

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Charter Communications

Attn: Angela Boyd

Address:

2100 Columbiana Rd  
Vestavia Hills AL 35216



20131016000411610 1/6 \$29.00  
Shelby Cnty Judge of Probate, AL  
10/16/2013 10:37:01 AM FILED/CERT

The value of the Service Agreement is \$500.00 Above for recorders use only

### **NONEXCLUSIVE INSTALLATION AND SERVICE AGREEMENT**

This Nonexclusive Installation and Service Agreement ("Agreement") between *Marcus Cable of Alabama, LLC* ("Operator") and *The Lofts at Edenton Condominium Association, Inc.* ("Association") is this 5th day of September, 2013 ("Effective Date"). Capitalized terms used in this Agreement shall have the same meaning as specified in the "Basic Information" section below.

<b>BASIC INFORMATION</b>	
<b>Premises (or Property) (further described in Exhibit A):</b>	
Premises Name:	Lofts at Edenton
Street Address:	100 Barristers Court
City/State/Zip:	Birmingham, AL 35242
Number of units:	100
<b>Notices:</b>	
Association Name:	The Lofts at Edenton Condominium Association, Inc.
Address:	c/o McKay Management 5 Riverchase Ridge, Suite# 200 Birmingham, AL 35214
Phone:	[REDACTED]
Fax:	[REDACTED]
Email:	jhilyer@mckaymanagement.com
<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 2 year(s)	

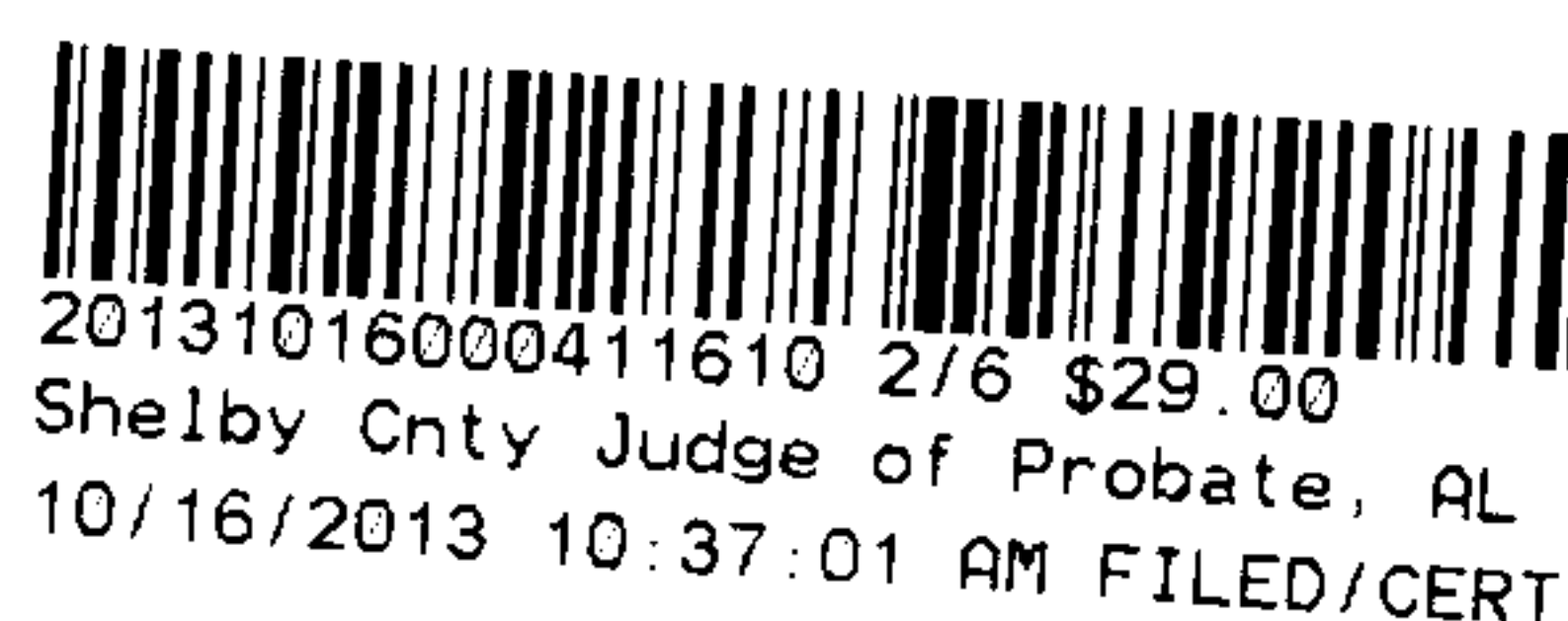
unless either party provides written notice of termination not less than 6 months prior to the end of the Agreement Term then in effect.	
<b>Start Date:</b> <u>September 5, 2013</u>	<b>Expiration Date:</b> <u>September 4, 2020</u>
<b>Services:</b> Services shall mean all lawful communications services (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.	

**1. Grant.** In consideration of the mutual promises and other consideration set forth herein, the sufficiency of which is hereby acknowledged, Association grants Operator the right (including ingress and egress) to install, operate, improve, remove, repair and/or maintain its Equipment (excluding the internal wiring) 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 Association. 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 (excluding the internal wiring) in accordance with applicable law. The Equipment (excluding the internal wiring) shall always be owned by and constitute the personal property of the Operator, and Association acknowledges Operator's exclusive right to control and use its Equipment (excluding the internal wiring).

Without limiting Operator's exclusive rights to use its Equipment, should an antenna, signal amplification system or any other non-Operator facilities located either on the Premises or any property controlled by Association in proximity to the Premises interfere with the provision of Operator's Services, Association shall eliminate such interference within a reasonable timeframe as permitted by Federal law. 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 Association.

**3.** Association represents and warrants that it is the legal Association 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 Association's authorized agent with full





authority to bind Association 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 and Association 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.

7. Owner agrees during the term of the Agreement not to provide "bulk services" defined as services where an owner / association enters into another agreement with a cable provider or Telephone provider where the owner / association of the property provides TV, Internet, or Phone services to each and every unit in the complex and the owner / association pays for these services under a single invoice and includes these services in the rent on Premises from another provider. A violation of the Section 7 is an automatic default of the Agreement

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

**OPERATOR:**

**Marcus Cable of Alabama, LLC:**

By: Charter Communications, Inc., its Manager

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

(Signature)

Printed Name: R. Adam Ray

Title: Vice President, Direct Sales

Date: \_\_\_\_\_

9-30-13

**ASSOCIATION:**

**The Lofts at Edenton Condominium Association, Inc.**

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

(Signature)

Printed Name: \_\_\_\_\_

Nicole Fredhomme

Title: \_\_\_\_\_

Association Manager

Date: \_\_\_\_\_

09/05/13

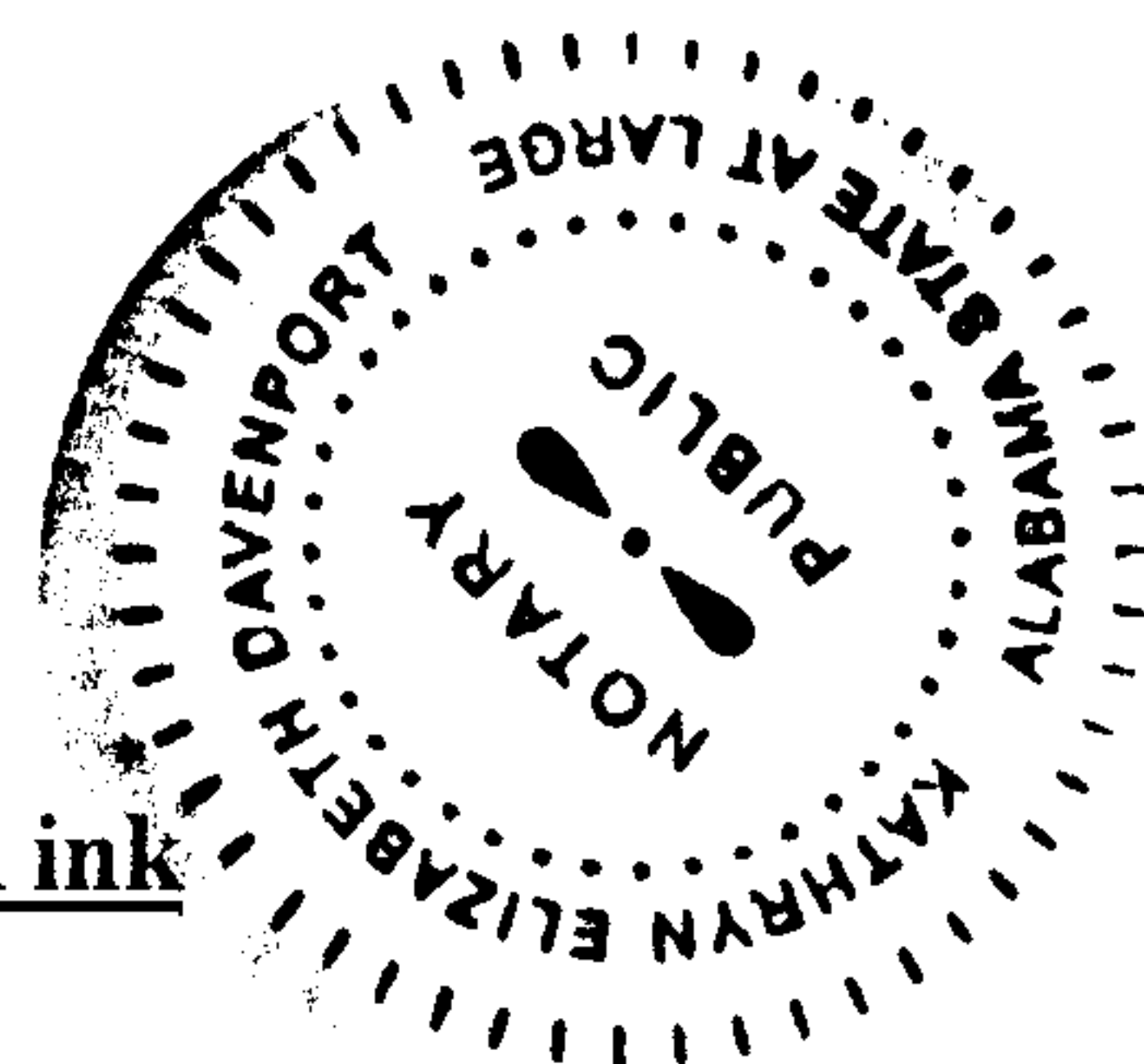
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STATE OF Alabama )

COUNTY OF Shelby )

Use black ink



On 09/05/13 before me, Nicole Predhomme, personally appeared as manager, 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.

KATHRYN ELIZABETH DAVENPORT  
Notary Public, State of Alabama  
County of Shelby  
My Commission Expires December 07, 2014

Signature: Kathryn Davenport My Commission Expires: December 07, 2014

Printed: Kathryn Davenport

STATE OF Connecticut )

COUNTY OF Fairfield )

Use black ink

On 9-30-13 before me, Margaret B Cabral, personally appeared R. Adam Ray, 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: Margaret B Cabral My Commission Expires: 4-30-18

Printed: Margaret B Cabral

MARGARET B. CABRAL  
NOTARY PUBLIC OF CONNECTICUT  
I.D. # 163943  
My Commission Expires 4/30/2018

**EXHIBIT "A"**

Located in the City of Birmingham, County of Shelby, State of Alabama land located in the Lofts of Edenton subdivision lots 1 through 100 and being represented by the APN number 03-09-31-0-001-039-000 and a legal description of COM NW COR SEC 31 S ALG SEC LN 685(S) E132.5 TO POB N35(S) E270(S) S220(S) W130(S) S140(S) W125(S) N327.62 TO POB.



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