

2013-006011

Klamath County, Oregon



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05/29/2013 11:05:59 AM

Fee: \$57.00

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Charter Communications  
7337 Central Avenue  
Riverside, CA 92504  
Attn: Lois Escott

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Above for recorders use only

TITLE

NONEXCLUSIVE INSTALLATION AND SERVICE AGREEMENT

CONSIDERATION AND VALUE IS LESS THAN \$100.00

DOCUMENT TRANSFER TAX = \$0

GRANTEE: FALCON CABLE SYSTEMS COMPANYII, LP  
C/O CHARTER COMMUNICATIONS  
7337 CENTRAL AVENUE  
RIVERSIDE, CA 92504

GRANTOR: FIRST KLAMATH, LLC

ABBREVIATED LEGAL DESCRIPTION: APN: TAX ACCOUNT NUMBER 3909-003BB-  
00300-000, KEY NO: 526336

A PORTION OF TRACT 36 AND 43 ENTERPRISE TRACTS, ACCORDING TO THE  
OFFICIAL PLAT THEROF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF  
KLAMATH COUNTY, OREGON

LEGAL DESCRIPTION ON PAGE 4

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WHEN RECORDED MAIL TO:

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Attn.: LOIS ESCOTT

Address: 7337 CENTRAL AVE.  
RIVERSIDE, CA 92504

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**NONEXCLUSIVE INSTALLATION AND SERVICE AGREEMENT**

This Installation and Service Agreement ("Agreement") between Falcon Cable Systems Company II, L.P. ("Operator") and First Klamath L.L.C. ("Owner") is dated this 1<sup>st</sup> day of September, 2011 ("Effective Date"). Capitalized terms used in this Agreement shall have the same meaning as specified in the "Basic Information" section below.

BASIC INFORMATION	
<b>Premises (or Property) (further described in Exhibit A):</b>	
Premises Name: High Lakes Apartments	Number of Units: 100
Street Address: 2660 Shasta Way	
City/State/Zip: Klamath Falls, OR 97603	
<b>Agreement Term:</b> The period starting on the Start Date and ending on the Expiration Date. The Agreement Term shall automatically be renewed for additional successive terms of sixty (60) days unless either party provides written notice of termination not less than 2 months prior to the end of the Agreement Term then in effect.	
<b>Start Date:</b> September 1, 2011	<b>Expiration Date:</b> August 31, 2021
<b>Services:</b> Services shall mean all lawful communications services (including video/cable services) that Operator may provide.	
<b>Equipment:</b> All above-ground and underground coaxial cables, fiber, internal wiring, conduit, electronics and/or any other equipment or facilities necessary for, installed by, and/or used by Operator (or its predecessor(s)-in-interest) to provide the Services. The Equipment extends from the external boundary lines of the Premises up to and including the outlets in each unit.	

**1. Grant.** In consideration of the mutual promises and other consideration set forth herein, the sufficiency of which is hereby acknowledged, Owner grants Operator the right (including ingress and egress) to install, operate, improve, remove, repair and/or maintain its Equipment within the Premises. Upon termination of this Agreement, Operator shall have the right to remove its Equipment, as applicable, provided that any Equipment that Operator does not remove within 90 days of such termination, shall be deemed abandoned and become the property of the Owner. This Agreement may be recorded. This rights granted hereunder shall run with the land and shall bind and inure to the benefit of the parties and their respective successors and assigns.

**2. Services; Equipment.** Operator shall have the (i) nonexclusive right to offer and (ii) exclusive right to market the Services to residents of the Premises. Operator will install, maintain, and/or operate the Equipment in accordance with applicable law. The Equipment shall always be owned by and constitute the personal property of the Operator, except that from the Effective Date, the internal wiring located within any building, which includes "cable home wiring" and "home run wiring"<sup>1</sup> (the "Internal Wiring") and, without limitation, excludes set-top boxes, electronics, active components, and exterior Equipment, shall be deemed to be owned by and constitute the

<sup>1</sup> The terms "cable home wiring" and "home run wiring" are defined at 47 CFR §§ 76.5(l) and 76.800(d).

personal property of the Owner. Owner hereby grants to Operator the exclusive right to use the Internal Wiring during the Agreement Term and (i) shall not grant any other provider rights to use the Internal Wiring and (ii) shall prohibit other providers from using the same.

Without limiting Operator's exclusive rights to use Internal Wiring and its Equipment, should either (A) an antenna, or signal amplification system or (B) any Owner modification, relocation of, and/or work on the Internal Wiring interfere with the provision of Operator's Services, Owner shall eliminate such interference immediately. In the event (i) installation, repair, maintenance, or proper operation of the Equipment, and/or unhindered provision of the Services is not possible at any time as a result of interference, obstruction, or other condition not caused by Operator, or (ii) such interference, obstruction, or other condition (or the cause thereof) will have negative consequences to Operator's personnel safety or the Equipment, as Operator may determine in its sole discretion, Operator may terminate this Agreement without liability upon written notice to Owner.

3. Owner represents and warrants that it is the legal owner of and the holder of fee title to the Premises; that it has the authority to execute this Agreement. The person signing this Agreement represents and warrants that he/she is Owner's authorized agent with full authority to bind Owner hereto. If any one or more of the provisions of this Agreement are found to be invalid or unenforceable, such invalid provision shall be severed from this Agreement, and the remaining provisions of this Agreement will remain in effect without further impairment.

4. In the event of a default by a party hereunder in addition to rights available at law or in equity, the non-defaulting party may (i) terminate the Agreement after 30 days prior written notice, unless the other party cures or commences to cure such breach during such 30-day period and diligently proceeds with such cure (exercising commercially reasonable efforts). Neither party shall be liable to the other party for any delay or its failure to perform any obligation under this Agreement if such delay or failure is caused by the occurrence of any event beyond such party's reasonable control.

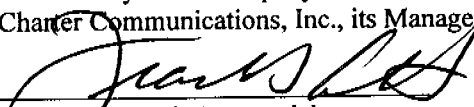
5. Each party shall indemnify, defend and hold harmless the other against all liability, claims, losses, damages and expenses (collectively, "Liability"), but only to the extent that such Liability arises from any negligent or willful misconduct, breach of this Agreement, or violation of a third party's rights or applicable law on the part of the party from whom indemnity is sought. Each party seeking such indemnification shall use reasonable efforts to promptly notify the other of any situation giving rise to an indemnification obligation hereunder, and neither party shall enter into a settlement that imposes liability on the other without the other party's consent, which shall not be unreasonably withheld.

6. Notwithstanding anything to the contrary stated hereunder, Operator will not be liable for any indirect, special, incidental, punitive or consequential damages, including, but not limited to, damages based on loss of service, revenues, profits or business opportunities.

IN WITNESS WHEREOF, the parties have set their hands on the date indicated in their respective acknowledgments.

**OPERATOR**

Falcon Cable Systems Company II, L.P.

By:  Charter Communications, Inc., its Manager

By: \_\_\_\_\_

Printed Name: Frank Antonovich

Title: Vice President/General Manager

Date: 10/19/11

**OWNER**

First Klamath L.L.C.

By:  Southstar P.M., Inc., its Managing Agent

By: \_\_\_\_\_

Printed Name: Andrew South

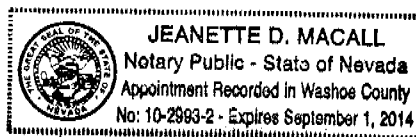
Title: President

Date: 8/30/11

STATE OF Nevada  
COUNTY OF Washoe

On 10/19/11 before me, Frank Antonovich, personally appeared personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

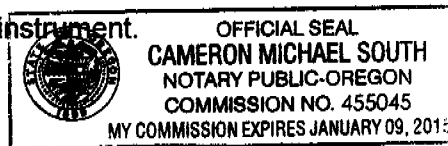


Signature [Signature] Expiration Date 9/1/14

STATE OF Oregon  
COUNTY OF Multnomah

On August 30, 2011 before me, Andrew South, personally appeared personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature [Signature] Expiration Date 01/09/15

**EXHIBIT "A"**

[Owner to insert legal description of Premises.]

A portion of Tract 36 and 43 ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:

Beginning on the Southerly line of Shasta Way, South 0° 00 1/2' East 73 feet and North 89° 54' East 280 feet form the section corner common to Sections 33 and 34, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and Sections 3 and 4, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; thence South 0° 00 1/2' East parallel with the West line of said Tract 43 along the East line of the tracts of land described in 2 deeds recorded in Deed Volume 225 at page 261 and Deed Volume 255 at page 613, 659.44 feet to the Northeast line of Pershing Way; thence South 55° 50 1/2' East 277.99 feet along said Northeasterly line of Pershing Way; thence North 0° 00 1/2' West 820 feet more or less to the Southerly line of Shasta Way; thence South 89° 54' West 230 feet to the point of beginning.

Tax Account No: 3909-003BB-00300-000

Key No: 526336