

**TELECOMMUNICATIONS LICENSE AGREEMENT**

**BETWEEN**

**365 Bay Street Limited Partnership and  
Montez Office Fund I Holdco Inc.**

(the "Licensor")

- and -

**TELUS Communications Inc.**

(the "Licensee")

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**INFORMATION PAGE**

This page sets out information which is referred to and forms part of the TELECOMMUNICATIONS LICENSE AGREEMENT made as of the 1<sup>st</sup> day of June, 2022 between 365 Bay Street Limited Partnership and Montez Office Fund I Holdco Inc. as the Licensor and TELUS Communications Inc. as the Licensee.

The information is as follows:

**Building:** The building municipally known as 365 Bay Street in the City of Toronto, and the Province of Ontario.

**Floor Area of Deemed Area:** 50 Sq/Ft

**Commencement Date:** the 1st day of May, 2022

**License Fee:** the annual sum of Five Thousand dollars (\$5,000.00). The floor area of the Deemed Area is estimated to be 50 square feet, but shall not in any case be less than 50 square feet. The exact measurement of the Deemed Area may be verified by an architect or surveyor employed by the Licensor for that purpose and upon verification, an adjustment of the License Fee and the floor area will be made retroactively to the Commencement Date.

**Electrical Charges:** \$0 annually in advance due on the Commencement Date and each anniversary thereafter.

<b>Notices:</b>	<b>Licensor</b> 365 Bay Street Limited Partnership and Montez Office Fund I Holdco Inc. c/o Avison Young Real Estate Management Services Ontario Inc. Simpson Tower, 401 Bay Street, Suite 1100 Toronto, ON M5H 2Y4 Attn: Property Manager, 365 Bay Street, Toronto	<b>Licensee</b> TELUS Communications Inc. 25 York Street, Floor 22 Toronto, ON M5J 2V5 Attn: Manager, Building Access
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**Prime Rate Reference Bank:** The Toronto Dominion Bank.

**Renewal Term:** Two (2) periods of Five (5) years each.

**Term:** Five (5) years commencing on the Commencement Date, and ending on the 30<sup>th</sup> day of April, 2027.

## TELECOMMUNICATIONS LICENSE AGREEMENT

**BETWEEN:**

**365 Bay Street Limited Partnership and  
Montez Office Fund I Holdco Inc.**

(hereinafter the "Licensor")

- and -

**TELUS Communications Inc.**

(hereinafter the "Licensee").

### 1. DEFINITIONS

In this Agreement the capitalized terms appearing herein shall mean the following:

"**Affiliate**": a company that is affiliated with another within the meaning of the Canada Business Corporations Act.

"**Agreement**": this agreement, its Exhibits and Schedules and Information Page.

"**Broadcasting**": any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of any device.

"**Building**": the building situated on the Lands; municipally described on the Information Page.

"**Business Day**": a day that is not Saturday, Sunday, or a statutory holiday of general observance in the Province in which notices are sent or delivered.

"**Cable**": fibre optic, coaxial, copper cables and wires.

"**Commencement Date**": the date stated as the Commencement Date on the Information Page.

"**Communications Equipment**": cabinets, racks, electronic equipment and other equipment that (i) have been installed by the Licensee or a corporate predecessor of the Licensee, before the date of this Agreement, or (ii) are installed, or are to be installed by the Licensee, in the Deemed Area, and (iii) such other equipment as may be installed by the Licensee during the Term and Renewal Term, as approved by the Licensor in accordance with Section 7.

"**Communications Spaces**": telecommunications pathways and cable pathways designated by the Licensor, acting reasonably, for use by the Licensee to provide Services to tenants and occupants of the Building and such other pathways used by the Licensee during the Term and Renewal Term as approved by the Licensor in accordance with Section 7.

"**Connecting Equipment**": the Cables, fibre guides, fibre entrance cabinets, fibre patch panels, conduits, inner ducts and connecting hardware that (i) have been installed by the Licensee or a corporate predecessor of the Licensee before the date of this Agreement, or (ii) are installed, or to be installed by the Licensee, through the Entrance Link, and the Communication Spaces, and (iii) such other connecting equipment as may be installed by the Licensee in the Building during the Term and Renewal Term, as approved by the Licensor in accordance with Section 7, that is connected to the Entrance Cable, Main Distribution Frame, Communications Equipment, or Cable or that is used to house or carry Cable.

"**Consumer Price Index**": (All Items for Regional Cities, base year 1992=100) for the city in which the Building is located, or if there is no Consumer Price Index for that city, for the city in Canada nearest the Building for which there is a Consumer Price Index published by Statistics Canada (or by a successor or other governmental agency, including a provincial agency). If the Consumer Price Index is no longer published, an index published in substitution for the Consumer Price Index or any replacement index designated by the Licensor, acting reasonably, will be used. If a

substitution is required, the Licensor will make the necessary conversions. If the base year is changed by Statistics Canada or the applicable governmental agency, the necessary conversions will be made.

**"Cross Connection"**: the connection of one wire or cable under the management and control, or ownership of one party to a wire or cable under the management and control or ownership of another, by anchoring each wire or cable to a connecting block and placing a third wire between the two, or by any other means, and any other connection of the telecommunications system or any of its components that is under the management, control or ownership of one party to that of another, or any of its components.

**"CRTC"**: the Canadian Radio-television and Telecommunications Commission.

**"Deemed Area"**: the area described in Schedule "A".

**"Entrance Cable"**: the Cable installed or to be installed by the Licensee that connects the Licensee's telecommunications network from the property line of the Lands to the Communications Equipment and to the Main Distribution Frame and includes the tie Cables between the Communications Equipment and the Main Distribution Frame.

**"Entrance Conduit"** the pipe or raceway installed or to be installed, above or below ground, by the Licensor, the Licensee or some other TSP from the property line to the Entrance Link

**"Entrance Link"**: the coresleeve, or other penetration designated by the Licensor, acting reasonably, through the Building's foundation walls or elsewhere containing the Entrance Cable.

**"Equipment Room"**: the area containing the Main Distribution Frame for the Building.

**"Event of Default"**: defined in Section 17.

**"Existing Equipment"**: that part of the Licensee's Equipment installed before the date of this Agreement.

**"Fee"**: any amount payable by the Licensee under this Agreement.

**"Hazardous Substance"**: any substance that is controlled by, regulated, or restricted under the laws of the Province in which the Building is situated or under the laws of Canada, including any regulations, guidelines, policy statements and restrictions pertaining to the protection of the natural environment, quality of air, water and other aspects of the environment and including but not limited to polychlorinated biphenyl's, asbestos, and other substances commonly referred to as pollutants, contaminants or hazardous substances.

**"In-Building Wire"**: as defined by the CRTC constitutes copper wires, Cable and other facilities which originate in the Equipment Room and run to the telephone closet on each floor and thereafter to but not within the premises of the tenant's or occupants in the Building.

**"Information Page"**: the sheet attached to this Agreement as "Page IP".

**"Inside Wire"**: wires and other facilities which are usually in, or in proximity of, premises of the tenants or occupants of the Building, and which are under those persons' or entities' responsibility and control.

**"Lands"**: the lands occupied by the Building.

**"LEC"**: a local exchange carrier regulated by the CRTC.

**"Licensee's Equipment"**: the Communications Equipment and the Connecting Equipment.

**"License Fee"**: the annual sums stated as the License Fee on the Information Page.

**"Main Distribution Frame"**: the main distribution frame or other physical location for the Cross Connection of a TSP's Entrance Cable to the In-Building Wire located in the Building.

**"Multi-Dwelling Unit Building"**: as defined by the CRTC in Decision 2003-45 constituting a building with at least two units and at least one unit occupied by a tenant

**"Plans and Specifications"**: the working drawings, plans, specifications, and other applicable construction or installation plans referred to in Section 7(a).

**"Prime"**: the rate quoted from time to time as its "Prime Rate" for commercial loans in the City in Canada where the Licensor's head office is situated, by the bank indicated on the Information Page, as the "Prime Rate Reference Bank".

**"Recoverable Costs"**: the costs and expenses particularized on Exhibit "1" for building services requested of the Licensor by the Licensee or causal to the Licensee's construction and installation activities relating to the provision of the Services in the Building. However, Recoverable Costs shall not include costs that would be incurred by the Licensor in any event, costs that have already been incurred by the date of execution of this Agreement, the costs associated with the negotiation, management, administration, monitoring and enforcement of this Agreement or of other agreements with TSP's, or (except for charges for services identified in Exhibit "1" and provided by the Riser Manager) fees in relation to a Riser Manager.

**"Released Licensor Persons"**: the Licensor and property and asset manager of the Building and any lender that holds security on the Building, and the respective officers, directors, employees, agents and contractors, of all and any of them.

**"Renewal Term"**: the renewal term(s) noted on the Information Page.

**"Riser Manager"**: a person or entity retained by the Licensor to provide management and supervision services for all or part of the raceways, risers, ducts, conduits, sleeves, communications pathways (including the Communications Spaces), roof areas and other telecommunications related facilities in or serving the Building.

**"Services"**: the telecommunications or other communications services to be provided by the Licensee to tenants or occupants in the Building.

**"Term"**: the period of time stated as the Term on the Information Page.

**"TSP"**: a telecommunications or other communications service provider, including without limitation Internet service providers and hydro companies.

## 2. GRANT

- (a) the Licensor grants, to the extent that it is able to grant such rights, to the Licensee for the Term, a non-exclusive license:
  - (i) to install, operate, maintain, repair, improve, replace, and remove, at the Licensee's sole expense and risk, the Entrance Cable, Communications Equipment, Connecting Equipment, and Cable;
  - (ii) to use the Entrance Link, Main Distribution Frame, Communications Spaces, the Deemed Area and the Equipment Room;
  - (iii) to connect the Entrance Cable to the Communications Equipment and to the Main Distribution Frame; and
  - (iv) connect the Licensee's Equipment to the In-Building Wire and Inside Wire,
- (b) The Licensee shall be provided access to the common areas of the Lands (including common areas licensed to third parties on a non-exclusive basis) and Buildings in order to exercise its non-exclusive license, twenty four hours per day, three hundred and sixty five days per year subject to:
  - (i) the Licensor's reasonable security requirements;
  - (ii) reimbursement of the Licensor's reasonable costs incurred for providing access as provided in Section 9(b);
  - (iii) the notice requirement as provided in Section 9(b); and
  - (iv) an event of Force Majeure as provided in Section 30.
- (c) The Licensee shall use the Equipment Room and Deemed Area for the sole purpose of providing Services to tenants and occupants in the Building. The Licensee is expressly forbidden to serve other properties from the Building.
- (d) **Relocation of the Licensed Area.** The Licensor reserves the unrestricted and unconditional right for any reason, to require the Licensee to relocate the Licensee's Equipment, Equipment Room and/or the Deemed Area or any part of or parts of it to substantially comparable space within the Building. The Licensor will give the Licensee a written notice of its intention to require the

Licensee to relocate the Licensee's Equipment, Equipment Room and/or the Deemed Area, and the Licensee will complete such relocation at its sole cost within thirty (30) days after receipt of such written notice. If the space to which the Licensor requires the relocation to occur is not substantially comparable as that initially licensed herewith, the Licensee may so notify the Licensor, and if the Licensor fails to offer space reasonably satisfactory to the Licensee, the Licensee may terminate this License effective as of the thirtieth (30th) day after the Licensor's initial notice. The Licensor will not be liable for damages should the Licensee so terminate this License. If the Licensee does relocate, then effective on the date of such relocation this License will be amended by deleting the description of the original location and substituting for it a description of such new space. If relocation is required by governmental authority, the relocation shall be accomplished by the Licensee at the Licensee's expense. The Licensor and the Licensee shall each give to the other written notice of any such requirement within ten (10) days after such party is notified of any such governmental requirement.

- (e) The Licensor makes no warranty or representation that the Equipment Room, Deemed Area, the Communications Spaces, the In-Building Wire, the Inside Wire, or any part of the Building or the services or equipment therein is or are suitable for the Licensee's use.
- (f) The Licensor may grant, renew or extend similar licenses to other suppliers of telecommunications services. The License granted by this Agreement is revocable in accordance with the express terms of this Agreement.
- (g) The Licensee agrees to assist the Licensor in improving the space and operating efficiencies within the Building by undertaking the following, at the Licensee's cost, at the request of the Licensor and within timeframes approved by the Licensor, acting reasonably:
  - (i) identifying Existing Equipment;
  - (ii) upon reasonable request from the Licensor, to achieve improved space and operating efficiencies in connection with specific cases, examining, identifying and labelling specific items of Existing Equipment;
  - (iii) relocating, reconfiguring and improving space and operating efficiencies related to Existing Equipment in accordance with the reasonable requests of the Licensor; and
  - (iv) upon request from the Licensor and with reasonable time to respond in the circumstances, providing to the Licensor its existing available information on its Existing Equipment, e.g. concerning types of wiring, wiring casings, materials used in the Existing Equipment, sizes, capacities and other information, where that other information may be required having regard to building code, building safety, fire code, fire safety or similar governmental requirements or the requirements of the Licensor's insurers.
- (h) The relationship between the Licensor and the Licensee is solely that of independent contractors, and nothing in this Agreement shall be construed to constitute the parties as employer/employee, partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

### 3. FEES

- (a) The Licensee agrees to pay the License Fee to the Licensor annually in advance without demand and without any set-off, deduction or abatement whatsoever.
- (b) The Licensee shall also pay to the Licensor any Recoverable Costs plus an administration fee of 15% incurred by it within sixty (60) days after receipt of each itemized invoice, without deduction or set off.
- (c) Interest will accrue at that rate of interest that is three percent (3%) greater than Prime on any arrears of Fees payable by the Licensee, and will be payable when payment of the interest is demanded.
- (d) Value added taxes and similar taxes such as "HST" or "GST" are payable by the Licensee on all Fees.

#### 4. TERM - OPTION TO RENEW

- (a) The Term of this Agreement starts on the Commencement Date and expires on the date stipulated on the Information Page.
- (b) Provided that the Licensee:
  - (i) has not been during the Term of this Agreement and is not at the time of giving notice, in material default of any of its obligations under this Agreement (which default remains uncured at the time of the notice);
  - (ii) gives the Licensor at least one hundred and eighty (180) days' written notice prior to the end of the Term or a Renewal Term of the Licensee's intention to renew, and
  - (iii) no lien (construction or otherwise) affects the Lands or the Building and no claim under workplace safety and insurance legislation has been made in connection with anything done by or on behalf of the Licensee.

the Licensee shall be entitled to renew for the Renewal Term(s). Each Renewal Term will be governed by the same terms and conditions set out herein except for: (1) any further right to renew; and (2) the License Fee, which will increase at the start of each Renewal Term to equal the greater of (A) the amount obtained where the Licensee Fee is increased by a percentage equal to the percentage of the increase in the Consumer Price Index from the Commencement Date or the start of the previous Renewal Term (if any) as the case may be, to the start of the applicable Renewal Term; and (B) the market rate based on license fees or rents paid by TSP's for similar areas in similar buildings in the vicinity of the Building as determined by the Licensor, acting reasonably.

#### 5. USE

The Licensee shall use the Building, Communications Spaces, Deemed Area and the Equipment Room in the Building solely for the purpose of providing Services to the tenants or occupants situated in the Building. The Licensee must be properly certified or licensed by the appropriate governing bodies to provide its Services. This Agreement does not provide for the installation or operation of any forms and types of rooftop or building exterior communications equipment or wireless communications equipment.

#### 6. ELECTRIC UTILITIES

The Licensor may estimate, acting reasonably the amount of electricity consumed by the Licensee which amount plus an administration fee of fifteen percent (15%) of the amount shall be paid by the Licensee when it is billed. Alternatively, where feasible, the Licensee may install a meter at its cost and in that case it will pay for its electricity consumption directly to the utility supplier or, at the Licensor's option, to a utilities manager retained by the Licensor. If a utilities manager is retained by the Licensor, the Licensee will pay for its consumption based on invoices prepared by the utilities manager and the Licensee will also pay a share of the Licensor's costs and expenses of obtaining the services of the utilities manager. The Licensee's share of those costs and expenses will be determined having regard to the number of utilities accounts for which the utilities manager has been retained by the Licensor, based on relative consumption of the users whose accounts are so managed or on some other reasonable basis. The Licensor shall use reasonable commercial efforts to notify the Licensee in advance of any planned utility outages that may interfere with the Licensee's Equipment use but shall not be responsible for any losses, costs or expenses suffered as a result of any such outages providing reasonable commercial efforts to provide advance notice of such planned utility outages were taken. The Licensor has no obligation to provide emergency or "backup" power to the Licensee. Any provision of emergency or "backup" power shall be the sole responsibility of the Licensee.

#### 7. CONSTRUCTION

- (a) Subject to what is stated below, prior to performance of any work, or the making of any installation, and prior to changes, alterations or upgrades to any existing work or installation in the Building, the Licensee shall, at its sole cost and expense, prepare and deliver to the Licensor working drawings, plans and specifications for the work or installation detailing the type, size and location of the Licensee's Equipment that is proposed to be installed, altered or removed, the Communication Spaces to be used by the Licensee and the Deemed Area, all specifically describing the proposed



construction and work. All working drawings, plans and specifications must be prepared in accordance with applicable codes and engineering standards, and will be considered as part of the Plans and Specifications when they have been approved by the Licensor, in writing. No work shall commence until the Licensor has approved, in writing, the working drawings, plans and specifications, and any other applicable construction or installation plans. The Licensor's approval of Plans and Specifications is not deemed a representation that the Licensee's Equipment will not cause interference with other systems in the Building or that the Plans and Specifications comply with applicable laws, rules or regulations. That responsibility shall remain with the Licensee. Despite what is stated above, only an initial "Bay Layout" will be required in respect of equipment intended to be installed in the racks installed inside the Deemed Area and, technical specifications in respect of that equipment will not be required to be provided other than specifications relating to heat generated by the equipment and electrical consumption. The Licensee acknowledges that it is responsible at its cost for designing and constructing the enclosure for the Deemed Area and for securing it, all in accordance with plans and specifications approved by the Licensor.

- (b) The Licensee warrants that, except for the Existing Equipment, the installation of the Licensee's Connecting Equipment, Entrance Cable and Cable shall be in strict compliance with the approved Plans and Specifications.
- (c) The Licensee agrees that installation and construction shall be performed:
  - (i) in a neat, responsible, good, and workmanlike manner;
  - (ii) strictly consistent with such reasonable requirements as shall be imposed by the Licensor and communicated in advance to the Licensee in writing;
  - (iii) in accordance with all applicable laws, codes, rules and regulations; and
  - (iv) using only contractors approved in writing by the Licensor (it being acknowledged that, without limitation, a lack of or incompatible union affiliation of a contractor is a reasonable basis for failing to approve a contractor).
- (d) The Licensee shall label each Cable installed by the Licensee on or after the date of this Agreement in the Communications Spaces, in each telephone closet through which the Cables pass, and, in addition, at any intervals and at additional locations that the Licensor might reasonably require. The labelling will be in a format approved by the Licensor acting reasonably.
- (e) The Licensee shall obtain, at its sole cost and expense, prior to construction and work, any necessary permits, licenses and approvals, copies of which will be delivered to the Licensor prior to commencement of construction and work. The Licensee's Equipment shall comply with all applicable standards including safety, as may be periodically revised by any governing body with jurisdiction over the Licensee's operations. The Licensee shall provide the Licensor with copies of all inspection certificates upon construction completion.
- (f) The Licensee shall not, during construction or otherwise block access to or in any way obstruct, interfere with or hinder the use of the Building's loading docks, halls, stairs, elevators, Communication Spaces, the sidewalks around the Building or any entrance ways. The Licensee shall not spray paint or mark up the side walk prior to or post construction.
- (g) The Licensee, at its sole cost and expense, to repair and refinish all damages caused by the installation, alterations and maintenance of the Licensee's equipment.
- (h) The Licensee may amend or supplement the Plans and Specifications approved by the Licensor, from time to time, with the prior written consent of the Licensor, for the purpose of serving tenants and occupants of the Building. All terms and conditions of this Section 7 shall apply.
- (i) Prior to the installation of any additional Licensee's Equipment under this Agreement, the Licensee will also provide to the Licensor whatever information the Licensor reasonably requires concerning types of wiring casings, materials used in the Licensee's Equipment, sizes, capacities and other information which may be required having regard to building code, building safety, fire code, fire safety or similar governmental requirements or the requirements of the Licensor's insurers. From time to time at reasonable intervals, the Licensor may require the Licensee to update the information

referred to above in connection with the Licensee's Equipment and the Licensee will complete the update by confirmation in writing no later than ten (10) Business Days after written request.

- (j) **Sharing of Resources by Licensee and Other Providers**
- (i) In this Section 7(i), "Other Provider" means a TSP other than the Licensee. The Licensee acknowledges and agrees that it is aware that Entrance Conduits may have been installed by the Licensor or by an Other Provider and may already contain Cables and/or equipment belonging to one or more Other Providers. Prior to pulling any Cables through, or installing any Connecting Equipment in, any Entrance Conduit, the Licensee covenants and agrees to (A) act diligently in obtaining available information to determine what Other Providers have Cables or equipment in the Entrance Conduit, and (B) notify the Licensor in writing concerning those Other Providers, and concerning the Licensee's intention to pull Cable through the Entrance Conduit. The Licensor will advise the Licensee in writing of the identity of any Other Providers that have Cables and/or equipment in the Entrance Conduit, of whom the Licensor is aware but the Licensee acknowledges that the Licensor may not have complete information or readily accessible information, and the Licensor will not have any liability for inaccurate or incomplete information. The Licensee will thereafter provide written notice of the Licensee's proposed installation to each such Other Provider, and provide a written copy of each such notice to the Licensor, requesting each such Other Provider to respond, in writing, within ten Business Days of its receipt of the aforesaid notice if the Other Provider has any concern with or objection to the Licensee's proposed installation. The Licensee further covenants and agrees that, if required by Other Provider in accordance with the aforesaid notice, the Licensee will delay pulling its wiring and/or cabling through, or installing any Connecting Equipment in, the Entrance Conduit until a representative of the Other Provider is present.
  - (ii) In the event that an Other Provider that has received a notice under (i) above fails to respond to such notice within ten Business Days as therein set out or, if having responded to the foregoing notice, the Other Provider fails to make a representative available during such installation within a reasonable time, then the Licensee may, at its option, proceed with the installation through the Entrance Conduit.
  - (iii) If the Licensee receives notice of the intention of an Other Provider to install Cable or equipment in an Entrance Conduit in which the Licensee has installed Cable or equipment, and the Licensee has any concerns with the sharing of the Entrance Conduit in which it has installed Cable it will provide a written explanation of the concerns within ten Business Days, failing which the Licensee will be deemed to have no objections to the sharing of the Entrance Conduit.
  - (iv) The Licensee acknowledges that (A) the Licensor will have no obligation or liability regarding Cable and/or equipment installed by the Licensee in any Entrance Conduit; (B) the Licensor may permit Other Providers to share any Entrance Conduit with the Licensee if it gives due consideration to any concerns or objections of the Licensee that are set out in writing within the ten Business Day period referred to above, and it acts reasonably.

## 8. COVENANTS

- (a) The Licensee covenants as follows:
- (i) The Licensee shall, at its sole cost and expense, maintain and repair the Deemed Area and the Licensee's Equipment in proper operating condition and maintain them in satisfactory condition as to safety.
  - (ii) The Licensee shall, at its sole cost and expense, repair any damage to the Building, Communications Spaces and any other property owned by the Licensor or by any lessee or licensee of the Licensor or by any other occupant of the Building where such damage is caused by the act or negligence of the Licensee or any of its agents, representatives, employees, contractors, subcontractors, or invitees. If the Licensee fails to repair or

refinish the damage, the Licensor may repair or refinish such damage and the Licensee shall reimburse the Licensor all costs and expenses incurred in such repair or refinishing, plus an administration fee equal to fifteen percent (15%) of those costs. This Section 8(a)(ii) shall survive the expiration or earlier termination of this Agreement.

- (iii) The Licensee shall not interfere with the use and enjoyment of the Building by the Licensor or by lessees, or licensees of the Licensor or tenants or occupants of the Building or other buildings. If such interference occurs, the Licensor may give the Licensee written notice thereof and the Licensee shall correct same as soon as possible but not more than forty-eight (48) hours after receipt of notice. If the Licensee fails to correct the conditions after proper notification, the Licensor may take any action the Licensor deems appropriate to correct the conditions, all at the cost of the Licensee, plus an administration fee equal to fifteen percent (15%) of those costs.
- (ii) The Licensee's Equipment shall not disrupt, adversely affect, or interfere with other providers of communications services in the Building, the Building's operating, elevator, safety, security, or other systems, or with any tenant's or occupant's rights of enjoyment, including their respective use or operation of communications or computer devices or with the systems, facilities, and devices situated in neighbouring properties. The Licensee shall correct such interference as soon as possible but not more than forty-eight (48) hours after receiving written notice of such interference. If the Licensee fails to correct the conditions after proper notification, the Licensor may take any commercially reasonable action the Licensor deems appropriate to correct the conditions, all at the cost of the Licensee, plus an administration fee equal to fifteen percent (15%) of those costs.
- (iii) The Licensee will comply with all Building rules, as periodically adopted by the Licensor acting reasonably, and will cause its agents, employees, contractors, invitees and visitors to do so.
- (iv) The Licensee will comply with all applicable rules and regulations periodically issued by any and all governing bodies pertaining to the installation, maintenance, operation and repair of the Deemed Area, the Equipment Room, the Licensee's Equipment and In-Building Wire, including the Licensee's provision of services.
- (v) The Licensee will not encumber, charge, grant a security interest in respect of, or otherwise grant rights in favour of third parties in respect of any part of the In-Building Wire. Despite the foregoing, the Licensor acknowledges and agrees that the Licensee is permitted to allow other local exchange carriers to connect to and use copper In-Building Wire under its responsibility and control and conversely, to connect to and use copper In-Building Wire under the control and responsibility of other local exchange carriers, at no cost.
- (vi) Except as required or mandated by the CRTC, the Licensee will not permit any other TSP to co-locate equipment in its Deemed Area nor will it permit any third party supplier to Cross Connect to any of the Licensee's Equipment or to use any part of the Licensee's Equipment for the purpose of providing telecommunication or similar services to customers in the Building.
- (vii) The Licensee will not use any part of the Licensee's Equipment as a network hub facility, switch hotel, switch node, or similar facility that functions as an integral part of a network where disruption of the operation or use of the Licensee's Equipment or any part of it would have the effect of disrupting service to persons outside of the Building.
- (viii) The Licensee will strictly comply with all occupational health and safety legislation, Workers' Compensation legislation, and other governmental requirements relating to performance of work and adherence to safety standards, as applicable.
- (ix) If the Licensor elects to retain a Riser Manager, the Licensee will, to the extent directed by the Licensor (i) recognize the Riser Manager as the duly authorized representative of the Licensor, and (ii) abide by all reasonable policies, directions and decisions of the Riser Manager pertaining to matters such as the use of Communication Spaces and other areas

within the Building, and the installation and operation of equipment having regard to safety, operational and building integrity concerns. Despite the foregoing or anything else contained herein to the contrary, and unless agreed to in writing by the Licensee in its sole discretion, the Licensee shall not be required to use the services of any Riser Manager or any other third party for any In-Building Wire.

- (b) The Licensor covenants:
- (i) To operate, repair and maintain the Building and Building systems and the Lands in a safe and proper operating condition and in accordance with accepted building industry standards for buildings of similar age, use and condition in the same geographic area;
  - (ii) That any consent or approval of the Licensor pursuant to the terms of this License shall not be unreasonably withheld, conditioned or delayed, except as is expressly provided for;
  - (iii) Subject to the Licensee reimbursing the Licensor for the Licensor's reasonable costs in doing so, and subject to payment to the Licensor of an administration fee of fifteen percent (15%) of those costs, to cooperate with the Licensee to the extent reasonable in obtaining all necessary consents, permits and authorizations as may be required for the Licensee's construction, installation and operations provided for in this Agreement, in or in respect of the Building;
  - (iv) If the operation of the Licensee's Equipment or the provision of the Services is interfered with by the operation of other equipment or by the activities of third parties in or in respect of the Building, the Licensor shall, to the extent that it is commercially reasonable, upon being provided by the Licensee with written notice and reasonable particulars concerning the nature of the interference, extend reasonable efforts to assist the Licensee in obtaining removal or amelioration of the interference within a time frame that is appropriate having regard to the nature and extent of the interference; and
  - (v) To require any TSP with whom it enters into a new license agreement to provide a substantially similar covenant to that made by the Licensee in Section 7(i), (i), (ii), and (iii).

## 9. ACCESS

- (a) The Licensee's authorized representatives may have access to the Equipment Room at all times during normal business hours, and at other times as agreed by the parties in advance, for the purposes of installing, maintaining, operating, improving and repairing the Licensee's Equipment. The Licensor will give the Licensee's authorized employees or properly authorized contractors, subcontractors, and agents of the Licensee ingress and egress to the Lands, Building and Communications Spaces including non-exclusive use of an elevator during normal business hours, and at other times as agreed by the parties in advance. However, only authorized engineers, employees or properly authorized contractors, subcontractors, and agents of the Licensee or of other TSP's, other authorized regulatory inspectors, or persons under their direct supervision and control will be permitted to enter the Building, Communications Spaces, Equipment Room, or other areas in the Building and only upon the conditions set forth in this Agreement. The Licensee shall be fully responsible for the acts or omissions of its employees or other authorized persons invited on its behalf to enter the Communication Spaces, Equipment Room, or other areas in the Building.
- (b) Except in the event of an emergency and as described below, the Licensee will give at least twenty-four (24) hours' notice to the Licensor of its intent to enter Communications Spaces. At the time that notice is given, the Licensee shall inform the Licensor of the names of the persons who will be accessing the Communications Spaces, the reasons for entry, and the expected duration of the work to be performed. For routine service activations and repair visits to the Building during normal business hours for which purposes the Licensee requires access without advance notice in order to meet its CRTC-mandated service provisioning and service repair intervals this notice may be given at the time of the entry, to the security person, or other person designated for that purpose by the Licensor. Any person who accesses the Building Communication Spaces must carry proper photo ID and shall comply with any visitor badging program then in operation at the Building. Any person who accesses the Building Communication Spaces, or any other part of the Building which the

Licensors outside of normal business hours, may be required by the Licensor to be accompanied by a representative of the Licensor designated for that purpose and the cost of providing this form of accompaniment or supervision will be paid by the Licensee to the Licensor based on hourly wage and employment cost (overtime or callout rates may apply) plus an administration fee of fifteen percent (15%). This escort fee shall not apply if it is recovered from tenants through the operating costs of the Building charged to them under their leases. In the event of any emergency, the Licensee shall give to the Licensor as much advance notice as reasonably possible of its intent to enter the Communications Spaces and, within five (5) Business Days following the entry, shall provide to the Licensor a written report detailing the nature of such emergency, the corrective actions taken, and any other relevant information.

- (c) Nothing in this Agreement shall prohibit or otherwise restrict the Licensor and its representatives from having access to and to enter upon and into the Equipment Room or any Deemed Area for the purpose of inspections, conducting maintenance, repairs and alterations which the Licensor wishes to make in connection with the Building, or to perform any acts related to the safety, protection, preservation, or improvement of the Equipment Room, Deemed Area, or the Building or for such other purposes as the Licensor considers necessary. The Licensor will, however, except in case of an emergency, give the Licensee at least twenty-four (24) hours advance notice before entry into the Deemed Area and will be accompanied by a representative of the Licensee if the Licensee makes a representative available for that purpose within twenty-four (24) hours of the Licensee's receipt of the Licensor's notice.

#### 10. INSURANCE

- (a) The Licensee shall maintain in force, at its expense, during the Term of this Agreement and any Renewal Term, a policy of Commercial General Liability Insurance issued by an insurer acceptable to the Licensor, acting reasonably, insuring the Licensee and, as additional insureds, the Licensor, any property manager or any lender that holds security on the Building that the Licensor may reasonably designate by written notice, only in respect of matters related to the operations of the Licensee in the Building, with a combined single limit of Ten Million Dollars (\$10,000,000.00) per occurrence for bodily injury or death or physical damage to tangible property including loss of use, physical damage to the Building and tangible property of the Licensor in the Building or bodily injury or death of the Licensor's employees, or bodily injury or death or physical damage to tangible property suffered by any of the tenants or occupants of the Building and their employees, and/or the customers of the Licensee and their employees in the Building. The Licensee's liability insurance may be composed of any combination of a primary policy and an excess liability or "umbrella" insurance policies, will contain owners' and contractors' protective coverage, standard non-owned automobile coverage, contingent employer's liability insurance, tenant's liability, a cross liability and severability of interests clause, and be written on an occurrence basis.
- (b) The Licensee will also maintain (i) an automobile liability insurance policy, and (ii) all risk property insurance on the Licensee's Equipment with a sufficient insured limit to cover its replacement costs or, alternatively, the Licensee may self insure for the full replacement cost of the Licensee's Equipment.
- (c) The Licensee's Commercial General Liability insurance shall be primary insurance insofar as the Licensor and the Licensee are concerned, with any other insurance maintained by the Licensor being excess and non-contributing with the insurance of the Licensee required hereunder with respect to the extent of the negligence of Licensee and those over whom it is responsible in law.
- (d) The Licensee shall provide proof of such insurance to the Licensor prior to commencement of any construction and notify the Licensor, in writing, that a policy is cancelled or materially changed to the detriment of the Licensor at least thirty (30) days prior to such cancellation or material changes. Annually, on the anniversary of the Commencement Date, or upon renewal of the respective policies as the case may be, the Licensee shall provide proof of such insurance in the form of insurance certificates signed by the Licensee's insurance brokers or its insurers' authorized representatives and in form, content, and detail consistent with the standard developed by ACORD (Association of Cooperative Operations, Research and Development) to the Licensor, acting reasonably.

- (e) The Licensor will maintain all risk property insurance on the Building.

## 11. INDEMNITY, RELEASE AND LIABILITY

- (a) The Licensee hereby agrees to protect, defend and hold harmless the Licensor and its officers, employees, agents, directors and assigns, from and against all loss, claims and expense, including without limitation any loss or damage attributable in whole or in part to the Licensee or its employees, servants, agents or contractors, because of damage to, loss or destruction of property, including loss of use thereof, and or because of bodily injury, sickness or disease, or death sustained by any person, including workmen's occupational disease, scaffolding, structural regulations to the employment, health, safety or working conditions of workmen, arising out of the performance of work by the Licensee, its contractors or subcontractors, arising out of failure or malfunction of the Licensee's Equipment or services for whatever reason or cause, or arising out of the Licensee's installation, operation and maintenance of its equipment, including the loss of interruption of data, voice, and other kinds of transmissions of the Licensee and the Licensee's customers, and including indirect or consequential damages and legal fees.
- (b) In no event will the Licensor be liable to the Licensee and the Licensee releases the Licensor for:
- (i) any damage to the Licensee's Equipment, Equipment Room, and Deemed Area or loss of use of such property unless the same results from the grossly negligent or wilful misconduct of the Licensor;
  - (ii) the quality, adequacy, compatibility or sufficiency of any Building Communication Spaces provided to the Licensee hereunder, it being acknowledged by the Licensee that all Building Communication Spaces are provided "as is" and "where is", the use of which is at the sole risk of the Licensee;
  - (iii) the activities of any third party, under the terms of another telecommunications access license or similar agreement, whether or not the party has been escorted while in the Building;
  - (iv) any claims resulting from the lightning or other electrical current passing through the Building or facilities that cause any damage to the Licensee's Equipment or result in the interruption of any service by the Licensee;
  - (v) the inadequacy of any utility service, or the loss of or the failure to provide any utility service save and except for the failure of the Licensor to use commercially reasonable efforts to provide reasonable prior written notice in accordance with Section 6, provided that the foregoing shall not release the Licensor from liability for damage to the Licensee's Equipment where the same results from the grossly negligent or wilful misconduct of the Licensor with respect to adequacy of any utility service, loss or failure to provide any utility service or failure of the Licensor to use commercially reasonable efforts to provide reasonable prior written notice in accordance with Section 6. Notwithstanding the foregoing, the Licensee acknowledges that interruptions in the supply of any services, systems or utilities are not uncommon in office buildings and the Licensee further acknowledges that any sensitive Licensee's Equipment in and on the Building will be protected by the Licensee from any failure in supply or interruptions through the use of a UPS system, surge protectors and other appropriate safety systems;
  - (vi) any loss or damage that may be occasioned by or through the acts or omissions of the Licensee or other licensees of the Building and the Lands or of any other persons whomsoever; or
  - (vii) any consequential damages regardless of causation.
- (c) With respect to tort claims against the Licensor, the Licensor shall not be liable to the Licensee or to any other person for any act or omission of the Licensor or of its agents or employees, negligent or otherwise except for actual damages or costs incurred as a direct result of and caused directly by the wilful misconduct, or gross negligence of the Licensor (or of the Licensor's agents or employees) in circumstances in which the Licensor is deemed to be liable at law for such acts or omissions and

such liability cannot be waived by the Licensee. Nothing contained in the immediately preceding sentence shall ever be construed as creating liability in excess of that existing at law or, in any event, increasing the liability of the Licensor, under any theory or cause of action, however denominated, from that existing at law. Further, the liability of the Licensor to the Licensee for (i) any default by the Licensor under the terms of this License, (ii) for any tort liability of the Licensor to the Licensee, or (iii) in any other circumstance in which the Licensor is judicially determined to have some liability to the Licensee, for whatever reason, shall, in each such instance, be limited to the interest of the Licensor in the Building and the Lands and the Licensee agrees to look solely to the Licensor's interest in the Building and the Lands for the recovery of any judgment from the Licensor, it being intended that the Licensor shall never be personally liable for any judgment of deficiency.

- (d) For the purpose of every release, exculpatory or indemnity clause benefiting the Owner, "Owner" is deemed to include, in addition to the Owner, any beneficial owner, shareholder of the Owner, or beneficial owner, the other Released Licensor Persons (it being noted that on the date of this Agreement, Avison Young Real Estate Management Services Ontario Inc. is employed as the property or asset manager for the Building). The Owner acts as agent for all of the other Released Licensor Persons solely for the purpose of enabling them to enforce the benefit of each release, exculpatory or indemnity clause in this Agreement, but in doing so, the Owner will not be required to act contrary to its own interest.
- (e) The Licensee will not make a claim against a third party arising from loss or damage to property, in respect of which it has released a Released Licensor Person from liability if the third party would have a claim for contribution or indemnity against the Released Licensor Person.

## 12. LIENS

The Licensee shall be responsible for the satisfaction or payment of any liens for any provider of work, labour, material or services claiming by, through or under the Licensee. The Licensee shall also indemnify, hold harmless and defend the Licensor against any such liens, including the reasonable fees of the Licensor's solicitors. The provisions of this Section shall survive termination of this Agreement. All such liens shall be removed within five (5) Business Days of notice to the Licensee to do so or sooner if the Licensor notifies the Licensee that the removal is an urgent matter. The Licensor may, at the cost of the Licensee, pay money into court to obtain removal of a lien if the Licensee fails to do so, as required, and the Licensee will pay the cost to the Licensor including the amount paid into Court plus an administration fee equal to fifteen percent (15%) of the amount.

## 13. DAMAGES FROM CERTAIN CAUSES

The Licensor shall not be liable to the Licensee for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, or order of governmental body or authority or by any other cause. Nor shall the Licensor be liable for any damage or inconvenience which may arise through (a) the leasing or licensing of other space within the Building to whomsoever the Licensor chooses for whatever use is allowed by the Licensor or (b) repair or alteration of any part of the Building, the Communication Spaces, the Main Distribution Frame, the Deemed Area or the Equipment Room or (c) the construction of improvements for the Licensee or other licensees in the Building and the Lands.

## 14. ASSUMPTION OF RESPONSIBILITY AND CONTROL

The Licensor reserves its right, consistent with the applicable decisions and rulings of the CRTC, to request the Licensee to transfer responsibility and control of its In-Building Wire. Such transfer shall be at the sole discretion of the Licensee and on terms and conditions acceptable to the Licensee. If the Licensor assumes responsibility and control of in-building wire installed by the Licensee, it will be entitled to recover the reasonable costs of its maintenance and management to the extent permitted by the CRTC.

## 15. ASSIGNMENT, SUBLICENSING, ENCUMBERING, SHARING OF SPACE AND EQUIPMENT BY THE LICENSEE

- (a) The Licensee shall not assign, transfer, sub-license, convey, mortgage, pledge, hypothecate or encumber this Agreement, or the Licensee's rights under this Agreement or grant any license, concession, or other right to use any portion of the Entrance Link, Main Distribution Frame, Communications Spaces, the Deemed Area and the Equipment Room without the prior written

consent of the Licensor, which may be arbitrarily withheld. Any attempt by the Licensee to accomplish a transfer or other transaction prohibited by the provisions of this License, without having obtained the prior written consent of the Licensor thereto shall be void and of no force or effect and may, at the option of the Licensor, constitute a material default hereunder.

- (b) No assignment or other transfer of this Agreement or the Licensee's rights hereunder shall release the Licensee from any liability or obligation under this Agreement, unless the Licensor provides a release in writing.

#### 16. HAZARDOUS MATERIALS

The Licensee shall not install, bring upon, or use any Hazardous Substance into or on the Building except telecommunications equipment batteries in a manner and in quantities as necessary for the ordinary performance of Licensee's business in the Building, and provided that any such use is in compliance with all applicable laws. The Licensee shall indemnify and hold the Released Licensor Persons and any party the Licensor is responsible for at law, harmless from any claim, loss, cost, damage, or expense resulting from any breach regarding the installation or use of any Hazardous Substance brought into or on the Lands or Building by the Licensee, including any and all costs incurred in remedying such breach, such indemnity to survive the expiration or earlier termination of this Agreement.

#### 17. EVENTS OF DEFAULT - TERMINATION REMEDIES

- (a) Each of the following events shall be deemed to be an Event of Default by the Licensee under this Agreement:
- (i) the Licensee defaulting in the payment of any License Fee, amount, or portion thereof, or other sum of money due to the Licensor and such default continues for more than Five (5) Business Days, after written notification of such default by the Licensor to the Licensee;
  - (ii) there is interference with the telecommunications or computer, trade, scientific, or medical equipment of the Licensor, any tenant, or any other occupant of the Building or any other telecommunications or computer devices provided in the Building by reason of, or as a result of, the installation, operation, maintenance, repair, or removal of the Licensee's Equipment, which interference is not cured within forty-eight (48) hours of the Licensee's receipt of written notice by the Licensor of such interference;
  - (iii) the revocation of the Licensee's permission to provide regulated or non-regulated telecommunications services by any governing entity authorized to permit or regulate the Licensee's providing of such services;
  - (iv) the Licensee's becoming insolvent, or the filing, execution, or occurrence of a petition in bankruptcy or other insolvency proceeding by or against the Licensee; or an assignment for the benefit of creditors; or a petition or proceeding by or against the Licensee for the appointment of a trustee, receiver or liquidator of the Licensee or of any of the Licensee's property or a proceeding by any governmental authority for the dissolution or liquidation of the Licensee;
  - (v) the appointment of a receiver, receiver and manager, or other representative in connection with any default by the Licensee under any loan or debt obligation;
  - (vi) the ceasing of the Licensee to carry on business in the ordinary course; or
  - (vii) if the Licensee shall default in the observance or performance of any of the Licensee's other obligations under this Agreement and such default shall continue for more than ten (10) Business Days after written notification of such default by the Licensor to the Licensee.
- (b) Upon or after the occurrence of an Event of Default the Licensor may elect to terminate this Agreement without limiting its other remedies.



**18. RESTORATION OBLIGATIONS**

- (a) At the expiration or earlier termination of this Agreement the Licensee shall, at the Licensee's sole cost and expense, without liens, remove the Entrance Cable, and all other items of the Licensee's Equipment except any part of it that by agreement between the Licensee and the Licensor has been acquired by the Licensor, and all of the Licensee's personal property from the Building. This obligation to remove the Entrance Cable and all other items of the Licensee's Equipment shall be subject to any CRTC-mandated obligations upon the Licensee to provide services to other TSP's. If any property that is required to be removed is not so removed within twenty (20) Business Days after the termination, the property may, at the Licensor's sole option, (i) be removed, or removed and stored by the Licensor at the Licensee's expense (and the Licensee will pay an administration fee equal to fifteen percent (15%) of the expense), or (ii) become the property of the Licensor without compensation to the Licensee. As of the date of such removal, neither party shall have any claim against the other, except for claims or obligations that may have arisen or accrued prior to such termination or arise by reason of the Licensee's Equipment and other equipment or property removal, which claims or obligations shall survive such termination. The Licensee further covenants, at its sole cost and expense, to repair or refinish all damage caused by the operation or removal of the Licensee's Equipment. If the Licensee fails to repair or refinish any such damage, the Licensor may, in its sole discretion, repair or refinish such damage and the Licensee shall reimburse the Licensor of all costs and expenses incurred in such repair or refinishing and will pay to the Licensor an administration fee equal to fifteen percent (15%) of the cost. The Licensee will provide to the Licensor upon completion of the removal of the Licensee's Equipment an engineer's report confirming completion of the removal in accordance with this Agreement.
- (b) If due to CRTC mandated obligations upon the Licensee to provide services to other TSP's, the Licensee is not required by Section 18(a) to remove the Entrance Cable or other items of the Licensee's Equipment ("Exempted Items") then despite the expiration or termination of the Term of this License, all of the obligations of the Licensee under this Agreement will continue in full force and effect. That situation will continue (subject to the sentence following this one) until the Licensee's CRTC mandated obligations end and the Licensee removes the Exempted Items and restores damage as provided in Section 18(a). So long as, and to the extent a third party assumes responsibility and control of the Exempted Items, and the third party is bound by a telecommunications access agreement with the Licensor, or a successor of the Licensor, the Licensee will be exempted from the obligation to remove the Exempted Items.

**19. LICENSOR'S ALTERATIONS**

Despite anything else in this Agreement, the Licensor may, at any time, make any changes in, additions to or relocations of any part of the Building; may grant, modify or terminate easements and any other agreements pertaining to the use or maintenance of all or any part of the Building or the Lands, may close all or any part of the Building to such extent as the Licensor considers necessary to prevent the accrual of any rights in them to any persons; and the Licensor may also make changes or additions to the pipes, ducts, utilities and any other building services in the Building (including areas used or occupied by the Licensee) which serve any part of the Building. No claim for compensation shall be made by the Licensee by reason of any inconvenience, nuisance or discomfort arising from work done by the Licensor but the work will be done as expeditiously as is reasonably possible.

**20. NOTICES**

Any demand, notice or other communication to be made or given in connection with this Agreement shall be in writing and shall be deemed received by the recipient on the date of delivery, provided that delivery is made before 5:00 p.m. on a Business Day, failing which receipt shall be deemed to have occurred the next following Business Day. Until notified of a different address, as provided herein, all notices shall be addressed to the parties as stipulated on the Information Page. Notices given by electronic means will not be considered to have been given in writing.

**21. LICENSEE'S EQUIPMENT TO REMAIN PERSONAL PROPERTY**

Except as otherwise provided in this Agreement, the Licensee's Equipment, Entrance Cable and In-Building Wire shall remain personal property of the Licensee although it may be affixed or attached to the Building, and shall, during the

Term of this Agreement, or any Renewal Term, belong to and be removable by the Licensee. Upon expiration of this Agreement, the Licensee ownership of the In-Building Wire shall, at the Licensor's option vest in the Licensor, provided that the Licensor may, at its option, require the In-Building Wire to be removed by the Licensee at the Licensee's cost and expense.

**22. LICENSE ONLY**

This Agreement creates a non-exclusive license only and the Licensee acknowledges that the Licensee does not and shall not claim any interest or estate of any kind or extent whatsoever in the Building, Communications Spaces, or Equipment Room by virtue of this Agreement or the Licensee's use of the Building, Communications Spaces or Equipment Room. The relationship between the Licensor and the Licensee shall not be deemed to be a "landlord-tenant" relationship and the Licensee shall not be entitled to avail itself of any rights afforded to tenants at law.

**23. LIMITATION OF LIABILITY**

The Licensor shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in the Building or the Lands, and in such event and upon such transfer the Licensor shall be released from any further obligations hereunder, and the Licensee agrees to look solely to such successor in interest of the Licensor for the performance of such obligations. A lease of the entire Building shall be deemed a transfer within the meaning of this Section.

**24. SPECIFIC TERMINATION RIGHTS**

In addition to the other termination rights provided to it in this Agreement, the Licensor may elect to terminate this Agreement in each of the following circumstances, subject to giving at least thirty (30) days' prior written notice to the Licensee:

- (a) where the Building has been destroyed, or damaged to such an extent that it is not feasible to repair it within a period of one hundred and eighty (180) days after the damage;
- (b) where the Deemed Area or the Communications Spaces become damaged and, it is not feasible to restore them within ninety (90) days after the damage;
- (c) where the Building is expropriated by a lawful authority;
- (d) where the Licensor wishes to redevelop, or otherwise alter the Building in such a manner as to, in the Licensor's sole opinion, make the relocation of any part of the Deemed Area or the Licensee's Equipment not feasible;
- (e) the Building is no longer a "Multi-Dwelling Unit Building" as defined by the CRTC, provided however that in such event the Licensor may, at its option, elect to have this Agreement continue, in which case no Fee or Recoverable Costs shall be payable by the Licensee hereunder during such time that the Building is not a Multi-Dwelling Unit Building, but all other terms and provisions hereof shall continue to apply; or
- (f) at the Licensor's sole option, where the Building and/or Lands are being sold; or
- (g) the Licensor, acting bona fide and in good faith, elects to demolish the Building.

**25. ESTOPPEL CERTIFICATES**

The Licensee will provide to the Licensor from time to time, within ten (10) Business Days of the Licensor's written request in each case, at no cost to the Licensor, a statement duly executed by the Licensee confirming that this Agreement is in good standing confirming, the Fees payable and the Fees actually paid to any date specified by the Licensor for the statement confirming the Commencement Date, the Term, any Renewal Term to which it claims to be entitled, and any other information that the Licensor reasonably requests pertaining to this Agreement or Building.

**26. LICENSOR'S AUTHORITY**

The Licensor represents that it has full authority to execute this Agreement.

**27. SEVERAL OBLIGATIONS - NON-RECOURSE**

The liability of each of the Licensor(s) where there are more than one, is several and not joint, or joint and several and is limited to the interest of the Licensor(s) from time to time in the Building.

**28. ENTIRE AGREEMENT**

The terms and conditions contained in this Agreement supersede all prior oral or written understandings between the parties and constitute the entire agreement between them concerning the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by authorized representatives of the parties.

**29. LICENSEE'S REPRESENTATION**

The Licensee represents to the Licensor and acknowledges that the Licensor relies upon this representation and would not have entered into this Agreement but for that representation, that, the construction, design and operation of the Licensee's Equipment includes back-up, redundant and "fail safe" features so that the risk of damage, malfunction or disruption of the Licensee's Equipment disrupting service to customers or other third parties utilizing that network and equipment (except for telecommunication services between (i) the customers of the Licensee or the customers of telecommunication service providers that lease local loops from the Licensee to serve customers within the Building and (ii) persons communicating with those customers) is minimized.

**30. FORCE MAJEURE**

Without limiting or restricting the applicability of the law governing frustration of contracts, in the event either party fails to meet any of its obligations under this Agreement within the time prescribed, and such failure shall be caused, or materially contributed to, by force majeure, such failure shall be deemed not to be a breach of the obligations of such party under this Agreement, and the time for the performance of such obligation shall be extended accordingly as may be appropriate under the circumstances. For the purpose of this Agreement, force majeure shall include, but is not limited to: any acts of God, war, natural calamities, strikes, lockouts or other labour stoppages or disturbances, civil commotion or disruptions, riots, epidemics, acts of government or any competent authority having jurisdiction, or any other legitimate cause or event beyond the reasonable control of such party, and which, by the exercise of due diligence, such party could not have prevented, but lack of funds on the part of such party shall not be deemed to be a force majeure.

**31. IMPLIED WAIVERS**

A waiver by the Licensor or the Licensee of any breach of the terms, covenants and conditions of this Agreement shall not be deemed to be a waiver of the term, covenant or condition or of any subsequent breach of it or any other term, covenant or condition. No term, covenant or condition of this Agreement is deemed to have been waived unless the waiver is in writing and signed by the Licensor or the Licensee, as the case may be.

**32. SEVERABILITY**

If any provision of this Agreement or any part of a provision is found to be illegal or unenforceable then it will be severed from the rest of this Agreement and the rest of this Agreement will be enforceable, accordingly.

**33. GOVERNING LAW**

This Agreement will be governed by the laws of the province in which the Building is situated and the parties attorn to the exclusive jurisdiction of the courts of such province.

**[Signature page immediately follows]**

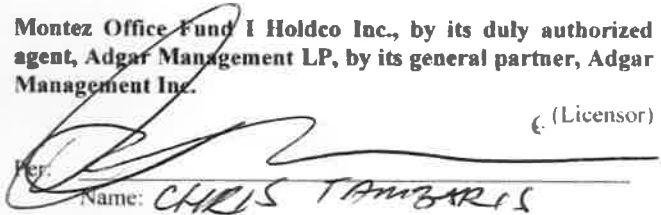
IN WITNESS WHEREOF, the Licensor and the Licensee have executed this Agreement in multiple original counterparts as of the day and year first above written.

**365 Bay Street Limited Partnership, by its general partner,  
365 Bay Street Inc.** (Licensor)

Per:   
Name: CHRIS TAMBAKIS  
Title: CEO

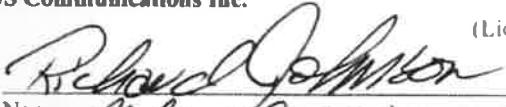
Per: \_\_\_\_\_  
Name: DAVID DENIGLE  
Title: VP, LEASING  
I/We have authority to bind the corporation

**Montez Office Fund I Holdco Inc., by its duly authorized  
agent, Adgar Management LP, by its general partner, Adgar  
Management Inc.** (Licensor)

Per:   
Name: CHRIS TAMBAKIS  
Title: CEO

Per: \_\_\_\_\_  
Name:  
Title:  
I/We have authority to bind the corporation

**TELUS Communications Inc.** (Licensee)

Per:   
Name: Richard Johnson  
Title: Manager, Building Access

Per: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "A"**

**DEEMED AREA**

50 Sq/Ft

To follow

**EXHIBIT "1"**  
**RECOVERABLE COSTS**

The Recoverable Costs are the costs of:

- (a) architectural, mechanical and electrical consulting fees to provide or review architectural, electrical and heating, ventilating and air-conditioning design for construction of additional main terminal room or point of presence space (Equipment Room space), riser rooms and other areas requiring reconstruction to accommodate the installation of the Licensee's Equipment;
- (b) mechanical engineering and construction to provide any additional cooling for anticipated loads to accommodate the Licensee's requirements;
- (c) electrical engineering and construction to provide sufficient power distribution to support the power loads anticipated for the Licensee's Equipment, including any connection to any emergency generator power grid that may be made available using a transfer switch;
- (d) the installation of any secured entry devices or other mechanical or electronic security devices that may be installed to satisfy the requirements of the Licensee;
- (e) construction for additional space or reconstruction or modification of existing space to accommodate the Licensee and modifying, enlarging or enhancing any telecommunication related facilities that must be made to accommodate the requirements of the Licensee including the reviewing of plans, specifications and working drawing and the monitoring of the performance of work and the obtaining of professional advice from engineers and technical experts;
- (f) any other reasonable costs of facilitating the initial set up of the Licensee's operations within the Building;
- (g) reviewing plans, specifications and working drawings and monitoring performance of work as contemplated by Section 7(a);
- (h) a share allocated by the Landlord, acting reasonably, to the Licensee of any special services provided to TSP's in the Building; and
- (i) the cost of any special service provided to the Licensee by the Licensor and not provided to other TSP's.