

TELECOMMUNICATIONS LICENSE AGREEMENT

THIS AGREEMENT is dated for reference as of June 20th, 2002.

BETWEEN:

TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1438
(the "Condominium Corporation")

AND:

BELL CANADA
(the "Licensee")

In this License Agreement:

- (a) "Act" means the *Condominium Act, 1998* (Ontario).
- (b) "Broadcasting" means any transmission of programs, whether or not encrypted, by radio waves or other means of telecommunications for reception by the public, and for the purposes of this License Agreement shall include the provision of internet services.
- (c) "Building" means a building in which the Licensee provides Telecommunications Services, the location of which is further described in Section 1 and at Schedule "A" of this License Agreement.
- (d) "By-Law" means a by-law as defined in the Act.
- (e) "Cables" means fibre optic cables and/or copper cables and co-axial cables, wires and cords, or any technological successor thereof performing a similar purpose, connecting hardware and any combination of those items installed, or to be installed by the Licensee, in the CCU or otherwise in the Building.
- (f) "Carrier" means a Telecommunications service provider, including a Telecommunications reseller or a Telecommunications common carrier (as defined in the *Telecommunications Act*) that is subject to the legislative authority of Parliament.
- (g) "CCU" means the Unit 30 on Level A of the Condominium Corporation.
- (h) "CDS" means the central Telecommunications distribution system installed in the Building by Telus as described in Section 9.
- (i) "Commencement Date" means the date on which this License Agreement commences as described in Section 3.
- (j) "Common Elements" means all Property except the Units.
- (k) "Communications Equipment" means all cabinets, racks, electronic equipment and other equipment installed, or to be installed by the Licensee, in the CCU or otherwise in the Building.
- (l) "Connecting Equipment" means all Cables, conduits, inner ducts and connecting hardware installed, or to be installed by the Licensee, through the Entrance Link or otherwise in the Building.
- (m) "Consumer Price Index" ("CPI") means the annual average index published by Statistics Canada, calculated as the measure of the rate of change for goods and services bought by Canadian consumers in the City of Toronto and surrounding regions.

- (n) "Customer" means anyone who purchases Telecommunications Services from the Licensee.
- (o) "Distribution Undertaking" means any undertaking for the reception of Broadcasting and the retransmission thereof by radio waves or other means of telecommunications to one or more Units.
- (p) "Easement" means a non-exclusive, irrevocable easement over the Common Elements for the benefit of the CCU, as dominant tenement, for a term concurrent with the Term herein for the purposes of providing Telecommunications Services.
- (q) "Entrance Link" means the coresleeve, or other penetration designated by the Condominium Corporation through the Building's foundation walls or elsewhere as indicated in Schedule "B".
- (r) "Equipment" means the Licensee's Connecting Equipment and the Licensee's Communications Equipment.
- (s) "Gross Utilities Consumption Fee" means the annual fee of \$15,000 plus GST payable by the Licensee to the Condominium Corporation as described in Section 4.
- (t) "G.S.T." means Goods and Services Tax as levied and assessed under lawful authority by the federal Government of Canada.
- (u) "Hazardous Substance" means any substance that is controlled by, regulated, or restricted under the laws of the Province in which the Building is situated or under the laws of Canada, including any regulations, guidelines, policy statements and restrictions pertaining to Occupational Health and Safety Standards and the safety of the Licensee's employees, its contractors and its agents including but not limited to any known toxins or carcinogens, polychlorinated biphenals, friable asbestos, mould contaminants and other substances commonly referred to as pollutants, contaminants or any other hazardous substances.
- (v) "License Agreement" means this license agreement and all supplemental instruments, amendments or confirmations agreed to in writing by both parties herein.
- (w) "Property" means the land and interests appurtenant to the land described in the description and declaration of the Condominium Corporation (which land is described in Schedule "A") and includes any land and interests appurtenant to land that are added to the Common Elements.
- (x) "Renewal Period" means each period of five (5) years which the Licensee elects to extend the initial Term as provided in Section 5.
- (y) "Telecommunications Services" means the provision of Telecommunications to Customers.
- (z) "Telecommunications" means the emission, transmission or reception of intelligence by any wire, cable, radio optical or other electromagnetic system or by any similar technical system, and, for the purposes of this License Agreement, shall include the provision of internet services and the operation of a Distribution Undertaking.
- (aa) "Telus" means Telus Entertainment Inc. and its successors and/or assigns.
- (bb) "Telus Agreement" mean the License Agreement between the Condominium Corporation and Telus relating to the Telecommunications Services provided by Telus to the Condominium Corporation as described in Section 9.
- (cc) "Term" means the term of this License Agreement described in Section 2.

- (dd) "Terms of Service" means those agreements between the Licensee and its Customers for the provision of Telecommunications Services.
- (ee) "Unit" means a part or parts of the Building as defined and designated as a Unit in the constating documents of the Condominium Corporation, and comprises the space enclosed by its boundaries and all the material parts of the Building within this space in accordance with said constating documents.

IN CONSIDERATION of the fees paid by the Licensee to the Condominium Corporation and the terms contained in this License, the sufficiency of which is hereby acknowledged, the Condominium Corporation grants a license to the Licensee as follows:

1. **Building Address:** The municipal address of the Building is 361 and 373 Front Street West, Toronto, Ontario.
2. **Term:** The term of this License Agreement shall be (ten) 10 years beginning on the Commencement Date and expiring on the tenth anniversary of the Commencement Date, subject to the rights of extension described in Section 5 and the rights of termination described in Section 11.
3. **Commencement Date:** July 1, 2002 (the "Commencement Date").
4. **Utilities:** In lieu of common expenses applicable to the CCU, the Licensee shall pay to the Condominium Corporation the Gross Utilities Consumption Fee, payable annually in advance beginning on the Commencement Date and on each anniversary of such date thereafter during the Term of this Agreement. The Gross Utilities Consumption Fee represents compensation to the Condominium Corporation for the Licensee's electrical consumption at the Building with respect to the provision of Telecommunications Services and the Licensee's contribution to the Condominium Corporation for all other costs and expenses incurred by the Condominium Corporation relating to the administration, operation, maintenance and repair of the Property for which the Licensee acknowledges it receives a benefit. Forthwith after registration of the Condominium Corporation, the Condominium Corporation shall register with the appropriate governmental authority for GST purposes and shall provide its GST number to the Licensee.
5. **Options To Extend Term:** The Licensee shall have the right to extend the Term for ten (10) consecutive periods of five (5) years each (each such period being referred to as a "Renewal Period") upon a minimum of sixty (60) days' written notice to the Condominium Corporation prior to the expiry of the Term or the Renewal Period as the case may be, on the same terms and conditions as this License, save and except for the Gross Utilities Consumption Fee, which shall be adjusted prior to the commencement of each renewal period to reflect any increase in the CPI from the Commencement Date to the date on which the Gross Utilities Consumption Fee is being determined for the next Renewal Period.
6. **Use, Access and Maintenance:** The Licensee shall (at its sole cost and expense) construct, install, operate, maintain, repair, service, upgrade, modify, remove and/or replace the following (within the CCU or any part of the Common Elements in accordance with the plans and specifications approved by the Condominium Corporation from time to time, acting reasonably, to ensure that such installation, maintenance, repair and/or modification does not have an adverse effect on the Common Elements or any other services which are part of the Condominium Corporation): the Equipment and any related apparatus and/or ancillary attachments, in order to provide the Licensee's voice, data and other Telecommunications Services to its Customers; HVAC equipment, hydro service, lighting and other equipment, fixtures or improvements (which are not of a communications nature) relating to the operation, maintenance, repair and service to the Equipment and the CCU; and, all other improvements made by the Licensee to the Building including, without limiting the generality of the foregoing, the structure, walls and door of the CCU. In order to facilitate the foregoing, the Condominium Corporation hereby grants the Easement to the Licensee. The Licensee acknowledges and agrees that, concurrently with the expiry or earlier termination of this Agreement, the Easement shall also terminate and the Licensee covenants and agrees to execute all

further documents (at its sole cost and expense) necessary to release, re-convey and/or discharge the Easement.

The Licensee shall have the non-exclusive right to access to the Building twenty-four (24) hours a day, seven (7) days a week for the purpose of repairing and maintaining its Equipment, or for any other purpose in connection with the Licensee's providing Telecommunications Services to its Customers. Prior to commencing any major repair or maintenance of its Equipment, the Licensee shall provide two (2) days prior written notice to the Condominium Corporation and its property manager describing the nature and extent of the work to be performed. Without limiting the generality of the foregoing, the Licensee acknowledges and agrees that it shall not store any materials, equipment or vehicles on the Common Elements or Units of the Condominium Corporation (other than the CCU). The Licensee acknowledges that ownership of the CCU does not entitle the Licensee to use the visitor parking spaces of the Condominium Corporation. The Licensee agrees to provide the Condominium Corporation (or its property manager) with a key to the CCU, which key shall only be used for emergency access purposes.

For greater certainty, the Licensee acknowledges and agrees that it shall be responsible for all costs associated with constructing, installing, operating, maintaining, repairing, servicing, upgrading, modifying, removing and replacing the Equipment. In fulfilling such undertaking, the Licensee shall replace all worn out and obsolete Equipment, from time to time, and respond promptly to all reasonable requests from the Condominium Corporation requiring servicing or repair of the Equipment. Notwithstanding anything to the contrary in this Agreement, the Condominium Corporation acknowledges and agrees that the Licensee's provision of Telecommunications Services to its Customers shall be governed by Terms of Service and that this Agreement shall not govern the relationship between the Licensee and its Customers.

In exercising its rights and performing its obligations pursuant to this Agreement, the Licensee covenants and agrees to comply with the terms of this Agreement, the Act and the declaration, By-Laws and rules of the Condominium Corporation.

7. **Compliance With Act:** The Condominium Corporation and Licensee acknowledge and agree that all rights and obligations under this License Agreement shall be subject to and exercised in compliance with the Act, and in particular section 22 of the Act. The Condominium Corporation shall pass a By-Law incorporating this License Agreement, in compliance with the Act.
8. **Licensee's Equipment:** At any time following the full execution of this License Agreement, the Licensee shall have the right to install its Equipment in the Building in accordance with the terms of this License Agreement. The Condominium Corporation acknowledges that the Licensee's Equipment (save and except for the conduits, inner ducts and the structural elements of the Entrance Link which shall, on installation, form part of the Common Elements) shall at all times remain the property of the Licensee, that the Licensee may grant a security interest in the Equipment to its lenders, and that the Condominium Corporation does not have nor will it have any right, title or interest whatsoever in the Equipment. All other improvements made by the Licensee to the Building shall, on installation, form part of the Common Elements. Upon the expiry or earlier termination of this License, the Licensee may, in its sole discretion, remove the Cables and Communications Equipment only from the Building, provided that it gives at least sixty (60) days prior written notice to the Condominium Corporation and provided that it complies with the provisions of the Act (and other applicable legislation) and any provisions of the declaration, By-Laws or rules of the Condominium Corporation regarding the removal of the Equipment from the Building.
9. **CDS:** The Condominium Corporation has entered into the Telus Agreement with Telus, which authorizes Telus to install a central cable Telecommunications distribution system in the Building ("CDS"). The Condominium Corporation acknowledges that the Licensee intends to contract with Telus, on terms and conditions agreed by the Licensee and Telus, for the use of the CDS to provide Telecommunications Services. The Licensee acknowledges and agrees that nothing in this Agreement shall be construed as the Condominium Corporation granting to the Licensee any rights with respect to the CDS installed by Telus and, in this regard, the Licensee acknowledges and agrees that it shall negotiate and settle the terms of any such arrangement directly with Telus.

- 10. Indemnity and Insurance:** The Condominium Corporation agrees to indemnify and save harmless the Licensee with respect to any claim, loss, cost or expense sustained by the Licensee due to any damage to the Equipment or injury to any person caused by any negligent act or omission of the Condominium Corporation, its contractors and subcontractors or those for whom the Condominium Corporation is responsible in law.

The Licensee agrees to indemnify and save harmless the Condominium Corporation with respect to any claim, loss, cost or expense sustained by any such party as a result of any act or omission of the Licensee with respect to the construction, installation, operation, maintenance, repair, service, upgrade, modification, removal and/or replacement of the Equipment and all other improvements to the Building made by the Licensee (notwithstanding, however, that the Licensee does not agree to provide any indemnity with respect to the operation or functionality of the Equipment itself), the use of the Building (or any part thereof) by the Licensee and/or the occupancy of the Building (or any part thereof), including any loss or expense caused by the acts or omissions of the Licensee's contractors and subcontractors and those for whom the Licensee is responsible in law.

The Licensee shall maintain in force public liability and property damage insurance coverage of not less than five million dollars (\$5,000,000.00), and the Licensee shall add the Condominium Corporation to the Licensee's insurance as an additional insured.

- 11. Default and Termination:** In addition to the rights of termination in favour of the Condominium Corporation prescribed by the Act, the Condominium Corporation shall be entitled to terminate this License in the event of any material breach of this License by the Licensee if the Licensee fails to cure or to commence in good faith to cure such breach within thirty (30) days following written notice of such breach from the Condominium Corporation. The Licensee may terminate this License, without penalty, upon sixty (60) days' written notice to the Condominium Corporation if the Licensee is unable to obtain or shall cease to possess any necessary rights or approvals from any appropriate governmental or regulatory authority or in the event that the Building should become unsuitable or commercially impractical for the Licensee's business, in which case any prepaid portion of the Gross Utilities Consumption Fee shall be adjusted as of the effective date of termination and returned forthwith to the Licensee.

- 12. Assignment By Condominium Corporation:**

The Condominium Corporation shall not assign this License Agreement without the prior written consent of the Licensee. In the event that the Condominium Corporation shall assign this License Agreement, the Condominium Corporation shall be relieved of its further obligations hereunder provided that the Condominium Corporation ensures that any such assignee receives prior, actual notice of this License, provided that all of the Condominium Corporation's obligations up to the date of the Condominium Corporation's assignment of this License Agreement have been fulfilled. In the event of any such assignment, the Condominium Corporation's obligations under this License Agreement shall thereafter be binding upon the assignee of such interest, and such assignee, by accepting such interest, shall be deemed to have assumed the Condominium Corporation's obligations hereunder. In addition, the Condominium Corporation shall ensure that any agreement evidencing such assumption provides for such assumption and requires the assignee to enter into a licence agreement in the form hereof.

- 13. Assignment By Licensee:** The Licensee shall not assign, transfer or otherwise convey any interest in this License Agreement or the CCU, without the Condominium Corporation's prior written consent. Notwithstanding the foregoing and provided that the Licensee has complied with all of its obligations pursuant to this License Agreement, the Licensee may assign its rights under this Agreement and transfer the CCU without the prior written consent of the Condominium Corporation (but on sixty (60) days prior written notice) to any of the following:

- (a) a related or affiliated company to the Licensee;
- (b) a company that results from any merger, amalgamation, consolidation or other similar reorganization of the Licensee; or

(c) a company that acquires all or substantially all of the assets or shares of the Licensee.

Provided, however, that any permitted assignee shall first enter into an agreement with the Condominium Corporation pursuant to which the assignee agrees to assume all of the obligations of the Licensee provided in this License Agreement. In this event, the Licensee shall be released from any further obligations pursuant to this License Agreement.

14. Notices: All notices required to be delivered hereunder shall be in writing and delivered to the addresses set out below by mail (deemed to be received three (3) business days after mailing) or facsimile transmission (deemed to be received on the next business day following the date of transmission):

Condominium Corporation: **TORONTO STANDARD
CONDOMINIUM CORPORATION NO. 1438**

Address: 373 Front Street West
Toronto, Ontario
M5V 3R7

Attention: Property Manager
Facsimile: 416.883.3887

Licensee: **BELL CANADA**

Address: c/o Nexacor Realty Management Inc.
300 The East Mall Suite 600
Toronto, Ontario
M9B 6B7

Attention: Lease Administration
Facsimile: 416.207.3208

With a Copy To: Bell Canada

87 Ontario Street, 2nd floor
Montreal, Quebec
H2X 1Y8

Attention: General Manager, Account and
Asset Management
Bell Real Estate Services

The Condominium Corporation and Licensee may change their respective addresses by written notice to each other.

15. Schedules: The following schedules are attached to and form part of this License Agreement:

Schedule "A" - Legal Description

Schedule "B" - Plans

16. Confidentiality: The parties hereto agree that they will each maintain the terms and conditions of this License Agreement as confidential, except as required by any applicable law, regulation or statute, or by any court or regulatory body having jurisdiction over the matters herein, or as otherwise mutually agreed by the parties.

17. Marketing: As a result of the Telus Agreement, the Licensee acknowledges and agrees that it shall not use the name of the Building in any of its marketing materials. Notwithstanding the foregoing, the parties acknowledge that this provision is not intended to prevent the Licensee from advertising telecommunications services to Customers in the Building.

18. Miscellaneous:

(a) This License Agreement, including all schedules attached hereto, is the entire agreement between the Condominium Corporation and the Licensee and contains all agreements, promises and understandings between the parties concerning the subject matter described herein. Any amendments to this License Agreement must be in writing, approved and signed by both parties.

(b) The construction, interpretation and performance of this License Agreement shall be in accordance with the laws of the Province of Ontario and the laws of Canada. This License Agreement is further subject to all present and future applicable federal, provincial and local laws, regulations,

rulings and orders of governmental agencies, including, but not limited to the CRTC and Industry Canada. The parties shall consult with one another and shall negotiate amendments to this License Agreement, the purpose of which shall be to bring the terms of this License Agreement into compliance with such rulings, laws, orders or regulations. In the event that the parties are unable to agree upon revised terms and conditions to effect regulatory compliance, the parties shall refer such dispute to a single arbitrator pursuant to the provisions of the *Arbitration Act, 1991*, Ontario.

- (c) The extension provisions of this License Agreement are entered into subject to the condition that they are to be effective only on obtaining such consents, if any, as may be required under the *Planning Act* (Ontario). In the event that such consents are required, then until such consents are obtained, this License Agreement (including any renewals or extensions thereof provided for herein) shall be deemed not to extend beyond a term of twenty-one (21) years less a day from and including the Commencement Date, without any right of extension.
- (d) Should any portion of this License Agreement be found to be invalid, illegal or unenforceable, such provision shall be severed without affecting the balance of this License.
- (e) This License shall enure to the benefit of and shall be binding on the parties and their respective successors and assigns.
- (f) Each party shall be excused for any delay in performance of any of the provisions hereunder if such delay is due to circumstances beyond the affected party's reasonable control.
- (g) This License shall not create any other relationship between the parties other than that of licensor and licensee.
- (h) The Condominium Corporation and the Licensee each warrant that it has the requisite power, approval and right to enter into this License and to carry out all of its provisions.
- (i) The Condominium Corporation shall forthwith provide the Licensee with information that it has on hand or that it obtains in connection with the presence of any Hazardous Substance in the Building or on the Property.

IN WITNESS WHEREOF the parties have duly executed this License Agreement.

TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1438

per _____
Name: David McComb
Title: Vice-President

I have authority to bind the Corporation.

BELL CANADA

per _____
Name:
Title:

I have authority to bind the Corporation.

SCHEDULE "A"

LEGAL DESCRIPTION

Part of Parcel Lot 24-1, Section Index Plan D-970, being part of Lot 24, Index Plan D-970, designated as Parts 1, 4, 5, 6, 7, 8, 9, 10, 11, 16, 17, 18, 23, 25 and 26 on Plan 66R-19593, City of Toronto, Land Titles Division of the Toronto Registry Office (No. 66)

SCHEDULE "B"

PLANS

Photo reduced copy of the plans showing the Bell CCU and routing of the Connecting Equipment, to be provided by the parties in due course.