

VIA COURIER

May 27, 2002

TELUS Communications Inc.
Attention: Manager, Building Access
21S, 10020 – 100 Street
Edmonton, Alberta
T5J 0N5

Dear Sirs:

**Re: License Agreement dated March 28, 2002 (the "Agreement") between TELUS Communications Inc. and Brookfield Properties (Vancouver) Ltd.
Our File No: 4RCC-4500-02-001**

It is hereby agreed and confirmed that the "Commencement Date" under the Agreement shall be June 1, 2002.

Please indicate your concurrence with the foregoing by signing in the space set out below and by returning two duly signed copies of this letter to the undersigned.

Yours very truly,

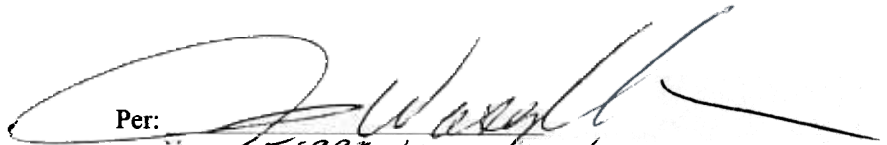
BROOKFIELD PROPERTIES (VANCOUVER) LTD.



D. Cameron Black,
Vice President Legal,
Western Office

AGREED and ACCEPTED as of the date of this Letter.

TELUS Communications Inc.

Per: 
Name: *JERRY WASYLUK*
Title: *MANAGER, BUILDING ACCESS
WESTERN CANADA*

ROYAL CENTRE

THIS LICENSE AGREEMENT made this 28th day of March, 2002

Brookfield Properties (Vancouver) Ltd.
(hereinafter called the "Owner")

- and -

TELUS Communications Inc.
(hereinafter called the "Licensee")

WHEREAS:

1. The Owner is the owner of the Building located on lands in Vancouver, British Columbia legally described in Schedule A attached hereto (the "Lands");
2. In order to provide Telecommunications Services to the Building, the Licensee requires a license to access and use the Premises, Telephone Room and certain other space in the Lands and Building to construct, install, operate, maintain, repair, service, upgrade and modify (collectively the "Installation") at various locations in the Lands and Building, the Equipment; and

The Owner has agreed to grant the Licensee the license it requires on the terms and conditions set out herein.

IN CONSIDERATION of the covenants, terms, conditions and agreements contained herein and fee of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, the Owner and the Licensee agree as follows:

DEFINITIONS

In this License, the terms appearing herein have the following meanings:

- (a) "Affiliate" has the meaning given thereto in the *Canada Business Corporations Act* as of the date of this Agreement.
- (b) "Approved Plans" means the Plans and Specifications to be approved by the Owner prior to the Installation of the Equipment in accordance with Section 4 below.
- (c) "Basic Services" means the twisted pair of copper wires used to provide basic local exchange telephone services in the Building.
- (d) "Building" means the office tower and commercial complex owned by the Owner located on the Lands containing 606,756 square feet of gross rentable area.
- (e) "Cables" means fibre optic, co-axial and copper cables and wires, encased in EMT conduit or otherwise, which cable or conduit shall not exceed 2 ½ inches in diameter.
- (f) "CDS" means a central telecommunication cable distribution system.
- (g) "Communications Equipment" means cabinets, racks, electronic equipment, electrical power equipment and other similar and related equipment to be installed by the Licensee in the Premises as the Licensee may require for the provision of Telecommunications Services by the Licensee.
- (h) "Connecting Equipment" means fibre guides, fibre entrance cabinets, fibre patch panels, and other similar and related fibre management equipment and connecting hardware to be installed by the Licensee that is, connected to the Communications Equipment, or Cable or Licensee In-Building Wire.
- (i) "CRTC" means the Canadian Radio-television and Telecommunications Commission.
- (j) "Entrance Cable" means the Cable owned by the Licensee that connects the Licensee's telecommunications network to the Licensee Equipment located in the Premises, Telephone Room and the Licensee Equipment located in the Premises and Telephone Room to the Main Distribution Frame and includes the tie Cables between the Premises and the Main Distribution Frame.
- (k) "Entrance Link" means the core sleeve penetration through the foundation of the Building used to bring Cable onto the Lands and into the Building and that contains the Entrance Cable.
- (l) "Equipment" means collectively the Licensee Equipment, the Entrance Cable and the Licensee In-Building Wire.
- (m) "Fair Market Rate" means an amount upon renewal of the Term of this License, equal to the then prevailing rate and structure for similar access in comparable buildings with a similar use located in the central downtown business core of Vancouver, British Columbia during the immediately preceding year, or the then prevailing Annual Fee, which ever is greater. To initiate the Fair Market Rate discussions, the Licensee shall give the Owner not less

than six (6) nor more than twelve (12) months written notice prior to the expiry of the Term and the Fair Market Rate for the renewed Term shall be determined as mutually agreed between the Owner and the Licensee. In the event that the Owner and Licensee are unable to agree upon the Fair Market Rate, prior to the expiration of the Term, then the Fair Market Rate shall be determined by arbitration in accordance with Section 22. Notwithstanding the foregoing, in no event shall the Fair Market Rate be less than the Annual Fee paid in the last year of the Term.

(n) "In-Building Wire" means, collectively, the Licensee In-Building Wire, Tenant In-Building Wire and Owner In-Building Wire.

(o) "License" means this License and all supplemental instruments, amendments or confirmations agreed to in writing by both parties herein and includes the Approved Plans.

(p) "Licensee Equipment" means, collectively, the Communications Equipment and the Connecting Equipment.

(q) "Licensee In-Building Wire" means the Cable in the Building owned and/or controlled by Licensee that is to be used to provide Telecommunications Services to tenants of the Building, and other Building occupants, but does not include the Entrance Cable.

(r) "Owner In-Building Wire" means the Cable in the Building owned and/or controlled by Owner that is to be used to provide telecommunications services to tenants of the Building, and other Building occupants and telecommunications service providers including the Licensee.

(s) "Main Distribution Frame" or "MDF" means the main distribution frame or main distribution frames located in the Building.

(t) "Pathways" means the risers, conduits, ducts, trays and raceways located in the Building and on the Lands.

(u) "Premises" means that portion of the Telephone Room located on Level P-1 of the Building for the placement of the Licensee Equipment, shown cross-hatched on the attached Schedule "C".

(v) "Schedules" means those Schedules attached to this License Agreement which are deemed to be incorporated herein and include the following:

| | |
|------------|--------------------------------|
| Schedule A | Legal Description of the Lands |
| Schedule B | Plan of Telephone Room |
| Schedule C | Plan of Premises |

(w) "Telecommunications Services" means, as defined in the *Telecommunications Act* (Canada), a service provided by means of telecommunications facilities and includes the provision in whole or in part of telecommunications facilities and any related equipment, whether by sale, lease or otherwise.

(x) "Telephone Room" means the area in the Building located on Level P-1 of the Building which has been designated by the Owner for the placement of the Licensee Equipment and the equipment of other telecommunication providers, as more particularly shown hatched on Schedules "B" and "C" attached.

(y) "Tenant In-Building Wire" means the Cable in the Building owned and/or controlled by a tenant or occupant of the Building that is to be used to provide telecommunications services to the tenant who owns or controls the Tenant In-Building Wire, for use by telecommunications service providers, including the Licensee.

2. GRANT OF LICENSE

(a) Provided and for so long as the Licensee is in good standing under this License and is not then in default of this License, the Owner grants the Licensee the right to operate the Equipment in the Building in order to provide Telecommunications Services, on a non-exclusive basis, to the tenants of the Building, and other occupants of the Building. In order to provide such services, the Licensee may, in accordance with this Agreement at its sole cost and expense, on a non-exclusive basis:

(i) install, connect, test, operate, maintain, repair, disconnect, replace and remove the Equipment;

(ii) use the Building, Telephone Room, Premises and Lands including the Entrance Link, the Main Distribution Frame, and all Pathways, as required for the provision of Telecommunication Services;

(iii) connect the Entrance Cable to the Licensee Equipment and to the Main Distribution Frame; and

(iv) connect the Licensee Equipment to the In-Building Wire and, with the approval of the Owner, to other equipment in the Building or on the Lands including the electric power distributing system within the Building.

(b) In order that the Licensee has the access required to exercise the rights granted above and subject to the Owner's building rules and regulations and security requirements, the Owner grants the following licenses regarding access:

- (i) an exclusive license to access and use the Premises;
 - (ii) an exclusive license to access and use the Licensee Dedicated Conduit within the Pathways in accordance with the Approved Plans; and
 - (iii) a non-exclusive license to access and use: all portions of the Lands necessary to bring the Entrance Cable from the property line of the Lands to the Entrance Link and to the Premises and Telephone Room; the Main Distribution Frame; and all existing Pathways associated with the Premises, Telephone Room, Building and Lands all in accordance with the Approved Plans.
- (c) All access granted herein may be exercised by the Licensee twenty-four (24) hours per day, three-hundred and sixty-five (365) days per year subject to (i) the Owner's building rules and regulations and security requirements; (ii) emergencies; and (iii) force majeure.
 - (d) This License shall not constitute a right by the Licensee to have or claim a property interest in, or leasehold interest in any part of the Lands or the Building.
 - (e) The Licensee accepts the Building, the Lands, and such licenses and access in relation to them on an "as is/where is" basis.
 - (f) Subject to the Owner's building rules and regulations and security requirements for the Building and the quiet enjoyment of tenants and occupants of the Building, the Owner agrees that upon not less than forty eight (48) hours prior written notice the Owner will permit the Licensee, its employees and duly authorized contractors, reasonable access to the Building and Lands so as to permit the Licensee to perform its Installation for the benefit of the Licensee's customers in the Building, as may be reasonably required from time to time throughout the Term; provided that for greater certainty, the access and rights granted hereunder are to be relied upon solely for the provision of Telecommunication Services to tenants and occupants of the Building and for no other purpose. The Owner shall use reasonable efforts to prevent any interruption or interference with all or any part of the Equipment provided the Owner shall not be liable for interruption or cessation of such services due to the failure of utilities servicing the Building; provided that the Licensee does not affect the operation, aesthetics or structure of the Building, impair existing telecommunication or other utility services supplied to other tenants and occupants of the Building in the sole opinion of the Owner, acting reasonably.
 - (g) The rights granted to the Licensee herein constitute a license only and shall not under any circumstances whatsoever constitute a right by the Licensee to have exclusive possession of the Building. However, notwithstanding the foregoing or anything else herein and provided the Licensee is not then in default of its obligations under this License, the Owner agrees that the Licensee shall have the exclusive use of the Premises. This License shall not constitute nor be interpreted to be a partnership agreement, employment agreement, lease or joint venture agreement made between the parties.

3. TERM AND ACCESS FEE

- (a) The term of this License (the "Term") shall be for a period of approximately five (5) years commencing upon execution of this agreement (the "Commencement Date") and terminating the last day of the calendar month occurring immediately prior to the fifth (5th) anniversary of the Commencement Date, subject to early termination in accordance with this License.
- (b) The annual Licensee fee (the "Annual Fee") paid by the Licensee to the Owner shall be as follows, plus G.S.T.:

| fee per sq. ft. of gross rentable area of the Building | Period |
|---|--|
| \$.02 | Commencement Date to the day immediately prior to the first (1 st) anniversary of the Commencement Date |
| \$.02 | Year 2 |
| \$.03 | Year 3 |
| \$.03 | Year 4 |
| \$.03 | Year 5 |

- The Licensee covenants and agrees with the Owner that throughout the Term and any renewal thereof the Licensee or any one of its Affiliates shall be licensed as an incumbent local exchange carrier ("ILEC") as licensed by the CRTC.
- (c) The Annual Fee shall be payable yearly in advance without deduction, abatement or set-off commencing on the Commencement Date and continuing throughout the Term or any extension thereof on each anniversary of the Commencement Date. The Annual Fee and all payments by the Licensee to the Owner of whatsoever nature required or contemplated by this Agreement shall be made when due hereunder, without prior demand therefor at:

Suite 960, 1055 – West Georgia Street,
Vancouver, B.C.
V6E 3P3

Attention: Royal Centre™ Accounting Clerk

or at such other place as the Owner may designate from time to time to the Licensee and shall be paid to the Owner or such other person as the Owner may designate from time to time to the Licensee.

- (d) In addition to the Annual Fees, the Licensee shall pay upon demand based on yearly estimates which shall be adjusted at the end of each calendar year during the Term and the Renewal Term, if any, (or following the end of the Term or any Renewal Term if such date does not occur on the last day of a calendar year) to reflect actual consumption, of the following for the Building:
- (i) the cost of supplying all utilities used or consumed by the Licensee on the basis of separate meters, and otherwise on the basis of an allocation as determined by the Owner, acting reasonably. The Licensee shall install a separate meter, at Licensee's cost, to monitor the supply of all utilities used or consumed by the Licensee under this License;
 - (ii) the cost of operating, maintaining, regulating, repairing or replacing the heating, ventilating and air-conditioning equipment directly or indirectly servicing the Equipment or Premises on the basis of an allocation as determined by the Owner, acting reasonably;
- any multi-stage sales, use, consumption, goods and services tax, value added or business transfer taxes or any other similar taxes of whatever name imposed by any governmental authority with jurisdiction on any amounts payable under this License;
- all business taxes, rates, duties and assessments and other taxes, levies, assessments and charges that may be levied, rated, charged or assessed against or as a consequence of the Equipment and Premises, and every tax and license fee in respect of any and every business in respect of the use or occupancy thereof by the Licensee; and
- (v) Any increase in realty taxes resulting from the provision of Telecommunication Services described herein or the Installation of the Equipment.

- (e) Provided that the Licensee is not in default of any of its obligations under this Agreement, the Term of this Agreement may be renewed for a period of five (5) years (the "Renewal Term") upon the Licensee providing the Owner at least six (6) and not more than twelve (12) months written notice prior to the end of the Term of the Licensee's election to renew. The Renewal Term will be governed by the terms and conditions set out herein except for any further right to renew and the amount of the Annual Fee which will be determined and paid as below.

The Annual Fee to be paid during the Renewal Term will be the Fair Market Rate. If the parties cannot agree as to the Fair Market Rate, prior to the commencement of the Renewal Term, the matter of what is the Fair Market Rate and, hence, the Annual Fee payable during the Renewal Term, shall be submitted to arbitration in accordance with the provisions of Section 21.

In the event the parties diligently and in good faith negotiate the Fair Market Rate and, if the determination of the amount of the Annual Fee payable during the Renewal Term is delayed beyond the commencement of the Renewal Term, the Licensee will continue to pay the Annual Fee in the amount payable during the Term. When the Annual Fee for the Renewal Term is determined, the Licensee will pay to the Licensor any deficiency in the Annual Fee, as applicable.

4. APPROVED PLANS

The Licensee shall prior to Installation of the Equipment and use of the Premises prepare and deliver to the Owner plans, specifications, diagrams, layouts and any other drawings and documents reasonably required to describe the Equipment including all wiring designations ("Plans and Specifications") showing, without limitation, the size and location of the Equipment, the location of risers, and wiring connecting same to the power supply source and the telephone lines. Such Plans and Specifications shall be approved by the Owner, in its sole discretion (such approval not to be unreasonably withheld or delayed) as evidenced by its written endorsement thereon and shall then become the Approved Plans. The endorsement by the Owner on the Approved Plans shall constitute a confirmation of the licensing of the locations shown on the Approved Plans. The Owner shall have the right to inspect the Equipment from time to time to determine that the Installation is in accordance with the Approved Plans.

5. INSTALLATION/REMOVAL

- (a) The Licensee shall proceed with the Installation of the Equipment in a good and workmanlike manner using professional, properly attired workmen and in accordance with the Approved Plans and the provisions of this License. The Licensee Equipment and related materials installed in the Building and in the Premises shall at all times remain the property of the Licensee. All Licensee Equipment and related materials upon abandonment by the Licensee and default by the Licensee beyond the applicable cure periods may, at the Owner's option, become the absolute property of the Owner without compensation to the Licensee or the Owner may require the Licensee to remove all or part of Licensee Equipment as the Owner may direct at the Licensee's sole cost.

- (b) The Licensee shall submit further Plans and Specifications showing additions, alterations, modifications, upgrades, consolidations or relocation of the Equipment and Premises (the "Alterations"). The Alterations if so approved by the Owner shall become the Approved Plans. The Licensee shall pay the Owner on written demand a reasonable fee for reviewing the Approved Plans and any Alterations.
- (c) The Licensee shall at its own expense perform the Installation of the Equipment in compliance with the laws, rules and regulations and fire codes of all relevant governmental authorities as may be amended from time to time and no work shall be undertaken unless all requisite approvals and licenses shall have first been obtained from such governmental authorities.
- (d) Upon early termination or expiration of this License, the Licensee shall leave the portions of the Building and Premises where the Licensee Equipment is located in a neat, clean and safe condition and repair any damage or waste caused to the Building and the Premises caused by the installation of the Licensee Equipment, reasonable wear and tear only excepted.
- (e) Upon the expiration of the Term or any extension thereof or termination of this Agreement, at the Licensor's option, the Licensor may elect to have the Licensee In Building Wire which was installed during the Term or any extension thereof to remain in the Building for the Licensor's sole use and ownership at no cost or require the Licensee to remove all or part of the Licensee In Building Wire as the Licensor may direct at the Licensee's sole cost. For greater clarity, the Licensee Equipment and Entrance Cable located in the Building and Lands shall remain the property of the Licensee and shall be removed by the Licensee in accordance with subparagraph (f) below.
- (f) Licensee shall remove the Licensee Equipment upon the early termination or expiry of the Term and in any event, within thirty (30) days after the termination or expiration of this License and repair any damage to the Building (including the Premises) caused by its installation or removal and restore the Building (including the Premises) to its original condition as if the Licensee Equipment was not installed excluding, reasonable wear and tear. The Licensee shall not be permitted to remove any of the Licensee Equipment or other personal property at any time, including the early termination or expiry of the Term or any renewal thereof, if Licensee is then in default under this License.

If Licensee does not remove the Licensee Equipment (to the extent such is entitled to be removed) within the time period set out above, the Licensee's Equipment shall be conclusively deemed to be abandoned and shall become Owner's property and Owner may remove and/or dispose of the same as Owner sees fit, all at Licensee's cost and expense. In connection therewith, provided Licensee is not in default hereunder, Owner agrees that if Licensee requests permission to maintain the Licensee Equipment on the Lands after the termination of this License, the Owner shall not unreasonably withhold its consent thereto, but in no event shall Licensee be permitted to maintain the Licensee Equipment for more than thirty (30) days after the termination of this License. In granting such consent, Owner may charge a fee equal to three (3) times the monthly Annual Fee. Such consent shall be deemed to be reasonably withheld if such space is relicensed to a third party or if the marketing of such space is inhibited by the presence of the Licensee Equipment.

- (g) Upon the consent and approval of the Owner, the Licensee or any contractor of the Licensee may perform the Installation of the Equipment in accordance with the Approved Plans and in the event the Owner, acting reasonably, does not approve or consent to the Installation of the Equipment by the Licensee or its contractors, then the Licensee shall be obligated to use the Owner's approved contractors ("Approved Contractor").
- (h) The Licensee acknowledges that the Owner at any time during the Term or any extension thereof, shall have the right to alter, renovate, or expand the Building. In the event the Owner requires the Licensee, acting in good faith, to relocate the Equipment and Premises, the Licensee shall do so forthwith at the expense of the Owner.
- (i) To conserve space in riser areas shared with other providers, the Licensee shall not use conduit to encase Cable unless approved by the Owner, which approval may not be unreasonably or arbitrarily withheld.
- (j) All Work shall be performed by the Licensee (i) in accordance with Owner's Rules and Regulations applicable to the Building, (ii) performed in a workman-like manner, lien free and in accordance with all applicable Laws, (iii) if applicable, without affecting or implicating any of the building's hazardous materials programs or asbestos procedures, and (iv) in a safe manner consistent with sound construction standards and practices. Notwithstanding any other requirements, the Owner is very concerned about safety in the Building, particularly the riser rooms and other service areas, not frequented by the public. The Licensee will provide temporary firestopping during initial construction and any subsequent alterations that might compromise the fire rating between the work area and any adjacent areas or between any floors in the Building. Under no circumstances will the Owner tolerate poor practices by the Licensee or its contractors as it relates to Fire and Life Safety (as defined in the Rules and Regulations of the Building) issues.
- (k) The Licensee shall strictly comply with the *Builders Lien Act* (British Columbia) (the "Act") and shall take all reasonable steps to, ensure that all accounts for materials supplied, products, labour, subcontracts, sub-subcontracts, construction machinery and equipment associated with or related to the Installation are paid in a timely manner and in accordance with the Act so as to ensure that no lien attaches to or is registered or filed against the Licensee, the Owner, the Lands, the Building, the Owner's interest in or to the Lands or the Building.

If a lien related to the Licensee, the Installation materials supplied, products, labour, subcontracts, sub-subcontracts, construction machinery and equipment associated with or related to the Installation, is registered or filed, the Licensee shall discharge such lien at its sole expense within seven (7) business days after notice from the Owner (or sooner if the *lien* is delaying or effecting a financing, sale or transfer of all or part of the Building or the Lands or any interest therein) failing which the Owner may, at his option, discharge the lien by any means whatsoever including, without limitation, by payment of monies into court or directly to the lien claimant or by taking such other action as the Owner, in its sole discretion, deems to be expedient or advisable to effect the immediate discharge of the lien whether or not the validity of such lien is admitted or denied by the Licensee or any other person. Any monies or expenses paid by or costs incurred by the Owner pursuant to this paragraph 5(k) including, without limitation, legal fees and disbursements on a solicitor and its own client basis and security for costs, shall be paid by the Licensee to the Owner within five (5) days of the issuance of an invoice therefor by the Owner.

6. ESTABLISHMENT OF CDS

- (a) The Owner may undertake to provide or install a CDS to satisfy the collective Cable requirements of all service providers and occupants of the Building or any of them during the Term or any Renewal Term.
- (b) The installation of a CDS during the Term or any Renewal Term shall not affect the rights and access granted to the Licensee or the ability of the Licensee to provide Telecommunication Services to tenants or occupants of the Building pursuant to the terms and conditions of this License.
- (c) In the event the Owner installs the CDS pursuant to subparagraph 6(a) above, the Owner and Licensee mutually agree to enter into good faith negotiations in an attempt to enter into a CDS usage agreement satisfactory to each, however, if the parties are unable to execute a CDS usage agreement nothing contained in this Article or the establishment of a CDS shall affect the rights and access granted to the Licensee pursuant to the provisions of this License.

7. RISER MANAGEMENT

The Licensee acknowledges and agrees that the Owner shall have the right to co-ordinate, restrict, enforce and approve third parties acting reasonably who wish access to the Building's risers. The Licensee acknowledges that the Owner may retain a riser management firm or other third party manager to co-ordinate, supervise and approve the work of all telecommunication contractors who shall employ industry standard practices followed by telecommunication services providers in Canada. The Owner may direct the Licensee to take instructions from such riser management firm or third party manager who shall act on behalf of the Owner in this regard. An equitable proportionate share of such costs associated with third party riser management will be paid by the Licensee and other telecommunication providers in the Building.

9. CONSOLIDATION

At the Owner's request and sole expense, the Licensee shall modify, replace, alter or consolidate the Equipment, in order to reduce the amount of space occupied by the Equipment and related materials in the Building including without limitation riser shafts and Telephone Room. The Owner undertakes acting reasonably to use the most cost-effective and efficient solution for the Building with respect to such modification, replacement, alteration and consolidation and agrees to allocate such costs among the various telecommunication providers in the Building in an equitable and fair manner.

9. INDEMNITY/WAIVER

- (a) Save and except to the extent caused by the negligent act or omission of the Owner, the Building owner or its property manager and their directors, officers, and employees, the Licensee hereby releases, and shall indemnify and save harmless the Owner, the property manager retained by the Owner to manage the Building and their respective directors, officers, employees and persons for whom any one of them are legally responsible, from and against all actions, suits, claims, damages, expenses, cost and liabilities arising out of or as a result of:
 - (i) any breach, violation or non-performance of the terms, covenants and obligations on the part of the Licensee, its servants, agents, employees, contractors or persons for whom any one of them are legally responsible as set out in this License;
 - (ii) any damage to the Building occasioned by the Installation of the Equipment by the Licensee, its servants, agents, employees, contractors or others for whom it is in law responsible;
 - (iii) any injury to or death of any person or damage to or destruction or loss of property (including without limitation loss of information or data) and consequential injury or damages (including, without limitation, loss of business income or profits) resulting from the Installation of the Equipment by the Licensee, its servants, agents, officers, employees or contractors or others for whom it is in law responsible.
- (b) The Owner, , the property manager retained by the Owner to manage the Building, and their respective directors, officers, employees and others for whom they are in law responsible shall not be liable for:
 - (i) any damage to or destruction of the Equipment of the Licensee in the Building; or

- (ii) any bodily injury, death, damages for personal discomfort or illness, or consequential injury or damage (including, without limitation loss of business income or profits) sustained by the Licensee or any customer of the Licensee or any of their respective servants, agents, officers, employees, customers or others for whom they are in law responsible, resulting from any damage to, destruction of, or interference with the Equipment; or
- (iii) injury or damage to persons or property resulting from fire, smoke, explosion, falling plaster or ceiling tiles, broken glass, escaping steam, gas, fumes, vapour or odours, electricity, vermin, computer or electronic equipment or systems malfunction or stoppage, freezing or excessive heat or cold, flooding, water, rain, snow, ice or leaks or discharges from any part of the Building or from any pipes, or from any component of the sprinkler system, or from any appliance or plumbing work in the Building, or from dampness; or
- (iv) damage caused by other tenants, occupants, invitees, the public at large or other persons in the Building or the public, or caused by operations in the construction of any private or public work; or
- (v) anything whatsoever in relation to any heating, ventilating or air-conditioning services or equipment, any utility services (including heating, air-conditioning, cool air, chilled water, water, natural gas, electricity and other utilities) or elevator or escalator services in, at or supplied to the Building including, without limitation, the cessation or suspension of any such utilities or services; or
- (vi) anything whatsoever in relation to the non-observance or violation of any provision of:

the building rules and regulations and security requirements for the Building; or

any other lease, sublease, license or other occupancy agreement respecting any part of the Building by any other tenant, subtenant, licensee, occupant or other person,

and the Owner shall not be under any obligation whatsoever to enforce any such provisions,

unless but only to the extent directly caused by the negligent act or omission of the Owner, the property manager, or their respective servants, agents, officers, employees or others for whom they are in law responsible.

- (c) Notwithstanding anything to the contrary set out in this Agreement, in no event shall the Owner, the Building's property manager or those persons for whom either the Owner or the Building's property manager is in law responsible be liable for any loss, cost, expense, injury or damage suffered or incurred by the Licensee or others, whether due to the negligence of the Owner, the Building's property manager or any person for whom either the Owner or the Building's property manager is in law responsible, or otherwise, if the Licensee has insured itself against, or is required by Paragraph 12 to insure itself against, such losses, costs, expenses, injuries or damages.
- (d) Notwithstanding anything to the contrary set out in this Agreement, in no event shall Telus or those persons for whom Telus is in law responsible be liable for any loss, cost, expense, injury or damage suffered or incurred by the Owner or the Building property manager or others, whether due to the negligence of Telus or any person for whom Telus is in law responsible, or otherwise, if the Owner or the Building property manager has insured itself or themselves against, or is required by Section 12A to insure itself or themselves against, such losses, costs, expenses, injuries or damages.

10. RIGHT OF TERMINATION

If: (a) the Licensee is adjudicated a bankrupt, or adjudged to be insolvent, or (b) a receiver, receiver-manager or trustee of the Licensee's property and affairs is appointed; or (c) the Licensee makes an assignment for the benefit of creditors or files a petition in bankruptcy or insolvency or for the appointment of a receiver or a receiver-manager, or any execution or attachment is issued against the Licensee or any of the Licensee's property under which any person other than the Licensee attempts to take or occupy any of the Licensee's rights under this License, and the execution or attachment is not set aside, vacated, discharged or bonded within fifteen (15) days after its issue, this License may at the option of the Owner be terminated by delivering to the Licensee notice to that effect, and upon such delivery this License shall cease, but without prejudice to any rights of the Owner which had accrued before the termination.

11. DEFAULTS

If and whenever any amount shall be unpaid for five (5) business days following notice in writing of such monetary default by the Owner or in the case of the default or non-performance of any of the covenants or agreements herein contained (other than monetary default or the events set out in section 10) on the part of the Licensee ("Non-Monetary Default"), where at least ten (10) business days notice specifying the nature of the Non-Monetary Default has been given by the Owner to the Licensee and the Licensee has failed to cure such Non-Monetary Default within such cure period (or such longer period as is reasonable in the circumstances providing the Licensee has commenced to cure such Non-Monetary Default within such cure period and is diligently and continuously proceeding to cure same), then it shall be lawful for the Owner at any time thereafter to elect to (i) re-enter the

Premises and the Building where the Licensee Equipment is located to repossess and enjoy same for its own use absolutely and without any damages or penalty payable by the Owner whatsoever and terminate this Agreement or (ii) require the Licensee to remove forthwith all or part of the Licensee Equipment as the Owner may require at the Licensee's sole costs and repair any damages to the Building and Premises resulting from the installation or removal of the Equipment and terminate this Agreement.

12.LICENSEE'S INSURANCE

Throughout the Term of this License or any extension thereof, the Licensee, at its sole cost and expense, shall take out and keep in full force and effect the following insurance:

- (a) comprehensive general liability insurance, including but not limited to personal injury liability, contractual liability of the Licensee as stated in this License and owners' and contractors' protective insurance coverage with respect to the Licensee's use of the Building or any portions thereof; such coverage shall include the activities and operations conducted by the Licensee and any other person or persons performing work on behalf of the Licensee or on whose behalf the Licensee is in law responsible. Such policy shall be written with inclusive limits of not less than Five Million Dollars (\$5,000,000.00) for each occurrence involving bodily injury, death or property damage, or for such higher limits as the Owner may reasonably require from time to time not to exceed Ten Million Dollars (\$10,000,000.00); and
- (b) property damage insurance on an all risks form with coverage equivalent to or better than the Insurance Bureau of Canada's standard all risks wording (including earthquake, flood, and collapse), in respect of the Licensee's Equipment and any property that may be located on, at or within the Premises which insurance policy be on a full replacement cost basis, and
- (c) any other form of insurance as the Owner may reasonably require from time to time, throughout the Term of this License or any extension thereof, in amounts and for insurance risks against which a prudent licensee under similar circumstances would insure.

Prior to the commencement of the Term the Licensee shall provide certificates of insurance to the Owner. All insurance policies shall contain an undertaking by the Licensee's insurer to notify the Owner, upon not less than seven (7) days prior written notice, of any material change, or proposed cancellation or termination of such policy. The insurance described in paragraph 12(a) above shall name as an additional insured the Owner and it's the property manager retained by the Owner to manage the Building and, if requested by the Owner, the mortgagees of the Building or the Lands. All property damage and liability insurance shall contain provisions for cross-liability and severability of interests between the Owner and the Licensee. Each policy shall contain a waiver of any rights of subrogation which the insurer may have against the Owner.

12A.OWNER'S INSURANCE

Throughout the Term of this License or any extension thereof, the Owner, at its sole cost and expense, shall take out and keep in full force and effect the following insurance:

- (a) comprehensive general liability insurance, including but not limited to personal injury liability, contractual liability of the Owner as stated in this License and coverage with respect to the Owner's operation of the Building; such coverage shall include the activities and operations conducted by the Owner and any other person or persons performing work on behalf of the Owner or on whose behalf the Owner is in law responsible. Such policy shall be written with inclusive limits of not less than Five Million Dollars (\$5,000,000.00) for each occurrence involving bodily injury, death or property damage, or for such higher limits as the Licensee may reasonably require from time to time not to exceed Ten Million Dollars (\$10,000,000.00); and
- (b) property damage insurance on an all risks form with coverage equivalent to or better than the Insurance Bureau of Canada's standard all risks wording (including earthquake, flood, and collapse), in respect of the Building which insurance policy be on a full replacement cost basis, and
- (c) any other form of insurance as the Licensee may reasonably require from time to time, throughout the Term of this License or any extension thereof, in amounts and for insurance risks against which a prudent owner under similar circumstances would insure.

Upon request, the Owner shall provide certificates of insurance to the Licensee. All insurance policies of the Owner shall contain a waiver of any rights of subrogation which the insurer may have against the Licensee.

13.NOTICE

Any notice required or permitted to be given hereunder or any tender of delivery of documents may be sufficiently given by personal delivery or by facsimile transmission, to the Licensee at the following address:

The Licensee

TELUS Communications Inc.
Attention: Manager, Building Access
21S, 10020 – 100 Street
Edmonton, Alberta
T5J 0N5
Fax: (780) 493-3489

With a copy to: TELUS Communications Inc.
32S, 10020 – 100th Street
Edmonton, Alberta
T5J 0N5
Attention: Legal Department
Fax: (780) 493-3083

and to the Owner the following address:

Brookfield Properties (Vancouver) Ltd.
800, 335 – 8th Avenue S.W.
Calgary, Alberta
T2P 1C 9
Attention: Law Department
Fax: (403) 770 - 7030

Electronic mail or any other electronic communications between the parties shall not be considered proper notice under this Agreement. If the Owner or the Licensee sends any notice by facsimile, the sender shall promptly send by certified mail or personally deliver to the addressee a true or original copy of the notice together with a copy of a transmission report from the facsimile machine transmitting the notice confirming the successful transmission and receipt of the facsimile by the addressee. The Owner or the Licensee may from time to time by notice change the address or facsimile number to which notices to it are to be given.

Any such notice given shall be deemed to have been given:

- (a) if delivered, on the date of such delivery or,
- (b) if transmitted by facsimile, then:
 - (i) on the day the transmission was sent if the facsimile was received by the addressee prior to 4:30 p.m. (local time for the addressee) on any business day; or
 - (ii) the immediately following business day if the facsimile is received by the addressee after 4:30 p.m. (local time for the addressee) on any business day;

provided that the sender is in receipt of a transmission report generated by the sender's facsimile machine which confirms that the entire facsimile was successfully transmitted to and received by the addressee.

As a copy of all notices to the Licensee is to be sent to a second address or transmitted to a second facsimile number, the time of delivery of the notice shall be deemed to be the time the notice is delivered or transmitted to the first address or facsimile number shown for the Licensee in this section 13.

14.ENTIRE AGREEMENT

This License, together with all schedules attached hereto, constitutes the entire agreement of the parties and supersedes all prior agreements and understandings whether written or oral relative to the subject matter hereof. Except as otherwise specifically set forth in this License, neither party makes any representation or warranty express or implied, statutory or otherwise to the other. This License may not be amended or modified except by a written instrument executed by both parties.

15.GOVERNING LAW

This License shall be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein and parties hereto irrevocably attorn to the Courts of the Province of British Columbia and irrevocably select the Courthouse in Vancouver, British Columbia to be the venue for all legal proceedings between the Owner and the Licensee.

16.FORCE MAJEURE

Neither party to this License shall be in default or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with the terms and conditions of this License due to any causes beyond its reasonable control which causes included but are not limited to acts of God, the public enemy, riots and insurrections, war, accident, fire, embargoes, judicial action by or acts of civil or military authorities but specifically excluding financial inability.

17.SUCCESSORS AND ASSIGNS

Provided the Licensee is not then in default under this License, the Licensee without the consent of the Owner but upon prior reasonable written notice to the Owner, shall be entitled to assign or sub-license, in whole or in part this License to an Affiliate or to a lender as security for a bona fide financing (the "Permitted Assignees") or in connection with a securitization of Licensee's assets or similar transaction provided the Licensee is not released from its obligations under this License Agreement, including but not limited to the payment of Annual Fees and

provided the Permitted Assignee enters into an assumption agreement with the Owner to be bound by all the provisions of the License Agreement as if the Permitted Assignee was an original party to this Agreement. No assignment or sub-licensing to a Permitted Assignee shall be effective until the Permitted Assignee executes and delivers the aforementioned assumption agreement to the Owner.

Subject to the foregoing, the Licensee shall not assign, sub-license or transfer in any manner whatsoever this License or allow any other telecommunications service provider to co-locate in the Premises (a "Transfer") without the prior written consent of the Owner, which the Owner is under no obligation whatsoever to provide. A sale of all or substantially all of the Licensee assets or a change of control of the Licensee shall constitute a Transfer requiring the consent of the Licensee as above. So long as TELUS Communications Inc. or its parent is a public corporation traded on a recognized North American stock exchange, a change in control shall not require the consent of the Owner as above. This License shall be binding upon and enure to the benefit of the parties hereto and their respective permitted successors and assigns.

The Owner shall have the right to Transfer to a purchaser of the Building, in whole or in part, all its rights and obligations under this License. In the event of such Transfer, the Owner shall thereupon and without further agreement, be released of all liability whatsoever under this License Agreement subsequent to the date of sale or transfer, so long as such purchaser of the Building or transferee enters into an agreement with the Licensee to be bound by the provisions of this License subsequent to the date of sale or transfer.

18.FURTHER ASSURANCES

Each of the parties agrees from time to time hereafter and upon any reasonable request of any other party, to make or cause to be made all such further acts, deeds, assurances and things as may be required to more effectually implement the true intent of this License.

19.NO EXCLUSIVITY

The Licensee acknowledges and agrees that nothing in this License shall be construed or interpreted as granting to the Licensee any exclusive rights or privileges in the Building to the exclusion of any other third parties.

20. GOVERNMENT REGULATIONS

The parties to this Agreement shall comply with and conform to all laws, by-laws, legislative and regulatory requirements of any governmental authority relating to the matters contemplated by this Agreement. Such governmental authorities shall include the municipality and Province in which the Building is situated and, with respect to the Licensee only, the CRTC. Should any provision of this Agreement be illegal or unenforceable, that provision shall be considered separate and severable from the remaining provisions of this Agreement and the remaining provisions shall remain in force and be binding upon the parties. Notwithstanding the foregoing, in the event if it is determined that the CRTC has the legal authority to extend its jurisdiction to the Owner, regarding access to multi-tenant buildings, the Owner agrees to abide by any such decisions or rulings of the CRTC, subject always to the rights of the Owner to challenge, contest or appeal any and all such determinations, rulings, orders or other decisions of the CRTC.

21.ARBITRATION

In the event that the Owner and the Licensee are unable to agree to the Fair Market Rate within the time period provided in Section 3(e) or in the event the Licensee disagrees with the statement of additional costs contained in this License, then the matter shall be determined by a sole arbitrator in an arbitration proceeding carried out in accordance with the *Commercial Arbitration Act* (British Columbia).

If the arbitrator fails to render a decision within 30 days following the final hearing of the arbitration, any party to the arbitration may terminate the appointment of the arbitrator and a new arbitrator shall be appointed in accordance with these provisions.

If the parties are unable to agree on an arbitrator or if the appointment of an arbitrator is terminated in the manner provided for in the immediately preceding paragraph, then either the Owner or the Licensee shall be entitled to apply to a judge of the Supreme Court of British Columbia, to appoint an arbitrator and the arbitrator so appointed shall proceed to determine the matter *mutatis mutandis* in accordance with the provisions of this Section 21.

Any award or decision made by an arbitrator appointed under this Section 21 is final and binding upon the Owner and the Licensee and may be enforced in the same manner as a judgment or order to the same effect.

Each party to the arbitration shall bear its own costs. The fees, costs and expenses of the arbitrator shall be borne equally by the Licensee and the Owner.

22. TIME OF ESSENCE

Time is of the essence in all matters relating to this Agreement.

IN WITNESS WHEREOF the Owner and the Licensee have hereunto executed this License.

LICENSEE:

Form
Approved

Counsel

TELUS Communications Inc.

Per: 

Name: GARY WASYLUK c/s

Title: MANAGER, BUILDING ACCESS
WESTERN CANADA.

I/We have the authority to bind the corporation

OWNER:

Brookfield Properties (Vancouver) Ltd.

Per: 

Thomas Farley

Senior Vice President, Western

c/s

Per: 

Name: D. CAMERON BLACK

Title: Vice President, Legal Counsel,
Western

We have the authority to bind the corporation.

SCHEDULE A - LEGAL DESCRIPTION

Those lands in Vancouver, British Columbia legally described as follows, being ground lease lands:

1. Parcel Identifier: 002-486-199
LOT 1, BLOCK 3, DISTRICT LOT 185, PLAN 14002.
2. Parcel Identifier: 002-487-594
THE EAST 1/2 OF LOT 13, BLOCK 3, DISTRICT LOT 185, PLAN 92.
3. Parcel Identifier: 002-485-150
LOT 2, BLOCK 3, DISTRICT LOT 185, PLAN 14002.
4. THAT PART OF MELVILLE STREET LYING BETWEEN THURLOW AND BURRARD STREETS AND BEING ADJACENT TO LOT 6, DISTRICT LOT 185, PLAN 18929 AND LOT 2, DISTRICT LOT 185, PLAN 14002;
DESIGNATED AS:
PARCEL N (EXPLANATORY PLAN 18945).