

# UNOFFICIAL COPY

PROPERTY RECORDS OFFICE

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THIS AGREEMENT, is made and effective this 25 day of March, 1997, between Communications and Cable of Chicago, Inc. ("Company") and Wells Properties, ("Owner"), who owns or has control over certain real estate and improvements thereon located at 7247 N. Hamilton, Chicago, Illinois 60645 "Premises", consisting of 10 apartment of/condominium units.

The Company has been granted a franchise to construct and operate a cable television system in the area where the Premises are located. The Owner desires to provide cable television and other communication services to the Premises, and the Company is willing to install, maintain and operate its cable television system ("System") on the Premises in accordance with the terms below.

## UNDERSTANDINGS

11-30-322-003

NOW, THEREFORE, the parties intending to be legally bound, agree as follows:

1. The Company agrees to provide and install all facilities necessary to transmit cable television services to the Premises including, but not limited to, cable amplifiers, line splitting devices, cable, amplifier housing and all facilities related thereto. The Company shall pay all costs and expenses incurred by it in installing the System. All work shall be done by the Company in a proper and workmanlike manner in accordance with industry standards, and applicable laws, rules and regulations.
2. The ownership of all parts of the System, including but not limited to, wires, equipment, amplifiers and appurtenant devices are and will remain the personal property of the Company or its designees and shall in no event become a fixture. At no time during or after the term hereof will Owner or any third party have the right to use the System, or any portion thereof for any purpose.
3. The Company will indemnify and defend the Owner and hold the Owner harmless from any and all claims arising out of any omission or negligent or willful misconduct of the Company with respect to the installation, operation, maintenance, servicing or removal of equipment installed pursuant this Agreement. The Owner agrees that it will not interfere with the Company's performance under this Agreement and that it will protect the Company from any responsibility or liability arising as a result of the intentional or negligent act of any third party under Owner's control.
4. The Owner has the authority to grant and does hereby grant to the Company, its employees and agents, during the terms hereof the sole and exclusive right and license to provide cable services and to operate reception and distribution facilities on the Premises (whether by cable, satellite, microwave or otherwise) including the exclusive right to construct, install, maintain, repair, replace and remove upon discontinuance of service all necessary equipment and appurtenant devices. In response to customer interest and requests, Company shall also have the non-exclusive right to provide other communication services over its facilities. The Owner has the authority to grant and does hereby grant an easement in favor of the Company to place its lines across the Premises and operate the System, and shall cause such easement to run with the Premises binding any subsequent owner. The Owner agrees to execute the form of easement attached hereto as Exhibit A and shall remain in full force and effect so long as the easement shall be utilized for the purpose for which this easement is hereby granted.
5. The Owner will allow the Company, its employees and agents to enter all common areas of the Premises for the purpose of auditing, selling or disconnecting service, installing, maintaining, repairing, replacing or removing equipment and apparatus associated with the provision of the services hereunder and will take all reasonable steps necessary to assure the Company access to all parts of the Premises over which the Owner does not have control for the same purposes. The Owner shall supply the names and apartment numbers of residents at reasonable intervals. The Owner shall cooperate with the Company on the repossession of channel selector, converter or other equipment of the company or its agents in the possession of any unauthorized person.
6. The Company shall provide services to the Premises by way of individual rate accounts and/or a bulk rate agreement. If the service is provided on a bulk rate basis, an agreement shall be reached between the Owner and the Company pursuant to the Bulk Rate Addendum attached hereto.
7. The Company agrees to maintain public liability insurance and property damage liability insurance relating to its activities hereunder.
8. The term of this Agreement shall be for a period of 5 years, and shall automatically renew for additional one year terms, unless either party gives the other written notice of non-renewal at least 60 days prior to expiration or termination, including renewal terms thereof.
9. Owner agrees that violation of this Agreement will result in irreparable injury to Company, that Company will have no adequate remedy at law and that in the event of such a violation, Company shall have the right to injunctive relief or other appropriate equitable relief.
10. The Company and the Owner agree to abide by the Additional Terms and Conditions as set forth on subsequent pages. This Agreement constitutes the sole and entire Agreement between the parties and shall not be modified, amended, supplemented or revised, except by a writing duly executed by both parties hereto. Please read all parts of it, including what follows, carefully and initial or sign each page, as requested.

BY: [Signature]  
 DATE: 4/2/97  
 [Owner]

Communications & Cable of Chicago, Inc.  
 BY: [Signature]  
 DATE: 4/20/97  
 [Local TCI Affiliate]

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THIS CONSISTS OF THE FACE OF THE USER SERVICE AGREEMENT  
ADDENDUMS

If the Premises are to be pre-wired, please execute the Pre-Wire Installation Addendum which shall become a part of this Agreement. If the service to be provided under the Agreement is on a bulk account basis, please execute the Bulk Rate Addendum which shall become a part of the Agreement.

**ADDITIONAL TERMS AND CONDITIONS**

- a. If the service is to be provided on an individual rate basis, the Company, its employees or agents will market and contract with individual residents of the Premises for the services, and all arrangements for connecting, servicing and billing residents of the Premises for the services shall be made directly between the Company and such residents. The terms, conditions and charges for cable service provided to the Premises in such a manner shall be contained in contracts between the Company and the individual residents. During the term of this Agreement, the method of billing may be changed by the Company from a bulk rate to an individual account and vice versa or there may be a mix of services provided through such arrangements. This shall in no way affect the validity of this Agreement. Owner assumes no liability or responsibility for service charges contracted by the residents. All billing and collecting will be accomplished by the Company. The Owner agrees to reasonably assist the Company in those collection efforts.
- b. Should the Company fail to construct or continue to operate the system, it shall not be liable to the Owner or any other person having an interest in the Premises, for consequential or actual damages, and the Owner's sole remedy, or those claiming through or under the Owner, free of defaults or failures shall be to terminate this Agreement and the easement granted hereunder if such defaults and failures are not remedied, or diligently attempted to be remedied, by the Company within sixty (60) days following receipt of written notice thereof from the Owner. In the case of a bulk arrangement, the Owner shall be entitled to a pro-rated credit for the periods of time that service is not provided to the Premises.
- c. The Company shall not be liable for failure to construct or to continue to operate the System during the term hereof due to acts of God, failure of equipment or facilities not belonging to the Company, denial of access to facilities or rights-of-way if necessary to service the Premises, government order or regulation or any other circumstances beyond the reasonable ability of the Company to control.
- d. During 30 days following the Owner's execution and the Owner's receipt of this Agreement, the Company shall review the technical and economic feasibility of providing service to the Premises. If, in the Company's sole discretion, it determines it is not feasible either technically or economically to go forward with this Agreement, the Company shall have the right to terminate this Agreement by written notice within said 30-day period with no further liability hereunder.
- e. The Company reserves the right to test any equipment or facilities not provided by the Company and which are currently being used for the transmission of television signals on the Premises. Should said equipment or facilities not comply with applicable standards, including but not limited to FCC signal leakage standards, the Company will with the Owner's consent and at the Owner's expense correct any such deficiencies. Until such deficiencies are corrected, the Company shall have no obligation to install or operate the System on the Premises.
- f. Neither the Owner nor anyone operating on its behalf will tap, connect or otherwise interfere with the System for any purposes. The Company shall not interfere with the right of any individual resident to install or use his own private reception device located in a resident's unit for the reception of locally broadcast television signals, provided however that should any device or facility belonging to the Owner or a resident not comply with the technical specifications established by the FCC including but not limited to signal leakage, the Company reserves the right to discontinue service to the Premises until such non-conformance is cured by the Owner or resident as the case may be.
- g. The Owner acknowledges and agrees that the Company has a right at any time to pre-empt, without prior notice, specific programs and to determine what substitute program, if any, shall be made available. Company may in its discretion make additions, deletions or modifications to its current program line-up without liability to the Owner or anyone claiming through the Owner. The Company shall not be liable for failure to deliver any programming which is caused by the failure of the programmer to deliver or make such programming available to the Company or for any other reason beyond the reasonable control of the Company.
- h. This Agreement does not create any agency, employment, joint merger, joint venture or partnership between the Company or the Owner. Neither party shall have the right, power or authority to act for the other.
- i. The Company may record this Agreement or a memorandum hereof in the public records of the county or other proper locations, if it so desires.
- j. The Owner must provide written notice to the Company for any alleged breaches of the Agreement and allow the Company a sixty (60) day period to remedy the alleged breach before Owner may terminate the Agreement.
- k. If either party brings legal action for enforcement of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs, including if applicable, payment for in-house counsel's time, fees and expenses. The failure on the part of either party to enforce any rate hereunder shall be considered a waiver or estoppel of such right.
- l. The Agreement may be freely assigned by either party provided that the assignee agrees to be bound by the terms and conditions hereof. Should Owner sell or transfer ownership of the Premises, Owner must assign or transfer all rights and obligations hereunder to the new owner.

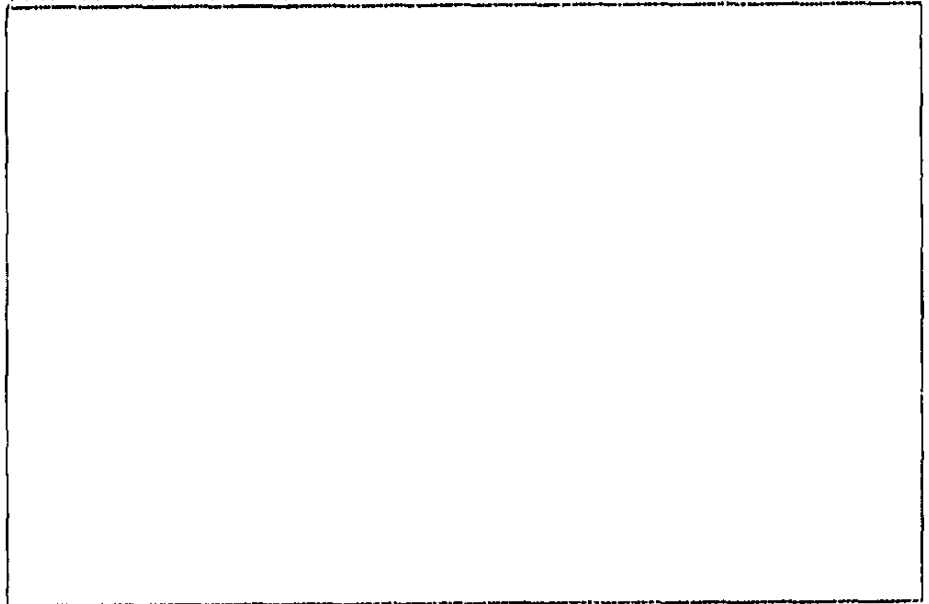
Initialed by the Owner   *R*  

Initialed by the Company   *SAW*

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EXHIBIT A  
GRANT OF EASEMENT



THIS GRANT OF EASEMENT AGREEMENT is made and is effective this 25 day of March, 1997, between Communitons and Cable of Chicago, Inc. ("Company"), and Weiss Properties ("Owner"), who owns or has the right to control certain real estate and improvements located at the street address of 7247 N. Hamilton, Chicago, Illinois 60645 ("Premises"), with a legal description of:

Conyleny Ridge Unit in Rogers Park, IL  
Subj. to the 3050 C.S. Ord. No. 300  
Town of Chicago, Sec. 11-14

For ten dollars and other good and valuable consideration, Owner grants to Company a non-exclusive easement and free access of ingress and egress over, in, on, across, and under the Premises for use and benefit of the Company and its designees, agents, successors and assigns for the purpose of:

Construction, installation, operation, maintenance, location, replacement, repair or removal and reasonably associated activity of all equipment, facilities or apparatus necessary to provide multi-channel programming and any other services the Company may lawfully provide to the Premises (which grant of easement shall be for the additional benefit of any utilities necessary to provide such services, such as power.)

The Company agrees to undertake such activity in an orderly manner with as little inconvenience as possible and to substantially restore areas disturbed during such activity to their original condition. The Company agrees to indemnify the Owner against any losses and damages arising from the use of the Easement by Company, including mechanics' liens arising by reason of the Company's activities.

The benefits and burdens of this GRANT OF EASEMENT will run with the land and will bind and benefit the Owner and the Company and their respective successors and assigns.

The rule of strict construction shall not apply to this GRANT OF EASEMENT. It will be given a reasonable construction so that the intention of the parties to convey a commercially useable right of enjoyment is carried out.

Initialed by the Owner [Signature]

Initialed by the Company SAW

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IN WITNESS WHEREOF, the parties hereto have executed this GRANT OF EASEMENT on the date first written above.

BY: \_\_\_\_\_  
[Owner]

BY: Schulte  
[Local TCI Affiliate]

STATE OF ILLINOIS )  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 2 day of April, 1997 by  
Wesley P. Pappas and Resalle Stephens

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires \_\_\_\_\_  
"OFFICIAL SEAL"  
Leo Patrick Falcomi  
Notary Public, State of Illinois  
My Commission Expires 04/03/00

Leo Patrick Falcomi  
Notary Public  
COMMUNICATION EXCHANGE  
3922 N. ALBANY AV.  
CHICAGO, IL 60618  
Address

STATE OF Illini )  
COUNTY OF Cook )

The foregoing instrument was acknowledged before me this 9 day of April, 1997 by \_\_\_\_\_

WITNESS MY HAND AND OFFICIAL SEAL.

My Commission expires 10/6/00

OFFICIAL SEAL  
RALPH H MERKEL  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES: 10/07/00

John H. Miller  
Notary Public  
4750 W. Cote St.  
Blue Mt. 221 00025  
Address

\*\*\*THIS PAGE WILL PRINTED ON THE BACK OF THE GRANT OF EASEMENT\*\*\*