

TELECOMMUNICATIONS ACCESS AGREEMENT

THIS AGREEMENT dated this day of , 2001.

BETWEEN:

STANDARD LIFE ASSURANCE COMPANY
(the "Owner")

and

TELUS COMMUNICATIONS (QUÉBEC) INC.
(the "Supplier")

PREAMBLE:

- (a) The Owner is the owner of certain buildings as more particularly described in this Agreement.
- (b) The Owner has agreed to grant to the Supplier access to install, operate, maintain, repair and replace certain communications equipment in the Owner's buildings as more particularly described in Schedule "C" in this Agreement on the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the Owner and the Supplier agree as follows:

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions** In this Agreement, unless the context requires otherwise, the following terms shall have the following meanings, respectively:

"**Agreement**" means this Agreement and the attached Schedule A and all subsequent changes, modifications and amendments to this Agreement and the attached Schedule A made in accordance with the provisions of this Agreement.

"**Anniversary Date**" means ~~JANUARY~~ ^{MAY 1} 1 of each year.

"**Building**" means the building owned by the Owner and located on the Lands.

"**Building Risers**" means the electrical, mechanical or communications spaces or other pathways in the Building.

"**Business Day**" means a day other than a Saturday, Sunday and any other day on which the principal commercial banks in Quebec are not open for business during normal banking hours.

"**Commencement Date**" means the date on which the Term commences, which shall be June 1, 2001 or the date on which the construction of the Mini POP Site commences, whichever is earlier.

"**CRTC**" means the Canadian Radio-television and Telecommunications Commission or its successor.

"**Communications Equipment**" means the communications equipment of the Supplier and its affiliates, including, without limitation, cabinets, racks, electronic equipment and other similar equipment.

“Connecting Equipment” means the cables, conduits, inner ducts and connecting hardware of the Supplier that is connected to the Communications Equipment.

“Entrance Link” means installation of cables and connecting hardware from the lot line of the Lands to the foundation of the Building and the core sleeve penetration through the foundations of the Building.

“Mini POP Site” means the area (to be determined by the parties) in the basement level of the Building, comprising approximately **100 square feet**, more or less, at refer to buildings identified in Schedule “C” of this agreement, Quebec which premises shall be provided by the Owner to the Supplier for the sole and exclusive use of the Supplier.

“GST” means the Goods and Services Tax established under the *Excise Tax Act* (Canada) or a successor tax imposed by the Government of Canada under lawful authority.

“PST” means the Provincial Sales Tax established under the Act respecting the Quebec Sales Tax or any successor tax imposed by the Province of Quebec under lawful authority.

“Lands” means the lands situated in the City of Montreal, in the Province of Quebec, on which the Building is constructed, as more particularly described in the attached Schedule B.

“Access Fee” means the annual fee specified in section 4.1 of this Agreement which is payable by the Supplier to the Owner under this Agreement.

“Supplier’s Equipment” means, collectively, the Communications Equipment and the Connecting Equipment.

“Notice” means any notice, request, consent or other communication provided, required or permitted under this Agreement as contemplated in Section 12.1 of this Agreement.

“Term” means the continuous period of five (5) years, commencing on the Commencement Date.

“Renewal Term” means the period after the Term for which this Agreement may be renewed and extended as described in section 3.2 of this Agreement.

1.2 **Interpretation** For the purposes of this Agreement, except as otherwise expressly provided, the following shall apply:

- (a) Words importing the singular include the plural and vice versa, and words importing gender include all genders and firms or corporations where applicable.
- (b) Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- (c) The headings inserted in this Agreement are for convenience of reference only and in no way define, limit or enlarge the scope or meaning of any of the provisions of this Agreement.
- (d) This Agreement shall be interpreted and governed by the laws of the Province of Quebec, and the laws of Canada applicable therein.

1.3 **Schedules** The following are the Schedules attached to and forming part of this Agreement:

ARTICLE 2 – ACCESS

- 2.1 **Access** The Owner grants to the Supplier a non-exclusive Access to:
- (a) install, operate, maintain, repair and replace the Communications Equipment at the Mini POP Site, at the Supplier's sole expense and risk;
 - (b) install, operate, maintain, repair and replace the Connecting Equipment in the Building, at the Supplier's sole expense and risk, together with the right to pull the Connecting Equipment through the Entrance Link and through the Building Risers as necessary to reach from the Entrance Link to the Mini POP Site and from the Mini POP Site to the Supplier's customers in the Building, as required by the Supplier from time to time to provide communications services to the Supplier's customers in the Building; and
 - (c) use the Entrance Link and existing Building wiring, only to the extent that the Owner has the possession of, and authority to allow the use of, The Entrance Link and the existing Building wiring, as required by the Supplier for the purpose of connecting the Supplier's Equipment to the Supplier's customers in the Building.
- 2.2 **Mini POP Site** The Owner shall provide the Mini POP Site to the Supplier, for the sole and exclusive use of the Supplier, which Mini POP Site shall be used by the Supplier for the provision of communications services to the Supplier's customers in the Building.
- 2.3 **Sublease** Notwithstanding section 13.4 of this Agreement, and subject to the prior written consent of the Owner, which consent shall not be unreasonably withheld or unduly delayed, the Supplier shall have the right to sublease a portion of the Mini POP Site to a third party for the purpose of permitting such third party to provide communications services to its customers in the Building. Notwithstanding the preceding, the supplier may assign, license or convey the present Agreement without the Owner's permission to an associated company. The supplier shall maintain its liability, despite any such assignment, licensing or conveyance.
- 2.4 **Nature of Interest** The right granted to the Supplier under this Agreement is a Access only, and shall not constitute a partnership, joint venture or lease between the parties.
- 2.5 **Non-Exclusivity** The Access acknowledges and agrees that the Access granted to the Supplier pursuant to section 2.1 of this Agreement is not exclusive to the Supplier, and that the Owner has the right to grant similar rights and privileges in respect of the Building to other parties.

ARTICLE 3 – TERM

- 3.1 **Term** Notwithstanding the date of its execution, this Agreement shall come into effect on the Commencement Date, ~~January~~^{May} 1, 2002, and, subject to the provisions of this Agreement, shall remain in effect for the Term.
- 3.2 **Option to Renew** If the Supplier pays its Rent and observes or performs all its obligations under this Agreement, duly, regularly and promptly throughout the Term, and if the Supplier delivers to the Owner written notice exercising its option to renew at least six (6) months prior to the expiry of the Term or the renewal term as the case may be, the Supplier will have the option to renew two (2) times this Agreement for a term of Five (5) years on the same terms and conditions as are contained in this Agreement, except for: (i) the Access Fee and (ii) further options to renew.

Annual Access Fee for the renewal term shall be based upon fair market Access Fees for equivalent space at the time of renewal, except that the annual Access Fee will not be less than the Access Fee which the Supplier was obliged to pay during the last year of the Term or the renewal term as the case may be. The time for determining annual Access Fee for the renewal term will be the four (4) month period immediately preceding the expiry of the Term or the renewal term as the case may be. If the owner and Supplier are unable to agree on such Access Fee at least 30 days prior to the expiry of the Term, either of them may refer the determination of such annual Access Fee to arbitration under the arbitration statute of the Province where the Building is located. The arbitrator's determination will be conclusive and binding on the owner and Supplier. The arbitration costs will be awarded in the arbitrator's discretion. Until the arbitrator has determined such annual Access Fee, the Supplier will continue to pay monthly instalments of the Access Fee in the same amount it was paying prior to the expiry of the Term or renewal term. Forthwith after the arbitrator's determination, the Supplier will pay to the Owner the difference, if any, between the Access Fee instalments which it has then paid to date and the Access Fee instalments pursuant to such determination.

- 3.3 **Overholding** If the Supplier remains in occupation of the Mini POP Site following the expiration of the Term or a Renewal Term, such continued occupation by the Supplier shall not have the effect of renewing or extending this Agreement for any period of time, and the Supplier shall be deemed to be occupying the Mini POP Site as a Supplier on a month-to-month basis upon the same terms and conditions as set out in this Agreement except that the Access Fee shall be adjusted according to section 3.2.

ARTICLE 4 – ACCESS FEE

- 4.1 **Access Fee** The Supplier shall pay to the Owner an annual Access Fee in an amount of \$2,500.00 per building **excluding GST and PST**, which Access Fee shall be paid in advance on the Commencement Date and, thereafter, on each anniversary of the Commencement Date during the Term. In the third year of the agreement, the Access Fee shall be reviewed and adjusted to reflect market rates, but shall nevertheless be not less than six hundred dollars (plus applicable taxes) per annum.
- 4.2 **GST** The Supplier shall pay GST as applicable on the Access Fee, which GST shall be paid at the time the Access Fee is payable. The Owner's GST registration number is 105252126.
- 4.3 **PST** The Supplier shall pay PST as applicable on the Access Fee, which PST shall be paid at the time the Access Fee is payable. The Owner's PST registration number is 1000697105.
- 4.4 **Non-Disclosure** The Owner and the Supplier each agree to use good faith efforts to refrain from disclosing the financial terms of this Agreement, except that either party may disclose the financial terms of this Agreement if required by law or regulation.

ARTICLE 5 – USE

- 5.1 **Use of Mini POP Site** The Supplier shall use the Mini POP Site only for the purpose of the installation, operation, maintenance, repair and replacement of the Supplier's Equipment as required by the Supplier for the purpose of providing communications services to the Supplier's customers in the Building.
- 5.2 **Title** The Owner acknowledges and agrees that title to, and ownership of, the Supplier's Equipment shall remain with the Supplier at all times notwithstanding that the Supplier's Equipment may be affixed to a part of the Building for the time being.

ARTICLE 6 – ACCESS AND ELECTRIC UTILITIES

- 6.1 **Access** The Supplier and its authorized representatives shall have access to the Entrance Link and Mini POP Site on a seven (7) days a week, twenty-four (24) hours per day basis for the purpose of installing, operating, maintaining, repairing and removing the Supplier's Equipment. The Supplier and its authorized representative further shall have such access to the driveways, walkways, entrances, exits and hallways associated with the Building as may be required in order for the Supplier and its authorized representative to access the Mini POP Site. The owner acknowledges that the nature of the Supplier's communications services requires such access for servicing purposes and in emergency situations. The Supplier and its authorized representatives shall have ingress and egress to the Building Risers at such times as specified by the Owner, acting reasonably, provided that in the event of an emergency, the Supplier shall have the right to enter the Building Risers upon notification to the Owner. All entry and access to the Entrance Link, Mini POP Site and the Building, including the Building Risers, by the Supplier and its authorized representatives shall be subject to the Owner's reasonable security procedures. **The Supplier shall deliver to the Owner a complete list of all its authorized representatives.**
- 6.2 **Electrical Power** The Supplier shall have the right to connect the Supplier's Equipment to the electric power distributing system within the Building at the sole cost and expense of the Supplier. The Supplier shall pay for all electricity consumed by the Supplier on a load and usage basis. **The Supplier, at its sole cost and expense, shall install a separate meter, which shall be connected to the building energy management system,** to determine the Supplier's electricity consumption. The Owner shall use reasonable commercial efforts to notify the Supplier in advance of any planned utility outages that may interfere with the Supplier's use. The Supplier agrees that the owner has no obligation or responsibility to provide emergency or backup power to the Supplier, unless the parties agree that the Owner will provide emergency or backup power to the Supplier on such terms and conditions as mutually agreed between the parties.
- 6.3 **Nuisance** The Supplier shall not use nor permit the Supplier's Equipment or any part of the Mini POP Site to be used in such a manner as to annoy, disturb or cause nuisance to the Owner or the occupiers, tenants or other Suppliers of the Building, or in a manner that constitutes a contravention of law.
- 6.4 **Compliance with Laws** The Supplier, in installing, maintaining operating, repairing and replacing the Supplier's Equipment at the Mini POP Site and in the Building Risers shall comply at all times with all applicable laws, regulations, by-laws, rules, orders and ordinances of all federal, provincial and municipal governmental authorities, including, without limitation, the rulings and decisions of the CRTC.

ARTICLE 7 – INSTALLATION, MAINTENANCE AND REPAIRS

- 7.1 **Approval of Plans** Prior to the commencement of the installation of the Supplier's Equipment at Mini POP Site and in the Building Risers, the Supplier shall prepare and submit plans, specifications, and working drawings to the Landlord in respect of such installation for the approval of the Landlord, which approval shall not be unreasonably withheld or delayed.
- 7.2 **Installation** Upon receipt of the Owner's written approval pursuant to section 7.1 above, the Supplier, at its sole expense and risk, shall be entitled to commence the installation of the Supplier's Equipment, which installation shall be performed in a responsible and workmanlike manner and in accordance with all applicable laws, regulations, by-laws, orders, rules and ordinances of all federal, provincial and municipal governmental authorities having jurisdiction.
- 7.3 **Cables** The Supplier shall label each cable placed by the Supplier in the Building Risers and any telecommunications closets through which the Supplier's cable passes with an identification number assigned by the Owner to the Supplier.
- 7.4 **Repairs and Maintenance** The Supplier, at its own cost and expense, shall keep the Mini POP Site and the Supplier's Equipment in a safe and properly maintained condition.

- 7.5 **Liens** The Supplier shall be responsible for the satisfaction or payment of any liens registered against the Building by any supplier of labour, material or services to the Supplier. Any such liens shall be discharged by the Supplier, provided that the Supplier may contest, in good faith, any such liens upon payment into court of the amount claimed under the lien.

ARTICLE 8 – INSURANCE AND INDEMNIFICATION

- 8.1 **Insurance** The Supplier, at its own expense, shall take out and maintain in force while this Agreement is in effect, comprehensive general liability insurance in a minimum amount of Five Million Dollars (\$5,000,000.00) per occurrence for injury, death or property damage arising out of the Supplier's operations pursuant to this Agreement, which insurance shall contain cross liability and severability of interest clauses.
- 8.2 **Indemnification** The Supplier shall indemnify and save harmless the Owner from and against any loss, suit, claim, action, damage or expense arising out of, from or by reason of the installation, operation, maintenance, repair or removal of the Supplier's Equipment at the Mini POP Site and at the Building communications space pursuant to this Agreement, except to the extent that any such loss, suit, claim, action, damage or expense is due to the negligence or wilful misconduct of the Owner of those for whom the Owner is in law responsible. The Supplier shall hold the Owner harmless against claims arising from the Supplier's dealings with, and supply of services to, third parties.

ARTICLE 9 – TERMINATION

- 9.1 **Termination by Supplier** The Supplier shall have the right to terminate this Agreement on the anniversary date of this Agreement upon ninety (90) days prior written notice to the Owner in the event of the occurrence of any of the following:
- (a) the Supplier is unable to secure, on terms and conditions reasonably satisfactory to the Supplier, all necessary consents, approvals, permits and authorizations of any federal, provincial or municipal governmental authority having jurisdiction over the installation, operation, maintenance, repair, removal and use of the Supplier's Equipment.
 - (b) the Supplier's Equipment is damaged or destroyed and the Supplier determines that it will not effect repairs to, or replace, the Supplier's Equipment;
 - (c) the Owner defaults in the observance or performance of any of the Owner's obligations under the Agreement, and such default continues for more than thirty (30) days after receipt of written notice of such default by the Supplier to the owner, unless such default cannot reasonably be cured within such thirty (30) day period, in which event the period for curing such default shall be extended for the minimum period of time reasonably required to effect such cure, provided that the Owner promptly commences such cure with reasonable diligence; or
 - (d) the Owner makes an assignment for the benefit of creditors or becomes bankrupt, or takes the benefit of, and becomes subject to, the legislation in force relating to bankruptcy or insolvency, it being understood that the appointment of a receiver, receiver/manager, or trustee of the property and the assets of the Owner is conclusive evidence of insolvency.
- 9.2 **Termination by the Owner** The Owner shall have the right to terminate this Agreement, in addition to its other rights and remedies, on the anniversary date of this Agreement upon sixty (60) days prior written notice to the Supplier in the event of the occurrence of any of the following:

- (a) the Supplier defaults in the payment of the Access Fee or any other sum due under this Agreement, and such default continues for more than five (5) days after receipt of written notice of such default by the Owner to the Supplier;
- (b) the Supplier defaults in the observance or performance of any of the Supplier's obligations under this Agreement and such default continues for more than thirty (30) days after receipt of written notice of such default by the Owner to the Supplier, unless such default cannot reasonably be cured within such thirty (30) day period, in which event the period for curing such default shall be extended for the minimum period of time reasonably required to effect such cure, provided that the Supplier promptly commences such cure with reasonable diligence; or
- (c) the Supplier makes an assignment for the benefit of creditors or becomes bankrupt, or takes the benefit of, and becomes subject to, the legislation in force relating to bankruptcy or insolvency, it being understood that the appointment of a receiver, receiver/manager, or trustee of the property and the assets of the Supplier is conclusive evidence of insolvency.

9.3 **Surrender** Upon the expiration or earlier termination of this Agreement, the Supplier shall remove the Supplier's Equipment from the Mini POP Site, Building Risers and the Building, and shall be responsible for repairing any damage caused by such removal, except damage caused by ordinary wear and tear. Notwithstanding the foregoing, if the Supplier has not removed the Supplier's Equipment from the Mini POP Site, Building Risers and the Building within thirty (30) days notice of receipt of notice from the Owner, the Supplier's Equipment installed or used on the Premises by the Supplier shall be deemed to be abandoned by the Supplier and shall become the property of the Owner. Notwithstanding the foregoing, the Owner reserves all rights and recourses against the Supplier for removal and related repair costs.

ARTICLE 10 – DAMAGE OR DESTRUCTION OF BUILDING

10.1 **Right to Terminate** In the event the Building is damaged to such an extent that the Supplier is unable to effectively exercise its rights pursuant to the Access granted by the Owner under this Agreement, the Owner, at its sole option and expense, may elect to repair such damage within one hundred eighty (180) days. In the event the Owner elects not to repair the damage within one hundred eighty (180) days, or if the Owner fails to effect such repairs within one hundred and eighty (180) days, the Supplier shall have the right to terminate this Agreement upon providing thirty (30) days prior written notice to the Owner, in which event the Supplier shall remove the Supplier's Equipment in accordance with the provisions of section 9.3 of this Agreement. The Supplier shall have no obligation to pay the Access Fee or any other amounts under this Agreement during the thirty (30) day notice period, and the portion of the Access Fee paid by the Supplier in advance shall be refunded by the Owner to the Supplier on a pro rated basis to the date of damage to the Building.

ARTICLE 11 – FORCE MAJEURE

11.1 **Force Majeure** Without limiting or restricting the applicability of the law governing frustration of contracts, in the event either party fails to meet any of its obligations under this Agreement within the time prescribed, and such failure shall be caused, or materially contributed to, by force majeure, such failure shall be deemed not to be a breach of the obligations of such party under this Agreement, and the time for the performance of such obligation shall be extended accordingly as may be appropriate under the circumstances. For the purpose of this Agreement, force majeure shall mean any acts of God, war, natural calamities, strikes, lockouts or other labour stoppages or disturbances, civil commotion or disruptions, riots, epidemics, acts of government or any competent authority having jurisdiction, or any other legitimate cause beyond the reasonable control of such party, and which, by the exercise of due diligence, such party could not have prevented, but lack of funds on the part of such party shall not be deemed to be a force majeure.

ARTICLE 12 – NOTICES

12.1 **Notices** Any Notice pursuant to this Agreement shall be sufficiently given if in writing and personally served, or sent by facsimile or registered mail, and addressed or sent as specified below:

(a) If to the Owner:

Standard Life Trust Company
Suite 1700
1600 René Lévesque West.
Montreal, Quebec
Attention: Asset Manager
Facsimile: (514) 925-7340

(b) If to the Supplier:

Telus Québec
Advisor, real estate assets
Québec-Téléphone
9 Jules A. Brillant St.
Department R 0901
Rimouski (Québec)
G5L 7E4
Tel.: (418-722-5663
Fax: (418) 722-5949

12.2 **Receipt** Where a Notice is delivered personally or by facsimile, it shall be deemed to have been received the same Business Day, or if the day on which the Notice was sent is not a Business Day, the Notice shall be deemed to have been received on the next Business Day.

Where a Notice is sent by registered mail, it shall be deemed to have been received three (3) Business Days after the date of mailing. In no event should any Notice be sent by mail during any period of interrupted or threatened interruption of postal service.

12.3 **Change of Address** Either party may change its address or particulars for purposes of the receipt of any Notices in connection with this Agreement by giving notice in the same manner as provided in this Article 12.

ARTICLE 13 – MISCELLANEOUS

13.1 **CRTC Decision** The Owner and the Supplier acknowledge that the access rights of telecommunications providers in multi-tenant buildings is presently subject to a regulatory proceeding initiated by the CRTC. In the event the CRTC issues a ruling or decision in respect of such access rights while this Agreement is in effect, this Agreement shall be amended by the parties in such a manner so as to give effect to such ruling or decision from the date of such ruling or decision going forward, but without retroactive effect despite the wording of such ruling, and all appropriate adjustments in respect of any amounts paid under this Agreement shall immediately be made between the parties to ensure that this Agreement conforms with such ruling effective from the date of such ruling or decision as aforesaid, including, without limitation, the termination of this Agreement if necessary.

13.2 **Entire Agreement** This Agreement cancels, replaces and supersedes as of its effective date all existing agreements and understandings, written or oral, between the parties relating to the Mini POP site which is the subject matter of this Agreement. The whole contract between the parties is

contained in this Agreement and no preliminary proposals, written or oral, form any part of this Agreement. This Agreement may not be amended or modified except by mutual agreement of the parties in writing.

13.3 **Waiver** No failure by either to exercise any right under this Agreement or to insist upon full compliance by the other party with its obligations under this Agreement will constitute a waiver of any provision of this Agreement. No waiver shall be effective unless made in writing by an authorized officer of the party.

13.4 **Successors and Assigns** This Agreement shall not be assigned by the Supplier, in whole or in part, without the express written consent of the Owner, which consent shall not be unreasonably withheld or unduly delayed.



IN WITNESS WHEREOF the parties have executed this Agreement by the hands of their respective officers duly authorized in that behalf.

STANDARD LIFE ASSURANCE COMPANY

Per: [Signature]

Title: Leasing Manager

Per: [Signature]

Title: Manager Property Operations

TELUS COMMUNICATIONS (QUÉBEC) INC.

Per: [Signature]

Title: Division Director - Building Engineering

APPROUVÉ
[Signature]
TELUS COMMUNICATIONS

The parties hereto have agreed that this agreement and all notices and communications pursuant thereto, be drawn up in English. Les parties aux présentes ont accepté que la présente convention, ainsi que tous avis et toutes communications s'y rapportant, soient rédigés en anglais.

SCHEDULE A
EQUIPMENT ROOM PLAN

SCHEDULE C

LIST OF BUILDINGS INCLUDED IN THIS AGREEMENT

1. 1001, de Maisonneuve Blvd. West, Montreal, QC
 2. 465, rue McGill, Montreal, QC
 3. 485, rue McGill, Montreal, QC
 4. 2045, Stanley, Montréal, QC
 5. 666, boul. St-Martin, Laval, QC
 6. 1122-1134 chemin St-Louis, Sillery, QC
 - ~~7. 4270, Saint-Laurent, Montréal~~
- LOC 0810/83*
Serge Groux (514) 925-7315
- MB*

NG 04-02-02.