

BK 0399 PG 0085

TIME WARNER COMMUNICATIONS SYSTEM EASEMENT AND ACCESS AGREEMENT

Prepared By: Time Warner Communications - Mid-South Division
6555 Quince Road - Suite 400
Memphis, Tennessee 38119
(901) 365-1770

This Agreement is entered into as of **August 1, 2001** between Time Warner Communications - Mid-South Division, a Division of Time Warner Cable, A Division of Time Warner Entertainment Company, L.P., ("TWC"), and **Mississippi Extended Care Centers, Inc., a Mississippi Corporation**, ("OWNER").

RECITALS

- A. TWC operates a Communications System in the city of Horn Lake and DeSoto County to the highest community standards pursuant to a legal franchise (the "FRANCHISE").
- B. OWNER owns a multiple dwelling unit (PREMISES) and desires to receive cable television services for the PREMISES subject to the terms and conditions contained in this Agreement.

Now therefore, in consideration of the mutual promises and conditions hereinafter set forth, TWC and OWNER agree as follows:

1. **Premises.** OWNER hereby represents and warrants it owns ~~an apartment complex~~ ^{Nursing Facility} known as **Landmark of Desoto** located at **3068 Nail Road W., Horn Lake, Mississippi, 38637, indexed at Southeast Quarter of the Southeast Quarter of Section 33, Township 1 South, Range 8 West, DeSoto County, Mississippi** and more particularly described in Exhibit A, attached. This being the same property conveyed to the OWNER by **Correction Warranty Deed** recorded in the Register's Office of **DeSoto County, Mississippi**, as Instrument Number **Book 0380 Page 0484**. This complex consists of **60 units** plus any units added in the future (the "PREMISES").
2. **System.** TWC will design, install, upgrade and maintain equipment (the "EQUIPMENT"), reasonably required to provide a communications system (the "SYSTEM") to the PREMISES. The EQUIPMENT shall at all times remain the property of TWC, - no party, firm, company, or corporation, including the OWNER shall in any way attach to or use in part or in full, in any manner, any reception device, wiring, or any other communication equipment owned by TWC. Service and maintenance of the EQUIPMENT will be provided by TWC in accordance with the provisions of the FRANCHISE. Arrangements for hooking up and servicing residents of the PREMISES will be made directly between TWC and such residents at standard rates.
3. **Easement; Access.** OWNER hereby grants to TWC an unrestricted easement in gross covering routing necessary for installation of the EQUIPMENT hereunder. In connection with the initial wiring, OWNER, or a designated representative will accompany TWC employees in to any unoccupied residential unit. After initial wiring, OWNER shall provide reasonable access to the PREMISES so that TWC may install EQUIPMENT, market services, or maintain or remove the EQUIPMENT at such times as TWC shall determine.
4. **Damage to PREMISES or EQUIPMENT.** Any damages to the PREMISES caused by TWC, its agents or employees, will be repaired by TWC. Any damages to the EQUIPMENT caused by OWNER, its agents or employees will be repaired by TWC at OWNER's expense. TWC shall hold harmless and indemnify OWNER from and against any and all damages or claims brought by third parties resulting from TWC'S construction and maintenance of the EQUIPMENT, except loss or damage arising from any negligent act or omission of OWNER, its agents, their employees, or tenants found to willfully damage EQUIPMENT and/or are found to be guilty of "Theft of Service" as defined by local and state ordinances.
5. **Renovation to PREMISES.** Any renovations to the PREMISES, within ten (10) years of any major SYSTEM construction, requiring the removal, attachment, and/or reattachment of the EQUIPMENT, said removal, attachment, and/or reattachment to be performed by TWC, shall be done at the OWNER'S expense. SYSTEM renovation expenses incurred because of the removal, attachment and/or reattachment of the EQUIPMENT by TWC, as a result of any renovations to the PREMISES, after ten (10) years of any substantial SYSTEM construction will be shared by OWNER and TWC, TWC accepting 10% of the costs of the renovation expenses described above for all or any portion of the 11th year and an additional 10% for all or any portion of any year after the 11th year. For the purpose of this section, "year" shall mean the 365 day period beginning on the date of TWC'S activation of the SYSTEM to the PREMISES.
6. **Term; Successor.** This Agreement shall continue for an initial fifteen (15) year term and shall automatically renew for an additional fifteen (15) year term unless either party terminates this Agreement not less than 30 days prior to the renewal date or TWC shall earlier determine that it is technically or economically impractical to provide service hereunder. If OWNER sells, transfers, or encumbers the PREMISES, OWNER agrees that the continuation of this Agreement and the assumption of the Agreement by the new OWNER or OWNER of the encumbrance shall be a condition of the sale, transfer or encumbrance. OWNER agrees to be responsible for causing the written assumption and continuation of this Agreement by the new OWNER or OWNER of encumbrance. This Agreement may be recorded in the real property records of DeSoto County, Mississippi.
7. **Assignment by TWC.** TWC may assign its interests or duties under this Agreement to any parent, affiliate (an entity in which Time Warner, Inc. or Time Warner Entertainment Company, L.P. has an ownership interest of 25% or more), successor, or subsidiary that TWC may have. TWC may also assign this Agreement to any entity that purchases its cable television system in the Area. Upon the new Operator's written assumption of all of TWC'S obligations

and duties under this Agreement, TWC will be relieved of any further liability or obligations to OWNER attributable to periods from and after the effective date of such assumption.

8. **Removal of Equipment.** Upon any termination the OWNER shall have the option to purchase the installed SYSTEM owned by TWC and shall pay to TWC the current value of such SYSTEM at the time of purchase. If the OWNER does elect not to purchase upon termination, then TWC shall have the right to remove all of its EQUIPMENT from the PREMISES, or at its option to deactivate all such EQUIPMENT in any manner it sees fit. OWNER shall grant TWC reasonable access for removal. Such removal shall be done so as not to damage or deface the OWNER'S PREMISES. All damages caused by TWC, its agents or employees, during such removal of EQUIPMENT will be repaired by TWC.

9. **Indemnification.** OWNER agrees to indemnify and hold TWC harmless from and against any and all loss, cost, damage or expense including, but not limited to, attorney's fees and costs incurred by TWC arising out of any breach of this Agreement by OWNER. OWNER further agrees to indemnify TWC for attorney's fees and other reasonable expenses incurred by TWC to enforce the provisions of this Agreement, including, but not limited to, attorney's fees and reasonable expenses incurred by TWC in filing suit to enforce the provisions of this Agreement.

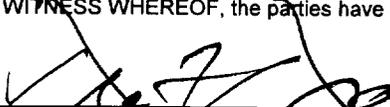
TWC agrees to indemnify and hold OWNER harmless from and against any and all loss, cost, damage or expense including, but not limited to, attorney's fees and costs incurred by OWNER arising out of any breach of this Agreement by TWC. TWC further agrees to indemnify OWNER for attorney's fees and other reasonable expenses incurred by OWNER to enforce the provisions of this Agreement, including, but not limited to, attorney's fees and reasonable expenses incurred by OWNER in filing suit to enforce the provisions of this Agreement. The indemnification by TWC for attorney's fees as described in Section 9 of this Agreement, is subject to the limitations placed on OWNER as stated in Section 6 of this Agreement.

10. **Confidential Information; Announcements.** Except as specifically provided in this Agreement, Owner and Operator will (A) keep this Agreement and its terms confidential, (B) keep confidential any information that is provided by one party to the other and that is marked as confidential, (C) not use any such confidential information for any purpose other than performance of this Agreement, and (D) not make any public announcement or press release about this Agreement without the other's prior approval.

11. **Miscellaneous.**

- (a) **Paragraph Headings.** Paragraph headings are for ease of reference only and are not to be utilized to expand, limit or otherwise modify the terms of this Agreement.
- (b) **Legal Status.** It is understood and agreed that the business operated by OWNER is separate and apart from any which may be operated by TWC and no representation will be made by either party which would create an apparent agency, independent contractor or partnership relationship or suggest or imply a joint venture.
- (c) **Entire Agreement.** This document constitutes the entire Agreement between the parties and supersedes all prior agreements and understandings concerning the subject matter hereof. Except as provided for herein, this Agreement may not be altered except by an instrument in writing signed by all parties hereto.
- (d) **Force Majeure.** TWC's performance hereunder shall be excused by the occurrence of any Act of God, natural disaster, act of war, civil disturbance or other cause or occurrence beyond TWC's reasonable ability to control.
- (e) **Reservation of Rights.** All rights not specifically granted to OWNER under this Agreement are reserved to TWC for its sole and exclusive use, and are exercisable by TWC in its sole discretion.
- (f) **Governing Law.** This Agreement is deemed to be executed in the city of Horn Lake and County of Shelby and is governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Mississippi.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.



 Dean A. Deyo
 Division President
 Time Warner Communications - Mid-South Division
 A Division of Time Warner Cable
 A Division of Time Warner Entertainment Company, L.P.

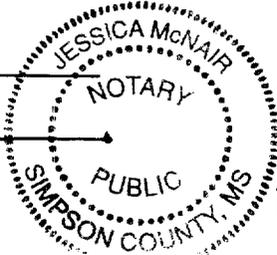
MISS EXTENDED CARE CENTERS INC
 By BOBBY L BEEBE JR

 Print Name of Owner

 By (Signature of Owner)

Date 9-1-01

 Notary Public



 Title

 Date 8/3/2001

**TIME WARNER COMMUNICATIONS SYSTEM EASEMENT AND ACCESS AGREEMENT
EXHIBIT A**1. **PROPERTY DESCRIPTION AND TITLE EXCEPTIONS**

- name of property: **Landmark of Desoto**
- address (including city, county and state): **3068 Nail Road W.
Horn Lake, DeSoto County, Mississippi**
- number of buildings: **1**
- number of units: **60**
- legal description: **ATTACHED**
- Being part of the same property conveyed to **Mississippi Extended Care Centers, Inc., a Mississippi Corporation**, by deed from **Donald E. Sellers**, of record in Instrument Number **Book 0380 Page 0484**, Register's Office for **DeSoto County, Mississippi**.

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CORRECTION WARRANTY DEED

THIS WARRANTY DEED made and entered into this day by and between Donald E. Sellers, Grantor, and Mississippi Extended Care Centers, Inc., A Mississippi Corporation, Grantee,

WITNESSETH:

THAT FOR AND IN CONSIDERATION of the sum of Ten and no/100 Dollars (\$10.00), cash in hand paid by the Grantee to the Grantor, and other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and warrant, except as hereinafter set forth, unto the Grantee, the following described property, together with the improvements, hereditaments and appurtenances thereunto belonging, located in the County of DeSoto, State of Mississippi, and more particularly described as follows, to-wit:

See Legal Description - Exhibit "A" attached hereto and made a part hereof by reference as if copied herein verbatim.

TO HAVE AND TO HOLD unto the Grantee, its heirs and assigns, in fee simple forever, and free from all liens and encumbrances except for the following exceptions:

- 1) Taxes and assessments for the current year and subsequent years, which are not yet due and payable.
- 2) Zoning and/or other land use regulations promulgated by federal, state or local governments affecting the use or occupancy of the subject property.
- 3) Any and all matters which would be disclosed by an accurate survey of current date and/or an actual inspection of said property.

c:\property\wd

STATE MS. - DESOTO CO.
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Handwritten initials: SC, M

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W.E. [unclear] [unclear]

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The purpose for the execution of this Instrument is to correct the Legal Name of the Grantee as reflected in Warranty Deed of record in Deed Book 371, Page 307. Bobby L. Beebie, Jr., for and on behalf of Mississippi Extended Care Centers, Inc., and as its act and deed, joins in this conveyance solely for the purpose of acknowledging the aforementioned correction.

IN TESTIMONY WHEREOF, witness our signatures which may be executed in Counterpart on this the 29th day of September, 2000.

Donald E. Sellers
Donald E. Sellers

STATE OF MISSISSIPPI
COUNTY OF DESOTO

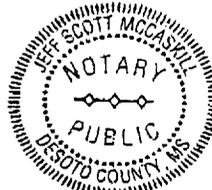
THIS DAY personally appeared before me, the undersigned authority within and for the State and County aforesaid, Donald E. Sellers, who acknowledged that he/she signed, executed and delivered the above and foregoing Warranty Deed on the day and year therein mentioned.

GIVEN under my hand and official seal on this the 29th day of September, 2000.

Jeffrey A. McCaskill
NOTARY PUBLIC

(SEAL)

My Commission Expires: 8/22/2001



MY COMMISSION EXPIRES:
AUGUST 22, 2001

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Mississippi Extended Care Centers, Inc.

By: Bobby L. Beebie, Jr.
Bobby L. Beebie, Jr.
Special Representative
Title

STATE OF Mississippi
COUNTY OF Nelson

PERSONALLY appeared before me, the undersigned authority of law in and for this jurisdiction, the within named BOBBY L. BEEBIE, JR., who acknowledged to me that he/she is the ~~Special Representative~~ of the corporation known as Mississippi Extended Care Centers, Inc., and that for and on behalf of said corporation and as its act and deed he/she signed and delivered the forgoing instrument of writing on the day and year therein mentioncd, he/she having been first duly authorized to do so.

GIVEN under my hand and official seal on this the 29th day of September, 2000.



Jessica M. Mc...
NOTARY PUBLIC

ADDRESS OF GRANTOR:
7168 Sunflower Cove
Southaven, MS 38671
Home: 662-349-0364
Work: N/A

ADDRESS OF GRANTEE:
763 Avery Blvd. North - P.O. Box 6015
Ridgeland, MS 39158-6015
Home: N/A
Work: 601-956-8884

PREPARED BY AND RETURN TO:
HOLCOMB DUNBAR, P.A.
P. O. BOX 190
SOUTHAVEN, MS 38671-0190
(601) 349-0664

FILE# 900061/JSM

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INDEXING INSTRUCTIONS: Southeast Quarter of the Southeast Quarter of Section 33, Township 1 South, Range 8 West, DeSoto County, Mississippi

BK0399PG0091

BOUNDARY SURVEY OF 7.44, MORE OR LESS, ACRES OF LAND BEING LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 8 WEST, HORN LAKE, DESOTO COUNTY, MISSISSIPPI;

BEGIN AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 8 WEST, HORN LAKE, DESOTO COUNTY, MISSISSIPPI; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 190.10 FEET TO A POINT; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 39.22 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 51 MINUTES 30 SECONDS WEST 485.24 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF NAIL ROAD TO A IRON PIN; THENCE NORTH 00 DEGREES 08 MINUTES 30 SECONDS WEST 49.37 FEET TO AN IRON PIN; THENCE NORTH 25 DEGREES 16 MINUTES 00 SECONDS EAST 947.30 FEET ALONG A FIFTY FOOT DRAINAGE EASEMENT TO A IRON PIN; THENCE NORTH 67 DEGREES 41 MINUTES 49 SECONDS EAST 80.82 FEET TO A IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2251.83 FEET, A DELTA ANGLE OF 17 DEGREES 08 MINUTE 32 SECONDS AND A CHORD BEARING OF SOUTH 12 DEGREES 53 MINUTES 25 SECONDS EAST AND A CHORD DISTANCE OF 671.22 FEET SOUTH ALONG THE WESTERLY RIGHT-OF-WAY LINE OF TULANE ROAD (80'R.O.W.) TO A IRON PIN; THENCE SOUTH 85 DEGREES 40 MINUTES 51 SECONDS WEST 150.00 FEET TO A IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 04 DEGREES 10 MINUTES 39 SECONDS AND A RADIUS OF 2101.83 FEET AND A CHORD BEARING OF SOUTH 02 DEGREES 13 MINUTES 50 SECONDS EAST AND CHORD DISTANCE OF 153.22 FEET TO A IRON PIN; THENCE SOUTH 00 DEGREES 08 MINUTES 30 SECINDS EAST 116.75 FEET TO THE POINT OF BEGINNING



CERTIFICATION

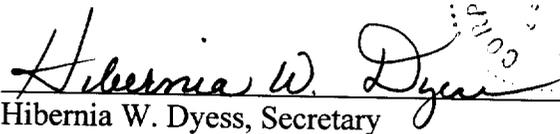
I, Hibernia W. Dyess, do hereby certify that I am Secretary of **MISSISSIPPI EXTENDED CARE CENTERS, INC.** a corporation organized and existing under the laws of the State of Mississippi, and that the following is a true and correct copy of resolutions unanimously adopted at a meeting of the Board of Directors, duly convened and held in accordance with the bylaws on July 31, 2001, at which meeting a quorum of said Board was present and voted, and that the Resolutions have not been amended, revoked, or rescinded and are in full force and effect, to wit:

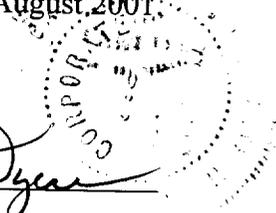
RESOLVED, that this Corporation enter into a Time Warner Communications System Easement and Access Agreement to allow Time Warner easement access in order to install necessary wiring and provide cable service for Landmark of DeSoto.

RESOLVED FURTHER, that Bobby L. Beebe, Jr., be hereby appointed a Special Representative of Mississippi Extended Care Centers, Inc., and be hereby authorized and empowered, for and on behalf of said Corporation, to negotiate and execute all documents, and generally do and perform any and all acts necessary or required in the exercise of any part of the foregoing authority.

RESOLVED FURTHER, that the Secretary of this Corporation is hereby authorized and directed to certify these resolutions to whom it may concern.

IN WITNESS WHEREOF, I have hereunto set my hand and seal as Secretary of **MISSISSIPPI EXTENDED CARE CENTERS, INC.**, on this 3rd day of August, 2001.


Hibernia W. Dyess, Secretary



STATE MS.-DESOTO CO.
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W.F. ...

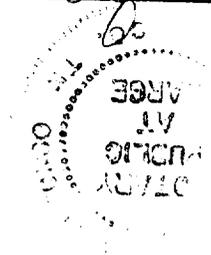
STATE OF TENNESSEE

COUNTY OF SHELBY

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared **Dean Deyo**, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the **President of Time Warner Communications - Mid-South Division, a Division of Time Warner Entertainment Company, L.P.**, the within named Bargainor, and that he as such therein contained by signing the name of the corporation by himself as such **President**.

WITNESS my hand and seal at office this 1st day of SEPTEMBER, 2001.

Mary Thelmina Alfonso
Notary Public



My Commission Expires:

MY COMMISSION EXPIRES DEC. 7, 2001

For Recording Use Only: