

# **INTERIM POINT OF PRESENCE LICENSE**

**THIS License effective as of the 1st day of December 2002.**

**B E T W E E N:**

**OXFORD PROPERTIES GROUP INC.**

**3883281 CANADA INC.**

**and**

**2004090 Ontario Limited**

**(hereinafter collectively called the "Licensors")**

**- and -**

**TELUS Communications Inc.**

**(hereinafter called the "Licensee")**

**IN CONSIDERATION OF** the covenants, terms, conditions and agreements contained herein the Licensor and Licensee covenant and agree as follows:

## **ARTICLE 1 DEFINITIONS**

**1.01 In this License:**

"Article", "Section", "Schedule" or "Paragraph" means and refers to the specified article, section, schedule or paragraph, as the case may be, of this License.

"Building" means the office building situated on the Lands, known municipally as 255 Consumers Road, known as Parkway Place, Toronto, Ontario, being the building in which the Licensed Area is located.

"Business Taxes" means all taxes, rates, duties, levies, assessments and license fees that are levied, rated, charged or assessed with respect to any and every business carried on by the Licensee in the Licensed Area, or in exercising the rights granted under Section 4.01.

"Commencement Date" means December 1, 2002.

"Common Infrastructure" means telecommunication wiring, or cables that are installed in a Building for use by more than one Carrier.

"Customers" means tenants or other occupants occupying premises in the Building.

"Equipment" means the POP Equipment and all cable, conduit, wires, fasteners, fixtures, and accoutrements installed or to be installed by the Licensee.

"Fee" means the annual fee payable by the Licensee to the Licensor as provided in Article 3.

"G.S.T." means the Goods and Services Tax as levied and assessed under lawful authority by the Federal Government of Canada.

"HUB Facility" means a facility intended to provide Telecommunication from POP Equipment in two or more locations to a Trunk Line and from a Trunk Line to POP Equipment in two or more locations.

"Lands" means those lands owned by the Licensor as described in Schedule "A".

"License" means this license and all instruments supplemental hereto or in amendment or confirmation hereof.

"Master License" means a Telecommunications Master License Agreement to be entered into between Oxford Properties Group Inc. or OPGI Management Limited Partnership as Licensor and the Licensee as Licensee, based upon the Licensor's standard form, as amended, restated, or revised from time to time.

"Licensed Area" means that portion of the Building, the location, dimensions and/or area of which are as shown on Schedule "B".

"POP Equipment" means the equipment, cables, apparatus, fixtures and ancillary attachments situated in the POP Room for the Telecommunication of Signals from the sources in a single building to a HUB Facility or Trunk Line and from a HUB Facility or

Trunk Line to those sources. The POP Equipment shall remain the property of the Licensee from and after installation of same in the Building.

"Pop Room" means the part of the Licensed Area designated as the "POP Room" and outlined on Schedule "B".

"Realty Taxes" means all real property taxes or charges (including local improvement and commercial concentration taxes) from time to time imposed in respect of all or any part of the Building or the Licensed Area by a taxing authority, and any other amount that may be imposed instead of or in addition to them, whether against the Licensor, the Licensee, and whether or not similar, in existence at the Commencement Date or within the contemplation of the parties.

"Signals" means signs, signals, writing, images, sounds or intelligence of any nature including, without limitation, telephone, audio and television.

"Telecommunication" means any transmission, emission or reception of Signals by wire, visual, fibre optic or other system, excluding (except in the case of emergency, and then only with prior consultation with the Licensor and on an interim, temporary basis until such emergency no longer exists) microwave and radio.

"Term" means the period of time commencing on December 1, 2002 and ending on the earlier of: (a) December 31, 2003, and (b) the date when a Master License applies to the Building.

"Trunk Line" means the wires and cables of whatever kind including, without limitation, fibre optic cables.

"Uses" means the use of the Licensed Area and other parts of the Building for the purposes permitted pursuant to Article 4.

## **ARTICLE 2 GRANT OF LICENSE**

### **2.01 License and Term**

The Licensor hereby licenses to the Licensee the Licensed Area for the Term.

### **2.02 Master License Agreement**

The Licensor and the Licensee will negotiate in good faith to complete a Master License based on the standard Master Telecommunications License Agreement form of Oxford Properties Group Inc., to enable the Master License to apply to the Building so that it supercedes this License for the Term except that any amounts provided for under this

License that remain unpaid at the time that the Master License becomes applicable to the Building will continue to be payable.

### **ARTICLE 3 LICENSE FEE**

3.01

- A. The Licensee shall pay to the Licensor a one time administration fee of fifteen hundred dollars (\$1,500.00) (plus GST), to be paid in advance on the Commencement Date.
- B. The Licensee shall pay to the Licensor the following annual Basic Fee:
  - (i) for the period December 1, 2002 to December 31, 2003 the sum of \$6,000.00 per annum.

The annual Basic Fee will be payable in advance at the start of each year beginning with December 1, 2002. The annual Basic Fee is payable without deduction or set-off.

The annual Basic Fee allows for one entrance duct connecting to the POP Room. Should additional or alternative entrance ducts (pathways) be made available they will be subject to an additional annual fee of Three Thousand Dollars (\$3,000.00). The Licensor reserves the right to assess an additional fee for use of the vertical riser pathways within the Building. The fee will be representative of costs that the Licensor incurs to provide and manage a common distribution system.

### **ARTICLE 4 USE OF LICENSED AREA**

4.01 The Licensor grants permission to the Licensee and the Licensee shall have, during the Term and any renewal thereof, a right in the nature of a non-exclusive license, as approved in advance by the Licensor as required in this License and subject as hereinafter provided:

- (a) to install and maintain POP Equipment in the POP Room (and to have exclusive use of the POP Room);

to cause to be made at its own expense all improvements, within the Licensed Area (and no other areas) reasonably required for the use of the Equipment for Telecommunication services to Customers and such improvements may include, but shall not be limited to:

- (i) heating, air conditioning, walls, ventilation and electrical wiring in conduits and lines for Telecommunication in conduit; and
- (ii) laying down and constructing conduits for wires and cables of all kinds including, without limitation, fibre optic cables provided that the Licensee completes this work in such a manner so as not to cause a nuisance or a disturbance to other occupants of the Building, and the Licensee shall complete this work in a manner approved by the Licensor to minimize damage to the Licensor's property.

subject to the Licensor's security procedures, to have access to the Licensed Area, 24 hours a day 7 days a week and such other rights as are necessary for the installation, operation and maintenance of Equipment over those portions of the Building which are from time to time designated by the Licensor as being available for common access and egress for occupants of the Building such as driveways, walkways, hallways and exits and entrances. Access keys and combinations shall be provided by the Licensor to the Licensee at the Licensee's expense if and when the same are necessary; and the Licensee shall return them to the Licensor at the end of the Term or any renewal thereof;

- (d) to use the Licensed Area and the Equipment only for the purpose of Telecommunication of Signals to Customers; and

to protect against damage the Equipment and other improvements permitted under this Section 4.01 in such manner as the Licensor may reasonably require;

all at the sole cost and expense of the Licensee; but not to install or operate any personal communication system (including without limitation, a public cordless telephone network).

The location and installation of Equipment and other improvements shall be subject to such conditions and covenants as the Licensor requires as outlined in Article 5. The Licensor, shall have the right at any time during the Term or any renewal thereof to require the Licensee to relocate its Equipment and other improvements to another location within the Building, and at the Licensee's expense; and such new location shall then be the Licensed Area. In event of such a request, the Licensor agrees to provide the Licensee with no less than 120 days' written notice.

The Licensee acknowledges that this Licensee Agreement does not grant the Licensee exclusive right to offer Telecommunications in the Building.

### **Licensor's Alteration**

Notwithstanding anything contained in this License, the Licensor shall have the right at any time to make any changes in, additions to or relocations of any part of the Building and to grant, modify or terminate easements and any other agreements pertaining to the use and maintenance of all or any part of Building or Lands and to close all or any part of the Lands or Building to such extent as the Licensor considers reasonably necessary to prevent accrue of any rights therein to any persons at any time during the Term and to make changes or additions to the pipes, conduits, utilities and any other building services in the Building (including the Licensed Area) which serve any part of the Building and it is expressly understood that in so doing, the Licensor shall have the right to enter upon the Licensed Area. The Licensor shall not be liable for any damage caused to the Licensee's property, except if due to the gross negligence or willful acts of the Licensor or those for whom the Licensor is in law responsible. No claim for compensation shall be made by the Licensee by reason of any inconvenience, nuisance or discomfort arising from the work done by the Licensor pursuant to the provisions herein, such work to be done as expeditiously as is reasonably possible.

### **Restoration**

At the end of the Term, or in the event of an early termination the Licensee will promptly and to the extent requested by the Licensor restore the Building to its condition prior to the installation of the Equipment and other improvements made under Section 4.01 and will remove the Equipment (including, without limitation, conduits, wires and cables installed by the Licensee) from the Building within thirty (30) days.

## **ARTICLE 5 INSTALLATIONS, REPAIRS AND MAINTENANCE**

### **Approval of Installation**

Prior to the commencement of the installation or construction of the POP Equipment on, at, or in the Building, the Licensee shall first obtain the written approval of the Licensor of the plans, specifications, working drawings, blueprints, schedules and similar renderings for the construction and installation of the Equipment at, or in the Building and the interconnection of the Equipment with the electrical, structural, communication and mechanical systems of the Building (the "Plans") as provided herein.

### **Review of Plans**

Upon the execution of this License and from time to time, the Licensee shall submit the Plans to the Licensor for its approval. The Licensor's review of the Plans will be within a reasonable period after receipt of same from the Licensee. The Plans shall show, in detail satisfactory to the Licensor, the design, colour, construction and installation of the

Equipment in the Building and the interconnection of the equipment with the electrical, structural, communication and mechanical systems of the Building. The Licensor shall have the absolute discretion to require changes and revisions in and to the Plans and the Licensee shall (even if Licensee is to incur additional costs to comply with the Licensor's requirements) promptly and with the due diligence give effect to any such changes or revisions. The Licensee shall be responsible and shall reimburse the Licensor for all reasonable costs associated with or arising from review of the Plans as provided herein.

### **Construction and Installation**

When the Licensor has given its written approval of the Plans, the Licensee shall, at its sole risk, cost and expense commence and diligently proceed with and complete the installation, construction and interconnection of the Equipment in strict accordance with the Plans as approved, and to the satisfaction of the Licensor and including all work or construction which is necessary for the proper installation, construction and interconnection of the Equipment for the use expressed herein. All construction alteration, maintenance, repair, replacement, installation and removal of the Equipment shall be carried out in a good workmanlike manner, shall comply with all applicable laws, regulations, by-laws, orders, rules and ordinances of any competent authority, shall be subject to supervision by the Licensor and shall be performed only by persons approved or designated by the Licensor. The Licensee shall, at the request and direction of the Licensor, restore the Building to its former condition if any such work or construction has not been approved by the Licensor as required by Section 5.02 herein.

### **Repairs and Maintenance**

The Licensee covenants and agrees that it shall, at its own expense, keep the Licensed Area and the Equipment in a safe and properly maintained condition and should the Licensee fail to do so, the Licensor may effect such repairs provided it gives the Licensee ten (10) days written notice of its intention to do so. In order to preserve or protect life or property or other emergency situations, the Licensor may immediately repair the Licensed Area and the Equipment. All costs and expenses incurred by the Licensor for such repairs shall be for the account of the Licensee and shall be payable by the Licensee thirty (30) days from receipt of an invoice for the same from the Licensor.

### **No Interference with the Licensor and Building Tenants**

The Licensee, its employees, agents, invitees and contractors shall co-ordinate all construction, installation, maintenance, alteration replacement or removal of the Equipment (the "Work") at, on or near the Building with the similar activities of the Licensor or others, as may be necessary and as directed by the Licensor. All Work shall be performed in a manner that it shall not interfere or conflict with any activity of the Licensor or of any tenant or other licensee of the Building. The Licensee, its employees, agents, invitees and contractors shall not endanger any other work or facility at or near the



Building or forming part of the Building by altering, cutting, digging or otherwise. The cost of repairing or replacing any altered or endangered work or facility caused by the Licensee, its employees, agents, invitees and contractors shall be borne by the Licensee.

### **Liens**

The Licensee shall promptly pay all charges incurred by or on behalf of the Licensee for any work, materials or services furnished or supplied to the Licensee, its agents, employees and contractors in respect of the Work or the purchase, installation, construction, repair, maintenance, operation, interconnection, alteration, replacement and removal of the Equipment or the Building as the case may be. If any lien is filed or registered against the Lands or the Building or any part thereof as a result of any work done or materials furnished or supplied for the account of the Licensee, its employees, agents and contractors whether used or specifically prepared in view of being used in respect of the Building or any part thereof or otherwise, the Licensee shall promptly cause any such lien to be discharged forthwith or commence legal proceedings to have the said lien vacated or canceled and, if the Licensee fails to do so, then, in addition to any other right or remedy the Licensor may have, the licensor may, but shall not be obligated to discharge the lien and shall then charge the Licensee with the cost of discharging the lien plus administration fee equal to fifteen percent (15%) of the cost of discharging the lien provided that the licensor first gives the Licensee ten (10) days written notice of its intention to discharge the lien.

### **Damage to Site and Building**

The Licensee shall, at its sole cost and expense, have all damage howsoever caused to the Building by the Equipment or the Work repaired forthwith.

## **ARTICLE 6 LICENSEE'S COVENANTS**

The Licensee covenants and agrees with the Licensor that throughout the Term and any renewals thereof:

(a) **Fee**

The Licensee will pay the Fee.

(b) **Taxes**

The Licensee will pay Realty Taxes, Business Taxes and G.S.T. and any taxes imposed upon the Licensor by reason of the Licensee's use of the Licensed Area or the exercise of its rights hereunder. The Licensee acknowledges that as of January



1, 1998 Business Taxes (which are presently paid by the Licensee directly to the taxing authority) may be included as part of Realty Taxes, and the Licensor shall have the right to allocate a portion of such Realty Tax bill to the Licensee based on the then current established principles of assessment used by the relevant authorities, all as determined by the Licensor, acting reasonably.

### **Construction**

All construction and maintenance of Equipment will be carried out by the Licensee at its own expense and upon termination of this License the Licensee shall be entitled to and shall remove same at its own expense.

### **Electricity**

The Licensee shall be responsible for the payment of its own electrical consumption based on the Licensee's connected load as reasonably estimated by the Licensor and in this connection the Licensee shall install a meter or meters at its own expense to record its power consumption, when requested the Licensor to do so if the Licensor, acting reasonably, determines that the Licensee's electrical consumption is sufficient to warrant the installation of such meter or meters.

### **(e) Insurance**

The Licensee shall maintain in force, at its expense, during the term of this Agreement, a policy of Commercial General Liability Insurance issued by an insurer acceptable to the Licensor insuring the Licensee and, as additional insureds, the Licensor, the legal owners of the Buildings, 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) for injury or death or property damage including damage to the Building and any property of Licensor in the Building, the legal owners of the Building, or injury or death of Licensor's or legal owners' employees, or any injury or loss suffered by any of the customers of the Licensee and their employees in the Building. The Licensee's liability insurance will contain owners' and contractors' protective coverage, contingent employer's liability insurance, a cross liability and severability of interests clause, will be written on an occurrence basis, and will provide protection against economic and consequential loss.

The Licensee will also maintain an automobile liability insurance policy. The Licensee shall maintain all risk property insurance on the Licensee's Equipment in sufficient amounts to cover any loss thereof, with waiver of subrogation against the Licensor.

The Licensee's insurance shall contain provisions providing that such insurance shall be primary insurance insofar as the Licensor, the legal owners and the Licensee are concerned, with any other insurance maintained by the Licensor and legal owners of the Building, being excess and non-contributing with the insurance of the Licensee required hereunder and providing coverage for the contractual liability of the Licensee to indemnify the Licensor pursuant to Paragraphs 6.01 (f) 1 and (f) 2 below. The Licensee shall obtain the agreement of the Licensee's insurers to provide proof of such insurance to the Licensor prior to commencement of any construction and to notify the Licensor, in writing, that a policy is cancelled or materially changed at least 30 days prior to such cancellation or material change.

**(e.1) Release**

The Licensee does hereby release the Licensor, its servants, agents, employees, contractors and those for whom it is in law responsible (hereinafter collectively the "Releasees"), from all actions, suits, damages, costs and liabilities for:

any damage to the Licensed Area or Equipment;

any injury to, or death of any person; and

damage to any person's property or loss of use of such property,

arising out of any act or omission by any Releasee in respect of the Licensed Area or Equipment. This release extends to negligent but not grossly negligent acts or omissions, or wilful acts of any Releasee.

**(f) Indemnification**

The Licensee shall indemnify and hold the Licensor and legal owners of the Building and their officers, directors and employees harmless from and against any claims, losses, costs, damages, expenses and legal fees on a solicitor and own client basis from:

(i) the construction, installation, operation, maintenance, repair and removal of the Licensee's Equipment;

(ii) the Licensee's use of and access to the Building as provided in this Agreement including any claims or demands made by customers of the Licensee or users of the Licensee's Equipment in the Building, arising directly or indirectly from any act, omission or negligence of the Licensee.

- (2) The Licensee shall indemnify and hold the Licensor and the legal owners of the Building and their officers, directors and employees harmless from and against claims, losses, costs, damages and expenses for liability resulting from bodily injury or property damage and any resultant economic and consequential loss, only made by the Licensee or customers of the Licensee or users of the Licensee's Equipment, which are a direct result of the acts, omissions or negligence of the Licensor and legal owners of the Building to the maximum amount of Ten Million (\$10,000,000.00) Dollars.
- (3) Notwithstanding anything contained in this Agreement, in no event is the Licensee required to indemnify and hold harmless the Licensor or legal owners and their officers, directors and employees, or any other person or entity from and against any claims, losses, costs, damages and expenses and legal fees on a solicitor and own client basis arising directly or indirectly from any act, omission or negligence of any Riser Manager contemplated in this Agreement.
- (4) The provisions of paragraph 6.01 (f) shall survive termination or the expiration of this Agreement for the applicable statutory periods regarding limitation of actions or claims.

**(g) Occupational Health and Safety**

The Licensee represents and warrants that, it will comply with the provisions of the Ontario Health and Safety Act.

The Licensee acknowledges that it is solely responsible as employer for the health and safety of all its employees and workers, as well as for the continuing safe conditions in the Licensed Area and on the Lands to the extent it has access thereto for the purposes of installing and maintaining the Equipment. The Licensee shall comply with and shall require all of its employees and workers to comply with the provisions of all applicable laws, statutes, rules, regulations, notices and orders including but not limited to all federal, provincial and local laws, statutes, rules, regulations, notices, orders and amendments respecting occupational health and safety, the environment, worker's compensation and the safe condition of the Licensed Area and the Lands.

All materials and supplies used by the Licensee's personnel in the Licensed Area and on the Lands shall be used, handled, stored, otherwise dealt with and properly labeled in accordance with the Workplace Hazardous Materials Information System.

**(h) Non-liability for Loss, Injury or Damage**

The Licensee acknowledges and agrees that the Licensor shall not be liable for (i) any loss or damage to any property of the Licensee or others from any cause whatsoever, it being expressly understood that the Licensor shall not be liable for any injury or damage to persons or property resulting from power interruption, fire, explosion, steam, water, rain, snow or gas which may leak into or issue or flow from any part of the Building or from the water, steam or drainage pipes or plumbing works of the Building or from any other place or quarter; and (ii) any damage caused by or attributable to the condition or arrangement of any electric or other wiring; and (iii) any damage caused by or anything done or omitted to be done by the Licensor or by any other tenant of the Building; and (iv) any claim or demand in connection with any injury, loss or damage to the Licensee, its agents, invitees or sublicensees or to the property of the Licensee, its agents, invitees or sublicensees where such injury, loss or damage arises out of the security services in force or lack thereof in the Building from time to time; and (v) in any event, any indirect or consequential damages suffered by the Licensee.

**ARTICLE 7  
LICENSOR'S COVENANTS**

**Co-Operation**

The Licensor covenants and agrees that, at the request of the Licensee and at the Licensee's cost, the Licensor will cooperate with the Licensee in obtaining all necessary consents, permits and licenses of the municipality, Industry Canada, Transport Canada and other governmental authorities having jurisdiction with respect to the construction, operation, maintenance, repair and replacement of Equipment and to this end will, without restricting the foregoing, execute all necessary authorizations to enable the Licensee to obtain building permits and to obtain any information acceptable to the Licensor with respect to the Licensed Area or the Building which the Licensee may require from any such authorities and to enable the Licensee, at the Licensee's cost, to obtain plans and drawings from the municipality, or any architect or engineer. The Licensee will provide copies of all such consents, permits and licenses to the Licensor when obtained. Notwithstanding the foregoing, no authorizations will permit any organization, authority or agency whatsoever to inspect the Building or the Licensed Area.

**Governmental Authority**

The Licensee agrees to observe and comply with all laws, statutes, regulations, by-laws, codes and requirements of all municipal and governmental authorities having jurisdiction over the Lands, applicable to the installation, use, repair, replacement and removal of

Equipment and the provision of Telecommunication, and rules, regulations and requirements as may be prescribed from time to time by the Licensor, acting reasonably.

## **ARTICLE 8 TERMINATION OF LICENSE**

### **Interference with Signals**

If operations of any nature or kind whatsoever, including any third party's Telecommunication operations or equipment, interferes in any manner with the signals transmitted or received by Equipment or should the construction or operation of Equipment, in the opinion of the Licensee, be or become commercially impractical, or impossible, by reason of government decision, law, by-law or regulation, the Licensee may terminate this License by giving thirty (30) days' written notice to the Licensor. In the event of such termination, prepaid Fee and G.S.T. shall be adjusted on a per diem basis to the date of termination.

The Licensee shall not be required to appeal any decision or contest or apply for variance or amendment of any law, by-law or regulation, but may in its own discretion do so and the Licensor shall on the reasonable request of the Licensee and at the Licensee's cost cooperate with the Licensee and execute all necessary authorizations or consents.

Should the operation of the Licensee's Equipment cause any interference with or disruption to any equipment or system of the Building or of any of its occupants, the Licensee shall immediately upon notification from the Licensor in writing, cause the interference or disruption to cease. Provided however that the Licensee shall not be considered in default unless it has failed to resolve the material interference or disruption within five (5) days after receipt of the said notice from the Licensor.

Should it not be commercially practical to cure and further prevent such interference or disruption, then either the Licensor or the Licensee shall have the right to terminate this License by giving thirty (30) days' written notice to the other party. In the event of such termination prepaid Fee and G.S.T. shall be adjusted on a per diem basis to the date of termination.

### **Damage and Destruction**

In the event that Equipment is destroyed or damaged in such a manner that it would not be possible for the Licensee to carry out the Uses, the Licensee may repair or rebuild, or the Licensee may terminate this License by giving thirty (30) days' written notice to the Licensor. In the event of such termination, the prepaid Fee and G.S.T. shall be adjusted on a per diem basis to the date of termination.

## **ARTICLE 9 DEFAULT**

### **9.01 Default**

Provided, and it is expressly agreed, that if and whenever the Fee hereby reserved or any part thereof shall be unpaid for fifteen days (15) following notice in writing of such a default by the Licensor or in the case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the Licensee, where at least fifteen (15) days' notice specifying the nature of such breach has been given by the Licensor to the Licensee and the Licensee has failed to cure such breach, then and in either such case it shall be lawful for the Licensor at any time thereafter to re-enter the Licensed Area or any part thereof in the name of the whole, and the same to have again, repossess and enjoy. Provided, however, that the Licensee shall not be in default if by reason of the nature of the breach it cannot be cured within fifteen (15) days, so long as the Licensee shall have commenced to cure such breach and shall be diligently and continuously pursuing the same with all reasonable effort.

## **ARTICLE 10 ASSIGNMENT, LICENSING AND FINANCING**

### **10.01 Assignment**

The Licensee shall not assign this License or sublicense all or part of the Licensed Area without the written consent of the Licensor being first had and obtained, which consent may be withheld in its sole discretion.

- (a) The following terms and conditions shall apply in respect of a consent given by the Licensor to an assignment:
  - (i) The assignee will execute an agreement directly with the Licensor agreeing to be bound by this License as if the assignee had originally executed this License as Licensee but the Licensee will not be released from its obligations under this License;
  - (ii) The consent by the Licensor shall not constitute a waiver of the requirement for consent to subsequent assignments;
  - (iii) Any request for consent shall be in writing and accompanied by a true copy of the offer, and the Licensee shall furnish to the Licensor all information available to the Licensee and requested by the Licensor as to the responsibility, reputation, financial standing and business of the proposed assignee; and

- (iv) In the event of any assignment by the Licensee by virtue of which the Licensee receives a fee in the form of cash, goods or services from the assignee which is greater than the Fee payable hereunder to the Licensor, the Licensee will pay any such excess to the Licensor in addition to the Fee payable under this License.

The Licensee may, without consent but upon prior written notice to the Licensor, assign its rights and obligations under this License or sublicense all or part of the Licensed Area to:

- (i) a person that directly or indirectly controls, is controlled by, or is under common control with the Licensee so long as the person continues to be so controlled; and
- (ii) a purchaser of all or substantially all of the Licensee's assets,

if the assignee (in the case of clauses (i) or (ii) above, as the case may be, the assignee assumes the Licensee's obligations under this Agreement in an agreement approved by the Licensor acting reasonably.

a change of control of the Licensee shall not be considered an assignment of this License.

#### **10.02 INTENTIONALLY DELETED.**

#### **10.03 Licensee's Financing**

The Licensee may, without the consent of, but on prior written notice to the Licensor, grant a security by way of a mortgage, charge, general security agreement or otherwise over this License or POP Equipment or other movable installations made by Licensee (but not covering any part of the Building or any fixtures or leasehold improvements) to a bank or other financial institution. The Licensee will not cause or permit such charge or any notice thereof to be registered at the Land Registry Office or against title to the Building or the Lands, it being acknowledged and agreed that this License does not convey a leasehold interest in favour of the Licensee nor any mortgagee, if applicable.

#### **10.04 Registration of License**

The Licensee shall not register on title, this License or short form thereof.

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**ARTICLE 11  
ADDITIONAL PROVISIONS**

**11.01 Notice**

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

**TELUS Communications Inc.**  
100 Sheppard Ave. East  
6<sup>th</sup> floor  
Toronto, Ontario  
M2N 6N5

Attention: Robert Beatty, AVP Building Access  
FAX No. (416) 223-0235

and to the Licensor at the following address:

**Oxford Properties Group Inc.**  
130 Adelaide Street West, Suite 1100  
Toronto, Ontario  
M5H 3P5

Attention: Vice President, Legal  
FAX No. (416) 868-0701

Any notice may also be given by prepaid registered mail mailed within the Province in which the Licensed Area is situate and such notice shall be effective on the third day following the date of mailing, except in the event that there shall be a disruption in postal services at the date of mailing, in which case notice shall be effected by personal delivery or a facsimile transmission as stated above. The Licensor and Licensee may change their respective addresses by notice in writing to each other.

**11.02 Remedies**

In addition to and not in substitution for any other rights or remedies the Licensor may have in law or in equity:

- (a) subject to Article 9, the Licensor may terminate this License by written notice if the Licensee is in default hereunder or becomes bankrupt or insolvent; and



- (b) the Licensor may remedy any default of the Licensee and the Licensee will pay on demand all costs incurred by the Licensor in so doing.

### 1.03 Interpretation

Words importing the singular number shall include the plural and vice versa. Words importing the neuter gender shall include the masculine and feminine genders, and words importing person shall include firms and corporations, and vice versa.

### 1.04 Entire Agreement

This License including the Schedules 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.

### 11.05 Amendments or Waiver

No provision of this License shall be deemed amended or waived by a court of conduct unless such amendment or waiver is in writing signed by all parties and stating specifically that it was intended to modify this License.

### .06 Successors and Assigns

This License shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns, heirs and personal representatives, subject in the case of the Licensee to the provisions of Article 10.

### .07 Governing Law

This License shall be governed by the laws of the jurisdiction in which the Licensed Area is situate.

### 1.08 Invoices to Licensee

Payment of all amounts due hereunder shall be paid by the Licensee and shall be sent to:

**Oxford Properties Group Inc.**  
130 Adelaide Street West, Suite 1100  
Toronto, Ontario  
M5H 3P5

Attention: Vice President,  
National Programs and Quality Management  
FAX No. (416) 868-3751

#### 11.09 Nature of Interest

The rights granted to the Licensee herein are by way of a non-exclusive license only and shall not under any circumstances whatsoever constitute a right by the Licensee to have obtained or claimed exclusive possession of any part of the Lands or the Building, excepting the Licensed Area, and this License shall not constitute nor be interpreted to be either a partnership agreement, employment agreement, lease or joint venture agreement made between the parties.

#### 11.10 Licensor's Rules and Regulations

The Licensee shall be bound by the Licensor's rules and regulations which are attached as Schedule "C" hereto, as the same may be amended from time to time.

#### 11.11 Attornment to Other Owner

Oxford Properties Group Inc. has entered into a lease with 2004090 Ontario Limited (the "Other Owner") as tenant in respect of an individual 50% interest in the Building for an initial term expiring 2009, as such lease may be amended, supplemented and restated from time to time.

### ARTICLE 12 RISER MANAGEMENT

#### Common Infrastructure

If the Licensor establishes a common infrastructure then the Licensee will permit the Licensor to incorporate any cable, conduit or wires that it installs outside of the POP Room into that common infrastructure and to assume ownership and control of it but cable that provides diversity service will be kept separate, and will not be included in the same sheath as other cable.

#### Surplus Cable and Conduit

If the Licensor acting reasonably determines that conduit or cable installed by the Licensee is surplus and the Licensee agrees, acting reasonably that it is surplus, the Licensor may on reasonable notice require the Licensee to remove the surplus equipment or may acquire use or ownership of it without payment of compensation.

IN WITNESS WHEREOF the parties hereto have executed this License.

LANDLORD:

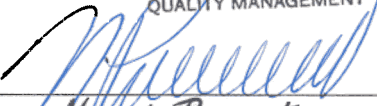
LANDLORD:

**OXFORD PROPERTIES GROUP INC.,**  
by its agent (without personal liability)  
**OPGI Management GP Inc. as general**  
**partner of the OPGI Management**  
**Limited Partnership**

**3883281 CANADA INC.**

Per:   
Name: \_\_\_\_\_  
Title: **GREG COCKBURN**  
**VICE PRESIDENT,**  
**NATIONAL PROGRAMS &**  
**QUALITY MANAGEMENT**

Per:   
Name: **NICK SABELLI**  
Title: **G.M.**

Per:   
Name: *Nancy L. Proulx*  
Title: *Vice-President Legal & Assistant Secretary*

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

and

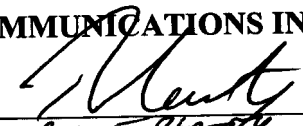
**2004090 Ontario Limited,**  
**by its agent (without personal liability) OPGI Management GP Inc. as general**  
**partner of the OPGI Management Limited Partnership**

Per:   
Name: GREG COCKBURN  
Title: VICE PRESIDENT,  
NATIONAL PROGRAMS &  
QUALITY MANAGEMENT

Per:   
Name: Nancy L. Prenevost  
Title: Vice-President Legal Assistant Secretary

I am/We are authorized to bind the Corporation

**TELUS COMMUNICATIONS INC.**

By:   
Name: Rebecca Blawie  
Title: A/P BUILDING ACCESS

c/s

And: \_\_\_\_\_  
Name:  
Title:

I am/We are authorized to bind the Corporation

## SCHEDULE "A"

### LEGAL DESCRIPTION

Firstly: PIN 10085-0056(LT)

Parcel A-3, Section M-1248, being Part of Block A, Plan 66M-1248, designated as Part 1, Plan 66R-4369;

Secondly: PIN 10085-0105(LT)

Parcel B-6, Section M-1248, being Block C and part of Blocks B and D, and Part of Yorkland Boulevard (as stopped-up and closed by By-Law 25897) Plan 66M-1248, designated as Parts 2, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 and 58, Plan 66R-8364;

Plan 66BA-588 under the Boundaries Act registered as Plan D-264 confirms part of the boundaries of this land. Plan 66BA-1802 under the Boundaries Act registered as Plan D-709 confirms part of the boundaries of this land.

Thirdly: PIN 10085-0057(LT)

Parcel C-3, Section M-1164, being Part of Block C, Plan 66M-1164, designated as Part 1, Plan 66R-8032;

Fourthly: PIN 10085-0106 (LT)

Parcel D-3, Section M-1248, being Part of Blocks D and E, Plan 66M-1248, designated as:

- (a) Parts 4, 5, 9, 10, 19, 20, 21, 22, 24 and 31, Plan 66R-4779;
- (b) Parts 13 and 27, Plan 66R-4779, save and except that part of Block E, Plan 66M-1248, designated as Parts 1, 1A and 1B, Plan 66R-7731; and
- (c) Parts 33, 34, 35 and 36, Plan 66R-8364.

Fifthly: PIN 10085-0107(LT)

Parcel E-4, Section M-1248, being Part of Block E, Plan 66M-1248, designated as:

- (a) Parts 2, 3, 7, 8, 14 and 18, Plan 66R-4779; and

(b) Parts 1, 1A and 1B, Plan 66R-7731

Sixthly: PIN 10085-0108(LT)

Parcel E-5, Section M-1248, being Part of Block E, Plan 66M-1248, designated as Parts 1, 6, 11, 12, 15, 16, 17, 23, 25, 26, 28, 29 and 30, Plan 66R-4779;

Plan 66BA-588 under the Boundaries Act registered as Plan D-264 confirms part of the boundaries of this land.

Seventhly: PIN 10085-0109(LT)

Parcel Yorkland Boulevard-2, Section M-1248 being part of Yorkland Boulevard (as stopped-up and closed by By-Law 25897), Plan 66M-1248, designated as Parts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 26, 27, 28, 29, 37, 38, 39, 40 and 41, Plan 66R-8364;

Plan 66BA-588 under the Boundaries Act registered as Plan D-264 confirms part of the boundaries of this land.

all in the City of Toronto (formerly in the City of North York, Municipality of Metropolitan Toronto), Land Titles Division of Metropolitan Toronto (No. 66).

**SCHEDULE "C"**  
**RULES AND REGULATIONS**

The Licensee shall observe the following regulations (as amended, modified or supplemented from time to time by the Licensor as provided in the Lease):

1 The Licensee shall not use or permit the use of the Licensed Area (the "Premises") in such manner as to create any objectionable noises, odours or other nuisance or hazard, or breach any applicable provision of any municipal by-law or other lawful requirement applicable thereto or any requirement of the Licensor's insurers.

2 The Licensee shall not abuse, misuse or damage the Premises or any of the improvements or facilities therein, and in particular shall not deposit rubbish in any plumbing apparatus or use it for other than the purposes for which it is intended, and shall not materially deface or mark any walls or other parts of the Premises.

3 The Licensee shall not perform, patronize or (to the extent under its control) permit any canvassing, soliciting or peddling in the Building, which would detract from the image and character of the Building, as a first-class commercial office building. Any food or beverages to be delivered to the Premises shall be delivered in a manner in keeping with the image and character of the Building, as a first-class office and retail building.

4 The entrances, lobbies, elevators, staircases and other similar facilities of the Building, are for use only for access and egress to and from the Premises and other parts of the Building, and the Licensee shall not obstruct or misuse such facilities, or permit them to be obstructed or misused by its agents, employees, invitees or others under its control.

5 The Licensee shall permit and facilitate the entry of the Licensor, or those designated by it, into the Premises for the purpose of inspection, repair, window cleaning and the performance or to other janitorial services, and shall not permit access to main header ducts, janitorial and electrical closets and other necessary means of access to mechanical, electrical and other facilities to be obstructed by the placement of furniture or otherwise. The Licensee shall not place any additional locks or other security devices upon any doors of the Premises without the prior written approval of the Licensor and subject to any conditions imposed by the Licensor for the maintenance of necessary access.

6 The Licensor may require that all or any persons entering and leaving the Building at any time other than during Normal Business Hours satisfactorily identify themselves and register in books kept for the purpose, and may prevent any person from entering the Premises unless provided with a key thereto and a pass or other authorization from the Licensee in a form

satisfactory to the Licensor, and may prevent any person removing any goods therefrom without written authorization.

7 The Licensee shall refer to the Building, only by the name from time to time designated by the Licensor.

8 The Licensee shall comply with the reasonable requirements of the Licensor regarding window covering appearance.

9 The Licensee shall not permit the Premises to become untidy or unsightly to an extent that such untidiness or unsightliness is visible by other tenants from their premises, or is visible from the exterior of the Building.

The foregoing regulations, as from time to time amended, are not necessarily of uniform application, but may be waived in whole or in part in respect of other tenants without affecting their enforceability with respect to the Licensee and the Premises, and may be waived in whole or in part with respect to the Premises without waiving them as to future application to the Premises, and the imposition of such regulations shall not create or imply any obligation of the Licensor to enforce them or create any liability of the Licensor for their non-enforcement.