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File CCR

700 Carillon Parkway, Suite 6  
St. Petersburg, FL 33716  
Tel: 727.329-2765  
Fax: 727.329-2768  
Email: Terry.Elias@mybrighthouse.com



**Commercial Markets**

November 29, 2006

Jaime Soderland  
Management & Associates  
1050A Eastlake Woodlands Pkwy.  
Oldsmar, FL 34677

Dear Ms. Soderland:

Thank you for your contract with Bright House Networks. I have enclosed an executed copy for your files. If I can be of any other help, please call me at (727) 329-2765.

Best regards,

A handwritten signature in black ink that reads "Terry Elias". The signature is written in a cursive, flowing style with a large, prominent "T" and "E".

Terry Elias  
Commercial Markets Director

# Residential Services Agreement (Bulk Services)

**DATE:** November 9, 2006

## **PARTIES**

### **Operator:**

Bright House Networks, LLC

Contact Person: Terry Elias

Telephone: (727) 329-2765

Facsimile: (727) 329-2768

### **Association:**

Cross Creek at East Lake Woodlands  
Homeowners' Association, Inc.

Contact Person: Jaime Soderland

Telephone: (727) 789-1284

Facsimile: (727) 789-9139

## **PROPERTY:**

East Lake Woodlands Cross Creek  
1370 – 1402 River Oaks Court  
1400 – 1557 Woodstream Drive  
1451 – 1567 Riverdale Drive  
4777 – 4815 Edge Park Drive  
4725 – 4831 Peeble Brook Drive  
Oldsmar, Florida 34677

Number of Units: 120

On-Site Contact Person:

Telephone:

Facsimile:

## **RECITALS**

- Association governs the multi-unit residential property referred to above (the "Property") and as further described in the legal description set forth on Exhibit A.
- Association and Operator wish to make the Services available to residents of the Property ("Residents") in accordance with the terms and conditions of this Agreement.

## **TERMS AND CONDITIONS**

In consideration of the Recitals and the mutual covenants contained in this Agreement, the parties agree as follows:

### **1. Operator's Basic Obligations**

**1.1 Services.** The term "Services" means the services described below:

#### **(A) Bulk Multi-Channel Video Services.**

Upon completion of construction or upgrading of the System (as defined hereafter), if necessary, or within 30 days after the execution of this Agreement if no construction or upgrading is necessary, Operator will offer Bulk Multi-Channel Video Services to Association and the Residents. "Bulk Multi-Channel Video Services" means the package of multi-channel cable television and other video-and/or-sound services provided over the System, as set forth on Exhibit B hereto.

#### **(B) Additional Services.** Operator may offer

Additional Services to Association and Residents on a non-exclusive basis. "Additional Services" means any services other than the Bulk Multi-Channel Video Services that can be provided to the Property over the System.

**1.2 Installation of System (as Applicable).** To the extent necessary (*e.g.*, there is no, or there is insufficient, existing wiring and facilities) and at no charge to Association, Operator will design, construct, install and/or upgrade the System in accordance with industry standards, Laws and Regulations (as defined in Section 12.5 of this Agreement), and a construction schedule agreed upon by Association and Operator. "System" means all equipment, facilities, internal and external wiring (including cable home wiring and cable home run wiring), conduit and molding that Operator installs or upgrades on the Property or that exist on the date of this Agreement and that Operator uses to deliver the Services.

**1.3 Maintenance of System.** Operator will maintain and repair the System in accordance with industry standards and Laws and Regulations. At any time during the term of this Agreement, Operator shall have the right to install set-top converters or replace

existing set-top converters for every Resident receiving Services under this Agreement as Operator may reasonably deem necessary to allow it to continue to provide Bulk Multi-Channel Video Services to such Residents. If any Resident refuses such installation or replacement, Operator shall not be liable for any failure to provide Bulk Multi-Channel Video Services to such Resident.

## 2. Bulk Multi-Channel Video Services Fee.

Association shall pay to Operator the Bulk Multi-Channel Video Services Fee as set forth on Exhibit B.

## 3. Ownership and Use of System during Term of Agreement

During the term of this Agreement, Operator will own and have the exclusive right to access, control and operate the System, unless Association paid for such equipment, facilities, conduit or wiring to be installed, or such equipment, facilities, conduit or wiring is owned by a third party, in which case (as between Association and Operator) Association shall own such items and Association hereby grants to Operator the exclusive right to access and use such items during the term of this Agreement.

Association shall not permit any part of the System to be interfered with or used by any third party. The System will not be deemed to be affixed to or a fixture of the Property. Association shall not access, operate, or move the System during the term of this Agreement. Association will provide the power necessary to operate any of Operator's equipment that is located on the Property.

## 4. Association's Basic Obligations; Grant of Easement; Marketing

4.1 **Easement.** At the time of signing this Agreement, Association will execute an Easement and Memorandum of Agreement in the form of Exhibit C. Operator may record this instrument at any time.

4.2 **Grant of Rights.** Association acknowledges that Operator will spend substantial time, resources, and money in meeting its obligations under this Agreement, and that Operator is relying on Association's covenants in this Agreement in order to recoup its investment by providing the Services to the Property and by collecting revenues from customers. Accordingly, Association hereby grants to Operator (A) the exclusive right to design, construct, install, operate, maintain, upgrade, and remove the System on the Property, (B) the exclusive right to install, occupy, maintain, and remove the molding and other conduit housing the

wiring of the System without alteration by Association or third parties, (C) the non-exclusive right to provide the Bulk Multi-Channel Video Services to Residents, and (D) the right to market, offer, provide and charge for Additional Services to Residents. Where Laws and Regulations prohibit Association from granting exclusive rights to Operator under this Section 4.2, then such rights shall be non-exclusive to the extent required by Laws and Regulations.

## 4.3 Marketing Materials

- (A) In addition to Operator's right to market its Services at the Property, during the term of this Agreement, Association shall display Operator's marketing and sales materials for the Services in leasing offices and common areas (subject to Association's reasonable approval of the materials and location).
- (B) Association will allow Operator to periodically host an event on the Property, at Operator's expense, to introduce Services to Residents and prospective Residents.

## 5. Term

5.1 **Bulk Services Term.** The term of this Agreement commences on January 1, 2007 and continues for five (5) years ("Initial Term"). This Agreement automatically will be renewed for successive one-year terms unless either party notifies the other in writing at least 90 days before the end of the Initial Term (or renewed term, as the case may be) that it does not wish to renew this Agreement.

5.2 **Provision of Services on Right of Entry Basis.** After termination of the Bulk Multi-Channel Video Services term, Association grants Operator a fifteen (15) year right to enter the Property and provide any and all Multi-Channel Video Services on a non-exclusive basis to residents of the Property ("Right of Entry Term"). "Multi-Channel Video Services" means multi-channel cable television and other video-and/or-sound services provided over the System, whether analog or digital, including the same package of basic, premium, and pay-per-view services that Operator offers generally to customers in the franchise area where the Property is located (or within a five-mile radius (or a smaller or larger radius as may be reasonable under the circumstances) of the Property if the Property is not located within a franchised area) (the "Area"). The Multi-

Channel Video Services are subject to change depending on various factors, including changes in programming available to Operator, legal requirements to carry certain programming, and capacity.

#### 6. Association's Representations and Warranties

Association represents and warrants that (A) Association is agent for the owners in fee simple of the Property and no purchase contracts exist with respect to the Property; (B) the Property is not part of a bankruptcy proceeding, foreclosure action, deed-in-lieu-of-foreclosure transaction, or similar proceeding; (C) Association has the full power and authority to negotiate, execute, deliver and perform this Agreement and the Easement and Memorandum of Agreement and that the signatory below has been authorized to execute and deliver this Agreement and the Easement and Memorandum of Agreement; (D) Association's execution and delivery of this Agreement and the Easement and Memorandum of Agreement do not conflict with any contractual right or any interest in the Property granted to any third party; (E) Association owns and/or has the right to grant to Operator hereunder the exclusive right to use all parts of the System not owned by Operator (including any third party wiring, molding or components, if any); and (F) there are not agreements, understandings or intentions with or between Association and any other party that conflict with this Agreement.

#### 7. Breach of Agreement

If a party breaches any term of this Agreement and fails to cure such breach within 30 days after receiving notice from the non-breaching party reasonably detailing the breach, then the non-breaching party may terminate this Agreement, bring an action against the breaching party for damages, or seek any other available legal or equitable remedy.

#### 8. No Warranties; Limitation of Liability

**EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, OPERATOR MAKES NO REPRESENTATIONS OR WARRANTIES-- EXPRESS OR IMPLIED-- REGARDING THE SYSTEM OR THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED.** Operator will not be liable to Association or to any third party for any indirect, special, punitive or consequential damages, including, but not limited to, damages based on loss of service, revenues, profits or business opportunities.

#### 9. Indemnity

**9.1 From Operator.** Except for claims caused by the conduct, omissions, or negligence of Association, its employees or agents, Residents, or any third party that has entered the Property with Association's permission, Operator will indemnify, defend and hold harmless Association and, as applicable, Association's shareholders, members, partners, directors, managers, officers, employees, agents, representatives and affiliates (collectively, "Related Parties") from and against all claims, liabilities, losses, costs or damages, including reasonable attorney and other fees and costs relating to the investigation and defense of such matters (collectively, "Losses"), incurred by Association or its Related Parties that result from Operator's design, construction, installation, operation, or maintenance of the System.

**9.2 From Association.** Association will indemnify and hold harmless Operator and Operator's Related Parties from and against all Losses incurred by Operator or its Related Parties that result from (A) damage to any part of the System caused by Association, its employees or agents, or any third party that has entered the Property with Association's permission, (B) any claim arising out of Association's operation of the Property, and (C) Association's breach of its representations and warranties in Article 6.

#### 10. Removal of System; Mandatory Access Laws and Regulations

**10.1 Removal of System.** Subject to Laws and Regulations, after this Agreement has expired or been terminated, Operator shall retain ownership of, and for 90 days after such expiration or termination be entitled at Operator's option to, remove, abandon, disable, or sell all of the respective components of, the System (including internal building wiring and external distribution wiring), unless Association paid for such equipment, facilities, conduit or wiring to be installed, or such equipment, facilities, conduit or wiring is owned by a third party, in which case (as between Association and Operator) Association shall own such items and Operator shall not be entitled to remove or disturb such items. Operator will pay for removal unless the Agreement was terminated because of Association's default, in which case Association will bear the cost. Upon such removal, Operator will repair and restore all portions of the Property from which the

System has been removed to its condition immediately prior to such removal.

**10.2 Mandatory Access Laws and Regulations.** Notwithstanding anything to the contrary in this Article 10 or the Agreement, if Laws and Regulations require Association to provide Operator with access to the Property for the provision of any service, then Operator shall (A) continue to own and be permitted to access and use all wiring and other components of the System, for so long as permitted by Laws and Regulations, to provide service to the Property, and (B) have the right to remove, abandon, disable, or sell such wiring and other components of the System within 90 days after Operator no longer is permitted by Laws and Regulations to provide such services.

#### **11. Confidential Information; Announcements**

Except as specifically provided in this Agreement, Association 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.

#### **12. Miscellaneous Provisions**

**12.1 Force Majeure.** Despite anything to the contrary in this Agreement, neither party will be liable or in default under this Agreement for any delay or failure of performance resulting directly from anything beyond the reasonable control of the nonperforming party, including, but not limited to, acts of God; acts of civil or military authority; acts of a public enemy; war; severe weather, earthquakes, or floods; fires or explosions; governmental action or regulation; strikes, lockouts, or other work interruptions or labor shortages; supplier shortages; transportation and delivery delays; or blocked access rights.

**12.2 Modification; Waiver; Scope of Agreement.** This Agreement constitutes the entire agreement between Association and Operator with respect to, and supersedes all other agreements relating to, the subject matter contained herein. This Agreement can be modified or changed only by a written instrument signed by both parties. A party's waiver of enforcement of any of the terms or conditions of this Agreement will be effective only if in writing. This Agreement shall be freely assignable by either party.

**12.3 Severability.** If this Agreement is rendered invalid or otherwise unenforceable under Laws and Regulations or by a governmental, legal or regulatory authority with jurisdiction over the parties, then the remainder of this Agreement will continue in full force unless such continuance will deprive one of the parties of a substantial benefit hereunder or frustrate the main purpose(s) of this Agreement. In such event, the parties shall use their reasonable best efforts to replace the invalid or unenforceable provision with a provision that, to the extent permitted by Laws and Regulations, achieves the purposes intended under the invalid or unenforceable provision.

**12.4 Counterparts.** This Agreement may be executed in any number of counterparts, each of which is considered an original.

**12.5 Compliance with Laws and Regulations; Choice of Law.** This Agreement shall be subject to, and in the performance of their respective obligations under this Agreement the parties shall comply with, all applicable federal, state and local laws and regulations (including the rules and regulations of quasi-governmental and regulatory authorities with jurisdiction over the parties) and the requirements of Operator's franchise agreement for the area (collectively, "Laws and Regulations"). This Agreement is governed by and shall be interpreted under the laws of the state in which the Property is located, without regard to its choice-of-law provisions.

**12.6 Enforcement Costs.** If either party sues or brings any other type of enforcement action in connection with this Agreement, then the prevailing party shall be entitled to seek to recover its reasonable attorneys' fees and other costs in connection with such action.

**12.7 Notices.** All notices, requests, demands, consents and other communications that are required to be or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent by facsimile, courier, registered or certified mail (postage prepaid), overnight delivery or in person to a party's address stated at the head of this Agreement. Such notice shall be effective, (A) if sent by facsimile, when confirmation of transmission is received, or (B) otherwise, upon actual receipt or rejection by the intended recipient. Either party may change its address by giving notice to the other party in accordance with this Section.

**12.8 Survival.** The terms of Articles 8, 9, 10, 11 and 12 will survive the expiration or termination of this Agreement for any reason.

**12.9 Persons and Entities Bound by Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, shareholders, partners, agents, representatives, employees, servants, affiliates, attorneys, heirs, successors and assigns.

DATED: \_\_\_\_\_

CROSS CREEK AT EAST LAKE WOODLANDS HOMEOWNERS' ASSOCIATION, INC.

By: Constance W. Hillman

Title: Treasurer

Signed, sealed and delivered

in the presence of:

Witnesses:  
[Signature]  
Print Name: Jennifer Savasta

Witnesses:  
[Signature]  
Print Name: Deborah Peavn

STATE OF FLORIDA )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 20 day of NOV., 2006 by CONSTANCE HILLMAN He/She is (  personally known to me or { } has produced as identification.

SEAL

[Signature]  
Print Name: DIANA K. SAVASTA

Title: Notary Public

Serial No. (if any) \_\_\_\_\_

Commission Expires: \_\_\_\_\_



Diana K. Savasta  
My Commission DD217932  
Expires August 19, 2007

DATED: Nov. 28, 2006

BRIGHT HOUSE NETWORKS, LLC

By: Michael D. Robertson

Title: Senior Vice President

Signed, sealed and delivered

in the presence of:

Witnesses:

Jackie K. Burns  
Print Name: Jackie K Burns

Christina Dolenci  
Print Name: Christina Dolenci

STATE OF FLORIDA

COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of Nov., 2006 by Michael D. Robertson. He is personally known to me

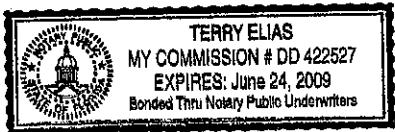
SEAL

Terry Elias  
Print Name: TERRY ELIAS

Title: **Notary Public**

Serial No. (if any) \_\_\_\_\_

Commission Expires: \_\_\_\_\_





**Exhibit A**  
**Legal Description of the Property**

Attached.

**Exhibit B**  
**Bulk Multi-Channel Video Services and Fee**

**BULK MULTI-CHANNEL VIDEO SERVICES**

Channel line-up and description of Bulk Multi-Channel Video Services are attached. Subject to applicable law, Operator shall be entitled to add to, delete from, move channel positions, and otherwise modify the Bulk Multi-Channel Video Services in its sole discretion from time to time.

**BULK MULTI-CHANNEL VIDEO SERVICES FEE**

The Bulk Multi-Channel Video Services Fee shall be \$14.95 per Unit at the Property per month (plus applicable taxes and fees). The Bulk Multi-Channel Video Services Fee does not include Operator's provision of rental equipment to Residents, which shall be billed for and paid by Residents. Operator will bill Association for the Bulk Multi-Channel Video Services on a monthly basis in advance and payment by Association shall be due upon receipt. If Operator fails to present an invoice prior to the first day of the month for which Bulk Multi-Channel Video Services are being provided, such failure shall not constitute a waiver of the charges for the Bulk Multi-Channel Video Services delivered to the Property, and Association promptly shall pay such invoice when delivered by Operator.

Operator shall be entitled to raise the Bulk Multi-Channel Video Services Fee as follows: At any time upon 30 days prior written notice to Association; provided that such increases shall not exceed 7% annually.

### Bulk Standard Channel Line-Up

WCLF (Ch. 22) IND	2	The Travel Channel	43
WEDU (Ch. 3) PBS	3	MTV	44
The CW	4	VH 1	45
WFTT (Ch. 50) Telefutura	5	EWTN	46
My Network TV	6	CATCH 47	47
WVEA (Ch. 62) Univision	7	Arts & Entertainment	48
WFLA (Ch. 8) NBC	8	Hallmark Channel	49
Bay News 9	9	C-SPAN 2	50
WMOR (Ch. 32) IND	10	The Discovery Channel	51
WFTS (Ch. 28) ABC	11	ABC Family Channel	52
WTSP (Ch. 10) CBS	12	Spike TV	53
WTVT (Ch. 13) FOX	13	BRAVO	54
Pinellas Schools	14	Court TV	55
City Govt.	15	Food Network	56
WUSF (Ch. 16) PBS	16	Home & Garden TV	57
WXPX (Ch. 66) IND	17	Country Music Television	58
County Govt.	18	Turner Classic Movies	59
SPJC	19	Sci-Fi	60
WGN Chicago	20	Comedy Central	61
HSN	21	Cartoon Network	62
American Movie Classics	22	The Weather Channel	63
WTBS Atlanta	23	History	64
ShopNBC	24	BET	65
USA	25	Encore Plex	66
ESPN Classic	26	Fox News	67
ESPN	27	The Disney Channel	68
ESPN 2	28	Fox Sports Network	69
QVC	29	Versus	70
MSNBS	30	National Geographic	71
SUN SPORTS	31	Discovery Health	72
The Golf Channel	32	Lifetime Movies	73
TNT	33	Oxygen	74
The Learning Channel	34	TV Land	75
Animal Planet	35	Telemundo	76
Nickelodeon	36	ReacTV	77
E! Entertainment	37	WE	78
Lifetime	38	Galavision (requires a digital converter)	79
fx	39	Jewelry TV	95
CNN	40	Public Access	96
Headline News	41	PreVue Guide/PPV Info	98
CNBC	42	C-SPAN 1	99

Subject to change.

This instrument was prepared by

(and return to):

Bright House Networks

Attn: Terry Elias

700 Carillon Parkway, Suite 6

Saint Petersburg, Florida 33716

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Property Appraiser's Parcel

Identification Number

**FOR RECORDER'S USE ONLY**

## **Exhibit C**

### **EASEMENT AND MEMORANDUM OF AGREEMENT**

#### **1. Grant of Easement**

In consideration of Ten Dollars (\$10), and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Cross Creek at East Lake Woodlands Homeowners' Association, Inc. ("Grantor"), whose post office address is c/o Management & Associates, 1050A East Lake Woodlands Parkway, Oldsmar, Florida 34677, grants to Bright House Networks, LLC ("Grantee"), its successors and assigns, a non-exclusive easement on Grantor's property and all its improvements (as described in the attached Exhibit A) (the "Property"). This easement is for the purposes of permitting Grantee and its affiliates and contractors to design, construct, install, operate, market, maintain, upgrade, repair, replace, and remove a system (including internal and external wiring, poles, conduits, molding, pipes, antennas, servers, switch equipment, software, central processing units and other facilities and equipment ("System")) for the delivery of cable television, entertainment, video, internet access, and other services that may be delivered over the System to the Property, as more fully provided in the Residential Services Agreement between Grantor and Grantee with respect to the Property (the "Agreement"). During the term of the Agreement and this easement, Grantee shall own, and Grantee shall have the exclusive right to access, control and operate, the System, and the System shall not be deemed to be affixed to or a fixture of the Property. Ownership and removal of the System after the expiration of the Agreement and this easement shall be pursuant to the Agreement. Grantor will also provide reasonable space for Grantee's equipment.

Grantor reserves the right to grant other easements on the Property, but will not allow such other easements to cause unreasonable interference with the easement granted to Grantee herein.

Grantee will have and hold the easement, together with every right and appurtenance connected to it, for an initial term of five (5) years and for so long thereafter as Grantee is providing services to the Property under the Agreement. When that period expires, this easement will terminate after an additional 90-day continuation period solely for the purpose of allowing Grantee to remove its System. Grantor, its successors and assigns hereby agree to warrant and forever defend the easement to Grantee - - as well as its successors and assigns - - against every person who claims any part of it.

This easement shall not amend, modify, terminate, release or discharge any party from its rights or obligations under any other written easement with respect to the Property. If Grantee currently has the right to serve the Property under any other written easement, then such other easement shall survive this easement and shall continue to bind the parties in accordance with its terms; provided, however, that in the event of any conflict

between the terms of any such other easement and this easement during the term hereof, this easement shall control.

This easement and other rights granted to Grantee run with the title to the Property and are binding on Grantor and on all subsequent owners of the Property, as well as on others who may claim an interest in the Property.

**2. Memorandum of Agreement**

In addition to the rights granted above, the Agreement grants to Grantee certain exclusive rights to market and provide Multi-Channel Video Services and Internet Access Service and the right to provide Additional Services to Grantor and to residents of the Property.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed for the purposes stated herein.

**CROSS CREEK AT EAST LAKE WOODLANDS HOMEOWNERS' ASSOCIATION, INC.**

By: Constance V. Hillman

Title: Treasurer

Signed, sealed and delivered

in the presence of:

Witnesses:  
Jennifer Swasta  
Print Name: JENNIFER SWASTA

Deborah Peary  
Print Name: Deborah Peary

STATE OF FLORIDA )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 20 day of NOV., 2006 by CONSTANCE HILLMAN He/She is { } personally known to me or { } has produced as identification.

SEAL Diana K. Savasta  
Print Name: DIANA K. SAVASTA

Title: Notary Public  
Serial No. (if any) \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

