

SERVICE PROVIDER ACCESS AGREEMENT

IN CONSIDERATION OF the fees paid by **GT GROUP TELECOM SERVICES CORP.** ("Grantee") to: **TONKO DEVELOPMENT CORP. & COPEZ PROPERTIES LTD.** (collectively "Grantor") and the terms contained herein the parties agree as follows:

1. **Address where Premises are located:** 999 – 8th Street S.W. ("Building") as legally described in Schedule "A".
2. **Premises:** The Premises are as more particularly described in Schedule "B".
3. **Term: Five (5) years.**
4. **Commencement Date:** **April 1, 2001** or the date installation of the Equipment, whichever is sooner.
5. **Options to Extend:** The Grantor hereby grants to the Grantee one (1) option to extend this Agreement for five (5) years each at market fee for similar premises, uses and buildings in the vicinity of the Building at the time of extension as agreed by the parties, failing which such fees shall be determined by arbitration in accordance with such legislation in the province in which the Premises are located. To exercise an option to extend, Grantee shall provide 60 days' notice to Grantor prior to end of the relevant Term.
6. **Fee:** Grantee shall pay a fee in the sum of **\$2,000.00 (Two Thousand Dollars)** plus GST per year (the "Fee"), payable annually in advance without set off or deduction. Grantor's GST number is 897745386 RT0009. Grantee will pay its own business taxes and pay any increase in realty taxes assessed against Grantor by reason of the installation of the Equipment or its use of the Premises.
7. **Use of Premises and Utilities:** The Grantee is hereby granted the right to enter into the Building to install, maintain, repair, replace, operate, supplement and remove Grantee's equipment, cable, apparatus and ancillary attachments ("Equipment") for the telecommunication of signals to and from customers, located in the Building and as support or back-up for Grantee's ring technology in the event of an interruption in service. Grantee may, at its sole risk and liability, connect to all necessary utilities, trunk lines, customer's equipment and Grantor's electrical grounding system and will have access to required conduit, risers, closets, roof top and meter rooms. Grantor shall provide Grantee with no less than 7 days' prior written notice of any scheduled power outages to permit Grantee to make temporary backup power arrangements.
8. **Electricity:** Grantee will pay for its own electrical consumption annually in arrears. Grantee warrants that its annual consumption will not exceed \$_(TBD)_ per annum and will provide consumption data to Grantor each year. Such payment by Grantee shall be subject to escalation as reasonably determined by Grantor.
9. **Prior to Commencement Date Grantee shall:**
 - a) submit plans and specifications related to the installation of its Equipment to Grantor for approval;
 - b) obtain all easements, consents, agreements and permits required to install and operate the Equipment; Grantor agrees to cooperate and provide all consents, authorizations and information reasonably required by the Grantee;
 - c) conduct all tests required to satisfy itself that the Premises are suitable for its intended purpose and shall not interfere with or be subject to interference from service providers with equipment or utilities previously installed in the Building; and
 - d) provide Grantor with a certificate of insurance with coverage of not less than \$2,000,000 naming Grantor as an additional insured.

10. Installation and Maintenance of Equipment:

- a) Grantee will repair any damage to the Building caused by its installation, maintenance, repair, operation, supplementation or removal of Equipment upon completion of the Grantee's work and at the end of the Term.
- b) The Equipment shall be installed, operated, maintained, repaired, replaced, supplemented and removed in a good and workmanlike manner in accordance with sound engineering practices.
- c) Grantee shall ensure that no liens are registered against the Building as a result of its work, will take all necessary measures to remove any liens registered in connection with its work and will indemnify Grantor in connection therewith.
- d) Grantee will comply and will ensure that its subtrades comply with all health and safety and environmental legislation and Grantee will indemnify and save harmless Grantor for any breach thereof by itself or its subtrades.
- e) Grantee will ensure that neither the work performed by it nor its Equipment will interfere with the signals or conflict with the use of equipment of service providers granted prior access by Grantor. If such interference or conflict arises, the Grantee and Grantor shall co-operate to determine the cause of such interference. If it is determined that such interference or conflict arises from the Grantee's work or Equipment, the Grantee shall take steps to eliminate such interference and, failing such elimination within a reasonable period of time, the Grantee shall suspend or modify its operations at the Premises sufficiently to eliminate same.

11. Performance by Grantee: Provided Grantee has paid the Fee and performed its obligations under this agreement, Grantor agrees that Grantee shall have access to the Premises and Equipment 24 hours a day, seven days a week subject to Grantor's reasonable security requirements and enjoy the Premises and Equipment without interference.

12. Indemnity: Grantor and Grantee shall indemnify and save each other harmless from and against any claims, damages, costs or expenses, arising from any losses, injury to persons or damage to property caused by the negligence, wilful misconduct or for any non-compliance with the terms of this agreement by the indemnifying party or by those for whom it is responsible at law. Neither party shall be responsible for consequential damages. Grantor shall be responsible for any pre-existing environmental contamination of the Building and indemnifies and holds harmless Grantee therefrom.

13. Default and Termination:

- a) Grantor may terminate this agreement if Grantee has failed to cure a breach for which it has received 30 days' notice from Grantor, unless the breach is incapable of remedy within such period and Grantee has, within five (5) days of receipt of notice of such default, diligently commenced to cure the default.
- b) Grantee may terminate this agreement upon 60 days' notice to Grantor if the Premises are or become unsuitable for Grantee's business. Any prepaid Fee shall be adjusted to the date of termination.
- c) Grantee acknowledges that space for telecommunications equipment in the Building is limited and that the Grantee's rights hereunder are based upon the Grantee serving customers in the Building. After the first two years of the Term of this agreement, Grantor may terminate this agreement at any time during the remainder of the Term or any renewal thereof upon 90 days notice to the Grantee if the Grantee has not commenced service to a customer in the building before the end of the notice period. If Grantee has customers and then has none for a period of 270 consecutive days, Grantor may terminate this agreement upon 30 days notice to the Grantee if the Grantee has not obtained fresh customers before the end of the notice period. Grantee shall provide to the Grantor on demand evidence of its customer base in the Building.
- d) Upon the expiry or termination of this agreement, Grantee shall, at the request of Grantor, remove all of its Equipment and repair all damage to the Building resulting from such removal. Grantee shall indemnify and save Grantor harmless for any damage, losses or expenses incurred by Grantor as a result of Grantee's failure to remove its Equipment or repair any such damage.

14. **Transfer:** Grantor may assign this agreement at any time and shall be relieved of all obligations to Grantee under this agreement to the extent such assignee assumes the Grantor's obligations under this agreement and Grantor shall ensure that the assignee receives actual notice of this agreement. Grantee shall not assign this agreement or subagreement all or part of the Premises (collectively, an "Assignment") without the prior written approval of Grantor, acting reasonably. Notwithstanding the foregoing, Grantee may effect an Assignment to a corporate affiliate, its senior lenders or their collateral agents or a purchaser of a material portion of its business upon notice to Grantor. Grantee shall remain liable under this agreement notwithstanding any such Assignment.
15. **Notices:** All notices under this agreement shall be in writing and may be delivered by mail, facsimile or in person to the addressee below and shall be deemed received three business days later if mailed and the next business day following the date of transmission by facsimile or personal delivery.
16. **Agreement:** Grantee acknowledges and agrees that this agreement constitutes a contractual license, but does not confer upon the Grantee an interest in real property and that Grantee is accordingly not entitled to register any instrument with respect to this agreement against the title to the lands.
17. **General:** This is the entire agreement between the parties affecting the subject matter described herein. Any amendments must be in writing and signed by both parties. If any portion of this agreement is found to be invalid, such portion shall be severed without affecting the validity of the balance of the agreement. Except for reasons of financial inability, delay in performance by either party shall be excused for delay for causes beyond their reasonable control. The parties warrant that there are no restrictions contained in any other agreement to which they are a party that would prevent either party from entering into this agreement. The provisions of this agreement shall be subject to all applicable regulatory laws and regulations, which will prevail in the event of conflict. This agreement is binding on the parties and their respective successors and assigns.
18. **Registration:** Grantor agrees to provide to any prospective purchaser or mortgagee ("Transferee") of the Building actual notice of this agreement by delivering a copy of this agreement to such prospective Transferee before completion of the transfer transaction and agrees to indemnify Grantee for all damages suffered by Grantee as a result of its failure to do so.

Date: March 19, 2001

Grantee: **GT Group Telecom Services Corp.**

Per: _____

Name: _____

Title: Vice-President & General Manager,
Prairie Region

I have the authority to bind the Corporation.

Mailing Address for Notices:

20 Bay Street Suite 700
Toronto, Ontario
M5J 2N8

Attention: Director, Facilities

Facsimile: (

Telephone:

Date: March 21, 2001

Grantor: **Tonko Development Corp. &
Copez Properties Ltd. /7**

Per: _____
Name: _____

Title: _____

Vice President

I have the authority to bind the Corporation.

Mailing Address for Notices:

999 - 8th Street S.W.
Calgary, AB T2R 1J5

Attention: .

Director of Information Technology

SCHEDULE "A"

Legal Description

Plan Calgary 1423LK
Block Thirty Eight (38)

Excepting Thereout:

Plan: Roadway No: 8210711 Hectares: 0.031 (more or less) Acres: 0.08

Excepting thereout all mines and minerals

SCHEDULE "C"

Additional Provisions

TO BE DELETED