

RIGHT OF ENTRY
and
TELEVISION SERVICE AGREEMENT

TCI CABLEVISION OF UTAH, INC.
4424 South 700 East, Suite 210
Murray, Utah 84107

Attn: Commercial Accounts

PROPERTY OWNER

Name: Canyon Road Towers H.O.A.

Address: 123 2nd Avenue

Salt Lake City, Utah 84103

Contact Person: Helen Pack

Telephone: (801) 364-0561

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04 JUNE 91 03:16 PM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
TCI CABLEVISION OF UT INC
4424 S 700 E NO 210 SLC UT 84107
REC BY: KARMA BLANCHARD, DEPUTY

230

PROPERTY

Complex Name: Canyon Road Towers

Address: 123 2nd Avenue

Salt Lake City, Utah 84103

Contact Person: Helen Pack

Telephone: (801) 364-0561

This Right of Entry and Television Service Agreement ("Agreement") is entered into this 28 day of DECEMBER, 1990, by and between TCI CABLEVISION OF UTAH, INC. ("Company"), and CANYON ROAD TOWERS HOME OWNERS ASSOCIATION ("Owner"), whose principal place of business is at 123 2nd Avenue, Salt Lake City, Utah 84103.

In consideration of the mutual covenants, benefits and promises set out herein, and subject to the conditions set forth below, the parties mutually agree as follows:

1. Owner hereby grants to Company exclusive rights to construct, install, own, operate, maintain, repair, ^{DISCONNECT} and replace ^{AND REMOVE} the equipment necessary to provide cable television services (the "system"), in, on, over and across the property and within the

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EX 6322762545

buildings consisting of 182 units and common areas located at 123 2nd Avenue, Salt Lake City, Utah, (the "Property").

2. Company agrees to provide the same cable television signals which the Company is generally providing other subscribers within its franchise area. At the present time, Company is providing those programming services described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Minimum Service"). While programming and other services contained on BASIC cable television service are subject to change, and Company may from time to time rearrange, delete from, add to or otherwise modify the programming contained on its BASIC cable television service, nevertheless, Company agrees to and shall continue to provide during the term of this Agreement the Minimum Service or its substantial equivalent. Company also agrees to provide consistent, quality signals and reception. Company also agrees to respond to service calls of Owner within at least four ²⁴ ~~(4)~~ hours to restore service and service shall be restored as soon as is reasonably possible after notice. If Cable operator fails to provide Minimum Service or its substantial equivalent, fails to provide consistent, quality signals and reception, or fails to respond to service calls in a timely manner, then Owner may elect to terminate this Agreement upon at least ninety (90) days written notice.

3. Owner shall provide, without charge to the Company, adequate space and electricity, and right of access for

BR 6322PC2546

construction, installation, operations, maintenance and repair of the System, and for marketing, disconnecting and maintaining its service to residents of the Property, including, if necessary, a key to any locked room or door that contains the System.

4. Company shall construct, install, own and maintain the System in the buildings described above, in accordance with all applicable regulations and codes. Anything to the contrary notwithstanding, all System parts from 3rd Avenue to Owner's roof and TV Terminal Room (the "External System Parts"), ^{INCLUDING ALL} ~~excluding those parts inside the units or the interior common areas of the~~ *WIRING AND EQUIPMENT INSTALLED BY COMPANY SHALL REMAIN THE PERSONAL PROPERTY OF THE COMPANY AND WILL NOT BE DEEMED A FIXTURE OF THE BUILDING.* ~~Property, shall remain the personal property of Company, and shall not be considered a fixture of the real estate or fixtures of the buildings located thereon, nor shall any part of the System be used at any time by or for the benefit of any party other than the Company. However, parts of the System installed within the interior common areas or within the units (the "Interior System Parts") shall be deemed to be a fixture, shall belong to Owner, and shall not be removed by the Company.~~ *REG*

5. Company will install at no charge at least two outlets per unit.

6. Company agrees to indemnify Owner for any damage to the Property, caused by Company, arising from or relating to the construction, installation, operation or removal of the System by company. Company agrees to maintain public liability insurance

covering its activities on the Property, in amounts of not less than \$500,000 for injury to any one person, \$500,000 aggregate for any single occurrence, and at least \$500,000 for property damage. Company shall provide Owner with a Certificate of Insurance documenting coverage and showing Owner as a Loss Payee.

7. TYPE OF ACCOUNT. (Check one and have Owner initial.)

- a. () _____ (Initials of Owner) (Individual Rate Service)

Owner agrees that Company shall have the right to market and contract with individual residents of the Property for service, who shall be charged and billed individually for connection to the System at the Company's regular and current monthly service rates and connection charges applicable to the service ordered (the "Individual Rate Account").

- b. (XX) RSJ (Initials of Owner) (Bulk Basic Service)

Owner agrees to pay for BASIC cable television services provided to all of the units of the Property by Company, and further agrees to enter into and sign Company's Bulk Rate Agreement. ~~In the event of any inconsistency between this Agreement and the Bulk Rate~~

RSJ
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~~Agreement, this Agreement shall in all respects govern and control.~~ Owner shall be responsible for and shall pay a monthly service charge for the BASIC service under the conditions, rules and terms specified in the Bulk Rate Agreement (the "Bulk Rate Account"). Owner shall not be responsible for and shall not be obligated to pay any charges or fees for PREMIUM service (e.g. Disney, HBO, Showtime, etc.).

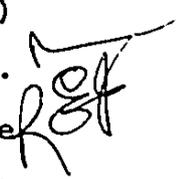
8. By execution of the Agreement, Owner hereby grants Company a Right of Entry and Exclusive Easement in, on, over, across, along and under the Property for the construction, installation, marketing, maintenance, repair, replacement and disconnection of the System and for the removal of all External System Parts. ^A ~~The~~ right of way or easement is granted to remove Interior System Parts, *THAT EQUIPMENT INSTALLED BY, AND OWNED BY COMPANY.*

9. Owner agrees that resident managers will notify the Company if and when they become aware of any damages to the Company's System, including, but not limited to lock boxes, cable, vault and converters.

10. It is understood and agreed that Company may abandon its System in place or render the System inoperable, and Company shall not be responsible for the removal thereof if in the opinion of

BR 6322 PG 2549

Owner such abandoned System will not interfere with the use and occupancy of the Property. The System will not be considered to be abandoned, and consent not to remove the System will not be considered granted, unless written notice to that effect is given by each party, respectively.

11. The term of this Agreement shall be for a period of ²~~5~~ ⁷(SEVEN) years, from the date first written above, renewable at the option of both parties for additional periods of one year if neither party gives the other written notice of termination at least sixty (60) days prior to the commencement of the respective one year period. ~~During any extension period, however, the Agreement may be terminated by either party for any reason upon at least ninety (90) days written notice.~~ 

Owner may elect at any time to convert the Bulk Basic Service to Individual Rate Service and immediately upon receipt of written notice of that election, service to the Property shall automatically revert to an Individual Rate Account, as described in Section 7.a. above, for the remainder of the term of this Agreement.

12. In the event either party fails to comply with any material provision of this Agreement (the "Default"), and the Default shall not have been cured by the Defaulting party within 45 days after receiving notice specifying such Default from the Non-defaulting party, then the Non-defaulting party may immediately or any time thereafter terminate this Agreement upon written notice

EX 6322162550

to the Defaulting party. Any violation by the parties of any material provisions hereof, or the failure to promptly perform any of the duties or obligations set forth herein, shall be cause for the termination of this Agreement and all rights hereunder.

13. This Agreement supercedes any and all other Right of Entry Agreements between the parties, either oral or in writing, and replaces all other or previous Right of Entry Agreements relating to the subject matter hereof for the Property.

14. The benefits and obligations of this Agreement shall be considered as a covenant running with the land and shall inure to the benefit of, and be binding upon, the successors, assignees, heirs, and personal representatives of the Owner and Company. Owner may not assign this Agreement without prior written notice to the Company and in no event unless the assignee agrees in writing to be bound by the terms of this Agreement.

15. If legal action is necessary to enforce any provision of this Agreement, the prevailing party in such action shall be entitled to recover its costs and expenses of such action, including reasonable attorney's fees, ~~regardless of whether a lawsuit is filed.~~

16. The undersigned Owner or authorized agent hereby represents that he/she is the Owner of the Property, or the authorized agent of the Owner, with full authority to bind the Owner to the terms and conditions of this Agreement.

17. It is understood and agreed that no agency, employment, joint venture or partnership is created between the parties by this Agreement; the Company is not an affiliate of Owner and that neither party, nor its agents or employees shall be deemed to be an agent of the other; nor shall either party have the right, power or authority to act for the other in any manner to create obligations or debts binding upon the other party.

18. It is expressly agreed that Owner is a third-party beneficiary of Company's programming agreements with program suppliers and its franchise agreement with Salt Lake City Corporation.

19. Company shall submit its proposed plans for installation of the System to Owner within seven (7) ^{WORKING} days after the execution of this Agreement. Installation shall commence on or before the 15 day of FEBRUARY, 19 90 and shall be substantially completed within _____ days after commencement. In any event, installation shall be completed on or before March 31, 1991. ~~February 28, 1991.~~ During installation of the System and during transition from the existing system to the Company's System, interference or disturbance with reception shall be held to a minimum. Television services shall not be shut down over night.

20. ~~Company shall abide by, be subject to, and bound by, the Owner's Declaration of Condominium as it affects the System. In~~

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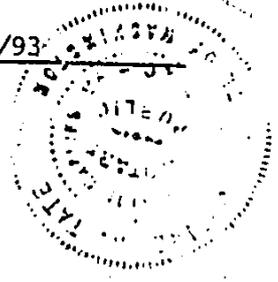
STATE OF Washington)
) SS
COUNTY OF King)

On 3-4-91, before me, a Notary Public in and for said State, personally appeared Barry Marshall known to me to be the VP/COO of the corporation that executed the within Instrument, known to me to be the person who executed the within Instrument on behalf of the corporation therein named as COMPANY and acknowledged to me that such corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Judith L. Tate
Notary Public

My Commission Expires: 8/20/93



DK6322PG2554

BULK RATE AGREEMENT

TCI CABLEVISION OF UTAH, INC.
4424 South 700 East, Suite 210
Murray, Utah 84107

Owners Name: Canyon Road Towers Home Owners Association
Address: 123 2nd Avenue
City, State, Zip: Salt Lake City, Utah
Telephone: (801) 364-0561
Billing Address: Above
City, State, Zip: Above
Contact Person: Helen Pack
Telephone: Above

This Agreement is entered into this 28 day of DECEMBER, 1990, by and between TCI CABLEVISION OF UTAH, INC. ("Company"), and CANYON ROAD TOWERS HOMEOWNERS ASSOCIATION ("Owner"). The Agreement is subject to the following conditions and in consideration of the following mutual covenants and promises the parties mutually agree as follows:

1. Company agrees to provide the same cable television signals which the Company is generally providing other subscribers within its franchise area to those buildings located at 123 2nd Avenue, Salt Lake City, Salt Lake County, State of Utah, consisting of 182 units and common areas (the "Property"). At the present time, Company is providing those programming services described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Minimum

EX 6322PS2555

Service"). While programming and other services contained on basic cable television service are subject to change, and Company may from time to time rearrange, delete from, add to or otherwise modify the programming contained on its basic cable television service, nevertheless, Company agrees to and shall continue to provide during the term of this Agreement the Minimum Service of its substantial equivalent. Company also agrees to provide consistent, quality signals and reception. Company also agrees to respond to service calls of Owner within four ²⁴ ~~(4)~~ hours to restore service and service shall be restored as soon as is reasonably possible after notice. If Cable operator fails to provide Minimum Service or its substantial equivalent, fails to provide consistent, quality signals and reception, or fails to respond to service calls in a timely manner, then Owner may elect to terminate this Agreement upon at least ninety (90) days written notice.

2. The term of this Agreement shall be for a period of ~~5~~ ⁷ (SEVEN) years, from the date first written above, renewable at the option of both parties for additional periods of one year if neither party gives the other written notice of termination at least sixty (60) days prior to the commencement of the respective one year period. During any extension period, however, the Agreement may be terminated by either party for any reason upon at least ninety (90) days written notice.

If Owner terminates the Agreement, it is agreed that the Company may enter into individual contracts with unit owners or occupants to provide its services to the residents of the buildings on an individually billed basis, provided Company does not

interfere with Owner's management of the Property or any other television service contract in effect.

3. Company shall construct, install, own and maintain the System in the buildings described above, in accordance with all applicable regulations and codes. Anything to the contrary notwithstanding, all System parts from 3rd Avenue to Owner's roof and TV Terminal Room (the "External System Parts"), ^{INCLUDING ALL} ~~excluding those~~ ^{WIRING AND EQUIPMENT INSTALLED BY COMPANY, SHALL REMAIN THE PERSONAL} ~~parts inside the units or the interior common areas of the~~ ^{PROPERTY OF THE COMPANY, AND WILL NOT BE DEEMED A FIXTURE OF} ~~Property, shall remain the personal property of Company, and shall~~ ^{THE BUILDING. AS PER ITEMIZED STATEMENT SUBMITTED BY COMPANY} ~~not be considered a fixture of the real estate or fixtures of the~~ ^{AFTER INSTALLATION.} ~~buildings located thereon, nor shall any part of the System be used~~ ~~at any time by or for the benefit of any party other than the~~ ~~Company. However, parts of the System installed within the~~ ~~interior common areas or within the units (the "Interior System~~ ~~Parts") shall be deemed to be a fixture, shall belong to the Owner,~~ ~~and shall not be removed by the Company.~~

4. Owner agrees to hold Company harmless from any damages caused by Owner or its agents, to Company's System or equipment, including but not limited to converters, and agrees to compensate Company for time and materials in making repairs or replacement of such System or equipment unless such damage was caused by the negligent installation or maintenance of such System or equipment by Company.

5. Each resident will be provided on initial installation at

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no charge for each resident. Any additional installations or other services, shall be charged to the resident at the Company's normal rates.

6. Owner agrees to purchase Company's BASIC cable television services for the residents of the Property. Upon the activation of cable television service to the buildings, the Owner shall be responsible for and shall pay a monthly service charge of 40.3% of the regular monthly subscriber fee applicable at the time of billing each month, multiplied by 182 units in the buildings. Under current rates, the discounted amount per unit is \$7.00, and the total subscriber fee due, less the discount, is \$1,274.00 per month. This initial rate is guaranteed not to increase for 12 months from the inception of the bulk rate service. Owner agrees that payment for services provided herein may be increased after said 12 month period, by the same percentage base as the monthly charge for Cable Television Service is increased by the Company to other subscribers in the local franchise community. Any charges for PREMIUM cable television service shall be changed to and collected from the individual residents and Company expressly waives any claim it may have to collect that amount from Owner and hereby releases Owner from any liability therefor.

7. Owner agrees to make scheduled payments to the Company in accordance with the service charge applicable at the time of billing. Such scheduled payments must be received by the Company within a minimum of 15 days of the actual date of invoice.

EX 6322782558

Payments received later than 15 days from the date of invoice shall be assessed a late charge of 1% of the actual billing. Company agrees to provide minimum 30 day notice to the Owner of any change in rates.

8. Owner agrees that Resident Managers will notify the Company if and when they become aware of any damages to the Company's equipment including, but not limited to, lock boxes, vaults, cables and converters.

9. It is understood and agreed that no agency, employment joint venture or partnership is created hereby or between the parties hereto; the Company is not an affiliate of Owner; and that neither party, nor its agents or employees shall be deemed to be and agent of the other; nor shall either party have the right, power or authority to act for the other in any manner to create obligations or debts which would be binding upon the other party.

10. The benefits and obligations of the Agreement shall be considered a covenant running with the land, and shall inure to and be binding upon the successors, assigns, heirs, and personal representatives of Owner and Company.

11. In the event either party fails to comply with any provision of this Agreement (the "Default"), and the Default shall not have been cured by the Defaulting Party with in 45 days after receiving notice specifying such Default from the Non-defaulting

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party, then the Non-defaulting party may immediately or any time thereafter terminate this Agreement upon written notice to the Defaulting party. Any violation by the parties of any material provisions hereof, or the failure to promptly perform any of the duties or provisions set forth herein, shall be cause for the termination of this Agreement and all rights hereunder.

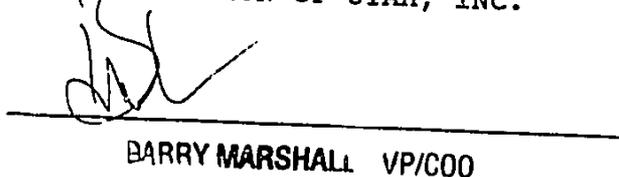
The above prices, specifications and conditions are satisfactory and are hereby accepted.

CANYON ROAD TOWERS HOME
OWNERS ASSOCIATION



President

TCI CABLEVISION OF UTAH, INC.



BARRY MARSHALL VP/COO

BK 6322Pg2560

VTDI 09-31-376-001-0000 DIST 05 TOTAL ACRES 2.18
 CANYON ROAD TOWERS CONDM PRINT U UPDATE REAL ESTATE 60000
 COMMON AREA MASTER CARD LEGAL BUILDINGS 0
 TAX CLASS MC MOTOR VEHIC 0
 123 E SECOND AVE EDIT 1 BATCH NO 0 TOTAL VALUE 0
 SLC, UT 341034797 BATCH SEQ 0
 LOC: 123 E SECOND AVE EDIT 1 BOOK 4068 PAGE 0391 DATE 00/00/00
 SUB: TYPE UNKN PLAT

PROPERTY DESCRIPTION
 BEG 33.667 FT S 89°40'14" E FR SW COR LOT 4, BLK 3, PLAT 1,
 SLC SUR, S 89°40'14" E 338.917 FT; N 0°21'06" E 166.79 FT; W
 108.583 FT; N 0°21'06" E 166.78 FT; S 89°44'14" W 123.93 FT;
 S 0°21'06" W 71.75 FT; S 89°44'14" W 115.81 FT; S 25° 18'31"
 W 57.30 FT, S 0°21'06" W 91.28 FT; S 89°57'40" E 33.667 FT;
 S 0°21'06" W 115.5 FT TO BEG. ALSO COM AT SW COR SD LOT 4, N
 0°21'06" E 115.5 FT; S 89°57'40" E 33.667 FT; S 0°21'06" W
 115.5 FT; N 89°57'40" W 33.667 FT TO BEG

BK 6322 PG 2561