

Bell

ABRIDGED

March 3, 2003

Delivered via e-mail to: gdirocco@edilcan.com

Private and Confidential

Byng Yonge Holdings I Inc.
199 Adesso Drive Toronto, Ontario
L4K 3C4

Dear Mr. G.P. DiRocco,

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 Byng Yonge Holdings I Inc. (the "Owner") upon which Bell wishes to gain access to the multi-unit dwelling building to be constructed by Owner at 28 Byng Avenue, Toronto, Ontario as further described in Schedule "A" (the "Building").

Owner hereby grants to Bell throughout the Term, a non-exclusive right and non-assignable personal license to enter on and gain access in, over or under the Building as the case may be, and any other equipment and/or telecommunications room, the roof, existing cabling at the 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 to:

(a) 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 Residents in the Building;

(b) 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 Building;

(v) entering onto the Building by Bell, with the prior written consent of the Owner and subject to giving reasonable notice to the Owner or its building manager or superintendent, as applicable, of its intention to enter the 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;

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

(d) install, with the prior written consent of and at no cost to the Owner, and prior to the expiry of the Term (as defined below), 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 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.

(e) 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

(t) 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 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, Subject to the marketing rights Owner has granted to Bell, this Agreement in no way restricts the Owner from contracting with any other service provider to provide telecommunication services to the Building and/or each unit therein.

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 non-exclusive access rights include a non-exclusive 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 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 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 (a)-(t) above and shall not make any claim to the contrary.

Subject to the Owner's Easement/Agreement with Rogers Cable Inc. (as defined below), 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, unless otherwise specified herein, 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 Programs 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 reasonable comments before release. All public announcements or publications concerning any term of this Agreement shall explicitly name or refer to Bell and the Owner.

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 by law.

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.

Bell shall release, save harmless and indemnify the Owner, on a joint and several basis, from and against any and all actions, suits, claims, damages, expenses, costs (including legal cost as between the solicitor and its own client) and liabilities arising from or as a result of any damage to the Building or injury to or death of any person or damage to or destruction or loss of property resulting directly from its fault or negligence in the installation, operation, maintenance or removal of equipment, from the Building or Equipment Space or that of its subcontractors, and those for whom it is responsible in law. 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), actions and claims arising or resulting from in (whether now or in the future) any dispute between a prospective purchaser or Resident and Bell in respect of the Bell Services or any other matter relating to this Agreement. In no event shall any party be liable to any other party for any consequential damage, economic loss, loss of profits, indirect damage or for any punitive, special or exemplary damages of any kind whatsoever.

Both Bell and Owner acknowledge and agree that this Agreement is effective as of the date last signed by both parties below and shall expire on the creation of the proposed condominium corporation on the Property (as defined below) and its turnover to the unit owners (the "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 28 Byng Avenue, Toronto, 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-law's, rules etc. Accordingly, the Owner shall have no obligations to Bell following Turnover.

This Agreement is subject to all applicable federal, provincial and local laws, and regulations, rulings and orders of governmental agencies, including, but not limited to, the *Condominium Act, 1998*, 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 any 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 Bell's 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 Bell's Services in a economical and technically practical fashion, Bell may terminate this Agreement upon thirty (30) days' prior 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 of this Agreement. Bell acknowledges that the Owner has entered into an Easement/Agreement with Rogers Cable Inc., registered against the title to the lands (as described in Schedule "A" attached hereto) in the Land Titles Division of the Toronto Registry Office No. 66 as Instrument No. E590836 on August 29, 2002 (the "Easement/Agreement with Rogers Cable Inc."). Bell acknowledges the existence of such Easement' Agreement with Rogers Cable Inc. and agrees that, notwithstanding anything to the contrary in this Agreement or in the Schedules attached hereto, it will not do or permit to be done any action, etc. that will or could result in the Owner being in default of any of its obligations to Rogers Cable Inc.

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 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 before March 14,2003.

Signed on March 4th 2003

Between

Byng Yonge Holdings I Inc.

and

Bell Canada

Schedule "A"

Description of Building

Municipal Description: 28 Byng Avenue, Toronto (North York), Ontario

Legal Description: P .I.N: 10080-0291 (L T) Consolidation of various properties: Firstly:

Part of Lots 51, 53 and 54 Plan 2282, designated as Parts 1, 2 and 3 on Plan 66R-18996;

Secondly: Part of Lots 52 and 54, Plan 2282, designated as Parts 1 and 2 on Plan 66R-

18995;

City of Toronto, the Land Titles Division of the Toronto Registry Office (No. 66)