

TELECOMMUNICATION AND BUILDING ACCESS AGREEMENT – BUILDINGS

This Agreement is made as of the 30th day of November, 2011 (the "Effective Date").

In consideration of the sum of \$2.00 paid by each party to the other and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), Bell Canada (on its own behalf and on behalf of the affiliates of BCE Inc. (as defined in the *Canada Business Corporations Act*, as amended) (hereinafter, collectively referred to as "Bell") and Aspen Ridge (77 Charles St. Design Build) Ltd. (the "Developer") agree as follows:

1.1 Developer hereby grants to Bell at no charge to Bell, a non-exclusive, non-preferential right (the "Right") to:

- (a) enter on and gain non-exclusive, non-preferential access in, on, over or under the non-exclusive use common element areas (the "Access Points") of the multi-unit dwelling building proposed to be constructed by the Developer as described in and shown on Schedule "A" (the "Building"), including, one room in the Building subject to the specifications set forth in Schedule "B" hereto (the "Equipment Space(s)"), as approved by the Developer, acting in good faith. For clarity, Bell shall be permitted to use and access the Access Points in the Building and Equipment Space for the provision of Bell Services and for the matters as provided herein all in relation to the Building in accordance with the Declaration, By-Laws and Rules of the condominium of which the Building is to form a part of;
- (b) subject to CRTC rulings and regulations, (i) use wire owned, controlled and installed by Bell; and (ii) make available and provide the Bell Services to owners, tenants or residents of the residential condominium units in the Building (collectively, the "Occupant(s)"); and
- (c) construct, install, test, operate, maintain, repair, service, upgrade, modify, remove and replace the Equipment owned by Bell in the Building in a good and workmanlike manner and provided Bell immediately repairs any damage to the Building and lands upon which the Building is located and as are legally described in Schedule "A" hereof (the "Lands") and the lands/building (collectively, the "PEV Building/Lands") being constructed for and to be conveyed to the Prom-Edu-Val Society (notwithstanding that Bell acknowledges that it has no claims or interest in the Lands or the PEV Building/Lands). Nothing herein limits Bell's ability to change, alter or replace the Equipment owned by Bell (all in accordance with applicable CRTC requirements, at Bell's sole cost and expense and Bell obtaining any necessary third party approval at Bell's sole cost and expense) with new or different equipment to provide the Bell Services.

1.2 The parties acknowledge and agree that the Right does not in any manner whatsoever provide or grant to Bell any right to market or promote its Bell Services to the Building or any part thereof, or to the Occupants of the Building and Bell acknowledges and agrees that this Agreement does not prevent the Developer from entering into marketing, access agreements or any other agreement with other telecommunications service providers or other service providers.

- 1.3 (a) In this Agreement, "Equipment" means the equipment, together with inside wire and infrastructure owned, controlled and installed by Bell which is necessary and incidental to enable and deliver Bell Services to Occupants;
- (b) In this Agreement, "Services" means telecommunications and other communication services subject to CRTC rulings from time to time and "Bell Services" shall mean the Services provided by Bell. Bell acknowledges and agrees that the Bell Services will be provided to the Building and the Occupants solely on a direct subscriber pay basis.

2. Except in the case of emergencies, all rights of access granted and uses permitted herein shall be available to Bell during normal service hours, three-hundred and sixty-five (365) days per year subject to Bell providing not less than 3 hours' prior written notice during normal service hours to the Developer or its property manager of its purpose and duration of its intention to enter the Access Points or Equipment Space for the purposes of this Agreement (provided that where Bell is accessing the Building at the request of an Occupant for the purposes of specifically servicing that Occupant and his or her Unit and gains access to the Building by such Occupant, then Bell shall not be required to provide prior notice to the Developer as described above).

3. Bell shall, at its own cost (i) ensure that all work performed by Bell within the Building and the Lands shall be performed in a good, workmanlike manner and in accordance with all applicable laws, regulations and codes and 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 owned by Bell (the "Bell Equipment") during the Term and any renewal thereof (although both parties acknowledge that this Agreement does not apply to Bell's contracts with individual Occupants relating to post-installation activities specific to such Occupant's in-suite requirements); and (iii) repair forthwith, at its sole expense, any damage to the Building, the Lands, the Access Points and Equipment Space where the damage is caused directly or indirectly by Bell and those for whom it is responsible in law. Bell further covenants to forthwith repair, at its sole expense, any damage to the PEV Building/Lands, the Building, the Lands, the Access Points and Equipment Space where the damage is caused directly or indirectly by Bell and those for whom it is responsible in law. Except as otherwise provided in Section 22 of the *Condominium Act, 1998*, the Bell Equipment will remain the property of Bell at all times, and will not become a fixture despite any legal principle to the contrary. Developer agrees that it has no legal or equitable ownership interest in the Bell Equipment and shall not make any claim to the contrary. The Developer agrees that it has no legal or equitable ownership interest in the Bell Equipment nor any of Bell owned items reasonably contemplated herein and shall not make any claim to the contrary. Nothing in this Agreement limits the Developer's right to repair any common elements of the Building; provided that where any such repair may affect Bell's Equipment, the Developer shall (except in the case of emergencies): (i) provide Bell with reasonable advance written notice to request Bell to adjust and/or move its Equipment, all at Bell's sole cost and expense, before the repairs are made and which notice shall contain necessary particulars as determined by the Developer to permit Bell to comment as provided for in item (ii); and (ii) provide Bell with an opportunity to recommend changes to the planned nature, timing of commencement, duration or completion of such repairs that do or are anticipated to have an impact on the Equipment or Bell's ability to deliver the Bell Services. Despite the foregoing, where repairs undertaken by the Developer require Bell to move or relocate any of its Equipment, Bell shall, at its sole option: (A) if the repairs will take eight (8) hours or less, provide one Bell technician for a maximum of one eight (8) hour period, at Bell's cost; or (B) if the repairs will take more than eight (8) hours, share the cost to

facilitate the movement or relocation of the Equipment with the Developer on an equal 50%/50% basis to a maximum of fifty thousand dollars (CDN\$50,000.00), after which the cost will be sole cost of the Developer.

4. 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 Agreement; and (2) it is validly organized and existing under the name indicated on this Agreement.

5. Bell agrees to forthwith and without charge consent to and execute, if requested by the Developer, as a consenting party only, all documents presented to it by Developer which may be required to make application for or obtain a building permit or any other licences or permits required in connection with the development of the PEV Building/Lands, the Building and/or the Lands including, without limitation, any development agreement, collateral agreement, site plan agreement or any agreement required pursuant to the *Planning Act* (Ontario), or any other similar agreement required by the municipality, or any other governmental body having jurisdiction therein and shall not object to any Official Plan amendment, rezoning, minor variance, severance, or other consent application filed by the Developer.

6. Despite anything contained herein to the contrary, Bell Canada will be liable for and will indemnify and save harmless the Developer, its directors, officers, employees, and contractors, and those for whom it is responsible in law (collectively, the "Developer Indemnitees"), from and against any and all:

- (i) suits, actions, causes of actions, proceedings or claims made by third parties (collectively, "Third Party Claims") arising from (a) the exercise by Bell or any of its officers, employees or contractors of the Right, (b) the provision or non-provision by Bell of Bell Services to Occupants at the Building, (c) Bell's marketing and promotional activities conducted at the Building, and (d) physical damage to any tangible property or bodily injury, including death, to any third party person caused by or arising out of any negligent act or omission relating to Bell's use and occupation of the Equipment Space or the Building; and
- (ii) losses, damages, costs and expenses (collectively, "Losses") suffered by any of the Developer Indemnitees arising from physical damage to any tangible property or bodily injury, including death, to any Developer Indemnitee caused by or arising out of any negligent act or omission relating to Bell's use and occupation of the Equipment Space or the Building;

provided that:

- (x) Bell Canada will not be required to indemnify or save harmless the Developer Indemnitees to the extent any such Third Party Claims or Losses are caused by any negligent or willful act or omission of any of the Developer Indemnitees; and
- (y) in the event any of the Third Party Claims or Losses seek or comprise indirect, special, incidental or consequential damages, including loss of revenue, loss of profits, loss of business opportunity or loss of use of any facilities or property (collectively, "Indirect Damages") Bell Canada will not be required to indemnify the Developer Indemnitees for any such Indirect Damages except to the extent Bell Canada has been ordered to pay such Indirect Damages to the Developer Indemnitees by a court of competent jurisdiction and all appeals from such order of the court have been exhausted.

Bell Canada agrees that where Bell Canada is required to indemnify the Developer Indemnitees pursuant to this paragraph, such indemnity extends to reasonable legal fees incurred by the Developer Indemnitees to defend against the Third Party Claims. Upon becoming aware of Third Party Claims or Losses which could give rise to a claim of indemnification under this Agreement, the Developer shall notify Bell Canada of the circumstances of the Third Party Claims or Losses. If through the fault of the Developer, Bell Canada does not receive notice of any Third Party Claims or Losses in time to contest effectively the determination of any liability susceptible of being contested, it shall be entitled to set off against the amount claimed by the Developer the amount of any damages, losses, claims and expenses incurred by Bell Canada resulting from the failure of the Developer to give that notice on a timely basis. With respect to any Third Party Claims, Bell Canada shall, at Bell Canada's expense, participate in or assume the conduct of the negotiations, settlement or defence of the Third Party Claims. Bell Canada shall assume the conduct of the negotiations, settlement, or defence of the Third Party Claims, and retain counsel on behalf of the Developer who is acceptable to the Developer, acting reasonably, to represent the Developer with respect to such defence. The Developer shall have the right to participate in the negotiation, settlement or defence of those Third Party Claims and if Bell Canada has not retained counsel on behalf of the Developer, to retain separate counsel to act on its behalf. However, if the Developer retains separate counsel to act on its behalf, the fees and disbursements of Developer's counsel shall be at the expense of the Developer unless: (a) the Developer determines, acting reasonably, that actual or potential conflicts of interests exist which make representation chosen by Bell Canada not advisable (such as where the named parties in respect of such Third Party Claims include both Bell Canada and the Developer, and the defences available to the Developer are different or in addition to those available to Bell Canada); (b) or Bell Canada has authorized the retention of that counsel. The Developer shall not settle or pay such Third Party Claims without Bell Canada's written consent. The Developer and Bell Canada shall cooperate fully with each other with respect to Third Party Claims and shall keep each other fully advised with respect to the Third Party Claims (including supplying copies of all relevant documentation promptly as it becomes available). Where the defence of any Third Party Claims is being undertaken and conducted by Bell Canada, the Developer shall use all reasonable efforts to make available to Bell Canada, at the request and expense of Bell Canada, those employees and officers of the Developer whose assistance, testimony or presence is reasonably necessary to assist Bell Canada in evaluating and defending those Third Party Claims. This section shall survive the expiration or termination of this Agreement (with the express acknowledgment that the Developer Indemnitees will continue to be indemnified by Bell from and after the date of turn over to the Corporation).

7. The term of this Agreement is effective as of the Effective Date and shall continue to run for a period of ten (10) years from the Effective Date (the "Term"). Bell shall execute and deliver promptly upon request by the Developer and without charge any acknowledgement, release, consent or status statement, in respect of this Agreement and any easement or right-of-way registered on title as may be required to permit the registration of a declaration and description on all or any part of the Building and/or the Lands. Upon registration of a condominium plan on the Lands or any portion thereof (the condominium corporation created upon the registration of a declaration and description on the Lands is herein referred to as the "Corporation") prior to the expiry of the Term, the Developer shall, upon such registration, be immediately and fully released from its obligations under this Agreement (save and except for any outstanding obligations arising hereunder prior to the date of such registration) and any easement or right-of-way registered on title to the Lands whereupon the Corporation shall be deemed to have assumed and be bound by all the rights and obligations of the Developer as set out herein and shall be responsible for such obligations, and shall for the purposes of this Agreement and any easement or right-of-way registered on title, be henceforth the "Developer". Unless a Party provides the other party hereto with written notice of its intention not to renew this Agreement at least one hundred and eighty (180) days prior to the expiration of the Term or Renewal Term (as defined below), this Agreement shall automatically

renew for successive one (1) year renewal terms (the "Renewal Term") on the terms and conditions herein. 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; (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; or (iii) it is unlawful to sustain the Right or this Agreement. 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 Agreement or impairs Bell's ability to provide Bell's Services in an economical and technically practical fashion, Bell may terminate this Agreement upon thirty (30) days' written notice to Developer all at no cost the Developer or the Corporation. Upon expiry or termination of this Agreement, Bell shall be allowed thirty (30) days to remove the Bell Equipment at its sole cost and expense if Bell exercises such right to remove the Bell Equipment and shall promptly repair the PEV Building/Lands, the Building, Lands, Access Points and Equipment Spaces(s) to their state immediately prior to such removal. Bell shall ensure that such removal does not interfere with any other telecommunications or communications services being provided to the Occupants (other than the applicable Bell Services) or the owners / residents of the PEV Building/Lands and that such removal does not render the use of telecommunications or communications by Occupants or said owners / residents of the PEV Building/Lands invalid.

8. 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:

100 Wynford Drive, Floor 6
Toronto, Ontario
M3C 4B4

F.

Attn: Director, Field Sales

with a copy to Bell Canada's
Legal Department

To Aspen Ridge (77 Charles St. Design Build) Ltd.

29 Floral Parkway
Concord, ON L4K 5C5

F.

Attn: Vice-President, Operations Highrise

Upon turnover, the notice address for the Developer shall transfer to the Corporation as follows:

77 Charles Street West
Toronto, Ontario
M5S 1K5

Notices shall be deemed to have been received by the Developer 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.

9. This Agreement is subject to all applicable federal, provincial and local laws, and regulations, ruling and orders of governmental agencies, including, but not limited to, the *Condominium Act, 1998*, as amended, the *Telecommunications Act*, as amended, the *Broadcasting Act*, as amended or the Canadian Radio-Television and Telecommunications Commission (the "CRTC") and applicable federal privacy legislation (including without limitation, the *Personal Information Protection and Electronic Documents Act*, as amended). In the event that a provision of this Agreement conflicts with a Schedule attached hereto, the provision of this Agreement shall prevail. This 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 construction to the laws of another jurisdiction.

10. Except as provided in Section 7 herein and save and except for an assignment or transfer by either party to an affiliate, subsidiary or related company, none of the rights and obligations contained herein may be assigned or transferred by either party, without the prior written consent of the other party hereto which consent shall not be unreasonably or arbitrarily withheld or delayed. If any provision of this Agreement is found to be invalid, illegal or unenforceable, the other provisions of this Agreement 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.

11. Developer acknowledges that upon reasonable prior notice to the Developer, Bell shall also have access to a path and/or conduit along, over, under or on the Lands, from the property line of the Lands to the Building (the "Conduit"), and in or through the Equipment Space(s). If Bell determines that a fibre optic cable or Equipment must be installed to the Conduit, the Building and/or the Equipment Space(s), Bell may install, maintain, and upgrade any Equipment within the Conduit. The parties shall agree in advance (both acting reasonably) upon a plan of installation, upgrade or maintenance of the Equipment within the Conduit. Bell shall, at its sole expense, repair any damage caused by the exercise of its rights to access the Conduit as described herein.

12. Bell agrees to forthwith release or partially release this Agreement and all easements and rights-of-way in relation to same and as referred to herein and any other rights herein granted as to all or any part of the Building and/or the Lands which are or will be transferred to the applicable municipal authority and to execute, forthwith at no cost to the Developer, such documentation necessary to release this Agreement and all easements and rights-of-way in relation to same and as referred to herein and any other rights herein granted from those portions of the Building and/or the Lands which are or will be transferred to the municipality or any other municipal authority.

13. Bell and the Developer acknowledge and agree that upon the registration of a declaration and description pursuant to the *Condominium Act, 1998*, as amended, against (or in respect of) the Building and/or the Lands (or any portion thereof), this Agreement and all easements and rights-of-way in relation to same and as referred to herein are hereby released against all of the residential units and any other units as described in the declaration and description and those portions of the common elements appurtenant to such residential units and other units designated as exclusive use common elements (if applicable), and all of the other lands subject to this Agreement and all easements and rights-of-way in relation to same and as referred to herein (collectively the "Additional Development Lands"), which are not included in the declaration and description to be registered

on the Building and/or the Lands, and within ten (10) days of Bell being provided with evidence of the particulars of the registration of the declaration and description Bell shall, without payment, forthwith deliver a release and abandonment of this Agreement and all easements and rights-of-way in relation to same and as referred to herein as they apply to the Additional Development Lands.

14. Bell agrees, forthwith upon request and at no cost to the Developer, to postpone and subordinate this Agreement and any easement or right-of-way registered on title to any mortgagee or chargee, financing or refinancing of the Building, the Lands and/or the PEV Building/Lands and to any development agreement in relation to the Lands and in relation to the PEV Building/Lands.

15. At no cost to the Developer, Bell shall not, and shall cause each of its employees, agents and contractors (hereinafter referred to as "Bell Agents") not to: (i) cause any other telecommunications or communications service provider (an "Other Service Provider") having equipment installed within the Building prior to the installation of Bell's Equipment (the "Prior Equipment") to relocate or reconfigure the Prior Equipment except with the prior written consent of the Other Service Provider; (ii) cause any Other Service Provider to install additional equipment to accommodate Bell, except to the extent agreed upon by the Other Service Provider; (iii) cause any damage to an Other Service Provider's equipment through any act or omission of Bell or Bell Agents; and (iv) do any act that will cause any Other Service Provider, acting in a commercially reasonable fashion, to replace components of its Prior Equipment at the Equipment Space(s), in the Building or in, on or under the Building and/or the Lands. Bell shall forthwith pay all costs arising from matters in this section.

16. If the Developer or its Building systems or any of the Occupants or Other Service Provider cause damage to the Bell Equipment and/or interferes with, impedes or disrupts the Bell Services (an "Interruption"), then as soon as the Developer or Bell becomes aware of such damage and/or Interruption, it shall notify the other party of such damage and/or Interruption as soon as reasonably possible. If the damage and/or Interruption was caused by the direct actions of the Developer or the Developer Indemnitees during construction of the Building, the Developer shall use its commercially reasonable efforts to repair such damage and/or rectify such Interruption within ten (10) days. If Developer, through the use of its commercially reasonable efforts, does not repair such damage and/or rectify such Interruption for which it is responsible pursuant to this Section within ten (10) days of receipt of notice of the Interruption, Bell may, at its sole option, terminate this Agreement with thirty (30) days written notice to the Developer and Bell shall remove the Bell Equipment in accordance with S.7 herein, provided that, in the event Bell chooses not to terminate this Agreement in accordance with the terms herein, Developer shall continue to use commercially reasonable efforts from receiving notice of the Interruption to resolve the Interruption as soon as possible thereafter.

17. In the event Bell is unable to obtain any necessary third party approval in accordance with this Agreement, Bell acknowledges and agrees that the Developer shall not be held liable in any manner whatsoever provided that Developer shall take no action to influence such third party to withhold such approval.

18. Throughout the Term (and Renewal term if applicable) of this Agreement, Bell, at its sole cost and expense, shall take out and keep in full force and effect comprehensive general liability insurance, including but not limited to personal injury liability, contractual liability and owners' and contractors' protective insurance coverage with respect to Bell's access and rights upon the Building, Access Points, Bell Equipment and Equipment Spaces; such coverage shall include the activities and operations conducted by Bell and any other person(s) performing work on behalf of Bell or on whose behalf Bell is in law responsible. Such policy shall be written with inclusive limits of not less than Five Million Dollars (\$5,000,000.00) for each occurrence involving bodily injury, death or property damage, and name the Developer as an additional insured limited to the negligence of Bell and those for whom it is responsible in law, and with the required insured limit composed of any combination of primary and excess (umbrella) insurance policies. A Certificate of Insurance shall be furnished to the Developer at the time of execution of this Agreement and promptly at any time thereafter upon request, provided that no such policy shall be cancelled and not simultaneously replaced with a policy providing equivalent or better coverage without 60 days prior written notice to the Developer.

19. In the event closed-circuit security television cameras and/or other video equipment (e.g., amplifiers, splitters)(collectively, the "CCTV") exists in the Building, access and to use the signal feed from such CCTV's for the purpose of injecting such feed into the Bell Services. Developer acknowledges that Bell makes no representation or warranty in connection with access to the CCTV or use, content or quality of the signal feed.

20. Bell acknowledges that this Agreement creates no interest in the Lands upon which the Building is situated. This Agreement, any notice or caution, shall not be registered on title to the Building, the Lands or the PEV Building/Lands.

21. Bell acknowledges and agrees that this agreement does not apply to the PEV Building/Lands.

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

ASPEN RIDGE (77 CHARLES ST. DESIGN BUILD) LTD.

BELL CANADA

I have authority to bind the Corporation

I have authority to bind the Corporation

Name:

Name:

Title: Vice-President, Operations Highrise

Title: Director, Field Sales

Date: November 30 2011

Date: November 30 2011

SCHEDULE "A"
ADDRESS AND DESCRIPTION OF BUILDING AND LANDS

I. For the Building:

This Agreement applies to the following Building:

Building Name and Municipal Address:

Seventy Seven Charles West
77 Charles St. W.
Toronto, ON M5S 1K5

Legal description:

Lot 42 to 47, Plan D276 Toronto; Part Lane Plan D276 Toronto closed by EP120455 being Parts 1, 2, 5 & 6, Plan 63R-4710, City of Toronto; Subject to an Easement in favour of Rogers Cable Communications Inc. as in AT2292271.

The "Building" and "Lands" shall specifically exclude that portion of the subject building/lands which is being built for and will be conveyed to the Prom-Edu-Val Society.

