

Abridged



**TELECOMMUNICATION AND BUILDING ACCESS AGREEMENT**

This License is Dated August 1, 2012 and shall be effective as of the date last signed by both parties below (the "**Effective Date**")

WHEREAS Realstar Management (the "**Manager**") acts as property manager and agent for One Clark Street Limited (the "**Owner**") the owner of the multi-unit dwelling building (the "**Building**") all as further described in Schedule A hereto.

AND WHEREAS Bell Canada and the Owner are entering into this License concurrently with a non-exclusive marketing agreement dated August 1, 2012 (the "**Marketing Agreement**")

In consideration of the mutual rights and obligations herein expressed and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) Bell Canada and the Owner agree as follows:

1. Subject to the Owner's and /or Manager's rules and regulations and subject to the rights of tenants and occupants of the Building, where Bell is duly advised of the same, the Owner, hereby grants to Bell Canada (hereinafter referred to as "**Bell**") and any Affiliates of BCE Inc. (as the term "**Affiliates**" is defined in the *Canada Business Corporations Act*, as of the date of this License) and including, without limitation, those for whom Bell is responsible in law, at no cost or change to Bell, a non-exclusive right and license to:

i. enter on and gain access in, over or under the Building and the common elements and other common areas of the Building, including without limitation, access to and use of, one or more rooms (which rooms, include, without limitation, telecommunications riser rooms on each floor of the Building and demarcation points in each Building) or segregated spaces in, on, over or under the Building (the "**Equipment Space(s)**") for the purpose of: (a) making available and providing telecommunications and other communication services (currently being telephone, internet, and television services provided other services may be added subject to the Owner's prior approval, acting reasonably) subject to CRTC rulings from time to time, (collectively, the "**Bell Services**") to prospective purchasers and the owners, tenants, invitees or residents of the Building (collectively, the "**Occupant(s)**");

ii. except in circumstances where the Owner has entered into an exclusive marketing agreement with a Bell competitor, exercise a non marketing and advertising right in accordance with the terms and conditions of the Market Agreement. For clarity, this License does not extend to Areas or elements subject to the exclusive and private use of an Occupant (hereinafter referred to as a "**Unit**") unless Bell first obtains the permission of the applicable Occupant of such Unit, save and except for any unoccupied Units under the control of the Owner;

iii. use, construct, install, test, operate, maintain, repair, service, upgrade, modify, remove and replace Equipment in, on, over or under the Building (including, without limitation, installation of Equipment for marketing demonstrations of Bell Services except in circumstances where the Owner has entered into an exclusive marketing agreement with a Bell competitor) (the "**Installation, Operation or Maintenance**") "**Equipment**" includes but is not limited to and hardware, wire, cabling, infrastructure or otherwise (excluding conduit), which is necessary and incidental to enable and deliver and demonstrate Bell Services to Occupants. Bell shall complete the installation of its Equipment within a reasonable period following the Effective Date. Nothing herein limits Bell's ability to change, alter or replace the Equipment with new and/or different equipment necessary to provision the Bell Services, provided that where a "material" Installation, Operation or Maintenance is planned, Bell shall obtain the Owner's prior approval (except in respect of Occupant's spaces) of the "**Scope of Work**", which is defined as: (a) the plans, specifications and working drawing; and (b) the timing of such changes, alterations or replacements, prior to Bell undertaking and action hereunder and all such changes, alterations or replacements shall comply with the pre-approved plans and specifications and shall be completed in a good and workmanlike manner. The Owner will not unreasonably withhold or delay its approval. Approval by the owner of any plans and specifications does not constitute a representation, warranty or acknowledgement the work satisfies the requirements noted above but is to be constructed merely as permission to proceed and complete such work. Without limiting the generality of the foregoing, the term "material" when referring to any installation, Operation or Maintenance includes but is not limited to the following examples: when any Installation, Operation or Maintenance (i) creates any noise or has the potential to disrupt tenants or other Occupants of the Building, (ii) has the potential to affect or interfere with any Building Services, (iii) requires Bell to have access to or occupy additional space in the Building, and /or (iv) requires Bell to bring additional conduit, cable or items of equipment into the Building (except in Occupants' spaces); and

iv. in the event close circuit security television cameras and/or other video equipment (e.g. amplifiers, splitters) (collectively, the “**CCTV**”) exists in the Building, subject to the Owner having control over such CCTV’s, access and to use the signal feed from such CCTV’s for the purpose of injecting such feed into the Bell Services. The Owner acknowledges that Bell makes no representation or warranty in connection with access to the CCTV or use, content or quality of the signal feed.

Nothing herein shall be construed or interpreted as granting Bell any exclusive access rights or access privileges in or to the Building to the exclusion of any other third parties

2. Subject to rules and regulations and security requirements imposed by the Owner from time to time, where Bell is notified of the same, the Owner acknowledges the Bell shall also have access to a path and/or conduit along, over, under or on the property, from the property line 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 and 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.

3. 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 reasonable notice to the Owner or its agent of its intention to enter the Building for purposes of the License and subject to Bell complying with the Owner’s reasonable security requirements.

4. The parties shall meet the installation requirements for the equipment to be installed by Bell (the “**Bell Equipment**”) as such requirements are more specifically set forth in Schedule “B” hereto. Bell shall at its own cost: (i) ensure that any work carried out by Bell in the Building and /or any Unit shall be conducted in a good and workmanlike manner causing as little noise, disruption, disturbance or interference with the quiet enjoyment of the Occupants as possible; (ii) ensure the Bell Equipment is installed in accordance with all laws, including without limitation, relevant fire and building code requirements in force at the time of the installation; (iii) clearly label all Bell Equipment installed by Bell; and (iv) be responsible for the provision, installation, maintenance and repair of Bell Equipment during the Term, although each individual Occupant may incur charges (at Bell’s applicable rates) specific to such Occupant’s in-suit requirements. Plans, specifications and working drawings for all work and installation will be provided by Bell to the Owner for its approval prior to the commencement of any ‘material’ work or installations (as the term “material” is defined in Section 1(iii) above). Following completion of any work or installation, Bell shall promptly deliver as-built drawings to the Owner. If a construction or builder’s lien is registered in connection with any work or improvements performed by Bell, Bell will obtain its removal within seven (7) days after notice to it by the Owner. If Bell fails to comply with this obligation, the Owner may pay into the court the amounts and take whatever steps are required to obtain the removal, all at Bell’s cost. Bell will use best commercial efforts ensure that no lien or interest is claimed in respect of a Building by any third party in respect of work or improvements provided by or on the behalf of Bell. Bell covenants to repair, at its sole expense, any direct damages to the Building or the Equipment Space where such damages are caused by or arising out of any act (including misconduct) or omission relating to Bell’s use and occupation of the Equipment Space or the Building (the “**Covenant**”). 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. The Owner agrees that it has no legal or equitable ownership interest in Bell Equipment nor any of the Bell owned items reasonably contemplated herein and shall not make any claim the contrary. Notwithstanding anything to the contrary contained in this License, Bell shall be responsible, at its sole cost and expense, for the removal of any of its abandoned cables or wiring if such removal is required by the Ontario Building Code or any governmental authority having jurisdiction and shall comply with any such removal direction or order within thirty (30) days of the Owner’s written request for removal.

Nothing in this License limits the Owner’s right to alter or repair any common elements of a Building; provided that where any such repair may affect the Bell Equipment, the Owner shall provide Bell with reasonable advance written notice to request Bell to adjust and/or move its Equipment before the alterations or repairs are made except in the case of emergency repairs where no notice is required. As it pertains to Owner initiated alterations or repairs, affecting the Bell Equipment, the Owner shall: (i) provide Bell with reasonable advance written notice to request Bell to adjust and /or move the Bell Equipment on (either and permanent or temporary basis, as determined by the Owner) before the maintenance or repairs are made and which notice shall contain necessary particulars 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, commencement, duration or completion of such maintenance or repairs or such other matter in respect thereof that could have an impact on the Bell Equipment or Bell’s ability to deliver the Bell Services. Despite the foregoing, where alterations, maintenance or repairs undertaken by the Owner require Bell to move or relocate (on either a permanent or temporary bases, as determined by the Owner) any of the Bell equipment (excluding in-suit wiring), Bell shall provide one (1) Bell technician for a maximum of three eight (8) hour periods and pay for fifty (50%) of any costs exceeding

a maximum amount equal to the cost to Bell of the technician referred to above, to facilitate the movement or relocation of the Bell Equipment as required by the Owner.

5. 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; (2) it is under no obligation, statutory, contractual or otherwise, which could prevent or interfere with the complete performance of its covenants and obligations herein; (3) it is validly organized and existing under the name indicated on this License; and (4) no building rule is in force that would prevent or limit either party from; (i) entering into this License; and/or (ii) performing its obligations hereunder.

6. Bell Canada will be liable for and will indemnify and save harmless the Owner, its directors, officers, employees, and contractors, and those for whom it is responsible in law (collectively, the "**Owner Indemnitees**") and the Manager, its directors, officers, employees, and contractors and those for whom it is responsible in law (collectively, the "**Manager Indemnitees**"), from and against any and all losses, suits, actions, causes of action, proceedings, damages, costs, claims and expenses (collectively, the "**Losses**") arising from physical damage to any tangible property or bodily injury, including death, to any person caused by or arising out of any negligent act, willful misconduct or omission relating to Bell's use and occupation of the Equipment Space or the Building (including, without limitation, the Covenant set forth in Section 4 herein), provided that Bell Canada will not be required to indemnify the Owner Indemnitees and/or the Manger Indemnities, as the case may be, to the extent and such Losses are caused by the gross negligence or willful misconduct of any of the Owner Indemnitees and/or the Manger Indemnities, as the case may be, and Bell will not be liable for or indemnify and save harmless the Owner Indemnitees from and against any 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, even if advised of the possibility of such damages. Notwithstanding the foregoing or anything to the contrary contained in this License, in no event will the Owner or the Manger be liable for or indemnify and save harmless Bell Canada from and against any 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, even if advised of the possibility of such damages. This section shall survive the expiration or termination of this License.

7. The term of this License is effective as of the Effective Date and shall continue to run for a period of approximately ten (10) years expiring on July 31, 2022 (the "**Term**"). Following the expiry of the initial Term (the "**Hold over Period**"), this License may continue to be in effect, upon the same terms and conditions, unless either the Owner or Bell exercises its termination right set out in Section 8 below.

8. (a) Either the Owner or Bell may terminate this license by giving the other party written notice of its intention to so terminate at least one hundred and twenty (120) days before the expiration of the initial Term. If such termination notice is delivered by either party, then this License will terminate on the expiry date of the initial Term in accordance with this License.

(b) if this License is not terminated by either party as set out in Section 8(a) above, and continues to be in full force and effect during the Holdover Period, then during such Holdover Period, either the Owner or Bell may terminate this License, at any time, by giving the other party at least one hundred and twenty (120) days' prior written notice of its intention to so terminate and the Holdover Period shall expire on the date set out in the party's termination notice in accordance with the terms of this License.

9. Bell will be considered to be in material default of this License if:

(a) it becomes bankrupt or insolvent, becomes unable to pay its liabilities when they become due, has insolvency proceedings commenced by or against it, makes an assignment for the benefit of its creditors, takes the benefit of any status relating to bankrupt or insolvent debtors;

(b) it fails to perform any of its obligations under this license and fails to remedy such default within thirty (30) days (or such longer period as may be required in the circumstances to remedy the default provided that Bell commences and continues to diligently remedy such default) after receiving written notice of a default;

(c) it fails to make payment of any amount which it is required to make payment of to the Owner of any amount which it is required to pay, subject to receiving thirty (30) days' written notice of a default; or

(d) it fails to perform any of its obligations under the Marketing Agreement and fails to remedy such default within the notice and cure periods, if any, set out in the Marketing Agreement.

If a material default occurs, then the Owner may, without further written notice, terminate this License and recover damages without limiting and of its other remedies.

Interest will accrue at the rate of two percent (2%) per annum greater than the “**Prime Rate**” on any late payment required to be made by Bell or the Owner and that the interest will occur until the date of the payment. The Prime Rate means the rate quoted as its “prime rate” for commercial loans in Canada by The Toronto Dominion Bank.

Bell acknowledges and agrees that (i) a material default under this License shall be deemed to be a material default under the Marketing Agreement; (ii) a material default under the Marketing Agreement shall be deemed a material default under this License, which in either case shall entitle the Owner to exercise all rights and remedies as are available to it under this License, the Marketing Agreement and at law, including, without limitation, the right to terminate both or any of this License and the Marketing Agreement.

10. The Owner will be considered to be in material default of this License if: (a) it fails to perform any of its material obligations under this License and fails to remedy such default within thirty (30) days (or such longer period as may be required in the circumstances to remedy the default provided that the Owner commences and continues to diligently remedy such default) after receiving written notice from Bell specifying the nature of the default; or (b) it fails to perform any of its material obligations under the Marketing Agreement and fails to remedy such default within the notice and cure periods, set out in the Marketing Agreement. If a material default occurs, then Bell may, upon written notice to the Owner, terminate this License.

The Owner acknowledges and agrees that (i) a material default under this License shall be deemed to be a material default under the Marketing Agreement; (ii) a material default under the Marketing Agreement shall be deemed a material default under this License, which in either case shall entitle the Bell to exercise all rights and remedies as are available to it under this License, the Marketing Agreement and at law, including, without limitation, the right to terminate both or any of this License and the Marketing Agreement.

11. If the action of a governmental agency requires modification of Bell’s Services or the terms in which they are provided which is inconsistent with the terms of this License or impairs Bell’s ability to provide the Bell Services in an economical and technically practical fashion, Bell may terminate this License upon thirty (30) days’ written notice to the Owner.

12. Upon expiry or earlier termination of this License (including, without limitation, a termination under Sections 8, 9, 10 or 11 of this License), the Manager and/or Owner may require Bell to remove all abandoned cables in accordance with Section 4 above, and may require that Bell remove the Bell Equipment and improvements in the Equipment Space(s) if they are interfering with any other operating system of the Building or if they are occupying space that is needed for other purposes, and may require Bell to restore any damage caused in connection with the removal, all within thirty (30) days of the Owner’s written notice to Bell requiring the removal, after which the Bell Equipment shall be deemed abandoned and ownership and title shall automatically transfer to the Owner.

13. 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 address listed below:

**To Bell Canada:**

100 Wynford Drive, Floor 3  
Toronto, Ontario  
M3C 4B4

Attn: Vice President of Sales and Distribution

with a copy to Bell Canada's  
Legal Department

**To Owner:**

One Clark Street Limited  
77 Bloor St. W. Suite 2000  
Toronto, Ontario, M5S 1M2

Attn: Owner / Property Manager

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

14. Where a provision of this License conflicts with a Schedule attached hereto, the provision of this License shall prevail. This License and Schedules will be governed by the laws of the Province of in which the Building is located, and the applicable laws of Canada therein. Excluding any conflict of laws, rule or principle which might refer to the laws of another jurisdiction. This License shall also be 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*, as amended, the *Broadcasting Act*, as amended, or the rules and regulations of the Canadian Radio-Television and Telecommunications Commission (the "CRTC")

15. This License and Marketing Agreement constitute the entire agreement of the parties and supersedes all prior agreements and understandings on the subject matter hereof. Except as provided in Section 5, neither party makes any representation or warranty expressed or implied, statutory or otherwise to the other. If any provision of this License is found to be invalid, illegal or unenforceable, the other provisions of this License shall not be affected or impaired, and the offending provision shall automatically be modified to the least extent necessary in order to be valid, Legal and enforceable.

16. If the Owner sells the Building it will make commercially reasonable efforts to have the purchaser assume this License and upon assumption of this License by the purchaser, the Owner will be released in respect of all those obligations that would otherwise have been required to be performed by the Owner in respect of the period from and after the date of the sale or other disposition. The Owner agrees to provide to Bell notice of any sale within fourteen (14) days after completion of the sale.

17. Bell may not assign or transfer and of its rights and obligations under this License without first obtaining the Owner's written consent, which will not be unreasonably withheld. Notwithstanding the foregoing:

(a) any obligations of Bell under this License may be performed in whole or in part by an Affiliate (as that term is defined on the *Canadian Business Corporations Act*) of Bell and if the Building ceases to be in a geographic area in which Bell provides telecommunication, television, internet local telephone and long distance services, the Owner will accept performance of Bell's obligations by a provider of services designated by Bell by notice to the Owner (which notice must be given at least thirty (30) days before its effective date) but Bell will continue to be obligated to ensure there is full performance of its obligations under this License throughout the Term; and

(b) Bell may assign its rights under this License, on a bona fide basis, to an Affiliate (as that term is defined on the *Canadian Business Corporations Act*) of Bell without the prior written consent of the Owner, if; (i) the assignee executes an agreement with the Owner to be bound by the terms of this License. (ii) the assignee agrees in the agreement referred above, that should it cease to be an Affiliate of Bell, an assignment in respect of which the Owner's consent is required as provided above will be considered to occur; and (iii) the assignee provides to the Owner those reasonable particulars which the Owner requires in order to satisfy itself concerning the requirements stipulated above, and provides to the Owner reasonable advance notice to enable it to prepare, negotiate and obtain the execution of the agreement mentioned above and to satisfy itself the requirements stipulated above are satisfied.

No assignment whether to an Affiliate or otherwise, shall release Bell from any liability or obligation under this License, unless the Owner provides a release in writing.

18. The Owner shall notify Bell in the event the property management company of the Building should change. Notwithstanding such change of property management, the Owner and the Building shall continue to be subject to the terms and conditions of this License and shall provide a copy of this License to the new property management. For greater certainty, nothing in this License precludes the Owner from changing the Manger and such action shall not affect the License or its economic terms.

19. The Owner and Bell hereby agree that this License and any information provided by one party to the other party herein, including, without limitation, information relating to third parties obtained, shall remain the confidential information of the parties and neither party shall disclose such confidential information without prior written consent of the other party, 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 and action by the disclosing party. For greater certainty, this provision shall not be constructed to prevent either party from disclosing and of the terms of this License to its auditors, financial and legal advisors, or as may otherwise be required by law. This section shall survive the expiry or early termination of this License.

20. Throughout the Term of this License, Bell. At its sole cost and expense, shall take out and keep in full force and effect: (a) all risks property insurance for the full replacement cost of all Bell's Equipment; (b) commercial and comprehensive general liability insurance, including but not limited to legal liability coverage for personal injury liability coverage for personal injury liability or death of the Owner's employees or any bodily injury or property damage suffered by any Occupants of the Building, coverage for bodily injury or death or physical damage to tangible property (including physical damage to the Building and any tangible property of the Owner and others), contractual liability and Owners' and contractors' protective insurance coverage with respect to Bell's use of the Building or any portion thereof; 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 policies shall be issued by an insurer reasonably acceptable to the Owner, written with inclusive limits of not less than Ten Million Dollars (\$10,000,000.00) for each occurrence

involving bodily injury, death or property damage, and name the Owner and the Manager as additional insured's, and with the required insured limit composed of any combination of primary and excess (umbrella) insurance policies. Bell's insurance policies will contain a cross-liability clause and severability of interest clause.

Bell shall provide a certificate of insurance as reasonable proof of such insurance to the Owner, at the Owner's request, prior to the commencement of this License which shall state that the insures(s) will endeavor to notify the Owner, in writing, that the policy is cancelled at least thirty (30) days prior to such cancellation. Annually, at the Owners request, on the anniversary of the commencement date of this License, or upon renewal of the respective policies, as the case may be, Bell shall provide, proof of such insurance in the form of insurance certificates signed by Bell's insurance brokers or its insures' authorizing representatives, and in a form consistent with the standard developed by ACORD (Association of Cooperative Operations, Research and Development) to the Owner.

21. Bell shall not register this License nor any notice of this License on the title to the Building to which this License applies nor will it permit a third party to register such a notice. If such a notice is registered, Bell will use reasonable commercial efforts to obtain its removal, at Bell's sole cost, promptly upon becoming aware of the registration.

22. If the Equipment interferes with, impedes or disrupts (each being and "**Interruption**") any communications signal that is generated by equipment lawfully existing within the Building prior to and after the installation of Equipment, the Owner shall notify Bell in writing of such Interruption and Bell will promptly remedy any problems relates to such Interference. In particular. But without limiting that requirement, Bell will use reasonable commercial efforts to ensure that the Equipment does not interfere with any Building operating equipment, computers, security camera signals', security systems or other building systems, and will not continue to interfere with any telecommunication equipment or services.

23. The parties confirm that it is their wish that this License and all documents and agreements directly or indirectly relating thereto, including notices, be drawn up in English. Les parties reconnaissent leur volonte expresse que cette licence ainsi que tous les documents et conventions qui s'y rattachent directement ou indirectement, y compris les avis, soient rediges en langue anglaise.

24. If any of Bell's rights and obligations under this License are exercised by an Affiliate of BCE Inc., then Bell will cause that Affiliate to comply with the terms of this License and Bell will indemnify and save harmless the Owner, its directors, officers, employees and contractors and those for whom it is in law responsible from an against any losses, suits, actions, causes of action, proceedings, damages, costs, claims and expenses arising from the Affiliates use and occupation of the Equipment Space or the Building and any breach of terms of this License by an Affiliate of BCE Inc.

In witness thereof the parties through their duly authorized representatives have executed this Agreement as of the date indicated below.

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**ONE CLARK STREET LIMITED**

**BELL CANADA**

\_\_\_\_\_  
I/We have the authority to bind the Corporation

\_\_\_\_\_  
I have authority to bind the Corporation

Name:

Name:

Title: President

Title: Director, Field Sales

Date: Aug 9, 2012

Date: Aug 9, 2012

**Schedule "A"**  
**Address and Description of Building**

A. This License applies to the following Building:

<u># of Suites</u>	<u>Municipal Address</u>	<u>Owner Name</u>
88	1 Clark St, St. Catharines, L2R 7L5	One Clark Street Limited