

LANDMARK TECH CENTRE
KELOWNA

TELECOMMUNICATIONS POINT OF PRESENCE LEASE

THIS LEASE made this 18 th day of September, 2002

BETWEEN:

AL STOBER CONSTRUCTION LTD., a corporation incorporated under the laws of the Province of British Columbia Canada and having a head office at #710 – 1908 Dolphin Avenue, Kelowna B.C. V1Y 9S4

(the “Landlord”)

-and-

TELUS COMMUNICATIONS INC., a corporation incorporated under the laws of Canada

(the “Tenant”)

WHEREAS:

The Landlord is the registered owner of those lands (“Lands”) situated in the City of Kelowna, in the Province of British Columbia, legally described as outlined in Schedule “A” and it has erected on the Lands a building referred to as the Landmark Technology Centre, municipally located between Highway 97 and Dickson Avenue, (the “Building”);

AND:

The Tenant wishes to lease from the Landlord that portion of the Building containing approximately 100 square feet of area (as outlined in Schedule “B” attached) in the main telephone room known as the TELUS POP ROOM and a Fibre Patch Panel located in the adjacent Meet Me Room (the “Premises”).

WITNESSES that in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. TERM

The term (“Term”) shall be for a period of Seven (7) years, commencing October 1, 2002, and terminating September 30, 2009.



2. RENT

The Tenant shall pay to the Landlord an annual gross rent of One (\$1.00) Dollar, the receipt of which is hereby acknowledged. The Tenant shall be responsible for all taxes, rates, duties, levies, assessments and license fees levied with respect to the business of the Tenant.

- (a.) If the Tenant connects to more than one Building being built on the Lands, it will be subject to prior approval by the Landlord on terms and conditions to be mutually agreed upon.

3. GRANT

The Landlord leases to the Tenant the Premises and the Tenant accepts the Premises and Building in an "as is" condition, however, the Tenant shall be entitled to use the Premises and Building as follows:

- (a) install fibre optic cable (which may include copper wire) and such equipment, apparatus, fixtures and attachments (the "Equipment") as may be necessary for its operations;
- (b) have access to the Premises, Building and Lands during normal business hours, subject to security procedures as reasonably required by the Landlord. From time to time, in situations of emergency, for repair to the Equipment, the Tenant will have access to the Premises outside normal business hours, through security procedures as reasonably determined by the Landlord.

provide telecommunication services to tenants and occupants of the Building;

connect the Equipment to tenants of the Building, subject to the Landlord's prior approval as the location of installations, such approval not to be unreasonably withheld.

a limited, non-exclusive right to access and use the Building and Lands and an exclusive right to access and use the Premises to:

- (i) install, connect, test, operate, maintain, repair, disconnect, replace and remove the Tenant's Equipment and entrance cable;
- (ii) use the Premises, the entrance duct and other existing and future duct systems on the Lands and in the Building, the main terminal room, the Building pedways, risers, pathways, conduits, above-ceiling common areas, common areas, driveways, walkways, entrances, exits and hallways associated therewith as the Tenant may deem necessary or appropriate; all with the Landlords prior approval not to be unreasonably withheld.

connect the entrance cable to the Equipment and to the main terminal room;

connect the Equipment to the in-building wire and to other equipment in the Building including the electric power distributing system within the Building;

provided the Tenant has submitted working drawings of the contemplated use, Equipment, connections and improvements and has obtained the approval of these plans from the Landlord, which approval may not be unreasonably withheld or delayed and provided that all work is completed in a good and workmanlike manner. The Tenant also agrees to use the Landlord's approved contractor for all work, unless the Landlord's contractor is unable to perform the work.

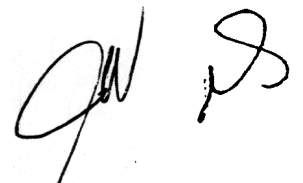
4. DEFAULT

In the event that the Tenant fails to perform its obligations as set out in this Lease, the Landlord shall provide written notice. The Tenant shall have thirty (30) days from receipt of said notice, to remedy its breach. Failing remedy by the Tenant, the Landlord, at its option and without prejudice to any other remedy available to the Landlord herein, may terminate the obligations of the Landlord herein, by giving written notice of termination. Upon termination the Tenant will remove all Equipment from the Premises, repairing any damage caused be whatever cause, to the reasonable satisfaction of the Landlord.

5. LIABILITY & INSURANCE

The Tenant will hold the Landlord, its employees, agents, tenants and contractors, harmless in respect of:

- (a) all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work or any act or omission of the Tenant or any assignee, sub-tenant, agent, employee, contractor, invitee or licensee of the Tenant, and in respect of all costs, expenses and liabilities incurred by the Landlord in connection with or arising out of all such claims, including the expenses of any action or proceeding pertaining thereto; and
- (b) any loss, cost (including, without limitation, lawyers' fees and disbursements on a solicitor and own client basis), expense or damage suffered by the Landlord arising from any breach by the Tenants of any of its covenants and obligations under this Lease.

Handwritten signatures in black ink, appearing to be initials or names, located in the bottom right corner of the page.

The Tenant to provide not less than Five Million (\$5,000,000) Dollars in comprehensive general liability insurance, naming the Landlord as the additional insured.

6. SALE, CONVEYANCE AND ASSIGNMENT

Nothing in this Lease shall restrict the right of the Landlord to sell, convey, assign, pledge or otherwise deal with the Building, subject only to the rights of the Tenant under this Lease. Either party may assign this Lease to an Affiliate (as defined in the Canada Business Corporations Act), although neither party to this Lease may otherwise assign their rights hereunder without the consent of the other, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either party may assign their rights hereunder as and by way of security without consent.

7. 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 Tenant at the following address:

TELUS Communications Inc.
Building Access
21st Floor, TELUS Plaza South
10020-100 Street
Edmonton, Alberta
T5J 0N5
Attention: Manager, Building Access, Western Canada

and to the Landlord at:

Al Stober Construction Ltd.
#710 - 1908 Dolphin Ave.
Kelowna, B.C. Canada
V1Y 9S4

8. RENEWAL

The Tenant shall have one (1) option to renew the Lease for a further term of Five (5) years, subject to and in accordance with the following terms and conditions:

- (a) The option shall be to renew this Lease upon the same terms and conditions as are contained in the Lease, excepting as to the rent and any further options to renew. The renewal rental rate will be agreed upon between both parties. Failing such agreement on a rental renewal rate either party may then apply for arbitration.

- (b) The option shall be open for exercise by delivery to the Landlord of a letter of exercise. The option shall be exercised not less than six (6) months, nor more than twelve (12) months prior to the expiry of the Term and the Tenant shall have paid all the rents payable under the Lease and shall, at the time of exercise, not be in default (of which it has received notice) of any of the covenants and conditions to be observed and performed by the Tenant under the Lease.

9. GOVERNMENT REGULATIONS

The Tenant shall comply with and conform to all laws, by-laws, codes, legislative and regulatory requirements of any government authority relating to the business conduct on the Premises. Such governmental authorities shall include but not be limited to the City of Kelowna and the C.R.T.C.. Should any provision of this Lease be not enforceable or illegal, it or they shall be considered separate and severable from the remaining provisions of this Lease and the remaining provisions shall remain in force and be binding upon the parties.

10. ACCEPTANCE

This Lease, including the Schedule "A" & "B" attached hereto constitutes the entire agreement between this Landlord and the Tenant and supersedes all prior arrangements and understandings whether written or oral relative to the subject matter thereof.

IN WITNESS WHEREOF the Landlord and the Tenant have executed this Lease as of the date first above written.

AL STOBER CONSTRUCTION LTD.

Per: 

MARK STOBER

TELUS COMMUNICATIONS INC.

Per: 

Jerry S. Wasylkiw
Manager, Building Access
Western Canada

