

**TELECOMMUNICATIONS LICENSE AGREEMENT**

**THIS AGREEMENT** made as of the 1st day of November, 2001,

**BETWEEN:**

3017977 NOVA SCOTIA COMPANY  
(the "Licensor") of the first part

- and -

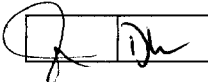
GT GROUP TELECOM SERVICES CORP.  
(the "Licensee") of the second part

**PROVIDES AS FOLLOWS:**

**1. Key Data**

The following key data is part of and may be referred to in this Agreement:

- (a)"Cableways" means: those risers, ducts and conduits within the Cabling pathways and riser systems of the Project used for the installation of Cabling to be used solely to provide and support Telecommunications Services to tenants and/or occupants of the Project.
- (b)"Cabling" means: cable (whether copper, fibre optic or coaxial) wires, cords, and connecting hardware or any combination thereof.
- (c)"Equipment" means: The Licensee's equipment serving tenants and/or occupants of the Project as more particularly described and listed on Schedule "A" to this Agreement, including the Cabling of the Project.
- (d)"Equipment Area" means: The area crosshatched on Schedule "B" attached to this Agreement which has been designated by the Licensor for the exclusive use of the Licensee for its installation and operation of the Equipment.
- (e)"License" means: the right to install, operate, maintain, repair, supplement and replace Equipment in the Equipment Area and the right of access to and use of those entrance ducts and "Cableways", subject to the provisions of Section 5 of this Agreement the location, dimensions and area of both of which are delineated on Schedule "C" attached for the purposes of providing and supporting



Telecommunication Services to tenants and/or occupants of the Project.

- (f)"License Fee" means: An annual amount equal to \$5,000.00 (Five Thousand dollars and zero cents) in Canadian funds. The annual License Fee payable for each exercised extension terms shall be the greater of: (1) the License Fee payable by the Licensee for the term immediately preceding the relevant extension term adjusted to reflect increases in the Consumer Price Index for the Province, and (2) the then current market fee for similar installations in similar buildings of similar size, tenant mix, market, location or portfolios. Failing agreement on such License Fee payable by no later than 3 months before the end of the then current term, the determination of the License Fee payable during any extension term shall be submitted to arbitration on the aforesaid basis.
- (g)Licensor's Address: c/o Ellman Newport, Inc. 250, 4040 East Camelback Road Phoenix, Arizona 85018 U.S.A.  
Attention: Don Kile  
  
copy to: O&Y Enterprise, a division of O&Y Properties Inc., 1000 – 330 Portage Ave. Winnipeg, Manitoba Canada R3C0C4  
Attention: Senior Property Manager
- (h)Licensee's Address: 20 Bay Street, Suite 700, Toronto, Ontario M5J 2N8  
Attention: Director of Facilities
- (i)"Project" means: the complex known as "NewPortCenter" in the City of Winnipeg, Province of Manitoba.
- (j)"Telecommunication Services" means: voice telephony services (local and long distance voice telephone services), data services and internet services, but specifically excluding any in-building wireless services.
- (k)"Term" means: the period of five (5) years commencing on November 1, 2001 (the "Commencement Date") and expiring on October 31, 2006. At the Licensee's option, to be exercised at least 6 months prior to the end of the original Term or first extension term, as the case may be, and provided the Licensee is not then in material default hereunder, the Term may be extended for 2 separate periods of 3 years each, the first of which will extend the expiry date to October 31, 2009 and the second which will further extend the expiry date to October 31, 2012.

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**2. Grant of License**

The Licensor grants to the Licensee the License for the Term subject to the terms and conditions of this Agreement. The Licensee accepts such License and access to the Project in relation to it, on an "as is/where is" basis. If, at the expiry of the Term, the Licensor permits the Licensee to continue without executing any further agreement, such continuation of the License shall be from month-to-month at a License Fee equal to 125% of the License Fee payable for the immediately preceding year (as determined on a monthly basis), terminable by either party at any time upon the giving of three month's prior written notice to the other and otherwise in accordance with all terms and conditions of this Agreement.

This License shall not constitute a right by the Licensee to have or claim a property interest in, or leasehold interest in the Project, and other than the right of exclusive occupancy of the Equipment Area, the Licensee shall not have any right of exclusive possession in respect of any other part of the Project. The Licensee acknowledges that it does not have an exclusive License to provide Telecommunications Services within the Project.

**3. Fees and Costs**

The Licensee agrees to pay the License Fee to the Licensor without any set-off, deduction or abatement whatsoever and shall do so in the following manner. The Licensee shall pay the entire annual License Fee to the Licensor, in advance on the Commencement Date and on the 1st day of each year of the Term thereafter.

If the Licensee fails to pay when due any amounts due under this Agreement, interest shall accrue on the unpaid amount from the due date to the date of payment at the rate per annum which is 2% above the then current prime interest rate charged by the Licensor's bank and shall be payable by the Licensee to the Licensor forthwith on demand.

In addition to the License Fee, the Licensee agrees to pay for other expenses related to the operation, installation, repair and maintenance, alteration, replacement and removal of the Equipment, and for all expenses directly related to the Licensee's use and occupation of the Equipment Area and Cableways, including specifically:

- (a) charges for any excessive electricity usage by the Licensee which shall be defined as consumption of electricity having an aggregated annual value of greater than \$360, based on a reasonable estimate of the Licensor, undertaken at the Licensor's discretion, and verified by the Licensee, both parties acting reasonably;
- (b) any business taxes and other taxes, with the exception of realty taxes, imposed upon either the Licensor or the Licensee on account of the License and the Licensee's installation of its Equipment in the Project and its presence in the Equipment Room and Cableways; and
- (c) those fees and costs specifically described in Section 5.

**4. Installation & Maintenance of Licensee's Equipment**

The Licensee agrees to obtain all required permits and approvals at its cost prior to installing its Equipment and prior to making any changes, additions, improvements or alterations to same. All

	
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Equipment that the Licensee intends on installing, adding, improving or altering is subject to the prior approval of the Licensor, such approval not to be unreasonably withheld or delayed, will be installed, added, improved or altered in accordance with plans and specifications approved by the Licensor, and same shall be subject to reasonable supervision by the Licensor. At the Licensor's option, the Licensee shall perform any such installation or other work using a contractor from the Licensor's list of approved workers, which shall be supplied to the Licensee. The Licensee agrees that the Equipment shall remain the absolute property of the Licensee and it shall be the Licensee's sole obligation to operate, maintain and repair all Equipment, at its expense. Notwithstanding the foregoing, the Licensor shall have the right in cases of emergency, without notice to the Licensee, to install, maintain or repair all or any part of the Equipment including any pipes, wires, ducts or other equipment or installations, which cost shall be paid for by the Licensee, but this shall not imply any obligation on the part of the Licensor to do so.

## 5. Cabling Provisions


Provisions of this Section are included in this Agreement to define the relationship between the Licensor and Licensee with respect to the installation and operation of Cabling in the Project, and the use of Cableways. Nothing in this Section will preclude the Licensor from taking any action(s) specifically allowed as a result of rulings or decisions (future or otherwise) that may be made by the Canadian Radio-Television and Telecommunications Commission (the "CRTC") or any other governing body having jurisdiction and those action(s) may be undertaken by the Licensor at its sole discretion at any time following any ruling during the Term.

### (a) Licensee's Cabling

During the Term of this Agreement, the Licensee may be granted access to the Cableways for the purpose of installing Cabling for the Licensee's sole use in the Cableways, such that it is not prevented from fulfilling its obligations with respect to providing its services to its customers in the Building. Cabling shall only be installed in quantities and in accordance with specifications, in both cases, approved by the Licensor. Any installation work, or other work undertaken by the Licensee, shall be performed only by an approved contractor, authorized by the Licensor to perform the work within the Project. Prior to commencement of the work, the Licensee shall provide the Licensor with plans and specifications as required by the Licensor. The Licensee shall not begin any work until the Licensor's written approval (not to be unreasonably withheld or delayed) of the plans and specifications have been received.

The Licensee shall keep accurate and up to date, a detailed inventory, description and location plan of all the Cabling which the Licensee installs in the Project and shall provide such information to the Licensor without cost upon request. The Licensee shall place a label that identifies the demarcation point between the Licensee's Cabling and the Licensor's Cabling.

The Licensee shall not cross-connect or permit cross-connection of its Cabling to that of any other telecommunications carrier without the Licensor's written approval. To "cross-connect" means to connect one wire or cable under the management and control or ownership of another carrier by anchoring each wire to a connecting block and placing a third wire between the two, or by any other means and any other connection of the telecommunication system or any of its components that is under the management, control or ownership of a carrier to a system or any component of another carrier.

	
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(b) Licensor's Right to Manage Telecommunications Cableways and Cabling

At any time during the Term of this Agreement, the Licensor may undertake to provide a structured program of management of the Project's Cableways and/or Cabling collectively for the mutual benefit of the users of Cableway and/or Cabling. Such management may be performed by the Licensor, or the Licensor's appointed designate at the Licensor's sole discretion. Upon implementation of this management function, the Licensee may be required to begin paying reasonable and recurring "Infrastructure Management Fees" for its use of the Cableways and/or Cabling in the Project, which will be applied in a non-discriminatory manner determined by the Licensor in its sole discretion and applied on a reasonable basis to all licensees acting as Telecommunication Service providers in the Project. Infrastructure Management Fees include, but are not necessarily limited to, the costs associated with providing access to the Cableways and/or Cabling, maintaining an inventory of Cableways and Cabling, general clean-up and maintenance of the Cableways and the Licensor's reasonable mark-up on such services.

The Licensor reserves the right, at any time during the Term, upon at least 60 days' prior written notification to the Licensee, to assume administrative responsibility and control of Cabling installed by the Licensee in the Project, such that the Licensor shall be able to manage this Cabling in the manner set out in this Section. The terms of such transfer of responsibility and control of the Licensee's Cabling shall be the subject of a further negotiation by both parties, acting reasonably, at such a time as the Licensor notifies the Licensor of its intention to assume responsibility and control.



(c) Licensor's Right to Install and Operate a Cable Distribution System

The Licensor may undertake to provide or install a Cable Distribution System ("CDS") to satisfy the collective cabling requirements of all service providers and occupants of the Project or any of them. Once provided or installed, the Licensee must use the CDS for providing any additional services to the tenant or occupant floors of the Project, for which it does not already have Cabling installed.

Subject to compliance with any relevant decisions or rulings imposed by the CRTC or any other governing body having jurisdiction, after the activation of the CDS, the Licensee will no longer be permitted to install its own Cabling within certain areas of the Project.

Use of the CDS will be subject to reasonable connection and usage fees, determined by the Licensor at its sole discretion, which will applied in a non-discriminatory manner determined by the Licensor in its sole discretion and applied on a reasonable basis to all licensees acting as Telecommunication Service providers in the Project that use the CDS. The Licensor agrees to act reasonably in ensuring that the users of the CDS are treated as equitably as is reasonably possible as compared with the non-CDS users and the Incumbent Local Exchange Carriers (the "ILEC's").

The Licensee may continue its use of the Cabling that it has installed in conformance with Section 5(a) above for the duration of the Term and any extension despite the Licensor's establishment of a CDS, save and except that the Licensor may, at its sole

	
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discretion, choose to levy Infrastructure Management Fees as detailed in Section 5(a) above with respect to the Licensee's Cabling and use of the Cableways.

At the end of the original Term of this Agreement, the Licensor may, at its sole discretion, designate the Licensee's Cabling as being part of the CDS, from which point the Licensee shall be subject to connection and usage fees as described above. Alternatively, the Licensor may require that the Licensee remove some or all of its Cabling in conformance with Section 5(d) below, and then utilize the Licensor's CDS for the Licensee's purposes. The terms of such transfer including consideration, if any, of the Licensee's Cabling shall be the subject of a further negotiation by both parties, acting reasonably, at such a time as the Licensor notifies the Licensee of its intention designate the Licensee's Cabling as part of the CDS.

If the Licensor establishes a CDS, (i) it will maintain, repair, replace and upgrade the CDS in order to maintain appropriate service standards, (ii) it will act expeditiously to repair or correct any problems that the Licensee may report with respect to the Licensee's use of the CDS, (iii) it may alter the CDS, and (iv) will use reasonable efforts to meet the Licensee's technical specifications and requirements at all times.

(d) Removal of the Licensee's Cabling

The Licensor may give notice in writing to the Licensee requiring the removal of all or any part of the Equipment and/or Cabling from the Project at the end of, or earlier termination of, the Term, or as it may have been extended, or after the Licensee begins utilization of a CDS as provided in Section 5(c) above. If the Licensor requires that the Licensee remove any Equipment pursuant to this Section 5(d), the Licensee shall make good any damage caused to the Project by the installation or removal of same. The Licensee will have a period of at least 60 days after receipt of written notice requiring it to do so, to remove the Equipment and/or Cabling and to make good any damage.

(e) Minimizing Interference


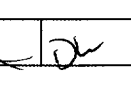
Notwithstanding the foregoing, the Licensor acknowledges that the provision of Telecommunications Services contracted by tenants and/or occupants of the Project from the Licensee shall remain paramount and all the Licensor's rights contained in subsections (b), (c) and (d) of this Section 5 shall be implemented and/or enforced in such a manner so as to minimize interference with the provision of such Telecommunications Services.

**6. Certain Specific Licensee Obligations**

The Licensee shall:

- (a) conduct all activity in a first class manner consistent with a first class complex, be responsible for all aspects of the operation of the Equipment, and ensure that its activities in the Project do not interfere with the normal operation of the Project;
- (b) abide by all rules and regulations of the Licensor of which it receives written notice. The Licensee shall have 24 hour, 7 day a week access to service and repair the Equipment, subject to the Licensor's reasonable security procedures for the Project;

- (c) ensure that its employees, agents and contractors engaged in the activities permitted by this Agreement, (i) abide by all of the terms of this Agreement, (ii) at all times conduct themselves in a first-class manner; and (iii) maintain a professional appearance and demeanor;
- (d) not distribute handbills, flyers or any other promotional or advertising material in any part of the Project without the Licensor's prior written consent;
- (e) not commit or permit waste upon or damage to the Project or any nuisance or other act that disturbs the quiet enjoyment of tenants or occupants of the Project, including without limitation, use of loudspeakers or other promotional equipment or material;
- (f) not do or permit anything to be done in the Project that hinders or interrupts the flow of traffic to in and from the Project or obstructs the free movement of persons in, to or from the Project;
- (g) not engage in any business conduct other than that permitted by the Licensee under Section 1 (e) in accordance with the provisions of this Agreement;
- (h) not keep, use or store in or upon any Project any material which may be prohibited by hazardous materials legislation or by any fire insurance policy covering the Project;
- (i) ensure that no construction or other lien is registered or filed against any Project and prohibit any contractor retained by it and each of their subcontractors from doing any work relating to installation, repair or restoration of improvements or equipment, in any of the Project, if the contractor or subcontractor is not in good standing under applicable worker compensation insurance requirements;
- (j) prior to installation, servicing, removal or performance of any work which the Licensee wishes to perform, obtain the Licensor's approval, not to be unreasonably withheld or delayed, as to the timing and methods of the installation, servicing, and removal of work and use only those service access facilities as are designated from time to time by the Licensor;
- (k) at all times, maintain as-built drawings identifying all Cabling and other improvements installed in the Project with the Licensor's consent and shall ensure that each item of Equipment and in particular, the Cabling, is physically labeled in a manner and in locations approved by the Licensor;
- (l) comply with all pertinent laws, regulations and by-laws, including obtaining all municipal or other governmental or non-governmental regulatory approvals, licenses or permits that are needed to enable it to use the Equipment in accordance with this Agreement;
- (m) comply with all rules and regulations imposed by the CRTC;
- (n) obtain and negotiate any and all required municipal access agreements;

	
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- (o) comply with the provisions of health and safety legislation in force in that it is solely responsible for the health and safety of all its employees with respect to the obligations of the Licensee hereunder;
- (p) keep and maintain the Equipment and the Equipment Area clean and tidy, be solely responsible for repairs to the Equipment and the Equipment Area, and avoid making or causing clutter, untidiness, or causing the need for repairs in or to the Cableways or any other part of the Project. If, as a result of the Licensee's activities within the Project, the Licensor incurs any additional cleaning or maintenance costs or expenses, the Licensee shall be responsible to pay any such additional costs or forthwith upon receipt of an invoice from the Licensor;
- (q) whenever reasonable pursue joint planning with other telecommunication services providers operating or intending to operate in the Project;
- (r) pay to the Licensor, within 10 days of each invoice, a reasonable charge which shall reflect the Licensor's actual cost (including an administration fee of 25% of the cost) for extra security services provided or required by the Licensor to be provided (in its discretion) in connection with any access required by the Licensee in connection with its rights under this Agreement, and in connection with any work performed by or on behalf of the Licensee; and
- (s) pay to the Licensor within 10 days after each invoice is submitted to it by the Licensor, the Licensor's direct reasonable costs of having any plans and specifications of the Licensee reviewed by its consultants, plus an administration fee equal to 25% of the cost.

**7. Signal Interference**

The Licensee shall take all steps necessary to ensure that its Equipment does not unreasonably interfere with or unreasonably disturb the operation of any equipment of the Licensor or other licensees or the use and occupation of the Project by tenants or occupants of it. Should any such interference develop that is within reasonable certainty identified as caused by the Licensee or the Licensee's Equipment, the Licensee shall cease its use of its Equipment immediately upon being requested by the Licensor to do so. The Licensee shall then, at its cost, take immediate steps (including the installation of filters, if necessary) to reduce the interference to a level considered acceptable by Industry Canada, the Department of Communications or such other federal agency as at the time has jurisdiction or as determined by the Licensor, acting reasonably. Even if the Licensee's Equipment is not the primary cause of the interference, if considerations of cost or engineering simplicity indicate that a modification to the Licensee's Equipment is the most expedient solution to an interference problem, the Licensee agrees to permit such modifications to be made, so long as (i) any such modification does not unreasonably degrade the performance of the Licensee's Equipment, and (ii) the cost of making such modification is borne by the party whose equipment is, in fact, the primary cause of the interference. If the interference caused by the Licensee cannot be remedied, then the Licensor may terminate this Agreement and the Licensee will remove all of its Equipment from the Project according to this Agreement.

**8. Relocation of Equipment Area and/or Equipment**

- (a) The Licensor can, at any time and for bona fide purposes, relocate the Equipment Area within the Project and the Licensee shall, at the Licensor's request, upon no less than 60

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days prior notice to the Licensee, relocate the Equipment to be located in an equipment area to such new relocated area. The Licensor shall be responsible for the cost of creating the relocated area. The actual cost of relocating the Licensee's Equipment to such relocated area shall be borne by the Licensee.

- (b) If the Licensor requires the Licensee to relocate all or any portion of the Equipment in the Project (other than Equipment in the Equipment Area), the Licensee will do so within 60 days of written notice from the Licensor, to an alternative location designated by the Licensor, which location shall be sufficient to allow the Licensee to provide the type, level and quality of services provided by it prior to such relocation. In the event of any such relocation, the Licensor shall be responsible, at its cost, for all reasonable work needed to be done to any area to accommodate the Equipment to be relocated. The Licensee shall be responsible for all costs of physically relocating such Equipment.
- (c) In no event will the Licensor be responsible for any costs incurred by the Licensee as a result of any relocation such as, for example, any lost revenue or the cost of new Equipment. If the Licensee fails to relocate any Equipment as requested by the Licensor within the time specified by the Licensor, then the Licensor may remove the Equipment at the Licensee's expense, and without any liability on the part of the Licensor for any loss, cost, damage or expense arising from, or connected with that action by the Licensor, whether or not the Licensor is negligent.
- (d) The Licensor acknowledges that the Licensee's obligation to provide Telecommunication Services to those tenants and/or occupants of the Project who have contracted with the Licensee for same shall be paramount and the Licensor acknowledges that any relocation of the Licensee's Equipment may require the Equipment to be installed and operating in the relocated area prior to disconnection from the original area of the Project. The Licensee acknowledges that the Licensor shall not be responsible for any additional costs associated with this transition (if deemed necessary, such as by way of example only, building a duplicate facility) or any claims from customers of the Licensee.
- (e) Notwithstanding anything to the contrary set out in this Section 8, if any of the Equipment is required to be relocated for the benefit of, or to accommodate another telecommunications service provider, the costs of the relocation will be borne by the other telecommunications service provider and not the Licensee.

**9. Control and Management of Project**

The Project shall at all times be under the exclusive control and management of the Licensor. The Licensor may from time to time alter, expand, diminish, operate, renovate, remerchandise and supervise the Project and may change its areas, locations and arrangements and do whatever else to it that the Licensor determines to be advisable. During the business hours for the Project, the Licensee shall have a non-exclusive right to use, in compliance with the Licensor's rules and regulations, and in common with all other persons entitled to use them, intended and designated from time to time by the Licensor for that use.

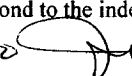
**10. Removal of Equipment**

At the expiry or earlier termination of this Agreement, the Licensee will not be entitled to remove the Cabling but will, at its expense, remove such of the Cabling as the Licensor may direct it to

remove, subject to the provisions detailed in 5(d), and shall remove all of the other Equipment. At the Licensor's option, the Licensor may elect to remove such Cabling and/or other Equipment itself or through its contractors, at the Licensee's cost. Any damage caused to the Project as a result of such removal shall be repaired by the Licensor at the Licensee's cost, together with an administration fee of 20% of such cost, to be paid by the Licensee to the Licensor within 15 days of demand for payment from the Licensor. Any items of Equipment which the Licensee does not remove shall remain in the Project as the property of the Licensor. On the expiry or earlier termination date, the Licensee shall provide the Licensor with a detailed inventory of all Equipment, including Cabling, that the Licensee is leaving in the Project.

#### 11. Insurance

The Licensee shall obtain and shall maintain throughout the Term:

- (a) commercial general liability insurance coverage against personal and bodily injury including death, and property damage, with respect to the Licensee's business and the Licensee's use and occupancy in the Project, on an occurrence basis having a limit of not less than ~~\$10,000,000.00~~ in respect of any one occurrence and including a contractual liability endorsement sufficient to properly respond to the indemnities provided for in this Agreement;   
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- (b) all risks coverage (including flood and earthquake) for the Equipment and any other property of the Licensee in or about the Project, on a full replacement cost basis, and with a waiver of subrogation in favour of the Licensor; and
- (c) business interruption insurance in an amount that will reimburse the Licensee for direct or indirect loss of earnings attributable to all perils insured against under Section 11(b) and other perils prudently insured against by Licensees, or attributable to prevention of access to the Equipment Area or Cableways as a result of those perils.

All insurance shall be placed with an insurer acceptable to the Licensor, acting reasonably, shall include the Licensor as an additional insured; shall contain cross-liability and severability of interest provisions, as applicable; shall not be subject to cancellation without at least 10 days prior written notice to the Licensor and shall be primary, and shall be non-contributing with, and shall not call into contribution any other insurance available to the Licensor.

Prior to the Commencement Date, the Licensee shall furnish Licensor with evidence of the insurance described above and no work or installation will be started without conformity to this requirement.

#### 12. Exculpatory Provisions

In no event will the Licensor be liable to the Licensee (or any other party claiming through the Licensee) for:

- (i) lost profits, loss of revenue, failure to realize expected savings, loss of data, loss of use or any other commercial or economic loss of any kind, or punitive, exemplary, indirect, incidental, consequential or special damages or third party claims arising out of the use by the Licensee of any part of the Project even if the Licensor was aware of or had been

advised by the Licensee of the possibility of such potential losses or damages; and the Licensee releases, holds harmless and indemnifies the Licensor in respect of the same;

- (ii) the quality, adequacy, compatibility or sufficiency of any duct or cabling provided to the Licensee hereunder, it being acknowledged by the Licensee that all duct and any supplied cabling is provided "as is" and "where is", the use of which is at the sole risk of the Licensee;
- (iii) the activities of any third party, whether or not that party is on the Project under the terms of another telecommunications access license or similar agreement, whether or not the party has been escorted while within the Project;
- (iv) any claims resulting from lightening or other electrical current passing through the Project or facilities that cause any damage to the Licensee's Equipment or result in the interruption of any service by the Licensee;
- (v) any claims resulting from any fire, explosion or other occurrence involving the Project;
- (vi) the inadequacy of any utility service, or the loss of or the failure to provide any utility service; and
- (vii) the Licensor's failure to perform any of its obligations hereunder where such failure is due, directly or indirectly, to fire, flood, explosion, earthquake, other disaster, power failure, accident, civil disturbance, riot, sabotage, laws imposed after the fact, war, rationing, embargo, strike or labor problem, acts of God or acts of government.

Notwithstanding the foregoing, the Licensor shall be liable to the Licensee for the gross negligence of its employees and agents, but only to the extent of the value of the Licence Fee, CDS fees and Infrastructure Management Fees charged by the Licensor to the Licensee with respect to the effect and duration of the specific incident, and not with respect to any other amounts whatsoever, no matter how incurred.

Other than as expressly provided for in this Agreement, there are no other warranties, representations, conditions or guarantees of any kind provided by the Licensor to the Licensee, either express or implied, whether by statute, agreement, tort, product liability, other theory of law, or otherwise, regarding this Agreement or the privileges afforded to the Licensee pursuant to this Agreement. Nothing herein limits or restricts the claims the Licensee may have against third parties.

### 13. Indemnity

The Licensee will indemnify and save harmless the Licensor from and against any and all actions, causes of action, suits, claims, damages, awards, proceedings, costs (including the Licensor's legal costs on a solicitor and his own client basis) and liabilities or claims by any third party arising in respect of:

- (i) the placement, installation, use (or the inability to use), operation, maintenance or removal of the Equipment, including Cableways, by the Licensee in, on, or from the Project;

- (ii) the performance of this Agreement by the Licensee, including the installation of the Licensee's Equipment, or its use or misuse by the Licensee;
- (iii) any breach, violation, act or omission or non-performance of any condition, covenant, obligation, representation or warranty by or on the part of the Licensee;
- (iv) damage to the Project or any personal property (including the loss thereof) of the Licensor, or any third party, or physical injury (including death resulting therefrom) caused directly or indirectly by the Licensee, or its agents, servants or employees;
- (v) any act or omission of the Licensee in connection with the presence, installation, use, operation or maintenance of the Equipment;
- (vi) the proximity of the Equipment to any facilities or equipment of the Licensor, any tenant of the Licensor, whether or not a customer, or other licensees or carriers within the Project as a result of the presence, installation, use, operation or maintenance of the Equipment;
- (vii) any act or omission of or by the Licensee in or while providing any services to any customer, or in respect to any service interruption, failure or impairment;
- (viii) any actual or attempted seizure or repossession of the Equipment or any other equipment or property of the Licensee in any of the Licensor's properties by any creditor of the Licensee or by any other party; or
- (ix) any claim of ownership, right or title by any third party in respect of the Equipment or any claim arising from any alleged lack of authority by the Licensee to enter into this Agreement.

The Licensor shall not be liable for the quality of transmission, or for any damages arising from omissions, interruptions, delays, errors or defects in transmissions suffered by the Licensee, or any of its customers, caused by failures or defects within the Project. To the extent that any of the Licensee's customers suffer damages arising from any of the circumstances mentioned above for which the Licensor may be at law responsible, the Licensee hereby indemnifies and holds harmless the Licensor from and against any such claims, regardless of whether the Licensor is alleged or found to be negligent.

**14. Release and Waiver**

The Licensee does hereby release the Licensor, as well as its respective directors, officers, servants, employees and those for whom all or any of them is, or are, in law responsible (hereinafter, individually, the "Releasee" and, collectively, the "Releasees"), from all actions, suits, damages, costs and liabilities for:

- (i) any damage to the Equipment, Equipment Area or Cableways;
- (ii) any injury to, or death of any person; and
- (iii) damage to any person's property or loss of use of such property,

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arising out of any act or omission by any Releasee in respect of the Equipment, Equipment Area and/or Cableways. This release does not extend to grossly negligent acts or omissions or willful acts of any Releasee (and it is acknowledged that the liability of the Releasee is limited in accordance with the second last paragraph of Section 12), but does extend to negligent acts or omissions of any Releasee.


The Licensee further waives any claim that it may now have or may in the future have in tort, contract law, under any other theory of law, under **statute**, common law or in equity and confirms that its rights, obligations, rights of indemnity and measure and type of damages are limited to those that are expressly provided for in this Agreement.

**15. Default**

If the Licensee defaults in the payment of any money required to be paid by Licensee under this Agreement and the default continues for a period of 5 days after written notice has been given by the Licensor to the Licensee, the Licensor may terminate this Agreement without prejudice to its other remedies at law or in equity (including the right to claim damages). If the Licensee defaults in respect of any other provision of this Agreement and the default is not cured within 10 days after written notice from the Licensor, then the Licensor may terminate this Agreement without prejudice to its other remedies at law or in equity (including the right to claim damages) unless such breach cannot be reasonably cured within such 10 day period provided that the Licensee has diligently commenced remedying such breach within such 10 day period and remedies the breach within a reasonable period thereafter. If the Licensee makes an assignment for the benefit of creditors or becomes bankrupt or insolvent, or a receiver or manager is appointed in respect of any substantial part of the Licensee's assets and undertaking, or if a judgment is obtained against the Licensee and execution is levied against a material portion of the Licensee's assets having regard to the overall assets and undertaking of the Licensee, or if the Licensee takes proceedings for winding up, liquidation, or for dissolution of its assets, the Licensor may, without notice, terminate this Agreement without prejudice to its other remedies at law or in equity (including the right to claim damages). Each of the events described above in the preceding sentence will be considered as a default under this Agreement.

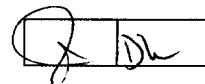
**16. Transfer**

- (a) Subject to Sections 16(b) and (c) and 17 below, this Agreement may not be assigned or transferred in whole or in part by the Licensee to another(s) nor may there be any changes in effective voting control of the Licensee without the consent of the Licensor, not to be unreasonably withheld or delayed or conditioned. The kinds of transactions referred to above are called "Transfers" in this Section. No Transfer will be permitted unless the transferee enters into an agreement with the Licensor, in a form approved by the Licensor (acting reasonably) prepared at the expense of the Licensee or the transferee, in which the transferee agrees to be bound by this Agreement. With respect to a Transfer that would involve less than seventy-five percent (75%) of the licence/access agreements entered into for buildings owned and/or managed by the Licensor or its affiliates, it will be considered reasonable (without limiting the Licensor's right to withhold consent on other reasonable grounds) for the Licensor to withhold consent, to the extent that amounts or other value is or are paid or provided to the Licensee in connection with the Transfer and the amount or value reflects benefits primarily associated with the size, nature or location of the particular project and the Licensor and Licensee are unable to agree upon the allocation of the amounts or value to be paid or provided to the Licensee as between the

	
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Licensors and the Licensee. If there is a dispute in that regard it will be determined by arbitration using a single arbitrator. The restrictions and requirements set out above in this Section will not be enforced to the extent that any of them is, or are, found to contravene the laws and regulations administered by the CRTC. The Licensee will not be entitled whatsoever to sub-license to or enter into co-usage or sharing agreements with other suppliers of services or share its Equipment or its Equipment Area with others or permit others to install equipment in its Equipment Area or install equipment on behalf of others, but provisions hereof do not preclude the Licensee from "reselling" another service provider's services or acting as a supplier of a service to another service provider that is acting as a "reseller". The Licensor may assign or transfer this Agreement to any person or entity. To the extent the person or entity assumes the Licensor's obligations under this Agreement, the Licensor will be released from those obligations assumed by the assignee or transferee.

- (b) Notwithstanding the provisions of Section 16(a) above, the Licensee may effect a bona fide Transfer to an "affiliate" (within the meaning of the *Canada Business Corporations Act*) of GT Group Telecom Services Corp. without the consent of the Licensor but upon prior written notice to the Licensor, but the terms and conditions of Section 16(a) will apply to any subsequent transfer by the affiliate, and if the affiliate ceases to be an affiliate of GT Group Telecom Services Corp. then a Transfer in respect of which the Licensor's prior written consent is required, will be deemed to occur unless more than seventy-five percent (75%) of the licence/access agreements entered into by GT Group Telecom Services Corp. in Canada as of the date of the Transfer have been effectively Transferred simultaneously to such affiliate. In respect of such permitted Transfer, the Licensee shall remain obligated to cause the "affiliate" to enter into the direct covenant agreement with the Licensor as referred to in Section 16(a).
- (c) Notwithstanding anything contained herein to the contrary, the Landlord's consent shall not be required in respect of a change in voting control of GT Group Telecom Services Corp. if the change occurs as a result of an initial public offering or as a result of a sale of its shares to a company listed on a recognized public stock exchange.
- (d) Notwithstanding the provisions of Section 16(a) above, the Licensee will be permitted to assign its rights under this Agreement to its bona fide principal lender (the "Lender") as collateral security for any bona fide, first priority secured financing of all or part of its business undertaking if the following requirements are satisfied:
  - (i) the Lender must enter into an agreement with the Licensor (a "Comfort Agreement") in a form acceptable to the Licensor, acting reasonably, in which the Lender agrees:
    - (A) the exculpatory clauses contained in this Agreement bind the Lender;
    - (B) if the Lender, in realizing on its security seeks to enforce its rights as assignee of the Licensee's rights under this Agreement, the Lender will be responsible for performance of all of the Licensee's obligations under this Agreement, and will be required, as a prerequisite to its enforcing any of the Licensee's rights, to remedy all those defaults under this Agreement that are capable of remedy or, to proceed promptly and diligently to remedy any default that is capable of remedy but which

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cannot be fully remedied by the Lender before it assumes the Licensee's rights under this Agreement pursuant to the realization of its security;

- (C) the Lender will not have any greater rights to effect Transfers than are provided to the Licensee under this Agreement;
  - (D) the Lender must acknowledge that the Licensor does not, and will not waive rights or remedies available to it at law or under this Agreement;
  - (E) the Licensor will not be restricted from dealing with the Licensee or any Transferee of the Licensee's rights and may amend this Agreement, waive, postpone, or otherwise alter its rights and obligations without any obligation to the Lender prior to the Lender becoming entitled to deal with the Licensee's rights or its other collateral;
  - (F) the Lender's rights in respect of the Licensee's Equipment and in particular in respect of removal of the Licensee's Equipment, restoration of damage, and compliance with rules and regulations are subject to this Agreement, except, however, that the Lender will be entitled to remove all or any part of the Licensee's Equipment but not the in-building wire or conduits associated with it (since it must not be encumbered) in accordance with its rights vis a vis the Licensee where the Licensee defaults under its loan or security agreement with the Lender; and
  - (G) The Licensor will give to the Lender written notice of any default in respect of which it intends to effect a right of termination and the Lender will be given the same length of time to cure the default after receipt of the notice as the Licensee is entitled to, after its receipt of notice of default from the Licensor. The Lender will give a copy of any notice of default which it gives to the Licensee under its loan agreement or security agreements to the Licensor at the same time as notice is given to the Licensee by the Lender. Should the Lender, by inadvertence, fail to give notice to the Licensor of a default, that failure will not preclude the Lender from realizing its security or enforcing its rights as against the Licensee or its rights under this Agreement, but the Licensor will retain its right to claim for damages or to enforce other rights that it might have, as a consequence of the Lender's default in failing to give notice to the Licensor.
- (ii) The Licensor's reasonable legal costs for preparation of the Comfort Agreement will be paid by the Licensee,
  - (iii) So long as the Lender holds a security interest in respect of the Licensee's rights under this Agreement or the Licensee's Equipment, the Licensee will not effect a Transfer without the prior written consent of the Lender if the Licensee is in default under the Lender's Security Documentation, or if the prior written consent is required pursuant to the Lender's Security Documentation, and the Licensee will provide evidence to the Licensor that it has obtained the required consents from the Lender prior to effecting the Transfer;

	
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- (iv) If the Lender, in realizing on its security enforces its rights as assignee of the Licensee's rights under this Agreement and subsequently assigns its rights to a Transferee, in accordance with this Agreement, then it will be released from all obligations that pertain to the period from and after the Transfer.

The Licensor will execute a form of acknowledgment to a Lender if requested to do so by the Licensee in writing, if the acknowledgment is in a form that is satisfactory to the Licensor, and includes a provision that confirms that the rights of the Licensor under the Comfort Agreement take precedence.

**17. Financing of Equipment**

The Licensee may, without the consent of but on prior written notice to the Licensor, grant security by way of a mortgage, charge, general security agreement or otherwise in respect of the Licensee's Equipment (but not in respect of in-building wire or conduits associated with it nor in respect of any part of the Project including, any permanent fixtures, or any improvements to the Licensor's Premises) to a bank or other financial institution, or one or more lenders providing financing to the Licensee. The Licensee will not cause or permit any charge, security interest, mortgage, or encumbrance, or any notice of them to be registered on title to the Project.



**18. Termination Rights**

(a) The Licensor reserves the right to terminate this Agreement on 30 days' prior written notice to the Licensee in the following circumstances:

- (i) if the Project is substantially damaged and the Licensor determines that it will take longer than 180 days to restore it; or
- (ii) if the Equipment Area is damaged and in the Licensor's opinion it will take longer than 90 days to restore it;
- (iii) if all or any portion of the Project is expropriated;

and on 180 days' prior written notice to the Licensee in the following circumstance:

- (iv) if the Licensor elects to redevelop a substantial portion of the Project or elects to convert a portion of the Project to other uses and, as the result of the development or conversion of use, it is, in the Licensor's opinion, not feasible to relocate any part of the Equipment which may require to be relocated in connection with the redevelopment or conversion of use.

	
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(b) The Licensee reserves the right to terminate this Agreement on 30 days' prior written notice to the Licensor in the event that:

- (i) Licensee is unable to obtain all necessary rights and approvals required from any governmental authority to operate and provide Telecommunications Services in the Project or any such approval is cancelled or terminated;
- (ii) there is material interference with its Equipment and the Licensor has not been able to remedy the situation within thirty (30) days after written notice is provided to the Licensor to do so; or
- (iii) its Equipment is so damaged or destroyed that it cannot be repaired or restored or replaced within a period of ninety (90) days after the occurrence that caused the damage.

**19. Notices**

Any notice to be given under this Agreement (including a notice of change of address for service of notice) shall be sufficiently given if sent by registered mail or courier delivery service to the Licensor's address set out in paragraph 1(g) hereof, in the case of notice to the Licensor, and to the Licensee's address set out in paragraph 1(h) hereof, in the case of notice to the Licensee. Each notice delivered by courier delivery service shall be deemed to have been received on the next business day following the day upon which it was sent. Each notice sent by registered mail shall be deemed to have been received on the third business day next following the date upon which it was mailed.

**20. Status Statement and Subordination**

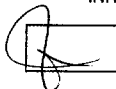

On the written request of the Licensor, the Licensee shall sign a certificate prepared by the Licensor confirming that this Agreement is in full force and effect, with no default hereunder or, if there is a default, particularizing such default and otherwise confirming such terms of this Agreement as the Licensor shall request. The Licensee agrees to execute and return such certificate within 10 days of the Licensor's request. The Licensee confirms that this Agreement shall be subordinate to any existing or future mortgage or other encumbrance on the Project. At the request of the Licensor, the Licensee shall execute such documentation as the Licensor or its lender may reasonably request, confirming such subordination in return for such lender's standard non-disturbance agreement.

**21. No Registration**

The Licensee shall not cause this Agreement, or any notice of it to be registered against title to the Project. The Licensor shall make available a copy of this Agreement to any purchaser of the Project prior to the conveyance thereof.

**22. CRTC Decision**

The Licensor and the Licensee acknowledge that the access rights of telecommunication service providers in multi-tenant buildings are currently the subject of regulatory proceedings initiated by the CRTC. In the event the CRTC issues a ruling or decision in respect of such access rights while this Agreement is in effect, the parties agree that this Agreement may be amended by the

	
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parties in such a manner so as to give effect to such ruling or decision or, in the event that the Licensor, acting reasonably, believes that its obligations or entitlements under this Agreement are materially affected by such ruling or decision, the Licensor shall be entitled to terminate this Agreement on notice in writing given to the Licensee within 30 days of the Licensor receiving such CRTC ruling or decision.

**23. Entire Agreement**

The parties agree that this Agreement and the Schedules attached to it are the entire agreement between the parties. There are no representations or agreements, either oral or written, with respect to this License other than this Agreement. This Agreement may only be amended by further written agreement of the parties.

**24. Severability of Provisions**

Should any provision of this Agreement be illegal or unenforceable, that provision shall be considered separate and severable from the remaining provisions of this Agreement and the remaining provisions shall remain in force and be binding upon the parties (unless the illegal or unenforceable provisions are such that they have fundamentally frustrated the intention of the parties, or either one of them, in which case the frustrated party may terminate this Agreement on 30 days' prior written notice).

**25. Force Majeure**



Without limiting or restricting the applicability of the law governing frustration of contracts, in the event either party fails to meet any of its obligations under this Agreement within the time prescribed, and such failure shall be caused, or materially contributed to, by force majeure, such failure shall be deemed not to be a breach of the obligations of such party under this Agreement, and the time for the performance of such obligation shall be extended accordingly as may be appropriate under the circumstances. For the purpose of this Agreement, force majeure shall mean any acts of God, war, natural calamities, strikes, lockouts or other labor stoppages or disturbances, civil commotions or disruptions, riots, epidemics, acts of government or any competent authority having jurisdiction, or any other legitimate cause beyond the reasonable control of such party, and which, by the exercise of due diligence, such party could not have prevented, but lack of funds on the part of such party shall not be deemed to be a force majeure.

**26. Enurement**

This Agreement shall enure to the benefit of and be binding upon the successors and permitted assigns of the parties to it.

**27. Interpretation**

Whenever the singular or plural, or the masculine, feminine or neuter pronoun is used in this agreement, each shall include the other or others respectively, as and where the context requires it. The headings in this Agreement are for convenience of reference only and in no way define, limit or enlarge the scope or meaning of any of the provisions of the Agreement.

	
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**28. Amendment or Waiver**

No provision of this Agreement shall be deemed amended or waived by a course of conduct unless the amendment or waiver is in writing signed by all parties and stating specifically that it was intended to modify this Agreement.

**29. Governing Law**

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Manitoba.

**IN WITNESS WHEREOF**, the parties have entered into this Agreement.

**SIGNED, SEALED AND DELIVERED**

3017977 NOVA SCOTIA COMPANY  
(Licensor),

In the Presence of

Per: \_\_\_\_\_

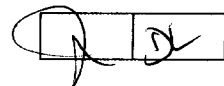
Per: \_\_\_\_\_  
I/we have authority to bind the corporation

GT GROUP TELECOM SERVICES CORP.  
(Licensee)

Per: \_\_\_\_\_

**Director, national Facilities**

Per: \_\_\_\_\_  
I/we have authority to bind the corporation.

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