

## TELECOMMUNICATIONS LICENSE AGREEMENT

THIS AGREEMENT made as of the 23<sup>rd</sup> day of January 2002,

BETWEEN:

SREIT ( Petrofina) Ltd.  
by its Manager  
O&Y ENTERPRISE  
a division of O&Y Properties Inc.  
(the "Licensor") of the first part

- and -

GT Group Telecom Services Corp.  
(the "Licensee") of the second part

PROVIDES AS FOLLOWS:

### 1. Key Data

The following key data is part of and may be referred to in this Agreement:

- (a)"Cableways" means: those risers, ducts and conduits within the Cabling pathways and riser systems of the Project used for the installation of Cabling to be used solely to provide and support Telecommunications Services to tenants of the Project.
- (b)"Cabling" means: cable (whether copper, fibre optic or coaxial) wires, cords, and connecting hardware or any combination thereof.
- (c)"Equipment" means: The Licensee's equipment serving tenants of the Project as more particularly described and listed on Schedule "A" to this Agreement, including the Cabling.
- (d)"Equipment Room" means: The area crosshatched on Schedule "B" attached to this Agreement which has been designated by the Licensor for the non-exclusive storage of the Equipment.
- (f)"License" means: the right to install, operate, maintain, repair and replace Equipment in the Equipment Room in the locations crosshatched on Schedule "B" attached comprising an area of approximately 88 square feet for the purposes of providing and supporting Telecommunication Services to tenants of the Project; and the right of access to and use of those entrance ducts and "Cableways", subject to the provisions of Section 6 of this Agreement the

location, dimensions and area of both of which are delineated on Schedule B attached for the purposes of providing and supporting Telecommunication Services to tenants of the Project.

- (g)"License Fee" means: An annual amount equal to \$5,000.00. The annual License Fee payable for each exercised extension terms shall be the greater of: (1) the License Fee payable by the Licensee for the term immediately preceding the relevant extension term adjusted to reflect increases in the Consumer Price Index for the Province, and (2) the then current market fee for similar installations in similar buildings. Failing agreement on such License Fee payable by no later than 3 months before the end of the then current term, the determination of the License Fee payable during any extension term shall be submitted to arbitration on the aforesaid basis.
- (h)Licensors Address: c/o O&Y Enterprise, a division of O&Y Properties Inc., #1250, 555-4<sup>th</sup> Avenue SW, Calgary AB T2P 3E7  
Attention: Mike Teslak, VP Technical Services
- (i)Licensee's Address: GT Group Telecom Services Corp.  
800 Petro-Canada Centre – East Tower  
111-5<sup>th</sup> Avenue SW, Calgary AB T2P 3Y6
- (j)"Project" means: the complex known as "Petrofina, 735-8<sup>th</sup> Avenue SW" in the City of Calgary, Province of Alberta.
- (k)"Telecommunication Services" means: voice telephony services (local and long distance voice telephone services), data services and internet services, but specifically excluding any in-building wireless services.
- (l)"Term" means: the period of 1 year commencing on June 15, 2001 (the "Commencement Date") and expiring on June 14, 2002. At the Licensee's option, to be exercised at least 6 months prior to the end of the original Term or first extension term, as the case may be, and provided the Licensee has not been in default hereunder, the Term may be extended for 4 separate periods of 1 year each, the first of which will extend the expiry date to June 14, 2003, the second will extend the expiry date to June 14, 2004, the third will extend the expiry date to June 14, 2005 and the fourth would extend the expiry date to June 14, 2006.

## **2. Grant of License**

The Licensor grants to the Licensee the License for the Term subject to the terms and conditions of this Agreement. The Licensee accepts such License and access to the Project in relation to it, on an "as is/where is" basis. If, at the expiry of the Term, the Licensor permits the Licensee to continue without executing any further agreement, such continuation of the License shall be from month-to-month at a License Fee equal to 125% of the License Fee payable for the immediately preceding year (as determined on a monthly basis), terminable by either party at any time upon the giving of one month's prior written notice to the other and otherwise in accordance with all terms and conditions of this Agreement.

This License shall not constitute a right by the Licensee to have or claim a property interest in, or leasehold interest in, or a right of exclusive possession in respect of any part of the Project. The Licensee acknowledges that it does not have an exclusive License within the Project.

## **3. Fees and Costs**

This Agreement is fully net to the Licensor.

The Licensee agrees to pay the License Fee to the Licensor without any set-off, deduction or abatement whatsoever and shall do so in the following manner. The Licensee shall pay the entire annual License Fee to the Licensor, in advance on the Commencement Date and on the 1st day of each year of the Term thereafter.

In addition to the License Fee, the Licensee agrees to pay for all other expenses related to the operation, installation, repair and maintenance, alteration, replacement and removal of the Equipment, and for all expenses related to the operation and maintenance of the Equipment Room and Cableways, including without limitation:

- (a) a share of the Licensor's costs of heating, ventilating and air-conditioning supplied to the Equipment Room which share is calculated by multiplying the total of such costs by the
- (b) area occupied by the Licensee under this Agreement and dividing the sum derived by the total area of the Equipment Room;
- (c) charges for the Licensee's electricity usage which shall, at the Licensor's option, be either (i) based on actual readings from a submeter installed by the Licensee at its cost, if the Licensor so requires, or (ii) based on a reasonable estimate of the Licensor; and
- (d) any business taxes, realty taxes and other taxes imposed upon either the Licensor or the Licensee on account of the License and the Licensee's installation of its Equipment in the Project and its presence in the Equipment Room and Cableways.

## **4. Installation & Maintenance of Licensee's Equipment**

The Licensee agrees to obtain all required permits and approvals at its cost prior to installing its Equipment and prior to making any changes, additions, improvements or alterations to same. All Equipment that the Licensee intends on installing or improving or altering is subject to the prior

approval of the Licensor, will be installed, improved or altered in accordance with plans and specifications approved by the Licensor, and same shall be subject to supervision by the Licensor. At the Licensor's option, the Licensee shall perform any such installation or other work using a contractor from the Licensor's list of approved workers, which shall be supplied to the Licensee. The Licensee agrees that, upon installation, the Equipment shall become the absolute property of the Licensor without any compensation to the Licensee save and except for the Equipment to be installed in the Equipment Room, which shall remain the property of the Licensee, however, it shall be the Licensee's sole obligation to operate, maintain and repair all Equipment, at its expense. Notwithstanding the foregoing, the Licensor shall have the right in cases of emergency, without notice to the Licensee, to install, maintain or repair all of any part of the Equipment including any pipes, wires, ducts or other equipment or installations, which cost shall be paid for by the Licensee, but this shall not imply any obligation on the part of the Licensor to do so.

## **5. Cabling Provisions**

Provisions of this Section are included in this Agreement to define the relationship between the Licensor and Licensee with respect to the installation and operation of Cabling in the Project, and the use of Cableways. Nothing in this Section will preclude the Licensor from taking any action(s) specifically allowed as a result of rulings or decisions (future or otherwise) that may be made by the Canadian Radio-Television and Telecommunications Commission (the "CRTC") or any other governing body having jurisdiction and those action(s) may be undertaken by the Licensor at its sole discretion at any time following any ruling during the Term.

### **(a) Licensee's Cabling**

During the Term of this Agreement, the Licensee may be granted access to the Cableways for the purpose of installing Cabling for the Licensee's sole use in the Cableways in quantities and in accordance with specifications, in both cases, approved by the Licensor. Any installation work, or other work undertaken by the Licensee, shall be performed only by an approved contractor, authorized by the Licensor to perform the work within the Project. Prior to commencement of the work, the Licensee shall provide the Licensor with plans and specifications as required by the Licensor. The Licensee shall not begin any work until the Licensor's written approval (not to be unreasonably withheld or delayed) of the plans and specifications has been received. At the time of submitting a written request for such approval to the Licensor, the Licensee shall provide the Licensor with complete information relating to the Equipment and its installation, operation, repair and maintenance (including without limitation, all permits, governmental approvals, technical plans and specifications, drawings, weight, proposed installation, location, power supply sources and all ancillary and related work).

The Licensee acknowledges and agrees that the Licensor may without reason, despite the foregoing, withhold its approval to the use of the existing vertical conduits, sleeves or risers in the Building and the Licensee will, in such event, install all separate conduits, sleeves or risers, as required by the Licensor, at the Licensee's sole cost.

The Licensee shall keep accurate and up to date, a detailed inventory, description and location plan of all the Cabling which the Licensee installs in the Project and shall provide such information to the Licensor without cost upon request. The Licensee shall place a label that identifies the demarcation point between the Licensee's Cabling and the Licensor's Cabling.

The Licensee shall not cross-connect or permit cross-connection of its Cabling to that of any other telecommunications carrier without the Licensor's written approval. To "cross-connect" means to connect one wire or cable under the management and control or ownership of another carrier by anchoring each wire to a connecting block and placing a third wire between the two, or by any other means and any other connection of the telecommunication system or any of its components that is under the management, control or ownership of a carrier to a system or any component of another carrier.

(b) Licensor's Right to Manage Telecommunications Cableways and Cabling

At any time during the Term of this Agreement, the Licensor may undertake to provide a structured program of management of the Project's Cableways and/or Cabling collectively for the mutual benefit of the users of Cableway and/or Cabling. Such management may be performed by the Licensor, or the Licensor's appointed designate at the Licensor's sole discretion. Upon implementation of this management function, the Licensee may be required to begin paying reasonable and recurring "Infrastructure Management Fees" for its use of the Cableways and/or Cabling in the Project, which will be applied in a non-discriminatory manner. Infrastructure Management Fees include, but are not necessarily limited to, the costs associated with providing access to the Cableways and/or Cabling, maintaining an inventory of Cableways and Cabling, general clean-up and maintenance of the Cableways and the Licensor's reasonable mark-up on such services.

The Licensor reserves the right, at any time during the Term, upon at least 60 days' prior written notification to the Licensee, to assume administrative responsibility and control of Cabling installed by the Licensee in the Project without any compensation to the Licensee, such that the Licensor shall be able to manage this Cabling in the manner set out in this Section.

(c) Licensor's Right to Install and Operate a Cable Distribution System

The Licensor may undertake to provide or install a Cable Distribution System ("CDS") to satisfy the collective cabling requirements of all service providers and occupants of the Project or any of them. Once provided or installed, the Licensee must use the CDS for providing any additional services to the tenant or occupant floors of the Project, for which it does not already have Cabling installed.

Subject to compliance with any relevant decisions or rulings imposed by the CRTC or any other governing body having jurisdiction, after the activation of the CDS, the Licensee will no longer be permitted to install its own Cabling within certain areas of the Project.

Use of the CDS will be subject to reasonable connection and usage fees, determined by the Licensor at its sole discretion, which will be applied in a non-discriminatory manner to all licensees acting as Telecommunication Service providers in the Project that use the CDS.

The Licensee may continue its use of the Cabling that it has installed in conformance with Section 5(a) above for the duration of the Term despite the Licensor's establishment of a CDS, save and except that the Licensor may, at its sole discretion, choose to levy Infrastructure Management Fees as detailed in Section 5(a) above with respect to the Licensee's Cabling and use of the Cableways.

At the end of the original Term of this Agreement, the Licensor may, at its sole discretion, designate the Licensee's Cabling as being part of the CDS, from which point the Licensee shall be subject to connection and usage fees as described above. Alternatively, the Licensor may require that the Licensee remove some or all of its Cabling in conformance with Section 5(d) below, and then utilize the Licensor's CDS for the Licensee's purposes.

If the Licensor establishes a CDS, (i) it will maintain, repair, replace and upgrade the CDS in order to maintain appropriate service standards, (ii) it will act expeditiously to repair or correct any problems that the Licensee may report with respect to the Licensee's use of the CDS, and (iii) it may alter the CDS.

(d) **Removal of the Licensee's Cabling**

The Licensor may give notice in writing to the Licensee requiring the removal of all or any part of the Equipment and/or Cabling from the Project at the end of the Term, or after the Licensee begins utilization of a CDS as provided in Section 5(c) above. If the Licensor requires that the Licensee remove any Equipment pursuant to this Section 5(d), the Licensee shall make good any damage caused to the Project by the installation or removal of same. The Licensee will have a period of at least 60 days after receipt of written notice requiring it to do so, to remove the Equipment and/or Cabling and to make good any damage.

**6. Certain Specific Licensee Obligations**

The Licensee shall:

- (a) conduct all activity in a first class manner consistent with a first class complex, be responsible for all aspects of the operation of the Equipment, and ensure that its activities in the Project do not interfere with the normal operation of the Project;
- (b) abide by all rules and regulations of the Licensor of which it receives written notice. The Licensee shall have 24 hour, 7 day a week access to service and repair the Equipment, but access will be subject to the Licensor's security procedures for the Project;
- (c) ensure that its employees, agents and contractors engaged in the activities permitted by this Agreement, (i) abide by all of the terms of this Agreement, (ii) at all times conduct themselves in a first-class manner; and (iii) maintain a professional appearance and demeanor;
- (d) not solicit business or canvass any persons, nor distribute handbills, flyers or any other promotional or advertising material in any part of the Project without the Licensor's prior written consent;

- (e) not commit or permit waste upon or damage to the Project or any nuisance or other act that disturbs the quiet enjoyment of tenants or occupants of the Project, including without limitation, use of loudspeakers or other promotional equipment or material;
- (f) not do or permit anything to be done in any Project that hinders or interrupts the flow of traffic to in and from the Project or obstructs the free movement of persons in, to or from the Project;
- (g) not engage in any business conduct other than that permitted by the Licensee under Section 1 (f) in accordance with the provisions of this Agreement;
- (h) not keep, use or store in or upon any Project any material which may be prohibited by hazardous materials legislation or by any fire insurance policy covering the Project;
- (i) ensure that the Equipment is at all times free of claims by third parties, security interests, liens, mortgages, charges and other encumbrances;
- (j) ensure that no construction or other lien is registered or filed against any Project and prohibit any contractor retained by it and each of their subcontractors from doing any work relating to installation, repair or restoration of improvements or equipment, in any of the Project, if the contractor or subcontractor is not in good standing under applicable worker compensation insurance requirements;
- (k) prior to installation, servicing, removal or performance of any work which the Licensee wishes to perform, obtain the Licensor's approval, not to be unreasonably withheld or delayed, as to the timing and methods of the installation, servicing, and removal of work and use only those service access facilities as are designated from time to time by the Licensor;
- (l) at all times, maintain as built drawings identifying all Cabling and other improvements installed in the Project with the Licensor's consent and shall ensure that each item of Equipment and in particular, the Cabling, is physically labelled in a manner and in locations approved by the Licensor;
- (m) comply with all pertinent laws, regulations and by-laws, including obtaining all municipal or other governmental or non-governmental regulatory approvals, licenses or permits that are needed to enable it to use the Equipment in accordance with this Agreement;
- (n) comply with all rules and regulations imposed by the CRTC;
- (o) obtain and negotiate any and all required municipal access agreements;
- (p) comply with the provisions of health and safety legislation in force in that it is solely responsible for the health and safety of all its employees with respect to the obligations of the Licensee hereunder;
- (q) keep and maintain the Equipment and its area of the Equipment Room (the "site") clean and tidy, be solely responsible for repairs to the Equipment and the site, and avoid making or causing clutter, untidiness, or causing the need for repairs in or to the

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Cableways or any other part of the Projects. If, as a result of the Licensee's activities within the Project, the Licensor incurs any additional cleaning or maintenance costs or expenses, the Licensee shall be responsible to pay any such additional costs or forthwith upon receipt of an invoice from the Licensor;

- (r) pursue joint planning with other telecommunication services providers operating or intending to operate in the Project;
- (s) pay to the Licensor, within 10 days of each invoice, a reasonable charge (including an administration fee of 25% of the cost) for extra security services provided or required by the Licensor to be provided (in its discretion) in connection with any access required by the Licensee in connection with its rights under this Agreement, and in connection with any work performed by or on behalf of the Licensee;
- (t) pay to the Licensor within 10 days after each invoice is submitted to it by the Licensor, the Licensor's costs of having any plans and specifications of the Licensee reviewed by its consultants, plus an administration fee equal to 25% of the cost;
- (u) pay to the Licensor within 10 days after each invoice is submitted to it by the Licensor, the Licensor's legal costs in preparing, negotiating, revising and executing the License Agreement; and
- (v) following completion of the initial installation and any additional modifications, replacement or upgrades, if any, provide the Licensor with a certificate of a professional engineer acceptable to the Licensor, certifying that the installation of the Equipment has been carried out in accordance with the plans and specifications approved by the Licensor and its consultants.

#### **7. Signal Interference**

The Licensee shall take all steps necessary to ensure that its Equipment does not unreasonably interfere with or unreasonably disturb the operation of any equipment of the Licensor or the equipment of other licensees or the use and occupation of the Project by tenants or occupants of it. Should any such interference develop, the Licensee shall cease its use of its Equipment immediately upon being requested by the Licensor to do so. The cause of the interference will be determined and, if the Licensee is responsible for the interference, the Licensee, at its cost, shall take immediate steps (including the installation of filters, if necessary) to reduce the interference to a level considered acceptable by Industry Canada, the Department of Communications or such other federal agency as at the time has jurisdiction or as determined by the Licensor, acting reasonably. Even if the Licensee's Equipment is not the primary cause of the interference, if considerations of cost or engineering simplicity indicate that a modification to the Licensee's Equipment is the most expedient solution to an interference problem, the Licensee agrees to permit such modifications to be made, so long as (i) any such modification does not unreasonably degrade the performance of the Licensee's Equipment, and (ii) the cost of making such modification is borne by the party whose equipment is, in fact, the primary cause of the interference. If the interference situation cannot be remedied, then the Licensor may terminate this Agreement and the Licensee will remove all of its Equipment from the Project according to this Agreement.



**8. Relocation of Equipment Room and/or Equipment**

- (a) The Licensor can, at any time, relocate the Equipment Room within the Project and the Licensee shall, at the Licensor's request, upon no less than 60 days prior notice to the Licensee, relocate its Equipment to the relocated Equipment Room at the Licensee's sole cost and expense.
- (b) If the Licensor requires the Licensee to relocate all or any portion of the Equipment in any Project, the Licensee will do so within 60 days of written notice from the Licensor, to an alternative location within the Project, designated by the Licensor which location shall be sufficient to allow the Licensee to provide the type, level and quality of services provided by it prior to such relocation. In the event of any relocation, the Licensor shall be responsible, at its cost for all reasonable work needed to be done to the Equipment Room to accommodate the Licensee's Equipment and for the reasonable costs of physically relocating such Equipment. In no event, however, will the Licensor be responsible for any other costs incurred by the Licensee as a result of any relocation such as, for example, any lost revenue or the cost of new Equipment. If the Licensee fails to relocate any such Equipment as requested by the Licensor within the time specified by the Licensor, then the Licensor may remove the Equipment at the Licensee's expense, and without any liability on the part of the Licensor for any loss, cost, damage or expense arising from, or connected with that action by the Licensor, whether or not the Licensor is negligent.

**9. Control and Management of Project**

The Project shall at all times be under the exclusive control and management of the Licensor. The Licensor may from time to time alter, expand, diminish, operate, renovate, remerchandise and supervise the Project including the "Common Facilities", and may change its areas, locations and arrangements and do whatever else to it that the Licensor determines to be advisable. "Common Facilities" are those elements of each Project (including but not limited to the Cableways) that are not intended for leasing and that serve the operation of the Project, but Common Facilities do not include any Common Infrastructure. During the business hours for the Project, the Licensee shall have a non-exclusive right to use, in compliance with the Licensor's rules and regulations, and in common with all other persons entitled to use them, the parts of the Common Facilities appropriate, intended and designated from time to time by the Licensor for that use.

**10. Removal of Equipment**

Notwithstanding the fact that all Cabling installed by or on behalf of the Licensee becomes the absolute property of the Licensor upon installation, at the expiry or earlier termination of this Agreement, the Licensee will, at its expense, remove such of the Cabling as the Licensor may direct it to remove and shall remove all of the other Equipment. At the Licensor's option, the Licensor may elect to remove such Cabling and/or other Equipment itself or through its contractors, at the Licensee's cost. Any damage caused to the Project as a result of such removal shall be repaired by the Licensor at the Licensee's cost, together with an administration fee of 20% of such cost, to be paid by the Licensee to the Licensor within 15 days of demand for payment from the Licensor. Any items of Equipment which the Licensee does not remove shall remain in the Project as the property of the Licensor. On the expiry or earlier termination date, the Licensee shall provide the Licensor with a detailed inventory of all Equipment, including Cabling, that the Licensee is leaving in the Project.

## **11. Insurance**

The Licensee shall obtain and shall maintain throughout the Term:

- (a) commercial general liability insurance coverage against personal and bodily injury including death, and property damage, with respect to the Licensee's business and the Licensee's use and occupancy in the Project, on an occurrence basis having a limit of not less than \$5,000,000.00 in respect of any one occurrence and including a contractual liability endorsement sufficient to properly respond to the indemnities provided for in this Agreement;
- (b) all risks coverage (including flood and earthquake) for the Equipment and any other property of the Licensee in or about the Project, on a full replacement cost basis, and with a waiver of subrogation in favour of the Licensor; and
- (c) business interruption insurance in an amount that will reimburse the Licensee for direct or indirect loss of earnings attributable to all perils insured against under Section 12(b) and other perils prudently insured against by Licensees, or attributable to prevention of access to the Equipment Room or Cableways as a result of those perils.

All insurance shall be placed with an insurer acceptable to the Licensor, acting reasonably, shall include the Licensor as an additional named insured; shall contain cross-liability and severability of interest provisions, as applicable; shall not be subject to cancellation without at least 10 days prior written notice to the Licensor and shall be primary, and shall be non-contributing with, and shall not call into contribution any other insurance available to the Licensor.

Prior to the Commencement Date, the Licensee shall furnish Licensor with evidence of the insurance described above and no work or installation will be started without conformity to this requirement.

## **12. Exculpatory Provisions**

In no event will the Licensor 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 any part of the Project 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 any duct or cabling provided to the Licensee hereunder, it being acknowledged by the Licensee that all duct and any supplied cabling is provided "as is" and "where is", 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 Project under the terms of another telecommunications access license or similar agreement, whether or not the

activities of the party have been supervised by the Licensor, or whether or not the party has been escorted while within the Project;


- (iv) any claims resulting from lightening or other electrical current passing through the Project 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 Project;
- (vi) the inadequacy of any utility service, or the loss of or the failure to provide any utility service. The Licensee acknowledges that interruptions in the supply of any services, systems or utilities are not uncommon in office buildings and the Licensee further acknowledges that any sensitive Equipment in and on the Building will be protected by the Licensee from any failure in supply or interruptions through the use of a UPS system, surge protectors and other appropriate safety systems; and
- (vii) 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.

Other than as expressly provided for in this Agreement, there are no other 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.

### **13. Indemnity**

The Licensee will indemnify and save harmless the Licensor from and against any and all actions, causes of action, suits, claims, damages, awards, proceedings, costs (including the Licensor's legal costs on a solicitor and his own client basis) and liabilities or claims by any third party arising in respect of:

- (i) the placement, installation, use (or the inability to use), operation, maintenance or removal of the Equipment, including Cableways, by the Licensee in, on, or from the Project;
- (ii) the performance of this Agreement by the Licensee, including the installation of the Licensee's Equipment, or its use or misuse by the Licensee;
- (iii) 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;
- (iv) damage to the Project or any personal property (including the loss thereof) of the Licensor, or any third party, or physical injury (including death resulting therefrom) caused directly or indirectly by the Licensee, or its agents, servants or employees;
- (v) any act or omission of the Licensee in connection with the presence, installation, use, operation or maintenance of the Equipment;

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- (vi) the proximity of the Equipment to any facilities or equipment of the Licensor, any tenant of the Licensor, whether or not a customer, or other licensees or carriers within the Project as a result of the presence, installation, use, operation or maintenance of the Equipment;
- (vii) any act or omission of or by the Licensee in or while providing any services to any customer, or in respect to any service interruption, failure or impairment;
- (viii) any actual or attempted seizure or repossession of the 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; or
- (ix) any claim of ownership, right or title by any third party in respect of the Equipment (the Licensee represents and warrants it is the sole owner of all of the Equipment) or any claim arising from any alleged lack of authority by the Licensee to enter into this Agreement.

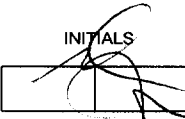

The Licensor shall not be liable for the quality of transmission, or for any damages arising from omissions, interruptions, delays, errors or defects in transmissions suffered by the Licensee, or any of its customers, caused by failures or defects within the Project. To the extent that any of the Licensee's customers suffer damages arising from any of the circumstances mentioned above for which the Licensor may be at law responsible, the Licensee hereby indemnifies and holds harmless the Licensor from and against any such claims, regardless of whether the Licensor is alleged or found to be negligent. The Licensee will include provisions in its agreements with all tenants that any cessation or interruption of services or any other breach of such agreement by the Licensee shall not constitute a default or a breach under any lease and/or other agreement between the particular tenant and the Licensor. The agreements with all tenants will indicate that such agreement is entirely separate and distinct from and independent of any lease and/or other agreement between the particular tenant and the Licensor.

#### **14. Release and Waiver**

The Licensee does hereby release (A) the Licensor, as well as its directors, officers, servants, agents, employees, contractors and those for whom all or any of them is, or are, in law responsible, (B) any property manager acting as manager and agent for the Licensor or owner of the Building, as well as its directors, officers, servants, agents, employees, contractors and those for whom all or any of them is, or are, in law responsible and (C) the owner of the Building as well as its directors, officers, servants, agents, employees, contractors and those for whom all or any of them is or are in law responsible (hereinafter, individually, the "Releasee" and, collectively, the "Releasees"), from all actions, suits, damages, costs and liabilities for:

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

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arising out of any act or omission by any Releasee in respect of the Equipment, Equipment Room and/or Cableways. This release extends to negligent or grossly negligent acts or omissions, but not to willful acts of any Releasee.

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 stature, 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.

#### **15. Default**

If the Licensee defaults in the payment of any money required to be paid by Licensee under this Agreement and the default continues for a period of 5 days after written notice has been given by the Licensor to the Licensee, the Licensor may terminate this Agreement without prejudice to its other remedies at law or in equity (including the right to claim damages). If the Licensee defaults in respect of any other provision of this Agreement and the default is not cured within 10 days after written notice from the Licensor, then the Licensor may terminate this Agreement without prejudice to its other remedies at law or in equity (including the right to claim damages). If the Licensee makes an assignment for the benefit of creditors or becomes bankrupt or insolvent, or a receiver or manager is appointed in respect of any substantial part of the Licensee's assets and undertaking, or if a judgment is obtained against the Licensee and execution is levied against a material portion of the Licensee's assets having regard to the overall assets and undertaking of the Licensee, or if the Licensee takes proceedings for winding up, liquidation, or for dissolution of its assets, the Licensor may, without notice, terminate this Agreement without prejudice to its other remedies at law or in equity (including the right to claim damages). Each of the events described above in the preceding sentence will be considered as a default under this Agreement.

#### **16. Transfer**

This Agreement may not be assigned or transferred in whole or in part by the Licensee to another(s), including any lender, without the consent of the Licensor, not to be unreasonably withheld or delayed and the Licensee will not be entitled to sub-license to or enter into co-usage or sharing agreements with other suppliers of services. (The kinds of transactions referred to above are called "Transfers" in this Section.) No Transfer will be permitted unless the transferee enters into an agreement with the Licensor, in a form approved by the Licensor (acting reasonably) prepared at the expense of the Licensee or the transferee, in which the transferee agrees to be bound by this Agreement. It will be considered reasonable (without limiting the Licensor's right to withhold consent on other reasonable grounds) for the Licensor to withhold consent, to the extent that amounts or other value is or are paid or provided to the Licensee in connection with a Transfer and the amount or value reflects benefits primarily associated with the size, nature or location of the Project. If there is a dispute in that regard it will be determined by arbitration using a single arbitrator. The restrictions and requirements set out above in this Section will not be enforced to the extent that any of them is, or are, found to contravene the laws and regulations administered by the CRTC. The Licensor may assign or transfer this Agreement to any person or entity. To the extent the person or entity assumes the Licensor's obligations under this Agreement, the Licensor will be released from those obligations assumed by the assignee or transferee.

**17. Financing of Equipment**

The Licensee may, without the consent of but on prior written notice to the Licensor, grant security by way of a mortgage, charge, general security agreement or otherwise in respect of the Licensee's Equipment (but not in respect of in-building wire or conduits associated with it or, not in respect of any part of the Project including , any permanent fixtures, or any improvements to the Licensor's Premises) to a bank or other financial institution. The Licensee will not cause or permit any charge, security interest, mortgage, or encumbrance, or any notice of them to be registered against title to the Project.

**18. Termination Rights**

The Licensor reserves the right to terminate this Agreement on 30 days' prior written notice to the Licensee in the following circumstances:

- (a) if the Project is substantially damaged and the Licensor determines that it will take longer than 180 days to restore it; or
- (b) if the Equipment Room is damaged and in the Licensor's opinion it will take longer than 90 days to restore it;
- (c) if all or any portion of the Project is expropriated;
- (d) if the Licensor elects to redevelop a substantial portion of the Project or elects to convert a portion of the Project to other uses and, as the result of the development or conversion of use, it is, in the Licensor's opinion, not feasible to relocate any part of the Equipment which may require to be relocated in connection with the redevelopment or conversion of use; or
- (e) if the Licensee has not provided any Telecommunication Services to any tenants or occupants of the Project (in that it has no customers) for a period of at least 120 days.

**19. Notices**

Any notice to be given under this Agreement (including a notice of change of address for service of notice) shall be sufficiently given if sent by registered mail or courier delivery service to the Licensor's address set out in paragraph 1(h) hereof, in the case of notice to the Licensor, and to the Licensee's address set out in paragraph 1(i) hereof, in the case of notice to the Licensee. Each notice delivered by courier delivery service shall be deemed to have been received on the next business day following the day upon which it was sent. Each notice sent by registered mail shall be deemed to have been received on the third business day next following the date upon which it was mailed.

**20. Status Statement and Subordination**

On the written request of the Licensor, the Licensee shall sign a certificate prepared by the Licensor confirming that this Agreement is in full force and effect, with no default hereunder or, if there is a default, particularizing such default and otherwise confirming such terms of this Agreement as the Licensor shall request. The Licensee agrees to execute and return such certificate within 10 days of the Licensor's request. The Licensee confirms that this Agreement

shall be subordinate to any existing or future mortgage or other encumbrance on the Project. At the request of the Licensor, the Licensee shall execute such documentation as the Licensor or its lender may reasonably request, confirming such subordination.

**21. No Registration**

The Licensee shall not cause this Agreement, or any notice of it to be registered against title to the Project.

**22. CRTC Decision**

The Licensor and the Licensee acknowledge that the access rights of telecommunication service providers in multi-tenant buildings are currently the subject of regulatory proceedings 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, the parties agree that this Agreement may be amended by the parties in such a manner so as to give effect to such ruling or decision.

**23. Entire Agreement**

The parties agree that this Agreement and the Schedules attached to it is the entire agreement between the parties. There are no representations or agreements, either oral or written, with respect to this License other than this Agreement. This Agreement may only be amended by further written agreement of the parties.

**24. Severability of Provisions**

Should any provision of this Agreement be illegal or unenforceable, that provision shall be considered separate and severable from the remaining provisions of this Agreement and the remaining provisions shall remain in force and be binding upon the parties (unless the illegal or unenforceable provisions are such that they have fundamentally frustrated the intention of the parties, or either one of them, in which case the frustrated party may terminate this Agreement on 30 days' prior written notice).

**25. 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 labor stoppages or disturbances, civil commotions 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.

**26. Enurement**

This Agreement shall enure to the benefit of and be binding upon the heirs, successors and permitted assigns of the parties to it.

**27. Interpretation**

Whenever the singular or plural, or the masculine, feminine or neuter pronoun is used in this agreement, each shall include the other or others respectively, as and where the context requires it. The headings 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 the Agreement.

**28. 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.

**29. Governing Law**

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Alberta.

**IN WITNESS WHEREOF**, the parties have entered into this Agreement.

**SIGNED, SEALED AND DELIVERED**

SREIT ( Petrofina) Ltd.  
by its Manager  
O&Y ENTERPRISE  
a division of O&Y Properties Inc.  
(Licensor)

In the Presence of

Per: \_\_\_\_\_

Per: \_\_\_\_\_

I/we have authority to bind the corporation

GT Group Telecom Service Corp.  
(Licensee)

Per: \_\_\_\_\_


Per: Director, National Facilities

I/we have authority to bind the corporation.



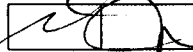
## **SCHEDULE "A" – LICENSEE'S EQUIPMENT**

The Licensee's Equipment includes the equipment, apparatus, fixtures and attachments of the Licensee comprised of the following, but subject in all cases to the Licensor's prior written approval of the Licensee's plans and specifications:

INITIALS  
  
LICENSOR LICENSEE

**SCHEDULE "B" – LOCATION OF EQUIPMENT ROOM**

ATTACH PLAN SHOWING LOCATION  
OF EQUIPMENT ROOM AND CROSSHATCH  
EQUIPMENT ROOM

INITIALS  
  
LICENSOR LICENSEE