

**Bell**

ABRIDGED

January 10, 2003

Delivered by Courier

Private and Confidential

Port Royal Place (Phase I) Developments Inc.

C/O: Michael Volpatti

Bratty & Partners

Suite #200  
7501 Keele St.  
Vaughan, Ont.  
L4K 1Y2

Dear Michael,

Re: Bell Canada *Telecommunications Access and Marketing* .

This letter agreement (the "Agreement") provides the terms and conditions between Bell Canada and its respective affiliates. (as defined in the '*Canada Business Corporations Act, as amended*) employees, agents contractors and sub :contractors (collectively, "Bell") and Port Royal Place (Phase I) Developments Inc:

(the "Owner") upon which Bell wishes to gain access to the planned condominium sales centre located at 5055 Dundas Street *West* and as further described in Schedule "A" (the "Sales Centre") and as applicable, access to Building "A" the multi-unit dwelling building to be constructed by *Owner* at I 7 Michael Power Place, Etobicoke, Ontario as further described in Schedule "A" (the "Building").

Owner hereby grants to Bell throughout the Term and any Renewal Term; a right and non-assignable personal license to enter on and gain access in, over or under the Sales Centre or Building as the case may be, and any other equipment and/or telecommunications room, the roof, existing cabling at the Sales Centre or Building owned by the Owner, if any, which connects central riser \wiring to individual units within the Building, the common elements and other common areas of the Building or the Sales Centre to: ...

(a) .install, at no *cost* to the Owner, basic telephony equipment in the Sales Centre on an exclusive basis to Bell, to allow Bell to provide prospective purchasers with access to telephone services to order Bell Services; ..

(b) make, at no cost to the Owner, Bell telephone and telecommunications services (collectively the "Bell Services") available to prospective purchasers and to deliver the Bell Services to the Sales Centre and to Residents in the Building;

(c) develop and implement, all at no cost to the Owner, reasonable marketing programs, which shall all comply with any requirements of the proposed declaration, by-laws and rules of the proposed condominium corporation, to promote and sell Bell Services to prospective purchasers and Residents (the "Marketing Programs") comprising the following activities:

(i) conducting, with the prior written consent of and at no cost to the Owner, one or more information meetings to inform prospective purchasers or Residents, as the case may be, of the availability of Bell Services;

(ii) distribution by Bell, with the prior written consent of and at no cost to the Owner, of information packages to prospective purchasers or Residents;

(iii) contacting, with the prior written consent of the Owner, prospective purchasers or Residents from a list containing their names, addresses and telephone numbers, to be provided by Owner, to market, at no cost to the Owner, Bell Services before or after prospective purchasers or Residents move into the Building;

(iv) displaying and/or distributing information and/or advertising material, with the prior written consent of and at no cost to the Owner, regarding Bell's respective Bell Services on or within the Sales Centre or Building;

(v) entering onto the Sales Centre and/or Building by Bell, subject to giving reasonable notice to the Owner or its building manager or superintendent, as applicable, of its intention to enter the Sales Centre and/or Building, for the purpose of providing, at no cost to the Owner, information, demonstrations or any other reasonable information to prospective purchasers and Residents regarding the Bell Services, all in accordance with this Agreement;

(d) conduct, with the prior written consent of and at no cost to the Owner, pre-installation tours and inspections of the Sales Centre and/or Building in order to determine the technical, operational and economic feasibility of installing Equipment (as defined below) in the Sales Centre and Building for the purpose of delivering Bell Services to prospective purchasers and Residents;

(e) install with the prior written consent of and at no cost to the Owner, all equipment, infrastructure or otherwise, necessary and incidental to the delivery of Bell Services comprising switches, routers, racking, backboards, cabling, wiring, and other networking and fibre optic equipment used to enable and distribute Bell Services (including VDSL technology), (the "Equipment") to the Sales Centre and to tenants, owners or Residents in the Building (collectively the "Residents"). For greater certainty "Equipment" excludes (1) any cabling owned by the Owner or any other third party, and (2) 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 Residents by Bell or any other authorized sales agent. Subject to Bell giving reasonable notice to the Owner or its building manager or superintendent, as applicable, of its intention to enter the Building, the Owner shall allow Bell to gain access to the Building for the purpose of picking up, at no cost to the Owner, any IRD no longer required by a Resident. .'

(C) operate, maintain, repair or replace, at no cost to the Owner, any component forming a part of the Equipment and any other item of equipment necessary or incidental to perform its obligations under this Agreement and/or to enjoy the rights granted herein; and

(g) make, at no cost to the Owner, the Bell Services generally available to Residents including such other equipment to be furnished to those Residents who agree to subscribe to applicable Bell Services.

(collectively, the "Access Terms").

In consideration of Owner granting Bell the exclusive right to market some or all of the Bell Services at or through the Sales Centre and the Building,  
However, nothing in this Agreement shall be construed or interpreted as granting Bell any other exclusive rights or privileges in or to the Building, particularly relating to access or installation rights, to the exclusion of any other third parties.

Owner also agrees to provide to Bell, at no charge, access to and use of, one or more rooms or other segregated, enclosed spaces (the "Equipment Space"), as needed and mutually agreed upon by the parties, acting in good faith, for the purpose of housing or storing the applicable Equipment. Owner agrees that these access rights include a right to access the Equipment Space in the Building. Bell shall have reasonable and continuous access into the Building and to the Equipment Space subject to giving reasonable notice to the Owner or its building manager, property manager or superintendent, as applicable, of its intention to enter the Sales Centre or Building in order to install, operate, maintain, repair or replace, the Equipment, at no cost to the Owner, provided that entry will be made during normal business hours except in the case of emergency. Bell shall ensure that all Equipment is installed in accordance with all relevant government requirements, including fire and building code requirements. Bell shall, at no cost to Owner, be responsible for the maintenance and repair of the Equipment installed by Bell during the Term and any Renewal Term, although each individual Resident may incur charges (at Bell's then applicable rates) relating to post-installation activities specific to such Resident's in-suite requirements. 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 specified or reasonably contemplated by Paragraphs (n)-(g) above and shall not make any claim to the contrary.

The *Owner* represents and warrants that: (1) it has full right, power and authority to enter into and perform its covenants and obligations in this Agreement; (2) it is under no obligation to a property manager, any Resident or any third party, statutory, contractual or otherwise, which could materially interfere with the complete performance of its covenants and obligations herein; (3) it is validly organized and existing under the name indicated on this Agreement; and (4) no rule or by-law is in force that *would* prevent or limit Bell from providing the Bell Services or conducting the Marketing Program under this Agreement,

Except as otherwise agreed in writing, Bell shall obtain and/or retain all title, ownership rights and intellectual property rights in or to all forms of intellectual property resulting from the provision of Bell Services or in connection with the Access Terms or Marketing Programs. Such intellectual property constitutes confidential information and shall be treated in accordance with the terms of this Agreement. *Owner* shall not use Bell's logo, trade names, trademarks, or any other intellectual property unless *Owner* obtains the prior written consent of Bell. *Owner* and Bell shall provide the other *with* reasonable advance notice of any public announcements or publications with respect to the general intent or existence of this Agreement or the business obtained under this Agreement and agree to obtain the other party's prior approval and incorporate the other party's comments before release.

The *Owner* hereby agrees that this Agreement and any information provided by Bell to the *Owner* herein, including, Without limitation, information relating to third parties obtained through Bell, shall remain the confidential information of Bell and the *Owner* shall not disclose such confidential information without the prior written consent of Bell, or unless disclosure of such confidential information is compelled by judicial or regulatory process or otherwise by law or if the confidential information has been made public without any action by the *Owner*. For greater certainty, this provision shall not be construed to prevent the *Owner* from disclosing any of the terms of this Agreement to its auditors, financial and legal advisors, or as may otherwise be required bylaw.

Bell agrees to perform its *work* in a good and workmanlike manner, and further agrees to indemnify and save the *Owner*, its directors, officers, servants, agents and employees harmless, on a joint and several basis, from any damage to persons or property caused by reason of the improper installation, repair or maintenance of the Equipment.

Except to the extent caused by or resulting from the negligence or misconduct of the *Owner* or its directors, officer, servants, agents and employees, or a breach of, or failure to perform, any of the *Owner's* representations warranties obligations or covenants contained herein, Bell hereby indemnifies and saves the *Owner* harmless, on a joint and several basis, from and against any and all liability, damages, costs (including legal cost as between the solicitor and its own client) and claims arising or resulting from (whether *now* or in the future) any dispute between a prospective purchaser or Resident and Bell in respect of the Bell Services, In no event shall any party be liable to any other party for any consequential economic loss, loss of profits, any indirect damages, or *for* punitive, special or exemplary damages of any kind whatsoever.

Both Bell Canada and *Owner* acknowledge and agree that this Agreement is effective as of the date last signed by both parties below and shall expire on January 10, 2013 (the "Term"). This Agreement shall automatically renew *for* an additional term equal in duration to the Term (the "Renewal Term") unless either party notifies the other party in writing at least *Sixty* (60) days prior to the expiration of the Term or Renewal Term, as the case may be that it does not wish to extend the provisions of this Agreement beyond the initial Term or

Renewal Term. 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, 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.

Bell acknowledges and agrees that following the creation of the proposed condominium corporation on 17 Michael Power Place, Etobicoke, Ontario (the "Property") and its turnover to the unit Owners ("Turnover"), the Owner will no longer control the Property or the Building. The Property, the Building and the activities thereon will thereafter be controlled by the new condominium board of directors, by-laws, rules etc. Accordingly, the Owner shall have no obligation to Bell regarding the Property or the Building following Turnover to the extent that the Owner is unable to carry out its obligations as a result of Turnover.

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 *Telecommunications Act*, the *Broadcasting Act*, and any amendments thereto or the Canadian Radio-Television and Telecommunications Commission ("CRTC") and the obtaining and continuance of any required approval or authorization of the CRTC, or any other governmental body. Either *party* may terminate its obligations under this Agreement if ordered to do *so* by the final order or Ruling of a court, or any governmental tribunal or agency or if *such* order or ruling is inconsistent with the terms of this Agreement or would make it impractical or uneconomical *for* either party to carry out its obligations under this Agreement. In addition, if at any time, during the Term of this Agreement, the action of a governmental agency requires modification of the Bell Services or the terms in which they are provided hereunder which is inconsistent with the terms of this Agreement or impairs Bell's ability to provide the Bell Services in a economical and technically practical fashion, Bell may terminate this Agreement upon thirty (30) days written notice to Owner.

Owner and Bell agree that where a provision of this Agreement conflicts with a Schedule attached hereto, the provision of this Agreement shall prevail and both the 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. Any of the rights and obligations contained herein may not be assigned or transferred by either party, without the prior written consent of the other party.

Should a dispute arise between Bell and Owner as to any issue hereunder, every effort will be made to ..- resolve the dispute within ten (10) days. If resolution cannot be achieved, the dispute will be referred to the senior management of each of Bell and Owner who shall try to reach agreement within five (5) days, failing which .either party can pursue any remedy it sees fit.

In the event that the Owner has entered into a marketing or any other type of arrangement with another telecommunications supplier *for* internet and/or television services, Bell hereby agrees that the Owner can maintain *such* arrangement throughout the Term or any Renewal Term of this Agreement.

This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings whether written or oral relative to the subject matter hereof. Except as otherwise co . specifically set *forth* in this Agreement, neither party makes any representation or warranty, express or. implied, statutory or otherwise to the other. This Agreement may *not* be amended or modified except by a \written instrument executed by both parties.

If you are in agreement with the foregoing terms and the attached documents, please sign and return this Agreement to Bell on or before January 24, 2003.

Bell Canada

Port Royal Place (phase 1) Developments Inc.

Signed on this 21<sup>st</sup> day of January, 2003

Signed

Bell Canada

Geoff Martin

Port Royal Developments

Marco Muzza

## Schedule A

Municipal Address of Sales Centre

Municipal Address:

5055 Dundas street Wes. Etobicoke, Ontario. M9A 1C1

Municipal Address and Legal Description of Building

Municipal Address:

17 Michael Power Place, Etobicoke, Ontario, M9A 5G5 (Building " A")

Legal Description: .

Part of Lot 7, Concession A, Clergy Block: being part of the lands designated as Parts 1.2 and/or 3, Plan 66R-18851. City of Toronto (formerly City of Etobicoke), Land Titles Division of Toronto (No.66)

Plan BA--41 confirms the South limit of Dundas Street. under the: Boundaries Act registered as No- 6922 on 196310&JO2 as in Instrument No. £8274592