

SERVICE PROVIDER ACCESS AGREEMENT

IN CONSIDERATION of the rents paid by Telus Communications Inc. ("Tenant"), 40 Eglinton Avenue East Holdings Limited ("Landlord") and the terms contained herein, the parties agree as follows:

Address where Premises are located: ("Building") as legally described on Schedule "A" and otherwise known as 40 Eglinton Avenue East, Toronto, Ontario

2. **Leased Premises:**

The exact location of the leased premises will be mutually agreed upon between the Landlord and Tenant, within thirty (30) days of the acceptance of this agreement, both parties acting reasonably.

For further clarity, this agreement includes the Tenant's exclusive use of a 100 square foot demised premises to act as the Tenant's P.O.P. (point of presence) Room for the building. Prior to occupancy, a space plan indicating the location of the P.O.P. room will be signed by both parties and shall form a part of this agreement.

3. **Term:** 5 years

4. **Commencement Date:** October 1, 2001 **EXPIRY DATE:** September 30, 2006, or as otherwise agreed to in writing between the Landlord and Tenant.

5. **Rent:** \$2,300.00 plus GST per year payable annually in advance. For further clarity, it is understood that the \$2,300.00 annual rent includes \$300.00 per annum to be applied towards the Tenant's Hydro usage. Landlord's GST number is 10622 2615 RT0001.

6. **Use of Premises:** to install, maintain, operate, replace, remove, improve and supplement Tenant's equipment, cable, conduit, racks, electronic equipment, apparatus and ancillary attachments ("Equipment") for the telecommunication of signals to and from customers located in the Building and as support or back-up for Tenant's (i.e. Telus') ring technology in the event of an interruption in service. Tenant may, with Landlord's prior written consent, connect to all necessary utilities, trunk lines, customers' equipment and Landlord's electrical grounding system and will have access to required conduit, risers, closets and meter rooms, if available. For purposes of clarity, the Tenant shall be permitted to install, maintain, operate, and replace at the Tenant's sole expense and risk, certain "Connecting Equipment" (defined as the cabinets, conduits, inner ducts and connecting hardware), through the building's Entrance Link" (defined as the core sleeve penetration designated by the Tenant, through the Building foundation) and through designated building "Communications and Utility Spaces" (defined as the telecommunications and utility pathways designated by the Landlord) connecting:

- the Entrance Link to the Tenant's Premises;
- the Tenant's Premises to the Tenant's customers.

All of the Tenant's equipment and cabling shall remain the property of the Tenant unless otherwise agreed to in writing by the Landlord and Tenant.

7. **Electricity:** \$300.00 of the Tenant's Hydro costs shall be Included in the annual rent amount and all of the Tenant's Hydro costs above and beyond the \$300.00 accounted for in the access fee shall be paid for by the Tenant. The Tenant, at its option, shall be permitted to install separate utility meter(s) and will be permitted to pay its utility costs directly to the utility provider.

8. **Prior to Commencement Date Tenant shall:**

- Submit Equipment plans to Landlord for prior written approval, which review and or approval shall be given in a reasonable and timely manner;
Obtain all consents, licenses and permits required to install and operate the Equipment and Landlord agrees to cooperate and provide all consents, authorizations and information reasonable required by the Tenant;
Conduct all tests required to satisfy itself that the Premises are suitable for its intended purpose; and
Provide Landlord with a certificate of insurance with coverage of not less than \$5,000,000 noting Landlord as additional insured.

9. **Installation and Maintenance of Equipment:**

Tenant will repair any damage to the Building caused by its installation, maintenance or removal of Equipment at the end of the Term.

The Equipment shall be installed, operated, maintained and supplemented in a good and worker like manner in accordance with sound engineering practices.

Tenant shall ensure that no liens are registered against the Building as a result of its work and will indemnify Landlord in connections therewith. And within 30 days after completions

of work the Tenant shall, provide the Landlord with A STATUORY DECLARATION that all contractors and suppliers have been paid in full.

Tenant will comply and will ensure that its sub trades comply with all health and safety and environmental legislation and indemnifies Landlord for a breach thereof.

Tenant will ensure that its Equipment does not interfere with the signals or equipment of service providers granted prior access by Landlord.

10. **Performance by Tenant:** Provided Tenant has paid Rent and performed its obligations under this agreement, Landlord agrees that Tenant shall have access to the Premises and Utilities 24 hours a day, seven days a week, subject to Landlord's reasonable security requirements and enjoy the Premises and Utilities without interference.
11. **Condition:** This Access Agreement is conditional for a period of forty (40) days from the acceptance of this Agreement by both the Landlord and Tenant, upon the Tenant being able to satisfy itself that it will be permitted both riser access and lateral access to the building in order to meet its clients, or prospective clients, needs.

If the Tenant does not provide the Landlord with written notice to the effect that the needs of the Tenant can Not be met, thereby nullifying this Agreement, then this Agreement is deemed to be in effect and the term commencement date will be as set out in this Agreement, or on the forty first (41st) day from the acceptance of this agreement by both the Landlord and Tenant, which ever comes later. In any event, it is understood that the Term shall run for a five-year period starting on the commencement date.

12. **Indemnity:** Landlord and Tenant indemnify and save harmless each other for loss or damage to person or property caused by their own negligence or those for whom they are responsible and neither party shall be responsible for indirect, special or consequential damages.

Throughout the Term of this Agreement, including any renewals or extensions thereof, the Tenant, at its sole cost and expense, shall take out and keep in full force and effect the following insurance:

Comprehensive general liability insurance, including but not limited to personal injury liability, contractual liability of the Tenant as stated in this Agreement and owners' and contractors' protective insurance coverage with respect to the Tenant's use of the Building and any portions thereof; such coverage shall include the activities and operations conducted by the Tenant and any other person or persons performing work on behalf of the Tenant or on whose behalf the Tenant is in law responsible. Such policy shall be written with inclusive limits of not less than five million (\$5,000,000) for each occurrence involving bodily injury, death or property damage, or for such higher limits as the Landlord may reasonably require from time to time; and

Any other form of insurance as the Landlord may reasonable require from time to time, throughout the Term of this Agreement or any renewals or extensions thereof, in amounts and for insurance risks against which a prudent Tenant under similar circumstances would insure.

The Tenant shall provide certificates of insurance to the Landlord on or prior to the commencement of the Term of this Agreement. All insurance policies shall contain an undertaking by the Tenant's insurer to notify the Landlord, upon not less than thirty (30) day's prior written notice, of any material change, or proposed cancellation or termination of such policy. The insurance described above shall include as a named insured, the Landlord and the owners of the Building. All property damage and liability insurance shall contain provisions for cross-liability and sever ability of interests between the Landlord and the Tenant. Each policy shall contain a waiver of any rights of subrogation, which the insurer may have against the Landlord and those for whom the Landlord is in law responsible whether or not the damage is caused by the act, omission, or negligence of the Landlord or such other persons.

13. **Default and Termination:** Landlord may terminate this agreement if Tenant has failed to cure a breach for which it has received 10 day's notice from Landlord, unless the breach is incapable of remedy within such period and Tenant has diligently commenced to cure the default.
14. **Transfer:** Landlord may assign this agreement at any time and shall be relieved of all obligations to Tenant under this agreement, provided Landlord ensures that the assignee receives actual notice of this agreement. Tenant shall not assign this agreement or sublet or license all or part of the Premises (a "transfer") without the prior written approval of Landlord, acting reasonably. Notwithstanding the foregoing, Tenant may affect a transfer to a corporate affiliate, its senior lenders or their collateral agents or a purchaser of a material portion of its business. Tenant shall ensure that Landlord is informed of a transfer and except for a transfer to a purchaser, shall remain liable under this agreement.
15. **Notices:** All notices under this agreement shall be in writing and may be delivered by mail, facsimile or in person to the addresses below and shall be deemed received three business days later if mailed and the next business day following the date of transmission by facsimile or personal delivery.
16. **General:** This is the entire agreement between the parties affecting the subject matter described herein. Any amendments must be in writing and signed by both parties. If any

Change to additional limit of performance coverage

portion of this agreement is found to be invalid by law, such portion shall be severed without affecting the validity of the balance of the agreement. Except for reason of financial liability, delay in performance by either party shall be excused for delay for causes beyond their reasonable control. The parties state to the best of their knowledge that there are no restrictions contained in any other agreement to which they are a party that would prevent either party from entering into this agreement. The provisions of this agreement shall be subject to all applicable regulatory laws and regulations, which will prevail in the event of a conflict. This agreement is binding on the parties and their respective successors and assigns.

17. **Interference:** If the operation of the Equipment or the Distribution system is causing the electronic equipment of the Landlord or Occupants of the Building to function improperly, then the Landlord will immediately notify the Tenant and the Tenant will use all possible commercial efforts to rectify the situation. If the situation is incapable of being remedied or is not, in fact, remedied within a reasonable period or time (not to exceed ten (10) calendar days), the Landlord may at its option terminate this Agreement or require the tenant to remove its equipment that is causing the problem.

The Landlord agrees to notify the Tenant if at any time the Landlord to the best of his ability becomes aware of any occurrence or event which results in, or could be expected to result in, interference with the operation of the Trade Fixtures.

18. **Renewal:** Provided the Tenant has not been or is not in default, the Tenant has the option to renew this Agreement for an additional 2 terms (s) of 5 years (the "Option Term"), subject to and in accordance with the following terms and conditions:

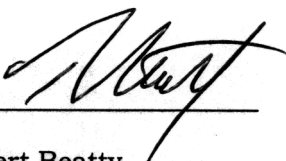
Upon the same terms and conditions as are contained in this Agreement, excepting the Rent and excepting any other provisions applicable only to the initial Term. For the Option Term, the Rent shall be consistent with the then market rate (the "Market Rate") charged to similar telecommunications service providers in similar sized buildings in the vicinity of the Building. The Tenant shall notify the Landlord of the Tenant's intention to renew this Agreement for the Option Term not less than six (6) months prior to the expiry of the Term.

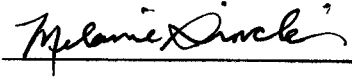
In the event that the Landlord and Tenant are unable to agree upon a Market Rate within 90 days of the Tenant providing notice to the Landlord, the parties hereby agree to arbitrate the Rent in accordance with the *Arbitration Act*, 1991 of Ontario. Any costs associated with such arbitration shall be borne equally by both parties.

Date: June 11, 2001
Communications
Tenant: Telus Corporation Inc.

Date: June 14, 2001

Landlord: 40 Eglinton Avenue East
Holdings Limited, by its authorized agent
Northam Realty Limited

Per: 
Name: Robert Beatty
Title: AVP, Building Access

Per: 
Name: Melanie Sinclair
Title: Vice President

I have the authority to bind the Corporation

I have the authority to bind the Corporation

Mailing Address for Notices:

Telus Communications Inc.
5th Floor, West Tower
2700 Matheson Blvd. East
MISSISSAGA, ONTARIO
L4W 4V9

Mailing Address for Notices:

40 Eglinton Avenue East Holdings
Limited (Landlord)
c/o Northam Realty Ltd.
2 Carlton Street
Suite 909
Toronto, Ontario
M5B 1J3

Attention: Robert Beatty
AVP, Building Access

Attention: Property Management

Facsimile: 905-804-6104 Tel: 905-804-6123

Facsimile: 416-977-5698
Tel: 416-977-7151

SCHEDULE "A"

40 EGLINTON AVENUE EAST LEGAL DESCRIPTION OF LANDS

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Toronto, in the Municipality of Metropolitan Toronto and being composed of parts of lots 1 and 2 on the north side of Eglinton Avenue according to plan registered in the Registry Office for the Registry Division of Toronto (No. 63) as No. 639, and being more particularly described as Parcel "A" and Parcel "B" more particularly described as follows:

PARCEL "A": The most westerly fifty feet (50') throughout from front to rear of Lot No. 2 on the north side of Eglinton Avenue according to Plan registered in the Registry Office for the Registry Division of Toronto (No. 63) as No. 639;

PARCEL "B": The easterly thirty-nine feet (39') throughout the full depth of Lot No. 1 on the north side of Eglinton Avenue according to Plan registered in the Registry Office for the Registry Division of Toronto (No. 63) as No. 639;

SAVING AND EXCEPTING therefrom those portions of the said lands described in Expropriation by-law number 12395 registered as Instrument No. 26301 E.N. on November 30, 1929 and described in Instrument No. 27031 E.O. registered June 13, 1931.

PARCEL 2

THOSE Lands and premises located in the following municipality, namely in the City of Toronto, in the Municipality of Metropolitan Toronto, and being composed of part of Lot 2, north side of Eglinton Avenue East, according to a Plan registered in the Registry Office for the Registry Division of Toronto (No. 63) as No. 639, being more particularly described as Part 2 on a Plan of Survey filed in the aforesaid Registry Office on July 3, 1981 as No. 63R-2375.