

# *Bell*

## *Telecommunications Access Agreement Abridged*

Effective Date: May 31, 2004

Agreement between Bell Canada ("Bell") and ("the building") M. T.C.C. 850 -25 The Esplanade, Toronto Ontario M5E 1W5

Authorizing Bell to Install and Operate VDSL Telecommunications Equipment and use In-Building Wire At Building Locations Specified in Schedule "A"

Bell and the Building Owner jointly recognize that, in order to provide tenants and other building occupants with the high quality telecommunications services which such tenants and occupants expect in buildings owned or controlled by the Building Owner, Equipment ("the Equipment") may be required to be installed in the Main Terminal Room ("MTR"), or pop (point of Presence) elsewhere in the Building, as the case may be, by Bell. Therefore, the Building Owner hereby authorizes Bell to install and maintain the Equipment and to use In-Building Wire under the control and responsibility of the Building Owner in the Building to provide telecommunications services (the "Services") to Tenants and other occupants of the Building. The addresses of the Building ("the Building") and a list of the Equipment and the In-Building wire and its location in each of the Building is provided in Schedule "A" attached hereto. Upon the creation of a condominium corporation with respect to the Building, the condominium corporation shall be deemed to be the Building Owner and shall have all the rights and obligations of the Building Owner as stated herein.

The parties agree that nothing in this agreement will be construed or interpreted to restrict the provision by Bell of telecommunications services to Tenants and other occupants in the Building utilizing the Equipment. Notwithstanding the foregoing, the parties hereto acknowledge and agree that this Agreement does not permit any additional Equipment to be installed, operated or maintained, beyond the Equipment specified in Schedule "A", as revised from time to time by mutual agreement.

.. In the event Bell intends to install Equipment in any of the Building, Bell shall provide the Building Owner advance notification of any such Equipment Bell may require to install in the Building and shall obtain the Building Owner's approval for such installation in the MTR. Each time Bell contemplates the installation of additional Equipment, it will submit a request to add such new Equipment which will include the location of the Building, a description of the additional Equipment and will specifically identify its location within the Building, for approval by the Building Owner in the form of an amended Schedule "A". Upon approval, the Building Owner will return an executed copy for Bell's records, at which time the process described in item 2 below can proceed.

The parties hereto acknowledge and agree that this agreement is effective as of the Effective Date shown above and expires on May 31, 2009. This agreement may be extended upon mutual agreement of both parties.

1. (a) The Building Owner authorizes Bell

(i) To operate, maintain, replace, remove, and subject to section 2, below, install at Bell's sole expense and risk, the Equipment, located in the MTR of the Building and, if applicable, the pop Area (as specified by the Building Owner) for the purpose of providing the Services to Tenants or other occupants. Bell Equipment shall be specified in Schedule «A" which may be modified from time to time in accordance with section 2 hereof:

(ii) For the term of this agreement and any extension thereof, to have access to and use at no charge hi-Building wiring provided by the Building Owner that runs from the Main Terminal Room to each unit in the Building for the purpose of providing Services to the Tenants and other occupants; and

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(ill) For the term of this agreement and any extension thereof, to market and promote the Services in the Building to Tenants and other occupants, which activities may include, but are not limited to displaying, distributing or posting promotional information or information packages about Bell Services in and around the Building. No door to door solicitation.

(b) The Building Owner hereby reserves the sole right to grant, renew or extend similar rights to other parties;

(c) Bell covenants and agrees to keep the Equipment in a state of repair in good and workman-like manner, using high quality, safe and durable materials in accordance with all relevant manufacturer and industry requirements, specifications, standards and regulations including, without restriction, fire and building code requirements.

2. (a) Bell shall, at its sole cost and expense, repair any damage to the Building where such damage is caused by Bell, its subcontractors and those for whom it is in law responsible in relation to the installation, operation, maintenance or removal of equipment or facilities governed by this Agreement;

(b) Bell agrees to comply with all reasonable rules and regulations as adopted and amended by the Building Owner from time to time, and generally applicable to licensees and other contractors in the Building.

3. Notwithstanding the foregoing, Bell employees must check-in with building security, show a photo-ill and obtain the necessary authorizations every time they enter the Building prior to accessing their work area. The Building Owner, acting reasonably, will allow Bell's employees access to the Building seven (7) days a week, twenty four (24) hours a day, subject to the Building Owner's security requirements.

4. Bell shall indemnify the Building Owner from and against all actions, suits, claims, damages, expenses, costs and liabilities (a "Claim") as a result of any damage to the Building or injury to or death of any person at the Building or damage to or destruction or loss of property at the Building resulting from installation, operation, maintenance or removal of the Equipment or interference with any Property or Operation of a Distribution System in the MTR, pop Area or building communications spaces by Bell, its subcontractors, and those for whom it is responsible in law except to the extent a Claim results from the negligence or willful misconduct of the Building Owner, its employees, agents, contractors or those other persons for whom the Building Owner is in law responsible.

5. The parties hereto acknowledge and agree that Bell and its operations are subject to compliance with the orders, decisions, rules, regulations, license and directions (collectively "the Order") of the Canadian Radio-Television and Telecommunications Commission ("CRTC") and its successors as they exist or are created from time to time during the term of this Agreement, and any other regulatory bodies having jurisdiction. In the event an Order is issued which appears, in Bell's reasonable opinion, to impinge upon Bell's ability to comply with the terms of this Agreement. Bell may at its option, propose revisions to give effect to such Order, or terminate this Agreement upon thirty (30) days written notice.

In the event of termination of this Agreement upon notice by Bell, the parties agree that prior to the expiration of the thirty (30) day period they will use their reasonable best efforts to reach an agreement with respect to the location and operation of Equipment by Bell in the Building for the purposes of providing the Services to Bell's customers contemplated by this Agreement, on such terms and conditions as the parties may mutually agree upon.

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6. This Agreement shall not be assigned by Bell without the prior consent of the Building Owner which consent shall not be unreasonably withheld in the case of assignment by Bell to an affiliate of Bell.

7. (a) If Bell defaults in any of its material obligations contained herein and such default is not corrected within ten (10) days after written notice to Bell, the Building Owner shall have the right to terminate this Agreement without further notice or compensation to Bell.

(b) Building Owner shall have the right to terminate this Agreement at any time by giving Bell Canada sixty (60) days prior written notice of such intention.

(c) Upon expiration or termination of this Agreement, Bell shall be required to remove its Equipment from the MTR, pop Area and building communications spaces and restore the affected parts of the Building(s) to its original condition to the reasonable satisfaction of the Building Owner within thirty (30) days from the effective date of expiration or termination.

## 8 . INSURANCE

Throughout the Term 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 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 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. Upon request of the Building Owner, Bell will provide the Building Owner with current certificates of insurance evidencing that the required coverage is in full force.

## 9 . NOTICE

Any notice required or permitted to be given hereunder or any tender of delivery of documents may be sufficiently given by the personal delivery or by facsimile transmission, to Bell to the following address:

Any such notice shall be deemed to have been received by the Building Owner or Bell, as the case may be, on the fifth (5) business day after the date on which it shall have been so mailed. Such notice, if hand delivered, shall be conclusively deemed to have been given and received at the time of such delivery. Such notice, if sent by facsimile, shall be deemed to have been given and received by the addressee when actually transmitted by the sender, provided that such transmission was made during normal business hours, with receipts or other verifications of such transmission.

## 10. ENTIRE 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 specifically set forth in this Agreement, neither party makes any representation or warranty express or implied, statutory or

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otherwise to the other. This Agreement may not be amended or modified except by a written instrument executed by both parties.

**11. GOVERNING LAW**

This Agreement shall be governed by the laws of the province where the Building are located or if applicable, the laws of Canada.

**12. FURTHER ASSURANCES**

Each of the parties agrees from time to time hereafter and upon any reasonable request of any other party, to make or cause to be made all such further acts, deeds, assurances and things as may be required to more effectually implement the true intent of this Agreement. Building Owner shall not use Bell's logo, trademarks, tradenames or any other intellectual property without the prior written consent of Bell.

**13. NO EXCLUSIVITY**

Bell acknowledges and agrees that nothing in this Agreement shall be construed or interpreted as granting to Bell any exclusive rights or privileges in the Building to the exclusion of any other third parties.

**14. CONFIDENTIALITY**

Bell and the Building Owner (in its own capacity and in its capacity as agent of any third parties) recognize that the unauthorized disclosure of information provided by Bell to the Building Owner pursuant to this Agreement concerning Bell's Equipment would result in competitive harm to Bell. The parties therefore agree that the confidentiality of information provided by Bell to the Building Owner concerning Bell's Equipment, services and customers will be protected by the Building Owner and that any information concerning Bell's Equipment, services and customers provided by Bell to the Building Owner pursuant to this Agreement will solely be used by the Building Owner for the purpose of assisting the Building Owner in relation to the management of space in the MTR and/or POP, and telecommunications pathways as the case may be. Without restricting the generality of the foregoing, the Building Owner shall use its reasonable best commercial efforts to not disclose the information provided by Bell, pursuant to this Agreement to any competitor of Bell and shall not make use of this information for any competitive purposes whatsoever. This section 14 shall survive termination or expiration of this Agreement.

The terms and conditions of this Agreement are hereby accepted by ("the Building Owner")

The terms and conditions of this Agreement are hereby accepted by Bell Canada