

Bell

ABRIDGED

February 3, 2003

Delivered in person to Nick Sarnpogna Private and Confidential 1465334 Ontario Limited
C/O TorBel Group
478 Champagne Drive Toronto, Ontario M3J 2T9

Dear Mr.Sarnpogna,

Re: Bell Canada Telecommunications Access and Marketing

This letter agreement (the "Agreement") provides the terms and conditions between Bell Canada and its respective affiliates (as defined in the *Canada Business Corporations Act*, as amended), employees, agents, contractors and sub-contractors (collectively, "Bell") and 1465334 Ontario Limited c/o TorBel Group (the "Owner") upon which Bell wishes to gain access to the planned condominium/townhome sales centre located at 1038 Sheppard Avenue West and as further described in Schedule "A" (the "Sales Centre") and as applicable, access to the multi-unit dwelling building to be constructed by Owner at 1035 Sheppard Avenue West as further described in Schedule "A" (the "Building").

Owner hereby grants to Bell throughout the Term and any Renewal Term, a right and license to enter on and gain access in, over or under the Sales Centre or Building as the case may be, and any other equipment and/or telecommunications room, the roof, existing cabling owned by the Owner, if any, which connects central riser wiring to individual units within the Building, the common elements and *other* common areas of the Building of the Sales Centre to:

(8) install, at no cost to the Owner, basic telephony equipment in the Sales Centre on an exclusive basis to Bell, to allow Bell to provide prospective real estate purchasers with access to telephone services to order Bell Services;

(b) make Bell telephone and telecommunications services (collectively the "Bell Services") available to prospective purchasers of real estate and to deliver the Bell Services to the Sales Centre and to Residents in the Building;

(c) develop and implement reasonable marketing programs to promote and sell Bell Services to prospective purchasers and Residents (the Marketing Programs") including but not limited to the following activities:

(i) conducting one or more information meetings to inform prospective purchasers or residents, as the case may be, of the availability of Bell Service;

(ii) distribution by the Owner or Bell, with the consent of the Owner, of information packages to prospective purchasers or Residents;

(iii) posting of notices of available Bell Services on bulletin boards located within the Sales Centre or Building;

(iv) contacting prospective purchasers or Residents from a list containing their names, addresses and telephone numbers to be provided by Owner, to market Bell Services before or after prospective purchasers or Residents move into the Building;

(v) displaying and/or distributing information and/or advertising material regarding Bell's respective Bell Services 00 or within the Sales Centre or Building;

(vi) provision of promotional information regarding their respective Bell Services to superintendents, property managers and other employees or agents active in the Sales Centre or Building;

(vii) implementing specific marketing programs or initiatives targeting existing, new or changed Residents, which shall be contained in updated lists provided to Bell by the Owner from time to time;

(viii) entering onto the Sales Centre and/or Building by Bell for the purpose of providing information, demonstrations or any other information to prospective purchasers and Residents regarding the Bell Services, all in accordance with this Agreement;

(d) conduct pre-installation tours and inspections of the Sales Centre and/or Building in order to determine the technical, operational and economic feasibility of installing Equipment (as defined below) in the Sales Centre and Building for the purpose of delivering Bell Services to prospective purchasers and Residents;

(e) install all equipment, infrastructure or otherwise, necessary and incidental to the delivery of Bell Services including, without limitation, switches, routers, racking, backboards, cabling, wiring and other networking and fibre optic equipment used to enable and distribute Bell Services (including VDSL technology) (the "Equipment") to the Sales Centre and to tenants, owners or Residents in the Building (collectively the "Residents"). For greater certainty Equipment excludes (1) any cabling owned by the Owner or any other third party, and (2) individual receiver-decoders, whether VDSL or otherwise, or any other equipment that can be individually addressed either electronically or manually by Bell (each an "IRD"), which will be sold or rented to Residents by Bell or any other authorized sales agent. Owner shall allow Bell to gain access to the Building for the purpose of picking up any IRD no longer required by a Resident.

(f) operate, maintain, repair or replace any component forming a part of the Equipment and any other item of equipment necessary or incidental to perform its obligations under this Agreement and/or to enjoy the rights granted herein; and

(g) make the Bell Services generally available to Residents including such other equipment to be furnished to those Residents who agree to subscribe to applicable Bell Services.

(collectively, the "Access Terms").

In consideration of Owner granting Bell at or through the Sales centre and the building and for Owner using reasonable commercial efforts to promote Bell Services to prospective purchasers and residents, However nothing in this Agreement shall be construed or interpreted as granting Bell any other exclusive rights or privileges in or to the Building, particularly relating to access or installation rights, to the exclusion of any other third parties.

Owner also agrees to provide to Bell, at no charge, access to and use of, one or more rooms or other segregated, enclosed spaces (the "Equipment Space"), as needed and mutually agreed upon by the parties, acting in good faith, which is suitable in all respects for the purpose of housing or storing the applicable Equipment. Owner agrees that these access rights include a right to access the Equipment Space in the Building. The Equipment Space shall have the adequate power supply and adequate natural or artificial ventilation for the proper operation of the Equipment. Bell shall have reasonable and continuous access into the Building and to the Equipment Space subject to giving reasonable notice to the Owner or its building manager, properly manager or superintendent. as applicable, of its intention to enter the Sales Centre or Building in order to install, operate, maintain, repair or replace the Equipment, provided that entry will be made during normal business hours except in the case of emergency. Nothing in this Agreement limits Bell's right to provision the Bell Services in any manner it sees fit.

Bell shall ensure that all Equipment is installed in accordance with all relevant government requirements, including fire and building code requirements. Bell shall, at no cost to Owner, be responsible for the maintenance and repair of the Equipment installed by Bell during the Term and any Renewal Term, although each individual Resident may incur charges (at Bell's then applicable rates) relating to post- installation activities specific to such Residents' in-suite requirements. The Equipment will remain the property of Bell at all times. and will not become a fixture despite any legal principle to the contrary. Owner agrees that it has no legal or equitable ownership interest in the Equipment nor any of the items specified or reasonably contemplated by Paragraphs (a)-(g) above and shall not make any claim to the contrary.

The Owner represents and warrants that: (1) it has full right, power and authority to enter into and perform its covenants and obligations in this Agreement; (2) it is under no obligation to a property manager, any Resident or any third party, statutory, contractual or otherwise, which could interfere with the complete performance of its covenants and obligations herein; (3) it is validly organized and existing under the name indicated on this Agreement; and (4) no rule or by-law is in force that would prevent or limit Bell from providing the Bell Services or conducting the Marketing Program under this Agreement.

Except as otherwise agreed in writing, Bell shall obtain and/or retain all title, ownership rights and intellectual property rights in or to all forms of intellectual property resulting from the provision of Bell Services or in connection with the Access Terms or Marketing Programs. Such intellectual property constitutes confidential information and shall be treated in accordance with the terms of this Agreement. Owner shall not use Bell's logo, trade names, trademarks, or any other intellectual property unless Owner obtains the prior written consent of Bell. Owner and Bell shall provide the other: with reasonable advance notice of any public announcements or publications with respect to the general intent or existence of this Agreement or the business obtained under: this Agreement and agree to obtain the other: party's prior approval and incorporate the other Party's comments before release. All public announcements or publications concerning any term of this Agreement shall explicitly name refer to Bell and the Owner.

The Owner hereby agrees that this Agreement and any information provided by Bell to the Owner herein, including, without limitation, information to third parties obtained through Bell, shall remain the confidential information of Bell and the Owner shall not disclose such confidential information without the prior written consent of Bell or unless disclosure of such confidential information is compelled by judicial or regulatory process or otherwise by law or if the confidential information has been made public without any action by the Owner. For greater certainty, this provision shall not be construed to prevent the Owner from disclosing any of the terms of this Agreement to its auditors, financial and legal advisors, or as may otherwise be required by law.

Bell agrees to perform its work in a good and workmanlike manner, and further agrees to indemnify and save the Owner, its directors, officers, servants, agents and employees harmless, on a joint and several basis, from any damage to persons or property caused by reason of the improper installation, repair or maintenance of the Equipment.

Bell Canada shall release, save harmless and indemnify the Building Owner from and against all actions, suits, claims, damages, expenses, and liabilities as a result of any damage to the Building or injury to

or death of any person or damage to or destruction or loss of property resulting directly from its fault or negligence in the installation, operation, maintenance or removal of equipment, from the Building or Equipment Space or that of its subcontractors, and those for whom it is responsible in law. In no event shall any party be liable to any other party for any consequential damage, economic loss, loss of profits, indirect damage or for any punitive, special or exemplary damages of any kind whatsoever.

Both Bell and Owner acknowledge and agree that this Agreement is effective as of the date last signed by both parties below and shall expire on the creation of the condominium corporation and its turnover to the unit owners (the Term). This Agreement shall automatically renew for an additional term equal in duration to the Term (the "Renewal Term") unless either party notifies the other party in writing at least sixty (60) days prior to the expiration of the Term or Renewal Term, as the case may be, that it does not wish to extend the provisions of this Agreement beyond the initial Term or Renewal Term. Either party may terminate this Agreement: i) for a material breach hereof, where such breach is not cured within thirty (30) days of receipt of written notice by the other party of such breach, or ii) immediately, in the event of bankruptcy, reorganization, assignment, petition or appointment of a trustee or such other act of insolvency of the other party.

This Agent is subject to all applicable federal, provincial and local laws, and regulations, ruling and orders of governmental agency including, but not limited to, the *Telecommunications Act*, the *Broadcasting Act*, and any amendments thereto or the Canadian Radio-Television and Telecommunications Commission ("CRTC") and the obtaining and continuance of any required approval or authorization of the CRTC, or any other governmental body. Either party may terminate its obligations under this Agreement if ordered to do so by the final order or ruling of a court, or any governmental tribunal or agency or if any such order or ruling is inconsistent with the terms of this Agreement or would make it impractical or uneconomical for either party to carry out its obligations under this Agreement. In addition, if at any time during the Term of this Agreement, the action of a governmental agency requires modification of Bell's Services or the terms in which they are provided hereunder which is inconsistent with the terms of this Agreement or impairs Bell's ability to provide Bell's services in a economical and technically practical fashion, Bell may terminate this Agreement upon thirty (30) days' written notice to Owner.

Owner and Bell agree that where a provision of this Agreement conflicts with a Schedule attached hereto, the provision of this Agreement shall prevail and both the Agreement and Schedules will be governed by the laws of the Province of Ontario and the applicable laws of Canada therein, excluding any conflict of laws rule or principle which might refer such as obstruction to the laws of another jurisdiction. Any of the rights and obligations contained herein may not be assigned or transferred by Owner without the prior written consent of Bell.

Should a dispute arise between Bell and Owner as to any issue hereunder, every effort will be made to resolve the dispute within ten (10) days. If resolution cannot be achieved the dispute will be referred to the senior management of each of Bell and Owner who shall try to reach agreement within five (5) days, failing which, either party can pursue any remedy it sees fit.

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 instrument executed by both parties.