

TELECOMMUNICATIONS, POP SITE LICENSE AGREEMENT

This Agreement made this 1st day of December 1, 2001.

BETWEEN:

THE MANUFACTURERS LIFE INSURANCE COMPANY

(the "Licensor")

-and-

TELUS Communications Inc. and its affiliates

(the "Licensee")

WHEREAS:

The Licensor (Manulife Financial) is the owner of fee simple title to, or a ground leasehold interest in, certain land (the "Lands") and improvements thereon (the "Building") situated in the City of Toronto, In the Province of Ontario with street addresses of 393 / 375 University Avenue.

AND WHEREAS:

The Licensee wishes to obtain access to a point of presence room ("POP Room") situated in the portion of the Building that is more particularly outlined in red on attached Schedule "A" (the "Licensed Area") for use by the Licensee for the placement and operation of the Licensee's Equipment;

NOW THEREFORE:

IN WITNESS hereof and in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

(A) Definitions

The definitions contained in Schedule "B" apply to this Agreement.

n
ge

TERM; NATURE OF LICENSE

- (a) The term of this Agreement shall be for five (5) years commencing on the earlier of December 1, 2001 or the first of the month after the date installation commences (the "Commencement Date") and terminating five years thereafter (the "Termination Date"), subject to any renewal rights that may be set forth in Section 15.2 below.
2. Notwithstanding that this Agreement constitutes a license, and not a lease, the term of this Agreement may not be terminated by either party except pursuant to an express right of termination granted herein, and the Licensor shall have all rights and remedies of a landlord against a tenant for breach by the Licensee of any of its duties and obligations hereunder.

LICENSE FEES

- (a) The Licensee shall pay to the Licensor the Annual License Fees as stipulated in Schedule "C", plus all applicable taxes, without deduction, abatement or set-off, annually and in advance of each anniversary of this Agreement.
- (b) The Licensor may, in its sole but reasonable judgment, adjust the Annual License Fee at the end of the second year of the Term such adjustment to be effective the beginning of the third year of the Term so that the Annual License Fee is consistent with license fees or rent being charged for similar space in other buildings in the jurisdiction in which the Licensor's Premises is located.

LICENSE TERMS

- (a) The Licensee accepts the Licensed Area in an "as is" and "where is" condition. The Licensor does not, through any provision of this Agreement, or otherwise, guarantee or warrant that any part of the Building, including the Licensed Area, will be fit for the purposes of the Licensee even though the Licensee may have indicated the nature of its intended use to the Licensor or provided to the Licensor any Plans for its review or approval. The Licensor's review and approval of any Plans is solely for the purpose of satisfying the Licensor that a proposed installation or Modification will not generally compromise the integrity or value of the Building and/or the Lands.
- (b) Subject to first obtaining such approvals as the Licensor may require, and to providing such evidence of insurance as the Licensor may require, the Licensee is granted a limited, non-exclusive right to enter the Licensor's Premises and the Licensed Area to:

perform all necessary excavation, drilling, cutting, digging or other undertakings required to install the Cabling to the POP Room, including all filling, patching, paving and other undertakings as required to bury the Cabling and to return the Lands and the Building to the state and form in which they existed prior to installation,

N
W

- ii. install Cabling into the Entrance Duct, terminating at the Demarcation Point,
- iii. install such other Cabling and In-building wire as may be expressly permitted by the Licensor from time to time,
- iv. install, service, maintain and Modify the Licensee's Equipment as well as any interior or exterior grounding and electric power;
- v. install Cross Connection to 375 University Avenue and any other Cross Connection that may be required that the Licensor may authorize from time to time, in accordance with the Technical Specifications, provided that the Licensee has obtained all required approvals including those of other Carriers and the CRTC (in Canada) or FCC (in USA), if necessary; and
- vi.
 - .1 install such equipment, apparatus, fixtures and attachments (the "Equipment") as may be necessary for its operations, subject to the Licensor's approval;
 - .2 use the Licensed Area including the Equipment for the purpose of Telecommunications;
 - .3 provide Telecommunications services to other tenants and occupants occupying premises in the Building(s) located upon the Lands.

(E) LIMITATIONS ON GRANT OF LICENSE

The Licensee is an invitee only and, in addition to any other limitation or restriction in the Agreement, the Licensee's rights and privileges under this Agreement are limited as follows:

- 5.1 The Licensor may, in its sole discretion, restrict or limit the type, size, configuration and location of the POP Room, any Cross Connection and the Licensee's Equipment.
- 5.2 The Licensor may, in its sole discretion and upon reasonable advance notice to the Licensee, require that the Licensee reconfigure the Licensee's Equipment or remove or relocate any Cross Connection or In-building wire at the Licensee's sole cost and expense.
- 5.3 The Licensee shall only place the Licensee's Equipment in the POP Room. No Customer Equipment may be placed in the POP Room or in any Riser Closet without the Licensor's express written consent, which may be granted or withheld in the Licensor's sole discretion.

n
02/1

- 5.4 The Licensee shall not permit any other person to share or use the Licensee's Equipment, or access the Licensed Area without the express written consent of the Licensor, which may be granted or withheld in the Licensor's sole discretion.

The Licensee shall only use the Licensed Area for the purposes that are expressly provided for in this Agreement. The Licensee shall not use the Licensed Area for a network HUB, switching system, switch hotel, or for any public paging communications system or public cordless system as per those terms as defined by the CRTC (in Canada) or the FCC (in USA).

The Licensee is prohibited from installing or modifying all or any part of the Licensee's Equipment without first:

- .1 obtaining the Licensor's approval of all Plans;
 - .2 obtaining the Licensor's approval regarding the start and completion date of whatever work is involved;
 - .3 providing evidence of the insurance required by the Licensor to be carried in connection with any such installation or Modification and otherwise as required pursuant to this Agreement; and
 - .4 complying with the Application Procedure specified in Schedule "D"
- 5.7 The Licensee shall have twenty-four (24) hours a day, seven (7) days a week access to the Licensed Area and shall comply with all security procedures that apply to the Licensor's Premises.
- 5.8 The Licensee's access to the Licensed Area outside normal business hours shall only be available if accompanied by the Building engineer or other person designated by the Licensor.
- 5.9 The Licensee may, subject to first obtaining the Licensor's approval and complying with the Licensor's security practices, install a "lock box" on the entry door to the POP Room provided that an entrance key is provided to the Licensor.
- 5.10 To ensure that the Licensee is complying with its obligations under this Agreement, the Licensor reserves the right to conduct periodic inspections of the Licensed Area. and may, from time to time, limit the Licensee's access of the Licensed Area with the exception of the POP Room. Where practical, the Licensor will notify the Licensee in advance of an inspection and the Licensee may attend such inspections.
- 5.11 If the Licensor determines that the Licensee is not in compliance with this Agreement, the Licensee shall immediately, upon notification from the Licensor (specifying the period of time within which the non-compliance must be rectified) remedy the non-compliance. Where compliance is not achieved within the specified period of time the Licensor may (but is not required to) take such action as the Licensor determines necessary to remove or remedy such non-compliance at the Licensee's sole cost and

expense and without limiting any other remedies that may be available to the Licensor at law or in equity.

- 5.12 The Licensee is responsible for obtaining any and all required municipal permits, licenses, access agreements and certificates of occupancy or use permits.

Security services and security requirements imposed by the Licensor are provided solely for the benefit of the Licensor and its tenants. The Licensee is not entitled to rely upon any security services that may be provided by the Licensor.

The Licensee shall not, except as required by law or the CRTC, permit any other Carrier to share or use the Licensee's Equipment, In-building wire or access the Licensed Area without the expressed written consent of the Licensor, which consent shall not be unreasonably or arbitrarily withheld.

ACCESS PROCEDURES

6.0

- (a) Only the Licensee and Authorized Individuals will be permitted access to the Licensed Area.
- (b) The Licensor may require that the Licensee first obtain the Licensor's consent before the Licensee or an Authorized Individual enters the Licensed Area, such consent shall not be unreasonably withheld or delayed.
- (c) The Licensee shall at all times be and remain responsible for any and all of its actions and activities and those of any Authorized Individual.

The Licensee and all Authorized Individuals shall comply with the Licensor's Building Rules and Regulations, appended hereto as Schedule "E", which the Licensor may amend from time to time on ten (10) days' written notice to the Licensee, as well as all other applicable laws, rules, regulations and security measures in effect. The Licensor reserves the right, in its sole discretion acting reasonably, to deny access to or expel from the Licensor's Premises the Licensee or any Authorized Individual.

LICENSOR ALTERATIONS

7.0

- 7.1 Notwithstanding anything contained in this Agreement, the Licensor may grant, modify or terminate easements and agreements pertaining to the use or maintenance of all or any part of the Licensor's Premises. In so doing, the Licensor may also make changes to the ducts, utilities and any other part of the Licensor's Premises.

- 7.2 The Licensor reserves the right, upon reasonable advance notice to the Licensee, to relocate the Licensed Area to another area of the Building similar in size to the Licensed Area, in which event the Licensor will pay the costs of relocation provided that the Licensor acknowledges that the Licensee's obligation to provide services to its customers in the Building, if any, shall be paramount and further acknowledges that any relocation may require the installation and activation of the Licensee's Equipment in the relocated area prior to dislocation from the existing Licensed Area.
- 7.3 The Licensor shall not be responsible for any loss or damages suffered by the Licensee, or for any inconvenience, nuisance or discomfort arising out of any activity of the Licensor except if caused solely by the Licensor's gross negligence or willful misconduct.

TRADE FIXTURES

8.0

The Licensee's Equipment, as well as any air conditioning units installed by the Licensee shall be deemed to be "trade fixtures".

Trade fixtures are for the exclusive use of the Licensee and its customers. Trade fixtures shall remain the property of the Licensee and, to the extent specified by the Licensor, must be removed by the Licensee at the end of the Term.

Not later than the end of the Term, or any earlier termination of this Agreement, the Licensee shall remove all trade fixtures and shall promptly restore the Licensed Area to a clean condition.

If the Licensee fails to remove the trade fixtures and restore the Licensed Area as required above, the Licensor may do so, in which event the Licensee shall pay all costs of removal and restoration incurred by the Licensor and the Licensor shall have no obligation or liability for trade fixtures removed and disposed of by the Licensor.

LICENSEE'S EQUIPMENT AND MODIFICATIONS

9.1 Approval of Licensee's Equipment

Prior to the commencement of the installation, construction or Modification of the Licensee's Equipment, the Licensee shall obtain the written approval of the Licensor of the Plans in accordance with the procedure set forth in Schedule "D". Notwithstanding the approval of any Plans by the Licensor, the Licensor makes no warranty or representation to the Licensee that the Licensor's Premises or the Licensed Area is or will remain adequate or suitable for the Licensee's purposes during the Term.

n
ie

9.2 Construction and Installation

After the Licensor has granted 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 or Modification of the Licensee's Equipment in strict accordance with the approved Plans and to the satisfaction of the Licensor. All installation, construction and Modifications shall be carried out in a good and workmanlike manner, free of liens or claims by mechanics, material men or suppliers, and shall comply with the Licensor's Technical Specifications provided for in Schedule "F" as well as all applicable laws, regulations, by-laws, orders, rules and ordinances of any competent authority and may be subject to supervision by the Licensor.

9.3 Repairs and Maintenance

The Licensee shall, at its own expense, keep the Licensed Area in a safe and properly maintained condition in compliance with all applicable laws including, where applicable in the USA and without limitation, the Americans with Disabilities Act.. If the Licensee fails to do so and fails to correct any condition within ten (10) days' written notice thereof from the Licensor, the Licensor may affect any required repairs, replacements or maintenance. In order to preserve or protect life or property in emergency situations, the Licensor may, without prior notice, immediately enter and repair the Licensed Area and the Licensee's Equipment. All costs and expenses incurred by the Licensor, plus an administration fee of fifteen percent (15%) of applicable costs and expenses, shall be paid by the Licensee within thirty (30) days from the receipt of an invoice therefore.

9.4 No Interference with the Licensor and Building Tenants

All installation, construction and Modifications shall be performed so that the same do not interfere or conflict with any activity of the Licensor or of any tenant, occupant or other licensee in the Building. Neither the Licensee nor any Authorized Individual shall interfere with, obstruct or otherwise affect any other work or facility at or near the Licensor's Premises or forming part of the Building by altering, cutting, digging or otherwise. The cost of repairing, replacing or otherwise remediating any installation, construction or Modification performed by or on behalf of the Licensee in breach of this section shall be paid by the Licensee on demand plus an administration fee equal to fifteen percent (15%) of the cost, without limitation of the Licensor's other remedies at law or in equity or otherwise required under this Agreement.

9.5 Construction 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 or an Authorized Individual in respect of any installation, construction or modification in the Licensed Area. If any lien is filed or registered against the Licensor's Premises as a result of any work done or materials furnished or supplied for the account of the Licensee or an Authorized Individual whether used or specifically prepared with the view of being used in respect of the Licensor's Premises or any part of them or otherwise, the Licensee shall promptly cause any such lien to be discharged or commence legal proceedings to have the lien vacated or canceled. If the Licensee fails to do so then, in addition to any other right or remedy the Licensor may have, on ten (10) days' written notice to the

u
ye

Licensee, the Licensor may, but shall not be obligated to discharge the lien or obtain its removal and shall then charge the Licensee with the cost thereof, plus an administration fee equal to fifteen percent (15%) of the cost.

9.6 Damage to Licensor's Premises

The Licensee shall, at its sole cost and expense, have all damage caused by it or an Authorized Individual to the Licensor's Premises or any improvements or property of others repaired immediately. If the Licensee fails to repair such damage, the Licensor may elect to repair the same at the Licensee's sole cost and may recover that cost from the Licensee plus an administration fee equal to fifteen percent (15%) of the cost.

10.0 LICENSEE'S COVENANTS

10.1 Licensee's Covenants

Throughout the Term the Licensee will satisfy the following obligations:

Fees

The Licensee will pay the Fees as required by this Agreement.

Taxes

The Licensee will pay Business Taxes, all sales and use taxes imposed on it with respect to the conduct of its business, and any taxes imposed upon the Licensor by reason of the Licensee's use of the Licensed Area or the exercise of its rights under this Agreement. In addition, Licensee will pay its share of Realty Taxes if and to the extent specified in Schedule "C".

Electricity

The Licensee shall pay the Power Consumption Charge specified in Schedule "C".

Indemnity

The Licensee shall and does hereby agree to indemnify and save harmless the Licensor and each Releasee from and against any and all actions, causes of action, suits, claims, damages, awards, proceedings, costs (including without limitation the Licensor's counsel fees, court costs and fees of expert witnesses) and liabilities or claims (collectively "Claims") by any third party (including, without limitation, any Authorized Individual and the directors, officers, employees, agents, representatives or customers of the Licensee and each Releasee) arising out of or proximately caused by:

- (i) the placement, installation, use (or the inability to use), operation, maintenance or removal of the Licensee's Equipment by the Licensee or an Authorized Individual in, on, or from the Licensor's Premises or the Licensed Area;

- (ii) the performance of this Agreement by the Licensee, including the installation or Modification of the Licensee's Equipment, or its use or misuse by the Licensee;

any breach, violation, act or omission or non-performance of any condition, covenant, obligation, representation or warranty by or on the part of the Licensee;

damage to the Licensor's Premises or any personal property (including the loss thereof) of the Licensor, or any third party, or physical injury (including death resulting there from) caused directly or indirectly by the Licensee or an Authorized Individual;

- (v) any act or omission of the Licensee in connection with the presence, installation, use, operation, maintenance or Modification of the Licensee's Equipment;

the proximity of the Licensee's Equipment to any facilities or equipment of the Licensor, any tenant of the Licensor, whether or not a customer of the Licensee, or other Carriers within the Licensor's Premises as a result of the presence, installation, use, operation, maintenance or Modification of the Licensee's Equipment;

any act or omission of or by the Licensee in or while providing any service to any customer of the Licensee, or in respect to any service interruption, failure or impairment;

any actual or attempted seizure or repossession of the Licensee's Equipment or any other equipment or property of the Licensee in any of the Licensor's properties by any creditor of the Licensee or by any other party;

the infringement of patents or other intellectual property rights arising from the use of the Licensee's Equipment or the combining or using the Licensee's Equipment with other equipment or facilities of the Licensor within the Building; or

- (x) any claim of ownership, right or title by any third party in respect of the Licensee's Equipment (the Licensee represents and warrants it is an owner and/or user of all of the Licensee's Equipment) or any claim arising from any alleged lack of authority by the Licensee to enter into this Agreement.

The Licensor shall not be liable for the quality of transmission, or for any damages arising from omissions, interruptions, delays, errors or defects in transmissions suffered by the Licensee, or any of its customers, caused by failures or defects within the Licensor's Premises or the Licensed Area.

M
W

(e) Release and Waiver

The Licensee does hereby release the Licensor and its directors, officers, servants, agents, employees, contractors, and those for whom all or any of them is or are, at law, responsible (hereinafter individually, the "Releasee" and collectively, the "Releasees") from all actions, suits, damages, costs and liabilities for:

- (i) any damage to the Licensed Area or Licensee's Equipment;
- (ii) any injury to, or death of any person; and
- (iii) damage to any person's property or loss of use of such property,

arising out of any act or omission by any Releasee (except for negligence, gross negligence or willful acts) in respect of the Licensed Area or the Licensee's Equipment.

The Licensee further waives any claim that it may now have or may in the future have in tort, contract law, under any other theory of law, under statute, common law or in equity and confirms that its rights, obligations, rights of indemnity and measure and type of damages are limited to those that are expressly provided for in this Agreement.

(f) Insurance

- (i) (A) The Licensee shall at all times during the Term maintain an insurance policy and in particular, public liability and property damage insurance coverage in an amount not less than Three Million Dollars in local currency (\$3,000,000.00), for each occurrence involving bodily injury, death or property damage, personal injury liability, products liability, contractual liability, contingent liability, and non-owned automobile liability, and or any liability arising from the performance by the Licensee of the terms of the contract, such policy to be written on a comprehensive basis.. Upon request, the Licensee shall provide a certificate that such insurance is in force.

The Licensee's insurance coverage shall include all risks direct damage insurance, covering the Licensee's Equipment and all of the Licensee's chattels in an amount equal to the full replacement value thereof.

In addition, the Licensee's insurance coverage shall include (i) business interruption insurance in such amounts as will reimburse the Licensee for direct or indirect loss of earnings attributable to all perils insured against in 10.01(f)(i)(A) and (B) above and (ii) workers compensation insurance upon such terms and in such amounts as may be required from time to time by applicable law.



- (ii) Each insurance policy referred to herein shall add the Licensor, and any mortgagee of the Licensor, as additional insured's, as their respective interests may appear and shall contain as appropriate:
 - (A) a severability of interests and a cross liability clause;
 - (B) a waiver of subrogation in favor of the Licensor and those for whom in law it is responsible; and
 - (C) a clause stating that the Licensee's insurance policy will be considered as primary insurance and not as excess to any other insurance that may be available to the Licensor or any mortgagee of the Licensor.
- (iii) The Licensee shall provide certificates of insurance to the Licensor, on or prior to the commencement of the Term. All insurance policies shall contain an undertaking by the Licensee's insurer to notify the Licensor upon not less than thirty (30) day's prior written notice of any material change to the prejudice of the Licensor in terms, cancellation or termination. In the event of a claim the Licensee shall provide to the Licensor copies of all policies upon Licensor's written request of such policies.

(g) Non-Liability for Loss, Injury or Damage

Except for any negligent, gross negligent or willful act or omission by the Licensor or any Releasee, in no event will the Licensor or any Releasee be liable to the Licensee (or any other party claiming through the Licensee) for:

- (i) lost profits, loss of revenue, failure to realize expected savings, loss of data, loss of use, or any other commercial or economic loss of any kind, or punitive, exemplary, indirect, incidental, consequential or special damages or third party claims arising out of the use by the Licensee of the Licensed Area and/or the Licensor's Premises even if the Licensor was aware of or had been advised by the Licensee of the possibility of such potential losses or damages, and the Licensee releases, holds harmless and indemnifies the Licensor in respect of the same;
- (ii) the quality, adequacy, compatibility or sufficiency of the Licensed Area provided hereunder, the use of which is at the sole risk of the Licensee;
- (iii) the activities of any third party, whether or not that party is on the Licensor's Premises under the terms of another telecommunications POP site license or lease or similar agreement;
- (iv) any claims resulting from lightening or other electrical current passing through the Licensor's Premises or facilities that cause any damage to the Licensee's Equipment or result in the interruption of any service by the Licensee;

- (v) any claims resulting from any fire, explosion or other occurrence involving the Licensed Area and/or the Licensor's Premises;

the inadequacy of any utility service, or the loss of or the failure to provide any utility service; or

the Licensor's failure to perform any of its obligations hereunder where such failure is due, directly or indirectly, to fire, flood, explosion, earthquake, other disaster, power failure, accident, civil disturbance, riot, sabotage, laws imposed after the fact, war, rationing, embargo, strike or labor problem, acts of God or acts of government or any other event or circumstance not within the Licensor's reasonable control.

Other than as expressly provided for in this Agreement, there are no warranties, representations, conditions or guarantees of any kind provided by the Licensor to the Licensee, either express or implied, whether by statute, agreement, tort, product liability, other theory of law, or otherwise, regarding this Agreement or the privileges afforded to the Licensee pursuant to this Agreement.

10.2 Agency and Trust Provision

Wherever an indemnity or other provision benefits the Licensor under this Agreement, the provision will be considered also to apply to and be for the benefit of each Releasee.

For the purpose of permitting each Releasee to enforce the benefit of any provision of this Agreement that is expressed or intended to be in favor of a Releasee, the Licensor may act as agent or trustee for the benefit of the Releasee.

10.3 Compliance with Laws

The Licensee will comply with all applicable present and future laws, regulations, by-laws and other requirement of any government or its agency to the extent applicable to the Licensee, the Licensed Area and any other portion of the Building used by the Licensee.

The Licensee shall not permit or bring into the Building or onto the Lands any hazardous or dangerous material or substance that is or may be prohibited, restricted, regulated or controlled under any environmental law in force in the jurisdiction in which the Building is located.

If any government decision, law, by-law, rule, ordinance or regulation prohibits or curtails the commercial viability of the Licensee, the Licensee may terminate this Agreement by providing one hundred and eighty (180) days notice in writing to the Licensor and the Licensee shall be entitled to a rebate of any pre-paid Fees or an abatement of any Fees or other charges due or to become due under this Agreement to the date of termination.

11.0 TERMINATION OF LICENSE

Interference with Signals

If the operation of the Licensee's Equipment causes any interference with or disruption to any equipment or systems of the Building or of any of its occupants, or the equipment of any Carrier which exists in or on the Building as of the date of this Agreement the Licensee shall immediately, upon notification from the Licensor in writing, cause the interference or disruption to cease. Failure by the Licensee to resolve the interference or disruption within two business (2) days after receipt of that notice from the Licensor shall constitute a default by the Licensee under this Agreement.

The Licensor will make reasonable efforts to notify the Licensee if it obtains actual knowledge of any occurrence or event (including scheduled power outages) which results in or which reasonably foreseeable could be expected to interfere with the Licensor's Equipment or the equipment of any of the Building's tenants or other Carriers.

Other Circumstances for Termination by the Licensor

The Licensor may elect to terminate this Agreement, in whole or in part, in each of the following circumstances, subject to giving at least thirty (30) days' prior written notice to the Licensee:

- (a) where the Licensor determines that the Licensor's Premises have been destroyed, or damaged to such an extent that it is not feasible to repair them within a period of one hundred and eighty (180) days after the damage;
- (b) where the Licensed Area becomes damaged and, in the Licensor's opinion, it is not feasible to restore the Licensed Area within ninety (90) days after the damage; or
- (c) where the Licensor's Premises are expropriated in whole or in part by a lawful authority.
- (d) where the Licensor wishes to redevelop, or otherwise alter the Licensor's Premises in such a manner as to, in the Licensor's opinion, make the relocation of any part of the Licensed Area not feasible; or
- (d) where the Licensor elects to change the primary use of the Licensor's Premises.

12.0 DEFAULT

Default

Without limiting its other rights and remedies hereunder or at law or in equity:

- (a) the Licensor shall have the right to terminate this Agreement if the Licensee commits any of the following defaults:
 - (i) the Licensee fails to pay any amount due and owing to the Licensor under this Agreement; or
 - (ii) the Licensee fails to comply with any of the covenants, terms or conditions of this Agreement;if the Licensor has provided to the Licensee written notice of the default and the Licensee has failed to cure the default within ten (10) days after the written notice;
- (b) regardless of any other provision of this Agreement, and without the notice required under Section 12.1 above, the Licensor shall be entitled, at its option, to terminate this Agreement immediately upon written notice to the Licensee:
 - (i) if the Licensee become bankrupt or insolvent,
 - (ii) upon the filing by the Licensee of any petition, request for reorganization, readjustment or arrangement of the business of the Licensee under any laws relating to bankruptcy or insolvency or upon the making of any assignment or attempted assignment for the benefit of creditors;
 - (iii) upon the Licensee ceasing to carry on business in the ordinary course;
 - (iv) upon the appointment of a receiver for all or substantially all of the property of the Licensee;
 - (v) upon any notice of, or actual or attempted seizure or repossession of the Licensee's Equipment or any part of it;
 - (vi) if the Licensee fails to procure, maintain and pay for or keep in force any insurance required to be maintained by the Licensee pursuant to this Agreement;
 - (vii) in the opinion of the Licensor and giving reasons if the activities of the Licensee pose a threat to the health or safety of the Licensor or any of its tenants or other occupants of the Licensor's Premises or endanger the safety or integrity of the Building, or
 - (viii) if the Licensee breaches article 15.12,

- (ix) if the Licensee and Licensor cannot agree on a mutually acceptable license fee for renewal for the 3rd to 5th year term of this agreement.

If the Lease agreement between The Manufacturers Life Insurance Company and Telus Integrated Communications Inc. for the space occupied by Telus Integrated Communications in 375 University Avenue pursuant to lease agreement dated 3 May 1999 and amended June 12, 2000, is terminated.

such termination to be effective on the date specified in the notice of termination.

- (c) Expiration or termination of this Agreement as provided above shall not relieve the Licensee of any obligation to pay any amounts due to the Licensor or to become due to the Licensor, and shall not deprive the Licensor of any of its rights or remedies or actions against the Licensee that accrue up to and including the effective date of the termination or expiration.
- (d) The occurrence of any event set forth in Section 12.1(a) or Section 12.1(b) above is a "Licensee Default". If a Licensee Default occurs, the Licensor shall have the following rights and remedies all of which are cumulative and not alternative and not to the exclusion of any other or additional rights and remedies in law or equity available to the Licensor by statute or otherwise:
 - (i) The Licensor may (but shall not be obligated to), at any time upon delivery of ten (10) days notice, or without notice in case of emergency, cure any Licensee Default and in so doing to make any payments due or alleged to be due by the Licensee to third parties in connection with such Licensee Default and to enter upon the Licensed Area to do any work or other things therein. The Licensee shall pay to the Licensor, upon presentation of the Licensor's invoice there for, all costs and expenses incurred by the Licensor in curing such default(s), including without limitation court costs and counsel fees and disbursements.
 - (ii) The Licensor shall be entitled to recover all accrued but unpaid Fees together with interest thereon at a rate equal to the lesser of (a) three percent (3.0%) per annum above the "prime", "base" or "reference" commercial loan rate most recently publicly announced by the Licensor's principal bank, as applicable in Canada or USA in the respective Province or State in which the Building is located and: (b) the maximum amount allowed under the commercial lending laws of the respective Province or State in which the Building is located, from the date upon which the same was due until actual payment thereof. In addition, for each installment of Fees which is not paid by the tenth (10th) day after it becomes due, without regard to the notice requirement of Section 12.1(a) above, the Licensee shall additionally pay to the Licensor an administrative fee to cover the cost of handling and processing late payment equal to the greater of (c) five percent (5.0%) of such installment or (c) One Hundred Dollars in local currency (\$100.00). Neither the foregoing interest nor late fee shall be deemed to excuse the untimely payment of any Fee.

M
40

- (iii) The Licensor may serve upon the Licensee a notice that the Licensor has elected to terminate this Agreement, and upon the Licensee's receipt of such notice this Agreement shall terminate upon the date set forth in such notice for termination and the Licensee shall immediately upon such termination surrender the Licensed Area to the Licensor and, subject to the terms hereof, remove all of Licensee's Equipment (THE LICENSEE HEREBY WAIVING ANY RIGHTS TO ANY NOTICE TO CURE OR VACATE OR TO QUIT PROVIDED BY CURRENT OR FUTURE LAW).

The Licensor or its agents, servants or representatives may, immediately or at any time thereafter during the continuance of such Licensee Default (THE LICENSEE HEREBY WAIVING ANY RIGHTS TO ANY NOTICE TO CURE OR VACATE OR TO QUIT PROVIDED BY CURRENT OR FUTURE LAW) re-enter and resume possession of the Licensed Area and remove all persons and property there from, either by summary dispossession proceedings or by a suitable action or proceeding at law, or, if permitted by law, by force or otherwise, without being liable for damages therefore, and no such re-entry nor any acceptance of keys from the Licensee shall be deemed an acceptance of the surrender of this Agreement; provided that, in the event of any such re-entry, the Licensee shall remain liable as set forth herein.

- (v) The Licensor may, in its own name, but as agent for the Licensee, re-license or relet or lease ("relet" or "re-letting") the Licensed Area for any period equal to or greater or less than the period which would have constituted the balance of the Term, for any sum deemed suitable and satisfactory, and for any use and purpose and any other terms (including concessions) which the Licensor may deem appropriate. The Licensor, at its option, may make such alterations, repairs, replacements and decorations as the Licensor in its sole judgment considers advisable for the purpose of re-letting the Licensed Area, and the making of such alterations, repairs, replacements and decorations shall not operate or be construed to release the Licensee from liability hereunder. The Licensor shall in no event be liable in any way whatsoever for its failure or refusal to relet the Licensed Area or, if the Licensed Area is relet, for its failure to collect the license fees or rent under such reletting, and no such refusal or failure to relet or failure to collect license fees or rent shall release or affect the Licensee's liability for damages or otherwise under this Agreement. The Licensor shall in no event be required to pay the Licensee any surplus of any sums received by the Licensor on a re-letting in excess of the Fees and other charges reserved under this Agreement. Notwithstanding any such re-letting without termination, the Licensor may at any time thereafter elect to terminate this Agreement for the prior Licensee Default.
- (vi) If this Agreement is terminated for a Licensee Default, or if this Agreement is terminated by summary proceedings or otherwise as the result of a Licensee Default, or if the Licensor re-enters the Licensed Area without also terminating this Agreement, whether the Licensed Area be relet or not, the Licensor shall be entitled to recover from the

Licensee, and the Licensee shall pay to the Licensor, an amount equal to the sum of (A) all accrued and unpaid Fees and other charges as of the date of such termination or re-entry, plus (B) all costs, damages, expenses and fees incurred by the Licensor in connection with recovering possession of the Licensed Area (including brokerage fees in connection with any re-letting, court costs and counsel fees and disbursements, and any expenses for putting and keeping the Licensed Area in good order and for making alterations, repairs, replacements and decorations, which amounts shall be due and payable by the Licensee to the Licensor on demand, plus (C) for each year (or portion thereof) of the balance of the Term following such re-entry or termination (or the period or periods which would otherwise have constituted the balance of the Term had this Agreement not been terminated), the amount (if any) by which Fees and charges payable for the year in question (or which would have been payable had this Agreement not been terminated), exceeds the amount (net of any concessions granted by the Licensor in connection therewith) the fees or rents collected on account of any re-letting, which amounts shall be due and payable by the Licensee to the Licensor on each anniversary of the commencement of the Term. Any suit brought to collect any deficiency for any year shall not prejudice in any way the rights of the Licensor to collect the deficiency for any subsequent year by a similar proceeding.

- (vii) If the Licensor elects to terminate this Agreement pursuant to this Section 12.1, the Licensor shall have the option, to be exercised in its sole discretion, to require the Licensee to pay to the Licensor, in lieu of the sums set forth in the preceding sub-sections (ii) and (vi), the sum of (A) all accrued and unpaid Fees and other charges due hereunder as of the date of such termination (together with interest and late charges as specified above), plus (B) the amount of any security deposit then held by the Licensor, plus (C) the present value (based on a discount rate equal to the then-current average yield on locally applicable Canadian or U.S. Treasury Bonds maturing at approximately the same time as the then scheduled end of the Term) of the aggregate of the Fees and charges which would otherwise have been payable by the Licensee for the balance of the Term, in one lump sum, said sum being the parties' reasonable estimate of the damages the Licensor will suffer as a result of the Licensee's breach as of the date hereof. The Licensee shall pay to the Licensor the foregoing sum immediately upon delivery to it of the Licensor's notice of the foregoing election. The parties hereby acknowledge and agree that the foregoing sum represents an enforceable liquidated damages remedy and does not (and in no event shall be deemed to) constitute a penalty.
- (e) In addition to any other claims or actions that the Licensor may have against the Licensee, in the event of the termination of this Agreement for any of the reasons specified in this Section 12.1, any Fees pre-paid by the Licensee to the Licensor shall remain the sole property of the Licensor.

- (f) Each of the Licensee and the Licensor waives its right to trial by jury in respect of any matter pertaining to any claim, default, or other action arising in connection with this Agreement.

EFFECT OF TERMINATION

Licensee Obligations

Upon the termination or expiration of this Agreement for any reason by either party, the Licensee shall:

- (i) pay any outstanding Fees, Business Taxes, Realty Taxes and other charges due hereunder for which the Licensee is or may be liable;
- (ii) follow the procedures set forth in Schedule "D" before removing any of the Licensee's Equipment;
- (iii) arrange for the de-installation and removal of the Licensee's Equipment if required by the Licensor. Where the Licensor requires that the Licensee's Equipment be de-installed, the Licensee shall continue to pay all Fees until the Licensee's Equipment has been removed and the Licensed Area restored to the Licensor's satisfaction;
- (iv) if for any reason the de-installed Licensee's Equipment is not removed from the Licensor's Premises within thirty (30) days of the date specified for removal by the Licensor, or as arranged by the Licensee with the Licensor, the Licensee will be deemed to have abandoned the same and the Licensor may, at its sole discretion, dispose of it as it sees fit. The Licensor shall not be liable to the Licensee for any proceeds of the disposition nor for any losses, costs or damages whatsoever in connection with the disposition. The Licensee shall be responsible for all costs of removal, restoration and disposition; and
- (v) indemnify and save harmless the Licensor from any and all third party claims arising from or in connection with the removal and disposition of the Licensee's Equipment.

Notwithstanding the foregoing, the Licensor reserves the right to remove the Licensee's Equipment on the day following the expiration or termination of this Agreement and to store it until removed by the Licensee, or until disposed of by the Licensor as provided above. In such case, Licensee shall be responsible for all costs of removal, restoration, storage and disposition, and the Licensor will have no liability to the Licensee in connection with the Licensee's Equipment.

14.0 ASSIGNMENT, SUB-LICENSING, TRANSFER AND FINANCING

Save for an assignment to an affiliate (as that term is defined in the *Canada Business Corporations Act*) or a purchaser of a material portion of its business which shall not require the Licensor's consent but prior written notice of such assignment, the Licensee shall not assign or transfer its rights under this Agreement, in whole or in part, or sub-license all or any part of the Licensed Area, or enter into any co-usage or sharing arrangement, except as mandated by the CRTC (collectively referred to as a "Transfer") in respect to the Licensed Area or any part of it without the prior written consent of the Licensor, which consent shall not be unreasonably withheld or delayed.

The following terms and conditions shall apply in respect to any consent given by the Licensor to a permitted Transfer:

- (i) the transferee will execute an agreement directly with the Licensor agreeing to be bound by this Agreement as if it had originally executed this Agreement as Licensee, but the Licensee will not be released from its obligations under this Agreement;
- (ii) the consent by the Licensor shall not constitute a waiver of the requirement for consent to subsequent transfers;
- (iii) any request for consent shall be in writing and accompanied by a true copy of the proposed transfer, 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 transferee; and
- (iv) in the event of a Transfer by the Licensee whereby the Licensee receives a fee in the form of cash, goods or services from the transferee that is greater than the Fees payable hereunder to the Licensor in respect to this Agreement, the Licensee will pay such excess to the Licensor in addition to the Fees payable under this License.

Licensee's Financing

The Licensee may, without consent of but on prior written notice to the Licensor, grant security by way of mortgage, charge, general security agreement or otherwise in respect to the Licensee's Equipment and trade fixtures to a bank or other financial institution. The Licensee shall not cause or permit any charge, security interest, mortgage or encumbrance, UCC in USA or equivalent Canadian fixture filing or notice of any of the foregoing to be filed in any public records.

Assignment by Licensor

Subject to the Licensee's rights under this Agreement, nothing in the Agreement shall restrict the right of the Licensor to sell, convey, assign, pledge or otherwise deal with the Licensor's Premises including the right to assign its rights under this Agreement to another person. Upon assignment of this Agreement as aforesaid, the Licensor shall be released from its obligations under this Agreement.

M
aw

ADDITIONAL PROVISIONS

15.1 Notice

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

Licensor:
Manulife Financial
Property Manager
c/o 55 Bloor Street West
Suite 200
Toronto, Ontario M4W 1A5

Attention: Timothy Guiry
Property Manager
416-977-5205

Licensee:

TELUS Communications Inc.
2700 Matheson Blvd. East
5th floor, West Tower
Mississauga, Ontario
L4W 4V9

Facsimile: 905-804-6104
Attention: Robert Beatty, AVP Building Access

Renewal

The Licensee shall have one (1) option to renew this Agreement for a further term 2 years 8 months, to coincide with the termination date (July 31, 2009) of the lease of premises between Telus Integrated Communications Inc. dated May 3, 1999 and amended June 12, 2000, for the leased premises on the lower level of 375 University Avenue, subject to and in accordance with the following terms and conditions:

- (i) the option shall be to renew this Agreement on the same terms and conditions as are contained in this Agreement, excepting with respect to the Annual Fees and Power Consumption charges. The Annual Fees shall be adjusted so that the same are consistent with the then market rate charged for similar space in similar sized buildings in the vicinity of the Building. If the Licensor and the Licensee, negotiating in good faith, fail to agree upon a market rate prior to the Termination Date,, such market rate shall be determined by licensor, acting reasonably, averaging the rents paid by the Licensee and/or similar Telecommunication Providers offering similar service in similar space in similar sized buildings in close proximity to the Building..
- (ii) this option shall be open for exercise by delivery to the Licensee of a letter of exercise. This option shall be exercised not less than six (6) months nor more than nine (9) months prior to the expiry of the Term. This renewal option is subject to the conditions that the Licensee shall have paid all Fees payable under this Agreement and, at the time of exercise, there shall be in existence no Licensee Default.

A
U

15.3 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 the word "person" shall include persons, firms and corporations, and vice versa.

Entire Agreement

This Agreement 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 Agreement neither party makes any representation or warranty express or implied, statutory or otherwise to the other. This Agreement may not be amended or modified except by a written agreement executed by both parties.

Subordination

The Licensee's rights under this Agreement are subordinate to the rights of any mortgagee, chargee, trustee for bondholders, or other encumbrance holder with a security interest, or other encumbrance on or in respect of the Licensor's Premises. Upon request by the Licensor, the Licensee' shall execute a subordination and attornment agreement in exchange for a non-disturbance agreement on such holder's usual form.

Amendment or Waiver

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

Governing Law

This Agreement shall be governed by the laws of the jurisdiction in which the Licensor's Premises are located, without giving effect to principles of conflicts of law.

Nature of Licensee's Rights

This Agreement shall not constitute or be interpreted to be either a partnership agreement, employment agreement, lease or joint venture agreement made between the parties.

The Licensee does not and shall not at any time claim any interest or estate of any kind in the Licensor's Premises or any part of them, or in any Cabling or other equipment or facilities that is, are, or may be provided to the Licensee by the Licensor. The nature of this relationship shall not be characterized as that of a "landlord" and "tenant" relationship and the Licensee waives any claim to any rights that might be afforded to tenants under any statute or other rule of law of the jurisdiction in which the Building is located.

15.9 Application of Funds

No acceptance of part payment of Fees or other amounts owed to the Licensor will be considered as an accord and satisfaction. The Licensor, despite any direction or restriction endorsed on any "cheque" or "check" or accompanying any payment, may apply any payment, in whole or in part, against any amounts owed to the Licensor in its sole discretion. No acceptance of any payment, even if it purports to be for any subsequent period, is to be construed as a waiver by the Licensor of its right of termination for pre-existing defaults.

Unauthorized Continued Use

If the Licensee continues to use any part of a Licensed Area after the expiration of the Term without the Licensor's prior written consent, the Annual License Fees payable in respect of the Licensed Area will be double that which applied during the last year of the Term or renewal term.

Public Announcements

The Licensee will not issue any press release, public notice or make any public disclosure, nor make any announcement to persons in a Building without the Licensor's prior written consent concerning the announcement and its wording.

15.12 Non-Disclosure

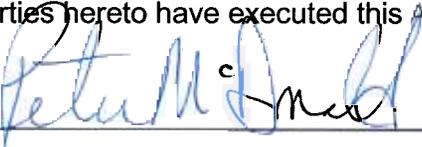
The Licensee expressly acknowledges and agrees that the provisions of this Agreement involve matters that are private and confidential to the Licensor. The Licensee is prohibited from disclosing any aspect of this Agreement or any matter pertaining to the Building to any person unless required by law, without first obtaining the express written consent of the Licensor, which may be withheld by the Licensor without reason.

re,

15.13 Survival.

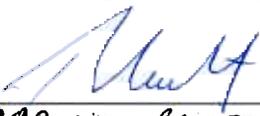
The obligations of the parties under this Agreement shall survive the expiration of the Term or any earlier termination of this Agreement.

The parties hereto have executed this Agreement as of the day and year first above written.

By: 
Name: PETER McDONALD
Title: **REGIONAL DIRECTOR
TORONTO REAL ESTATE OFFICE**

And: _____
Name:
Title:

I am/We are authorized to bind the Licensor

By: 
Name: ROBERT BEATTY
Title: AVP BUILDING ACCESS
TELUS COMMUNICATIONS INC
I am authorized to bind the Licensee

1
00/1

SCHEDULE "B" - DEFINITIONS

"Agreement" means this agreement and all appended Schedules.

"Annual License Fees" means the fees referred to in Schedule "C".

"Application" means a request by the Licensee, submitted in accordance with Schedule "D" of this Agreement requesting permission from the Licensor for the installation or Modification of the Licensee's Equipment.

"Authorized Individual" means an employee, servant, agent, contractor or its employee appointed by the Licensee to perform services on behalf of or for the Licensee.

"Business Taxes" means all taxes, rates, duties, levies and assessments that are levied, rated, charged or assessed with respect to the business carried on by the Licensee in the Licensed Area, or in exercising the access privileges granted by this Agreement.

"Cabling" means all cable (whether voice grade copper, fiber optical, coaxial or CAT 5), wires, cords and connecting hardware and any combination of those items.

"Carrier" means a telecommunications common carrier that is subject to the regulatory authority of the legislative regulatory authority of the Parliament of Canada for a Building location in Canada or the U.S. Federal Communications Commission for a Building location in the USA.

"Cross Connection" means the connection of any Cabling under the management, control or ownership of one Carrier to the Cabling under the management, control or ownership of another Carrier by placing a tie cable or jumper cable between the two Cables.

"Customer Equipment" means any physical equipment used, owned, leased or required by a tenant within the Building to obtain telecommunications services from or through the Licensee.

"CRTC" means the Canadian Radio television Telecommunications Commission, or any of its successors at law in Canada

"Demarcation Point" is a physical location within the POP Room where the Licensee's Cabling is terminated in accordance with the Licensor's Technical Specifications.

"Duct" is a pipe, tube or conduit through which Cabling is passed and includes, where applicable, the Entrance Duct.

"Entrance Duct" is a Duct, the whole or a portion of which is designated by the Licensor for use by the Licensee that runs from the property line of the Lands into the Building and ends in the Meter Room.

"Fees" means collectively all fees and charges that are payable by the Licensee to the Licensor pursuant to this Agreement and which are more fully described in Schedule "C".

“FCC” means the US Federal Communications Commission, or any of its successors at law in the USA.

“In-building wire” means Cabling passing from the Demarcation Point to a point within a Licensee’s premises.

“Initial Term” means the duration of the Agreement as specified in Article 2.0.

“Licensee” means the Licensee identified above and includes any permitted successor or assignee.

“Licensor” means the Licensor identified above and includes its successors and assigns.

“Licensee’s Equipment” means all Cabling, apparatus, fixtures and ancillary attachments that the Licensor permits the Licensee to install in the POP Room..

“Licensed Area” includes the POP Room, that portion of the Entrance Duct that has been assigned by the Licensor for use by the Licensee, the minimum area required by the Licensee to comply with the Technical Specifications for the installation of Cross Connections and such other parts of the Building, the location, dimensions and area of which are depicted in Schedule “A”.

“Licensor’s Premises” means collectively the Building and the Lands.

“Meter Room” is that location within the Building, usually in the basement, where the POP Room is located.

“Modify” or “Modification” includes but is not limited to altering, changing, adding to, moving, relocating or removing the Licensee’s Equipment or any part thereof.

“Plans” means any depictions, specifications, working drawings, blueprints, schedules and similar renderings for the construction, installation or Modification of the Licensee’s Equipment.

“POP Room” is a room or area, (commonly referred to in the telecommunications industry as a “point of presence room”) typically located within the Meter Room, where the Licensee’s Cabling is terminated in accordance with the Technical Specifications as depicted in Schedule “A”.

“Realty Taxes” means all real property taxes or charges (including local improvement, municipal or similar charges and all commercial concentration taxes) imposed from time to time in respect to all or any part of the Building or the Licensed Area by a taxing authority whether against the Licensor or the Licensee and whether or not in existence on the Commencement Date.

“Releasee” has the meaning ascribed to that term in article 10.1(e).

N
ue

“Riser Closets” are those areas within the Building, typically located on each floor of the Building (sometimes referred to as “telephone closets”) where Cabling is terminated.

“Schedule” means the following schedules that are attached hereto and for a part of this Agreement:

- Schedule “A” Depiction of the Licensed Area
- Schedule “B” Definitions
- Schedule “C” Fees and Charges
- Schedule “D” Application Procedure
- Schedule “E” Building Rules and Regulations
- Schedule “F” Technical Specifications

“Technical Specifications” means those requirements applying to the installation or Modification of the Licensee’s Equipment, which are appended as “F”.

“Term” means the initial term of the Agreement as specified in Article 2.0 and any renewal thereof.



SCHEDULE "C" – FEES AND CHARGES

<p><u>Annual License Fees</u></p>	<p>Years 1 – 2 For as long as the POP site is located within the space occupied by Telus Integrated Communications Inc. pursuant to the Lease agreement dated May 3, 1999 as amended by Amending agreement dated June 12, 2000; the annual license fee shall be \$5,200 plus GST per year payable in advance. The Licensee shall pay its own business taxes and any increase in realty taxes assessed against the Licensor by reason of the installation of the Equipment and its use of the premises.</p> <p>Year 3 - 5 Based on the greater of the annual rent in years 1 and 2 or market rents applicable to similar buildings in the area.</p>	<p><i>X (reinsert OK)</i></p>
<p>POP Room:</p>	<p>Charge for use of the POP Room (includes associated costs such as maintenance, lighting and environmental controls).</p>	
<p><u>Other Fees</u></p>		
<p>Application:</p>		
<p>Engineering:</p>	<p>Additional charges for engineering, review of submitted plans, specifications and drawings. If the Licensee uses the Licensor's base building consultants to engineer the POP Rooms at the Licensee's expense, the Licensor will not charge the Licensee to review the Plans related to such installation.</p>	<p>Cost +</p>
<p>Power Consumption Fee:</p>	<p>Charged on a monthly recurring basis in accordance with Licensor's usual practices.</p>	<p>\$300 + GST <i>per</i> per annum</p>
<p>Processing Charge:</p>	<p>To process any request by the Applicant/Licensee.</p>	<p>\$1,200 + GST processing fee.</p>
<p>Construction Fee:</p>	<p>For any required building modifications (demising wall, rooms, architectural changes, electrical, heating, ventilation, security installation and air-conditioning).</p>	<p>Cost +</p>

n
ge

Power Delivery:	For rearrangement of power required by the Licensee.	Cost +
Site Preparation Fee:	For pre-conditioning of the Building, including additional Entrance Conduit to the POP Room, and Riser cable holes.	Cost +
Other Consulting:	Specialty legal, technical and consulting fees.	Cost +

All "Cost +" charges are subject to an overhead charge of 15%.

Any charge that is not paid in advance is payable, net fourteen (14) days. Thereafter, interest on any outstanding amount payable by the Licensee to the Licensor shall accrue interest at the rate of one (1 %) per month on any outstanding amount then due and owing, both before and after any judgment for enforcement.

SCHEDULE "D" APPLICATION FOR INSTALLATION OR MODIFICATION

The procedures specified in this Schedule apply where a Licensee wishes to install or modify any of the Licensee's Equipment covered by this Agreement.

1. Only Licensee's Equipment that has been approved by the Licensor may be placed in the Building.
2. The Licensor reserves the right to approve the type of Licensee's Equipment that may be installed in the Building including all Modifications, construction, installation, maintenance and repair standards so as to ensure compliance with the Licensor's building rules and regulations, Technical Specifications as well as general and safety construction standards.
3. When the Licensor specifies standards or requests changes, it will do so in writing and the Licensee shall, at its sole cost and expense, comply with such standards. If the Licensee installs any Licensee's Equipment and/or Cabling that does not comply with the Licensor's standards, the Licensee shall achieve compliance of the same within fifteen (15) working days or such other period of time as the Licensor may specify.
4. If the Licensee fails to correct any non-compliance with such standards within the specified compliance period the Licensor may, without further notification to the Licensee, render the non-compliant Licensee's Equipment compliant through construction, installation, maintenance and/or repair standards, as the case may be, at the Licensee's sole cost and expense.
4. In addition to any information required in the Technical Specifications, all Applications shall be submitted in the form specified by the Licensor and contain the information requested by the Licensor. Without limiting the generality of the foregoing, the Licensee is required to provide the following information:
 - Serial number(s), make, model(s), power consumption(s), heat generated, footprint(s) and value(s) calculated by the Licensee of the Licensee's Equipment;
 - Proposed equipment layout;
 - The Licensor may require the Licensee to provide copies of all Plans in a form that is satisfactory to the Licensor;
 - Detailed drawing of proposed Cabling (including addition or removal), proposed termination point; and
 - Identify the Customer and location within the Building to be served.
5. Upon receipt of the Application and payment of the Application Fee, the Licensor will conduct a preliminary review of the Application. The Licensor will then advise the Licensee as to the expected cost of reviewing the Application in detail. If the Licensee wants the Licensor to review the Application, the Licensee shall advise the Licensor accordingly and (unless other arrangements are made between the parties) must provide to the Licensor a certified cheque or money order covering the expected cost to review the Application.

6. The Licensor will use commercially reasonable efforts to advise the Licensee of acceptance or rejection of the Application within fifteen (15) working days of receipt of the duly completed Application.
7. In the event that the Licensor rejects the Application, the Licensor will provide to the Licensee written reasons for the rejection. Any Application that is resubmitted by the Licensee to the Licensor will be treated as an amended Application and will be subject to a separate Processing Charge plus any costs of reviewing the amended Application.
8. Any request by the Applicant for amendments to any License, including additions, upgrades, Modifications, re-locations or rearrangements to the Licensee's Equipment must be submitted to the Licensor and will be treated as a new Application where, in the Licensor's reasonable judgment, the same will require reconfiguration or modification of the Building or will result in a change to the Licensee's power consumption or heat generation.

SCHEDULE "E" Building Rules and Regulations

1. The Licensee must comply with all current National and applicable Provincial or State Building and Fire Codes as well as any other relevant legislation dealing with the installation and operation of communication and data cables.
2. The Licensee shall be responsible for upgrading all Licensee's Equipment in the Building to meet all of the current code requirements as outlined in one above.
3. If on inspection the Licensor finds any deviation from the standards outlined in this specification or any other specification that it may issue from time to time in addition to this, the Licensor shall notify the Licensee in writing of the default and the Licensee shall have 30 days to rectify such default. If the Licensee should fail to rectify the default within the 30 day period without having obtained prior written permission from the Licensor to exceed this time limit, then the Licensor may undertake the correction of the default at the Licensee's expense.
4. The Licensee shall reimburse the Licensor for any and all expenses related to the contractors work and occupation of any space in the Building, including but not limited to the cost of correcting Licensee defaults under this specification and the collection costs including all legal fees for obtaining reimbursement for work done by the Licensor either for or on behalf of the Licensee and for work done to correct Licensee defaults.
5. The Licensee shall leave all communication closets and the main telephone room clear of all equipment and unused material, including any scrape wire and shielding or other debris. The room will be in a clean, broom swept condition and all garbage and other materials and equipment removed from the Building at the end of each day.
6. The condition of the communication closet at the time of entry shall not relieve the Licensee from the obligation of ensuring that it is in a clean and broom swept condition and free of all garbage, materials and equipment on leaving the area.
7. The Licensee shall ensure that all fire stop is in place after leaving any communication closet. The conditions of the fire stop at the time of entry shall not relieve the Licensee from the obligation of ensuring that it is in place on leaving the area.
8. No communication or switching equipment shall be located in the communication closets that is not related solely to the infrastructure wiring. This includes but is not limited to any Licensee or user equipment that serves only one user in the Building.
9. Where no POP room is available or provided by the Licensor, the Licensee will arrange and be provided with direct access to the Telecom riser for cable installation to the Building tenant with installation of a POP room within the leased tenant space.
10. Under no circumstances will POP rooms be provided by the Licensor to the Licensee within any of the typical floor Telecom rooms of the Building.
11. Communication closets are not to be left open and unattended at any time.
12. The Licensee shall obtain from the Licensor any existing Telecom floor plan and riser drawings for the Building for update and review by the Licensee's designated Electrical or

Telecom Consultant in accordance with these agreements and who's fees for such services are to be at the entire expense of the Licensee.

The Licensee shall provide such updated as-built Telecom drawings of floor plans and riser diagrams to the Licensor for the review and update by the Licensor's designated Electrical or Telecom Consultant of the of all Licensee's and other Telecom Equipment in the Building, within 30 days of activation of the service or completion of the job, whichever comes first.

14. Alternatively, the Licensor may obtain and complete the update of as-built Telecom drawings for the Building and return them within 10 calendar days in the Licensor's Consultant-approved and specified format to the Licensor and for review to the Licensor's Electrical or Telecom Consultant.
15. The Licensee shall notify the Licensor in writing of both the completion date of the project and the activation date of the service.
16. The Licensee shall be responsible for removing all wiring back to the communications closet for any customer it serves in the Building at the time that customer discontinues or ceases to subscribe to the Licensees service or that portion of the customers system is no longer used. unless the Tenant makes arrangements to provide services to a new occupant of such premises within sixty (60) days following termination of such service if the termination was a result of the occupant vacating the Building..
17. The Licensee shall complete the Building log on each access to the Building, providing full information in a clear and legible fashion that is required by the log.
18. No coring or additional conduit or other wiring infrastructure is to be installed without the written approval of the Licensor.
19. All drawings must be submitted to the Licensor for approval and such approval granted in writing prior to commencement of any work.

All cables are to be tagged and labeled in every communication closet between the Point Of Presence (POP) and the Licensee Patch Panel (TPP) and tagging must be shown on all updated as-built Telecom drawings provided by the Licensee. This must include all cables, trays, sleeves and runs with equipment location anywhere in or on the Building.

21. All tagging and labeling systems are to be consistent for all Licensee's work regardless of when it is done and shall be approved by the Licensor or his/her designated Consultant. Should the Licensee change the system, the Licensee shall be responsible for updating as-built Telecom drawings, all old labels and tags to confirm with the new system and layout.
22. Should the Licensor institute a new standard system of tagging and labeling, the Licensee shall be responsible for adopting it and updating all labels, tags and drawings.

23. The Licensee shall make arrangements directly with the Licensor for all Building services including (where available) but not limited to:
- access into the Building and use of "public" and other areas
 - hours of work
 - materials handling and hoisting
 - garbage removal and clean-up
 - power, telephone and heat
 - water and washrooms
- The Licensee shall, on demand, reimburse the Licensor the charges paid by the Licensor for such Building services used by them.
24. All Building services and utilities will be provided by the Licensor on a temporary basis and the Licensee shall pay the Licensor's reasonable charges therefore upon demand.
25. The provision and use of all such temporary Building services and utilities shall be co-ordinated by the Licensee with the Licensor who makes no representation that such temporary Building services and utilities will be available.
26. All parking by the Licensee is the responsibility of such Licensee(s) and the Licensor makes no representation that any such parking will be available. The Licensee shall only park its vehicles in the parking areas of the Building to the extent and for the time required to load equipment and materials.
27. The Work, excepting that which would create a nuisance or inconvenience to other tenants of the Building, is only permitted during business hours 7:00 AM to 6:00 PM Monday through Friday excluding public holidays. All Work required to be undertaken during off-business hours shall be co-ordinated with the Licensor at least 48 hours prior to the commencement of work and shall be subject to the reasonable rules and regulations of the Licensor governing such off-business hours worked. Any additional Building work and the cost of any labour rates in excess of those paid during business hours shall be at the Licensee's cost.
28. Any noise or odours resulting from the performance of the work that would disrupt the quiet enjoyment of existing tenants during regular business hours, which are the hours of 8:00 AM to 5:00 PM Monday to Friday, is not permitted.

No oil based paints or primers or floor covering glues shall be used without the prior written approval of the Licensor.

All elevator bookings and use of loading docks shall be co-ordinated through the Licensor. Elevator shall not be used for the movement of tools, equipment and materials between 7:30 AM and 9:00 AM; between 11:30 AM and 1:30 PM; and, between 3:30 PM and 5:00 PM Monday to Friday.

In no event shall the Licensee use any elevator other than the one elevator designated by the Licensor for the purpose of transportation of materials and equipment to the Licensed Area.

- 32 All materials shall be delivered through the loading dock. In the event that the Licensee is found moving materials into the Building in an unauthorised manner they may be immediately removed from the Building. All major movements of tools, equipment and materials are to be made prior to 7:30 AM or after 5:00 PM.
33. The Licensee shall supply its own wheelers. In the event that the Licensee requires elevator service to hoist large items the Licensee shall first make special arrangements for such elevator use with the Licensor.
- 34 Elevator floors, walls and ceilings must be protected from damage during transportation of materials. Elevator pads shall be supplied by the Licensor. Any additional protective materials necessary to prevent drainage shall be supplied by the Licensee at its expense.
35. The Licensee is required to use designated freight or service elevator for hoisting men and materials.
36. The Licensee or any of its subcontractors who persistently, in the opinion of the Licensor, damages the Building and who do not comply with the Rules and Regulations contained herein are liable to be removed from the Building by the Licensor and refused re-entry. The Licensor shall not be liable for any costs incurred by the Licensee resulting from such a removal of any of their subcontractors. The Licensor also reserves the right to take whatever remedial action it considers necessary in the event of Licensee's failure to comply with the Rules and Regulations contained herein and the cost of such remedial action shall be to the Licensee's account.
- 37 The Licensee must comply with all other rules and regulations as the Licensor shall make from time to time during the term of this Agreement.

SCHEDULE "F" Technical Specifications

- 1 The Licensee accepts the Licensed Area in the Building in an "as is" condition
- 2 The Licensee must only use FT6 insulated wire in the Building. This is cable insulated by 100% Fluorinated Ethylene Propylene (Teflon®). In those instances where the Licensee is unable to use FT6 wire the Licensee will request a variance from the Licensor, who is not obligated to grant it. Such variance will only be valid if provided in writing by the Property Manager for the property or a more senior member of the Licensor's operations team.
3. Install cabling into the Entrance Duct, terminating at the Demarcation Point
4. Existing cable shall be reused wherever possible providing it and its installation meets items 1, 2 and 3 above. If the cable does not meet these standards it is the Licensee's responsibility to remove the cable.
5. If any unused cable is encountered during any installation the Licensee shall be responsible for properly removing it unless given permission in writing not to do so by the Property Manager for the property or a more senior member of the Licensor's operations team.
6. Install Telecommunication cabling, lines, conduit and such equipment, apparatus, fixtures and attachments within the Building ("Equipment") as may be necessary for its operations;
- 7 Perform all necessary excavation, drilling, cutting, digging or other undertakings required to install communications lines through the Lands and into the Building, including all filling, patching, paving and other undertakings as required to bury the communication lines and to return the Lands and the Building to the state and form in which they existed prior to the installation
8. Obtain access to portions of the Building, including existing riser cables, main telecommunications room and raceways, as may be necessary to enable the Licensee to install, use and maintain Equipment, interior or exterior grounding, electric power and telecommunications lines, in order for the Licensee to provide telecommunications services;
9. Provide telecommunications services to other occupants of the Building where provided in this Agreement.
10. Connect the Equipment to other Licensees of the Building, subject to the Licensor's prior approval as to location of Licensee's Equipment, such approval shall be in the Licensor's sole and absolute discretion

Obtain access to the Building at all times, subject to security procedures as required by the Licensor. The Licensee may access the Building outside normal business hours, providing the Licensee follows security procedures as determined by the Licensor. The Licensee shall be allowed to install a lock box on the entry door to the Buildings;

Install all approved type communication cable only, re-using the existing cable routing and support cable tray system to the core, risers and closets in the Building. If new risers or core drilling is required, the Licensee shall obtain prior approval from the Licensor in writing and such approval shall be at the Licensor's sole and absolute discretion.

13. Install any cables in the ceiling air plenums that shall meet fire and smoke criteria for "Category 5 FEP" type, that meet local Building code, UL 1666 and NFPA 262 standards for limited combustion. Where cables are installed in risers, fireproofing shall be maintained at each floor penetration.
14. Submit detailed plans of the contemplated improvements and obtain approval of these plans from the Licensor, such approval shall be in the Licensor's sole and absolute discretion.
15. Provide any new or modified routing and riser plans, that will consistently identify on the plans all new and existing cables, by type and size, by number, by core, by floor, by zone or client room number.
16. Properly tag, number and uniquely identify at regular intervals and in each typical floor telecommunication closet and in the client space, as being this Licensee's service.
17. Provide a cable log that shall show company name, all cables in the approved labeling format, date and signature of the person, responsible for the installation.
18. Locate as-built routing and riser plans and signed cable log, meeting the above labeling criteria, in the Buildings that are accessible to the Licensor. Alternately provide any update copy of such drawings and log to the Licensor.
19. All Licensee's Equipment, as well as any air conditioning units, microwave dishes, communications lines, fiber optic cable, copper wire, the Licensee's conduit system provided by the Licensee in the Building, will be deemed the Licensee's Equipment.
20. The Licensee's Equipment will be for the exclusive use of the Licensee and its customers and will remain the property of the Licensee and must be removed by the Licensee at the end of the Term.

All Licensees' Equipment in the Building outside the Buildings, excluding Trade Fixtures, becomes property of the Licensor at the end of the Term. However, the Licensor shall have the option to have the Licensee remove any, or all, conduit or cable as directed by the Licensor. The Licensee shall also provide an update of the plans and the log to the Licensor of such removal work.

Comply with any other technical specifications that the Licensor shall make from time to time during the term of this Agreement

A

we/