



TELECOMMUNICATION AND BUILDING ACCESS LICENSE - EXISTING BUILDINGS

This License is made as of the 24th day of September, 2004 (the "**Effective Date**").

In consideration of the mutual rights and obligations herein expressed and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) Bell Canada and Metropolitan Toronto Condominium Corporation No. 971 (the "**Owner**") agree as follows:

1. Owner hereby grants to Bell Canada and the affiliates of BCE Inc. (as defined in the *Canada Business Corporations Act*, as amended) (hereinafter, collectively referred to as "**Bell**") a non-exclusive right and license to (i) enter on and gain access in, over or under the existing multi-unit dwelling building described in Schedule "A" (the "**Building**") and the common elements and other common areas of the Building, (ii) use in-building wire or cabling owned or controlled by Bell, the Owner or any third party, where lawfully permitted to do so, and (iii) make available and provide telecommunications and other communication services (collectively the "**Bell Services**") to local exchange carriers, prospective purchasers and the owners, tenants, invitees or residents of the Building (the "**Occupant(s)**"). Nothing in this License shall be construed or interpreted as granting Bell any exclusive rights or privileges in or to the Building relating to access or installation rights, to the exclusion of any other third parties.
2. The right and license in Section 1 includes Bell's right to construct, install, test, operate, maintain, repair, service, upgrade, modify, remove and replace its Equipment (as defined below) in the Building. "**Equipment**" includes but is not limited to any Bell equipment, in-building wire (as defined by the CRTC in Decision 99-10), infrastructure or otherwise, which is necessary and incidental to enable and deliver Bell Services to Occupants. Nothing herein limits Bell's ability to change, alter or replace the Equipment with new or different equipment to provision the Bell Services. Equipment excludes: conduit, 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 Occupants 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 an Occupant.
3. Bell and those for whom it is responsible in law shall be permitted to use and access all portions of the Building necessary for the provision of Bell Services and for the matters as provided in Section 1 in accordance with the Declaration, By-Laws and Rules of the Owner. Except in the case of emergencies, all rights of access granted and uses permitted herein shall be available to Bell during normal business hours, three-hundred and sixty-five (365) days per year subject to Bell providing reasonable notice to the Owner or its agent of its intention to enter the Building for the purposes of this License; provided, however, that (except in the case of emergencies) where it is determined by the Owner that any work required to be completed by Bell in accordance with this Section and Section 1 conflicts with the ability of the Owner to maintain, repair or service that portion of the Building for which Bell requires access, both parties, acting reasonably, shall mutually determine an appropriate time for Bell to complete its work so as to avoid any such conflict.
4. The term of this License is effective as of the date last signed by both parties below and shall continue to run for a period of ten (10) years from the Effective Date (the "**Term**").
5. Bell shall, at its own cost (i) ensure that all Equipment is installed in accordance with all relevant fire and building code requirements in force at the time of installation, and (ii) be responsible for the provision, installation, maintenance and repair of the Equipment installed by Bell during the Term, although each individual Occupant may incur charges (at Bell's then applicable rates) relating to post-installation activities specific to such Occupant's in-suite requirements. Except as otherwise provided in Section 22 of the *Condominium Act, 1998*, 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 reasonably contemplated by Section 2 above and shall not make any claim to the contrary.
6. Owner agrees to provide to Bell, at no charge to Bell, access to and use of, one or more rooms or other segregated, enclosed spaces in the Building (the "**Equipment Space(s)**"), as needed and mutually agreed upon by the parties, acting in good faith, which is suitable to house or store the Equipment. Owner agrees that the access rights herein include a right to access the Equipment Space in the Building. The Equipment Space shall have adequate power supply and adequate natural or artificial ventilation for the proper operation of the Equipment. Bell shall bear any reasonable expenses for any further work, equipment or materials required to provide additional air conditioning or ventilation, where necessary, arising from Bell's installation or use of its Equipment or power consumption in addition to existing equipment and power consumption, as reasonably determined by the Owner and where agreed to by Bell, acting reasonably. Nothing in this License limits the Owner's right to repair any common elements of the Building; provided that where any such repair may affect Bell's Equipment, the Owner shall provide Bell with reasonable advance written notice to request Bell to adjust and/or move its Equipment before the repairs are made.
7. Subject to the Owner's obligations under the *Protection of Personal Information and Electronic Documents Act*, Owner shall provide to Bell the names and addresses of the Occupants as per the Owner's register for the purposes of Bell marketing and promoting Bell's Services and may only display, distribute or post promotional information or information packages about Bell Services in and around the Building with the prior written consent of the Owner. No door-to-door solicitation is allowed. All Bell marketing, solicitation and promotion is subject to the prior approval by the Owner. Nothing in this Agreement limits Bell's right to market or advertise Bell's Services in a manner that is not specific to the Building (including, without limitation, telemarketing, mail campaigns, and email/online marketing).
8. Each party represents and warrants that: (1) it has full right, power and authority to enter into and perform its covenants and obligations in this License; (2) it is under no obligation, statutory, contractual or otherwise, which could prevent or interfere with the complete performance of its covenants and obligations herein; (3) it is validly organized and existing under the name indicated on this License; and (4) no condominium rule or by-law is in force that would

prevent or limit Bell from entering into this License. Bell further covenants to repair, at its sole expense, any damage to the Building or the Equipment Space where the damage is caused by Bell, and those for whom it is responsible in law.

9. Despite anything contained herein to the contrary, Bell Canada will be liable for and will indemnify and save harmless the Owner, its directors, officers, employees, and contractors, and those for whom it is responsible in law (collectively, the "**Owner Indemnitees**"), from and against any and all losses, suits, actions, causes of action, proceedings, damages, costs, claims and expenses (collectively, the "**Losses**") arising from physical damage to any tangible property or bodily injury, including death, to any person caused by or arising out of any negligent act or omission relating to Bell Canada's use and occupation of the Equipment Space or the Building, provided that Bell Canada will not be required to indemnify the Owner Indemnitees to the extent any such Losses are caused by any negligent or willful act or omission of any of the Owner Indemnitees. Notwithstanding the foregoing, in no event will Bell Canada be liable for or indemnify and save harmless any of the Owner Indemnitees from and against any indirect, special, incidental or consequential damages, including loss of revenue, loss or profits, loss of business opportunity or loss of use of any facilities or property, even if advised of the possibility of such damages. This Section shall survive the expiration or termination of this License.

10. Unless a Party provides the other party hereto with written notice of its intention not to renew this License at least one hundred and eighty (180) days prior to the expiration of the Term or Renewal Term (as defined below), this License shall automatically renew for successive one (1) year renewal terms (the "**Renewal Term**") on the terms and conditions herein. Either Party may terminate this License: 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. Upon expiry or termination of this License, Bell shall be allowed thirty (30) days to remove the Equipment.

11. This License is subject to all applicable federal, provincial and local laws, and regulations, ruling and orders of governmental agencies, including, but not limited to, the *Telecommunications Act*, the *Broadcasting Act*, as amended or the Canadian Radio-Television and Telecommunications Commission (the "**CRTC**"). If the action of a governmental agency requires modification of Bell's Services or the terms in which they are provided which is inconsistent with the terms of this License or impairs Bell's ability to provide Bell's Services in a economical and technically practical fashion, Bell may terminate this License upon thirty (30) days' written notice to Owner.

12. Any notice required or permitted to be given hereunder or any tender of delivery of documents may be sufficiently given by regular mail, personal delivery or by facsimile transmission to each party at the addresses listed below:

To Bell Canada:

1 Dundas St. West, 29
Toronto, Ontario
M5G 1Z3

Fax:

Attn: VP VDSL Sales

with a copy to Bell Canada's Legal
Department

To Owner:

Metropolitan Toronto Condominium Corporation No. 971
400 McLevin Avenue
Toronto, Ontario M1B 5J4

Notices shall be deemed to have been received by the Owner or Bell, as the case may be, on (i) the fifth (5) business day after the date on which it shall have been so mailed, (ii) at the time of delivery in the case of hand delivery, (iii) the date and time of transmission in the case of facsimile, provided that such transmission was made during normal business hours, with receipts or other verifications of such transmission.

13. Where a provision of this License conflicts with a Schedule attached hereto, the provision of this License shall prevail. This License 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 construction to the laws of another jurisdiction. None of the rights and obligations contained herein may be assigned or transferred by Owner, without the prior written consent of Bell.

14. This License constitutes the entire agreement of the parties and supersedes all prior agreements and understandings on the subject matter hereof. Except as provided in Section 8, neither party makes any representation or warranty express or implied, statutory or otherwise to the other. If any provision of this License is found to be invalid, illegal or unenforceable, the other provisions of this License shall not be affected or impaired, and the offending provision shall automatically be modified to the least extent necessary in order to be valid, legal and enforceable.

15. Bell will supervise, provide any required equipment, comply with, and require its employees, agents, contractors (and those for whom it is responsible for in law) to comply with all aspects of the *Workplace Safety and Insurance Act*, as applicable, arising in connection with the operation, installation, removal, substitution, replacement, maintenance and repair or Bell's Equipment and provision of the Bell Services.

16. Bell covenants and agrees that it shall have sole responsibility for all Hazardous Substances (as hereinafter defined) which are caused by Bell to be on, in or under the Building to deliver the Bell Services including without limitation any direct cleanup costs, removal costs, liability costs, expenses and damages, resulting therefrom, which arise out of the actions or omissions of Bell or any person for whom Bell is in law responsible.

"**Hazardous Substance**" means a Contaminant, pollutant, toxic material, toxic substance or toxic waste contemplated under WHMIS including urea formaldehyde foam insulation, asbestos and PCBs.

"**Contaminant**" means any solid, liquid, gas, odour, heat, sound, vibration or radiation contemplated under WHMIS that results directly or indirectly from human activities that may cause and adverse effect.

17. In the event that Bell's Equipment interferes with, impede, disrupt or damage (an "Interruption") any communications signal, equipment, facilities, cable or installation required or owned by any other service provider, the Owner or any Occupant, Bell will, to the extent it is the sole cause of such Interruption, immediately rectify any such Interruption and shall take all necessary steps that are commercially reasonable to accommodate any such other communications signal, equipment, facilities, cable or installation.

18. Bell agrees that any information collected by Bell or its agents from Occupants and the Owner will be pursuant to Bell Canada's privacy policy (available at www.bell.ca) and the *Personal Information Privacy and Electronic Documents Act* ("**PIPEDA**").

In witness thereof the parties through their duly authorized representatives have executed this License as of the date first written above.

METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 971

BELL CANADA

I/We have the authority to bind the Corporation

I have authority to bind the Corporation

Name:

Name:

Title: President

Title: VP VDSL Sales

Date: Sept. 24, 2004

Date: Sept. 30 2004

Schedule .. A"

Address and Description of Building

A. For the Building:

This License applies to the following Building:

400 McLevin Avenue, Toronto, Ontario M1B 5J4*(Insert the full Municipal Address for the Bui/ding including the Street Number and Name, City, Province and Postal Code of the Building.) and*

(Insert the Legal Description of the property)