade, and remove the Equipment and to market the Services. Owner shall accompany Time Warner Cable into any unoccupied unit to install Equipment.
- **DAMAGE AND INDEMNITY.** Time Warner Cable shall repair any damage to the Premises caused by Time Warner Cable, its agents or employees, or pay Owner its reasonable costs to do the repair, as Owner elects. Owner shall repair any damage to the Equipment caused by Owner, its agents or employees, or pay Time Warner Cable its reasonable costs to do the repair, as Time Warner Cable elects. Owner shall notify its agents and employees of the location of the Equipment. Time Warner Cable shall indemnify and hold Owner harmless against any damages or claims connected with the ownership, use or occupancy of the premises by Owner, its agents or employees, except to the extent arising from the negligence or willful misconduct of Owner, its agents or employees. Owner shall indemnify and hold Time Warner Cable harmless against any damages or claims connected with the construction or maintenance of the Equipment by Time Warner Cable, its agents or employees, except to the extent arising from the negligence or willful misconduct of Time Warner Cable, its agents or employees.
- **TERM.** This Agreement commences on the date hereof and shall continue for the term of (10) Ten years. If Owner sells, transfers or encumbers the Premises, such sale or encumbrance shall be made subject to continuation of this Agreement, and in connection therewith, this Agreement may be recorded in the Office of the Register of Deeds for Forsyth County, North Carolina.

- **EQUIPMENT.** The Equipment remains Time Warner Cable's property. If this Agreement terminates, Time Warner Cable has the right to remove its Equipment within a reasonable time after the termination. Any equipment abandoned by Time Warner Cable becomes the property of the Owner.
- **ASSIGNMENT.** Both parties hereto have the right to assign this Agreement and delegate all rights, duties and obligations hereunder, to any parent, affiliate, successor or subsidiary organization or company of such party.
- **GOVERNING LAW.** The Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.
- **AMENDMENTS.** The provisions of this Agreement shall not be changed, amended or supplemented except by agreement, in writing, signed by Time Warner Cable and Owner.
- **SERVICES.** Time Warner shall provide and deliver Services and Equipment to the Premises. Time Warner Cable specifically reserves the right to add and/or delete certain cable channels from the Service provided at any time.
- **MISCELLANEOUS.** Time Warner Cable is not liable for any failure to perform arising from causes beyond its control. This Agreement contains all terms governing Time Warner Cable's Services and Equipment at the premises and supersedes any prior agreement between the parties or their predecessors.

**TIME WARNER ENTERTAINMENT-
ADVANCE/NEWHOUSE PARTNERSHIP
D/B/A TIME WARNER CABLE OF WINSTON SALEM**

OWNER: F&W MANAGEMENT ✓

By: _____

Jack W. Stanley, President – Greensboro Division

Attest: _____

Robert J. Walcot, Vice President HSD Services & Commercial Cable Development

Non-Corporate Acknowledgment

So. H. D. COUNTY, NORTH CAROLINA

I, Randy J. Webster, a Notary Public in and for So. H. D.
 County, North Carolina, do hereby certify that LISA K. JONES / manager of F&W personally
 appeared before me this day and acknowledged the due execution of the foregoing instrument.
 Witness my hand and notarial seal on 11/5, 2007 MANAGEMENT


My Commission Expires: 2/13/07 Randy J. Webster, Notary Public



STATE OF NORTH CAROLINA

GUILFORD COUNTY

This 12th day of November, A.D., 2002 personally came before me Randy J. Webster, a notary public, Jack W. Stanley, who being by me duly sworn, says that he is President of Time Warner-Entertainment-Advance/Newhouse Partnership, Inc., d/b/a Time Warner Cable of Winston-Salem, and that the seal affixed to the foregoing or annexed instrument in writing is said Corporation, and that said writing was signed by him in behalf of said Corporation by its authority duly given. And the said Jack W. Stanley acknowledged the said writing to be the act and deed of said Corporation. I do certify that I am not a party to the attached instrument. WITNESS my hand and official seal, this 12th day of November, 2002


 Notary Public

My Commissions Expires:

2/13/07


STATE OF NC - FORSYTH CO

The foregoing certificate(s) of:

Randy Webster

NP(s)

is/are certified to be correct at the date of recordation shown on the first page thereof.

Dickie C. Wood, Register of Deeds by:


 Deputy/Asst

EXHIBIT A

Legal Description

Owner owns the apartment complex known as Falcon Pointe located at 1901 Falcon Pointe Dr. in Winston Salem North Carolina.

EXHIBIT B

If this Exhibit B conflicts with the Agreement, this Exhibit B governs.

Individual

Price/unit – N/A.

Wiring type – Must conform to Time Warner and FCC specifications with diligent application so as to deter signal leakage.

Miscellaneous provisions:

*Note: In the event that signal leakage is evident, Time Warner Cable reserves the right to disconnect service till leakage is rectified.

- Time Warner Cable will maintain all CATV outlets that currently exist in each apartment.
- Time Warner will maintain all lock boxes with individual taps and security proof enclosures.
- Time Warner will maintain a CATV system to 750 megahertz. This will enable the residents to receive the new programming possibilities that will be available thru fiber optic technology.
- If any underground digging and/or trenching is performed, Time Warner will replace the grounds back to their original condition (grass, seed, straw, etc.).
- Term: This Agreement shall be for an initial term of ten (10) years and unless either party gives written notice to the other of termination at least sixty (60) days prior to the expiration of the initial term, then the Agreement shall renew on a month-to-month term until a new contract agreement is negotiated by both parties.

Mailing Address: F&W Management
1905 Falcon Pointe Dr.
Winston Salem N.C. 27127
ATTN: Tifany Kellyman
Telephone Number: 336-785-1368