

LICENCE OF OCCUPATION OF A CROWN LAND
situated at 580 Booth Street
Ottawa, Ontario

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by
the Minister of Public Works and Government Services

TELUS COMMUNICATIONS INC.

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This LICENCE OF OCCUPATION made in duplicate this Eighteenth (18) day of March, 2002.

BETWEEN: HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented
by the Minister of Public Works and Government Services,
hereinafter referred to as "Her Majesty"

OF THE FIRST PART

AND: TELUS COMMUNICATIONS, a body corporate under the laws of Alberta
with Head Office at Edmonton, Province of Alberta, hereinafter referred to
as the "Company".

OF THE SECOND PART

INTRODUCTION

- A. **WHEREAS** Her Majesty owns the lands described in Schedule "A" annexed hereto (hereinafter referred to as the "Licensed Lands") also known as 580 Booth Street;
- B. **AND WHEREAS** an underground telecommunication conduit is necessary to provide additional fiber optic capacity to 580 Booth Street;
- C. **AND WHEREAS** the Company has requested Her Majesty to grant to it a Licence of Occupation (hereinafter referred to as the "Licence") over, under and upon the Licensed Lands for the installation, servicing, maintenance and removal of the conduit and all necessary equipment appurtenant thereto to provide additional fiber optic capacity in telecommunication to 580 Booth Street;
- D. **AND WHEREAS** Her Majesty has agreed to grant to the Company a Licence of Occupation over, under and upon the Licensed Lands upon the terms and conditions herein contained considering that the Company will provide additional fiber optic capacity in telecommunication to 580 Booth Street;

NOW THEREFORE in consideration of the covenants hereinafter contained, Her Majesty and the Company agree and covenant to observe and be bounded by:

1 - DEFINITIONS

- (a) "Her Majesty" means Her Majesty the Queen in right of Canada, as represented by the Minister of Public Works and Government Services, Her contractors and their subcontractors and Her or their officers, servants, agents, employees, members or any person acting on behalf of the said Minister and having proper delegated authority.
- (b) "The Company" means Telus, its or their officers, servants, agents, employees, members or any person acting on behalf of the Company and having proper delegated authority.
- (c) "The Licensed Lands" means the parcel of land identified on schedule "A" and described as part of 580 Booth Street.

2 - PURPOSE/USE

This Licence shall only be used for the purposes of installing, servicing, maintaining, and/or removing the conduit and all the necessary equipment to provide additional fiber optic capacity in telecommunication to 580 Booth Street, and shall not be used for any other purposes whatsoever.

3 - TERM OF THIS LICENCE OF OCCUPATION

The term of this Licence shall be for a period of three ~~3~~ years commencing on the first (1st) day of May, 2002 and ending on the thirtieth (30th) day of March, 2005. However, the term shall not exceed the lifetime of the installation provided by the Company.

4 - RIGHT OF ACCESS

Subject to section 3, during the term of this Licence, the Company shall have the right of ingress and egress over the Licensed Lands.



5 - RENT

Considering that the underground telecommunication cable is necessary to provide additional capacity to 580 Booth Street for Her Majesty's operations, the Company shall pay to Her Majesty a rent of one dollar (\$1.00) plus GST in lawful money of Canada for the entire term of this Licence, the receipt of which is hereby acknowledged.

6 - DEBRIS

(a) Whenever the Company excavates the surface of the Licensed Lands for any purpose set out in this Licence, the Company shall diligently and expeditiously complete the work for which such excavation was required, and shall, at the expense of the Company, restore the excavated grounds as closely and as reasonably practicable to the condition in which they existed immediately prior to such interference by the Company.

(b) If, upon completion of its work on the Licensed Lands, the Company fails to reinstate the Licensed Lands to the satisfaction of Her Majesty, Her Majesty may reinstate the Licensed Lands to Her satisfaction and all costs, expenses and damages incurred by Her Majesty with respect thereto, shall be paid by the Company to Her Majesty forthwith.

7 - REIMBURSEMENT OF ADDITIONAL COSTS

The Company shall be responsible for and compensate Her Majesty for additional costs incurred by Her Majesty which arise as a result of any action taken or thing done by the Company in the exercise of its rights arising under this Licence.

8 - RISKS

The Company shall bear all risks and responsibilities associated with the construction, installation, laying, completion, maintenance, service, repair, replacement or removing the said underground conduit and all necessary equipment at the Licensed Lands.

9 - LIABILITY AND FIRE INSURANCE

(a) The Company shall obtain and maintain, at its own cost, comprehensive general liability insurance in the amount of ten millions dollars (\$10,000,000.00) per event in any manner based upon, arising out of, related to, occasioned by or attributable to the execution of this Licence, or any action taken or things done or maintained by virtue hereof, or the exercise in any manner of rights arising hereunder and shall submit one (1) of the following documents on Her Majesty's request, however, that Her Majesty may, in Her sole discretion, waive the requirements of this section 9 on the delivery to Her Majesty of evidence that the Company is self-insured:

- (i) the policy or policies;
- (ii) certified copies of the policy or policies referred to in section 9;
- (iii) a certificate of insurance, or an affidavit from its insurance company confirming that proper insurance coverage is in place;

and any renewal thereof, and such insurance shall also cover all liability of the Company as a result of section 12 (Environmental Protection).

(b) The Company shall obtain and maintain fire insurance to the full replacement value of the Licensed Lands, and in the event of a fire or other destruction of the property to return the Licensed Lands to its original state prior to the fire or destruction, or to its natural state within three hundred (300) days of the fire or destruction; and to submit to Her Majesty on an annual basis at the anniversary date of this Licence same documents as indicated in section 9(a) above.

(c) The Company shall not do nor omit to do nor suffer anything to be done or omitted to be done at the Licensed Lands covered herein which will in any way impair or invalidate such insurance. Every policy, certificate of insurance or affidavit shall contain a provision that prior written notice of cancellation shall be given to Her Majesty.



10 - CIVIL LIABILITY

The Company shall at all times indemnify and save harmless Her Majesty from and against all claims, demands, loss, damages, costs, suits or other proceedings by whomsoever made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to anything done suffered or omitted to be done by the activities and operations of the Company, its officers, servants, agents, contractors, or licensees, or any, some, or all of them, or otherwise howsoever. The Company agrees to indemnify Her Majesty to an amount not exceeding ten millions dollars (\$10,000,000.00) per event. The Company is obliged to take up the defence of Her Majesty in the event of legal action.

11 - NUISANCE

Where as a result of any act or omission of the Company relative to this Licence of Occupation, a nuisance exists, Her Majesty may, by written notice, order the Company to abate the nuisance; if the Company fails to do so within a reasonable time, Her Majesty may take whatever steps may be necessary to abate the nuisance and the Company shall be liable for the cost thereof, and such costs shall be deemed to be a debt due to Her Majesty and may be collected in the same manner as other debts due to Her Majesty, provided that the existence of the works on the Licensed lands shall not of themselves constitute a nuisance within the meaning of this clause.

12 - ENVIRONMENTAL PROTECTION

1 - The Company agrees:

(a) that no contaminants shall be discharged into the environment, or deposited, discharged, placed or disposed of at, on or in the Licensed Lands described herein;

(b) to remove or to take remedial action with regard to any environmental damage as well as contaminants existing at, on or in the Licensed Lands described herein or elsewhere as a result of activities on the said Licensed Lands at the sole cost of the Company;

(c) that any removal or remedial action shall be:

(i) in accordance with all applicable law, regulation, orders and approval;

(ii) undertaken in a manner so as to minimize any impact on the Licensed Lands and elsewhere; and

(iii) approved in writing by Her Majesty and be completed within such period of time as Her Majesty may deem warranted.

(d) that it is at all times responsible for and shall indemnify and save harmless Her Majesty, from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomsoever made, sustained, brought or prosecuted in any manner based upon, arising out of, related to, occasioned by or attributable to environmental damages or contaminants caused by the activities under this Licence and any removal or remedial action referred to in section 12(1)(b) or failure thereof.

(e) that "contaminants" will include but not be limited to all substances that fall within the definition of "contaminants" in the *Environmental Protection Act*, R.S.O., 1980, c.141 , (as amended) or within the designation "toxic substances" in the *Canadian Environmental Protection Act*, S.C., 1999, c. 33, (as amended), and shall in addition include all substances that come to fall within those definitions and designations (or terms used in any legislation enacted in replacement or amendment thereof) and which are in a quantity or concentration within the meaning of Section 11 of the *Canadian Environmental Protection Act*.

(f) the obligations of the Company hereunder relating to the contaminants and environmental damage arising from the activities of the Company on the Licensed Lands during the term of this License shall survive the expiry or termination of this Licence.

.2 - Her Majesty may upon notice in writing, compel the Company to remove or take remedial action with regard to any contaminants and environmental damage existing at, on or in the said Licensed Lands described herein or elsewhere as a result of the



activities on the said Licensed Lands at the cost of the Company, upon such terms and conditions and within such time period as Her Majesty may deem warranted.

- .3 - The Company shall allow Her Majesty to take any necessary action, as Her Majesty considers necessary in Her unfettered discretion, on the Licensed Lands described herein in order to protect the said Licensed Lands and to protect human and animal life.
- .4 - The Company declares that:
 - (a) it accepts the Licensed Lands described herein including the structures, works and fixtures thereupon in the condition existing on the date of this Licence; and
 - (b) it has satisfied itself of everything and of every condition affecting the Licensed Lands and described herein.
- .5 - Should the Company bring, permit, suffer or create in, or on the said Licensed Lands any contaminants; or if the conduct of any business of the Company on any part of the said Licensed Lands causes there to be any contaminants upon the whole or any part of the said Licensed Lands, then, notwithstanding any rule of law to the contrary, such contaminants shall be and remain the sole and exclusive property of the Company and shall not become the property of Her Majesty notwithstanding:
 - (a) the degree of affixation of the contaminants to the said Licensed Lands; and
 - (b) the expiry or termination of this Licence.
- .6- The obligations of the Company hereunder relating to the contaminants shall survive the expiry or termination of these Presents.

13 - LEGAL OR CONTROL SURVEY MONUMENTS

The Company shall ensure that all legal or control survey monuments are protected and not removed, disturbed, damaged or destroyed during the construction, laying, operation or maintenance of the said underground conduit on the Licensed Lands. Should any such monuments be removed, disturbed, damaged or destroyed, the Company shall at its own expense replace such monuments by retaining a duly qualified land surveyor to the satisfaction of Her Majesty.

14 - LEGAL FEES, APPRAISALS AND SURVEY WORKS

The Company shall pay and be responsible for all legal fees, appraisal, environmental assessments, survey work or any other work performed by representatives of Her Majesty in connection with this Licence and all the costs related to the execution of the performance of this Licence.

15 - INFORMATION AVAILABILITY

The Company agrees not to object in any way whatsoever to the disclosure of any information which may be required to be made available under the *Access to Information Act*, R.S., 1985, c. A-1 (as amended).

16 - REGISTRATION

The parties hereto agree that this Licence shall not be registered in the Land Titles Office and that Her Majesty will not be required to provide a Licence in registrable form.

17 - ORDERS, INSTRUCTIONS OR DIRECTIVES

The Company shall comply with all orders, instructions or directives issued under Her Majesty, in respect of anything affecting the operations of the Department of Public Works and Government Services.

18 - LAWS AND REGULATIONS

The Company shall in all respects abide by and comply with all applicable laws, regulations and by-laws of the Federal, Provincial and Municipal Governments or any other governing body whatsoever and with all police, health or fire regulations or by-law in any manner affecting the Licensed Lands or any activities and operations made or to be made thereunder.



19 - LICENCES, PERMITS AND APPROVALS

The Company shall, at its own expense, procure and maintain such licences, permits or approvals from Federal, Provincial, Municipal or other Government Authorities and such private permits as may be necessary to enable the Company to furnish the services and conduct the operations provided for in this Licence.

20 - ASSIGNMENT

No transfer, assignment or sub-licence of the Licensed Lands and of this Licence or of any rights hereunder shall be made by the Company without prior written approval of Her Majesty.

21 - AMENDMENTS

If at any time during the term of this Licence the parties shall deem it necessary or expedient to make any alterations or addition to this Licence, they may do so by means of a written agreement between them which shall be supplemental hereto and form part hereof.

22 - TERMINATION

This Licence may be terminated by either party at any time by at least one hundred and twenty (120) days prior notice in writing delivered to the other party pursuant section 25.

23 - NO RIGHTS, TITLE OR ESTATE

(a) This Licence shall not create or be deemed to create any right, title or estate in the Licensed Lands covered by the terms, covenants or conditions herein contained.

(b) Nothing herein contained shall be deemed to vest in the Company any title to mines, ores, metals, coal, slate, oil, gas or other minerals within, upon or under the said Licensed Lands, except only the parts thereof that are necessary to be dug, carried away or used in the placing, laying down, construction, operation, maintenance, inspection, alteration, removal, replacement, reconstruction or repair of the said underground conduit, works, apparatus and equipment of the Company.

24 - TERMS AND OBLIGATIONS

No implied terms or obligations of any kind by or on behalf of Her Majesty or the Company shall arise from anything in this Licence, and the express covenants and agreements herein contained and made by Her Majesty are the only covenants and agreements upon which any rights against Her Majesty may be founded.

25 - NOTICES

(a) Any notice given or required to be given by Her Majesty under this Licence shall be addressed to:

TELUS Communications Inc.
100 Sheppard Avenue East, 6th Floor
Toronto, Ontario, M2N 6N5
Attention: Robert Beatty, AVP, Building Access
c/o Richard Johnson, Manager, Building Access, Ontario

with a copy to:

TELUS Legal Services
32S, 10020 - 100 Street
Edmonton, Alberta, T5J 0N5
Attention: VP Legal Services

or to such other address as the Company may from time to time advise by notice in writing.



(b) Any notice given or required to be given by the Company under this Licence shall be addressed to:

National Manager, Commercial Operations
Real Estate Services
Public Works and Government Services Canada
191 Promenade du Portage, 3rd Floor
Hull, Quebec K1A 0S5

or to such other address as Her Majesty may from time to time advise by notice in writing.

(c) Any notice to the parties hereunder shall be effectively given if sent by letter or telegram addressed to the party at its address as indicated above. Any notice so given shall be deemed to have been received by the other party at the time when in the ordinary course, such letter or telegram should have reached its destination.

(d) If at any time communication by letter or telegram is likely to be delayed by a strike or other disruption, then the notice shall be sent by a means of communication which is not likely to be delayed and for which an acknowledgement of receipt to certify reception of the notice is obtainable (for example: double registered mail, courier, etc.).

26 - DIFFERENCES

All matters of differences arising between Her Majesty and the Company in any matter connected with or arising out of this Licence whether as to interpretation or otherwise, shall be discussed by both parties before taking other steps.

27 - DISPUTE

If any dispute or question shall arise between the parties hereto, during the term of these Presents, respecting its interpretation or effect which the parties are unable to resolve by agreement, the same shall be determined by the Federal Court of Canada pursuant to subsection 17(3) of the Federal Court Act. The Company agrees to assume all costs, expenses and fees of both parties and Federal Court if any.

28 - NATIVE LAND CLAIMS

The parties hereto acknowledge that this Licence is entered into without prejudice to any native land claims recognized by the Constitution and the jurisprudence established by the Supreme Court of Canada or any other Land Treaty Entitlement.

29 - CROWN LIABILITY AND PROCEEDINGS ACT

Any liability of Her Majesty arising out of this Licence shall be subject to the provisions of the *Crown Liability and Proceedings Act*, R.S.C., 1985, c. C-50 (as amended), and any amendments thereto.

30 - BRIBES

The Company hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of Her Majesty for or with a view to its obtaining this Licence any bribe, gift or other inducement, and that it has not, nor has any person on its behalf, employed any person to solicit or secure this Licence upon any agreement for a commission, percentage, brokerage or contingent fee.

31 - CONFLICT OF INTEREST

(a) It is a term of this Licence that no individual, for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders or the Conflict Interest and Post-Employment Code for the Public Service apply, shall derive a direct benefit from this Licence unless that individual is in compliance with the applicable post-employment provisions.

(b) Pursuant to sections 14 and 38 of the *Parliament of Canada Act*, R.S.C., 1985, Chap. P-1 (as amended), no member of the House of Commons and the Senate of Canada shall be admitted to any share or part of this Licence or to any benefit to arise therefrom.



32 - BREACH AND WAIVER

No waiver on behalf of Her Majesty of any breach shall take place, or be binding unless the same is so expressed in writing by Her Majesty, and any waiver so expressed shall extend only to that particular breach to which such waiver specifically relates to and shall not be deemed to be a general waiver or to limit or affect the rights of Her Majesty, Her successors or Assigns, with respect to any other or future breach. The failure by Her Majesty or Her authorized representative, as the case may be, to require the fulfilment of the obligations, or to exercise any rights herein contained shall not constitute a waiver, a renunciation or a surrender of those or any other obligations or rights.

33 - INVALIDITY OF A CLAUSE

The invalidity of any clause for any reason whatsoever shall not invalidate any other clause of this Licence.

34 - HEADINGS

Any note appearing as a heading in this Licence has been inserted for convenience and reference only, and of itself cannot define, limit or expand the scope or meaning of this Licence or any of its provisions.

35 - ENTIRE AGREEMENT


This Licence and Schedule "A" attached hereto constitute the entire Licence of Occupation between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, representations, and documents in relation hereto made by any party to this Licence and shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.




IN WITNESS WHEREOF the said parties hereto have duly executed this Licence on the dates noted below.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

TELUS COMMUNICATIONS INC.


Per:  Date: March 22 / 2002
Print Name: ROBERT BEATTY
Print Title: AVP BILLING ACCESS

I have the authority to bind the corporation.

Witness Per: 
Print Name: Richard Johnson, Manager, Billing Access

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

As represented by the Minister of Public Works and Government Services

 Date: MAR 28/02

_____ Date: _____

