



TELECOMMUNICATION AND BUILDING ACCESS LICENSE ~ EXISTING BUILDINGS

This License is made as of the date last signed by both parties below (the "Effective Date").

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 MTCC 649 (the "Owner") agree as follows:

1. Owner hereby grants to Bell Canada and the Affiliates of BCE Inc. ("Affiliates" as defined in the *Canada Business Corporations Act*, as amended), including without limitation, those for whom Bell Canada is responsible in law (hereinafter, collectively referred to as "Bell"), at no cost to Bell, a non-exclusive right and license to:
  - (i) enter on and gain access in, over or under the existing multi-unit dwelling building described in Schedule "A" (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 or other segregated, enclosed spaces (such as the main telephone room) in the Building (the "Equipment Space(s)"), as needed and mutually agreed upon by the parties, acting in good faith, which is suitable to house or store the Equipment (as defined below) having adequate power supply and adequate natural or artificial ventilation for the proper operation of the Equipment. For greater certainty, this right of access does not include access to any residential unit(s) or any exclusive use common element(s);
  - (ii) use In-Building Wire ("In-Building Wire" as defined by the *Canadian Radio-Television Commission* (the "CRTC") in Decision 99-10) or cabling owned or controlled by Bell, the Owner or any third party, provided such use is subject to CRTC rules and regulations and Bell shall pay any fees payable to any third party in accordance thereto; and
  - (iii) make available and provide telecommunications and other communication services to the Occupants of the Building only (collectively the "Bell Services") and market such Bell Services to local exchange carriers (in respect of services to be provided to the Building only), prospective purchasers and the owners, tenants, invitees or residents of the Building (the "Occupant(s)").
2. Nothing in this License shall be construed or interpreted as granting Bell any exclusive right, license or privilege in or to the Building relating to access, installation or marketing rights, to the exclusion of any other third parties. Nothing in this Agreement limits Bell's right to market or advertise Bell's Services in a manner that is not specific to the Building (including, without limitation, telemarketing, mail campaigns, and email/online marketing).

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 the purposes of this License. Notwithstanding anything contained in this License, upon reasonable notice provided to the Owner by Bell, the Owner will agree to grant Bell access to the Building, Equipment and Equipment Space(s) during normal weekday service hours of 8:30 a.m. to 8:30 p.m. , provided that, in the event of an emergency, the Owner shall grant Bell 24-hours a day, seven days a week access to the Building, Equipment and Equipment Space(s), providing Bell make best efforts to abide by Building security rules prior to entering the Building. For greater certainty, Bell agrees to comply with the Owner's access policies as mentioned in the preceding paragraph, as amended from time to time, which include, but are not limited to: (1) Bell providing the Owner with prior written notice (save for emergency situations, in which case Bell will make best efforts to contact the Owner's manager prior to entering the Building) before entering the Building; and (2) Bell ensuring that its employees are bonded, have appropriate identification and will comply with the Owner's Building log-in and log-out protocols.

Owner and Bell Canada agree that there will be no charge to Bell Canada for electrical power costs not exceeding a 15-amp service. In the event that Bell Canada usage of hydro and electrical power exceeds 15-amps, then an appropriate charge for such usage shall be borne and paid for by Bell Canada during the Term. Notwithstanding anything hereinbefore or hereinafter provided to the contrary, in the event that the Owner chooses to install (or causes to be installed) at the Owner's sole cost and expense, a consumption meter measuring the hydro-electric service utilized or consumed by the Owner, tenant, and/or licensee of the Building, then Bell Canada shall pay its proportionate share of hydro and electrical consumption to the Owner.

3. "Equipment" includes but is not limited to any Bell equipment, In-Building Wire, infrastructure or otherwise, which is necessary and incidental to enable and deliver Bell Services to Occupants, all as further described in Schedule "B" hereto. The right and license in Section 1 includes Bell's right to construct, install, test, operate, maintain, repair, service, upgrade, modify, remove and replace its Equipment in the Building. Nothing herein limits Bell's ability to change, alter or replace the Equipment with new or different equipment to provision the Bell Services. Bell's rights contained in this Section 3 of the License are subject to Bell: (i) providing prior reasonable notice to the Owner of Bell's intention to exercise its rights under this Section 3 of the License and Bell obtaining the Owner's prior written consent with respect to same, which shall not be unreasonably withheld; (ii) ensuring that Bell's Equipment will not, subject to Section 6 of this License, cause interference with or degradation to any of the other signals lawfully transmitted or received or systems operating on or about the Building, to the satisfaction of the Owner; and (iii) agreeing to repair any and all damage that may be caused to the Building by Bell or its agents as a result of Bell exercising its rights under this Section 3 of the License, to the satisfaction of the Owner. Equipment excludes: conduit, 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 Occupants by Bell or any other authorized sales agent. Owner shall allow Bell to gain access to the Building for the purpose of picking up any IRD no longer required by an Occupant.
4. Bell shall, at its own cost (i) ensure that all equipment installed by Bell (the "Bell Equipment") is installed in accordance with all relevant fire and building code requirements in force at the time of installation, and any and all applicable federal, provincial, regulatory body (L.e. CRTC) or local laws, regulations and/or guidelines and (ii) be responsible for the provision, installation, maintenance and repair of the Bell Equipment during the Term, although each individual Occupant may incur charges (at Bell's then applicable rates) relating to post-installation activities specific to such Occupant's in-suite requirements. Except as otherwise provided in Section 22 of the *Condominium Act*, 1998, as amended all Bell 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 neither the Bell Equipment nor any of the items reasonably contemplated by Section 3 above and shall not make any claim to the contrary, so long as such Bell Equipment or items contemplated under Section 3 above (excluding in-building wire) are removed from the Building within thirty (30) days of the expiry of the Term of this License (as herein defined) or earlier termination of this License, failing which the Owner may at its option (i) remove such equipment at Bell's expense; or (ii) keep such equipment for its own use.
5. Nothing in this License limits the Owner's right to repair any common elements of the Building; provided that where any such repair may affect Bell's Equipment, the Owner shall (except in the case of emergencies): (i) provide Bell with reasonable advance written notice to request Bell to adjust and/or move its Equipment before the 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 repairs or such other matter in respect of the repairs that could have and impact on the Equipment or Bell's ability to deliver the Bell Services. Despite the foregoing, where repairs undertaken by the Owner require Bell to move or relocate any of its Equipment, Bell shall, at its sole option: (A) provide one Bell technician for a maximum of one eight (8) hour period; or (B) pay for its own cost of the move, such cost not to exceed a maximum amount equal to the cost to Bell of the technician referred to in (A), to facilitate the movement or relocation of Bell's Equipment as required by the Owner. Where the time or costs to Bell exceed the foregoing, Bell may terminate this License by providing the Owner with one (1) month written notice without any further charges, liabilities or penalties to either party hereto.
6. Each party represents and warrants that, as far as it is aware: (1) it has full right, power and authority to enter into and perform its covenants and obligations in this License; (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 condominium Rule or By-law is in force that would prevent or limit either party from entering into this License. Bell further covenants to repair, at its sole expense, any damage to the Building or the Equipment Space where the damage is caused by Bell, and those for whom it is responsible in law, (normal wear and tear excepted).
7. If the Equipment interferes with, impedes or disrupts (each being an "Interruption") any communications signal that is generated by equipment lawfully existing within the Building prior to the installation of the Equipment, the Owner shall notify Bell in writing of such Interruption and Bell will, to the extent the Equipment is the sole cause of such Interruption, use its commercially reasonable efforts to rectify any such Interruption within ten (10) days. If Bell has caused an Interruption and, through the use of its commercially reasonable efforts, does not rectify an Interruption for which it is responsible pursuant to this Section within ten (10) days of receipt of notice of the Interruption, either party to this Agreement may terminate this License with thirty (30) days written notice to the other party and Bell shall remove its Equipment in accordance with Section 4 herein, provided, that Bell may use its continuous best efforts to resolve the interruption during such 30 day notice period and, should Bell be successful, the termination of the License will be stayed and the License will continue in full force without prejudice. If the Owner or its Building systems or any of the Occupants or other providers of telecommunications or other communications services cause an Interruption of the Equipment or the Bell Services, then Bell shall notify the Owner in writing of such Interruption and the Owner shall use its commercially reasonable efforts to rectify any such Interruption within ten (10) days. If Owner, through the use of its commercially reasonable efforts, does not rectify any Interruption for which it is responsible pursuant to this Section within ten (10) days of receipt of notice of the Interruption, Bell may terminate this License with thirty (30) days written notice to the Owner and Bell shall remove its Equipment in accordance with Section 4 herein, provided that, in the event Bell chooses not to terminate this License in accordance with the terms herein, Owner shall continue to use commercially reasonable best efforts for three months from receiving notice of the Interruption to resolve the Interruption as soon as possible thereafter.

8. Despite anything contained herein the contrary, 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"), 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 the Building and any related real property of the Owner or bodily injury, including death, to any person caused by or arising out of any negligent act or omission relating to Bell's use or the use by its employees, directors, officers, affiliates, partners, contractors or suppliers and occupation of the Equipment Space or the Building, provided that Bell Canada will not be required to indemnify the Owner Indemnitees to the extent any such Losses are caused by any negligent or wilful act or omission of any of the Owner Indemnitees. Notwithstanding anything else contained herein to the contrary and subject to Section 13 herein, in no event will Bell be liable for or indemnify and save harmless any of 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. This Section shall survive the expiration or termination of this License.
9. 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, and name the Corporation as an additional insured limited to the negligence of Bell and those for whom it is responsible in law, and with the required insured limit composed of any combination of primary and excess (umbrella) insurance policies. A Certificate of Insurance shall be furnished to the Corporation at the time of execution of this Agreement and promptly at any time thereafter upon request, provided that no such policy shall be cancelled and not simultaneously replaced with a policy providing equivalent or better coverage without 60 days prior written notice to the Corporation.
10. The term of this License is effective as of the Effective Date and shall continue to run for a period of ten (10) years from the Effective Date (the "Term"). Unless a Party provides the other party hereto with written notice of its intention not to renew this License at least one hundred and eighty (180) days prior to the expiration of the Term or Renewal Term (as defined below), this License shall automatically renew for successive one (1) year renewal terms (the "Renewal Term") on the terms and conditions herein. Either party may terminate this License: (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; (H) immediately, in the event of bankruptcy, reorganization, assignment, petition or appointment of a trustee or such other act of insolvency of the other party; or (iii) during the Renewal Term, by providing sixty (60) days written notice to the other party. 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 Bell's Services in an economical and technically practical fashion, Bell may terminate this License upon thirty (30) days' written notice to the Owner. Upon expiry or earlier termination of this License, the Equipment shall be removed in accordance with Section 4 herein.
11. Any notice required or permitted to be given hereunder or any tender of delivery of documents may be sufficiently given by regular mail, delivery or by facsimile transmission to each party at the addresses listed below:

To Bell Canada:

1 Dundas St. West, 29  
Toronto, Ontario  
M5G 1Z3

Fax:

Attn: Director, Video Wireline Sales

with a copy to Bell Canada's Legal  
Department

To the Owner:

109-701 King Street West  
Toronto, ON  
M5V 2W7

Fax:

Attn.: Property Manager

Notices shall be deemed to have been received by the Owner or Bell, as the case may be, on (i) the fifth (5th) 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, or (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. Should either party to this License change their address for service, as noted above, then written notice of such change must be provided to the other party as soon as practicable.

12. This License and any Schedules attached hereto 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. This License is subject to the Declaration, By-Laws and Rules (as such terms are defined in the *Condominium Act*, 1998, as amended) of the condominium corporation of the Building. This License is also subject

to all applicable federal, provincial and local laws and regulations, and rulings and orders of governmental agencies, including, but not limited to, the *Telecommunications Act*, as amended, the *Broadcasting Act*, as amended, or the CRTC. Should any provision of this License conflict with a Schedule attached hereto, the provision of this License shall prevail.

13. This License constitutes the entire agreement of the parties and supersedes all prior agreements and understandings on the subject matter hereof. Except as provided in Section 6, neither party makes any representation or warranty express or implied, statutory or otherwise to the other. None of the rights and obligations contained herein may be assigned or transferred by the Owner without the prior written consent of Bell. Bell may not assign or transfer its rights or obligations contained herein without providing written notice of same to the Owner. 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.
14. Notwithstanding anything to the contrary in the Agreement, if the validity of this Agreement, or the authority of the Owner to enter into same, is called in to question, by an order of a court or tribunal, then the parties hereto shall be released from this Agreement and neither party shall have any further obligations or liability under this Agreement whatsoever.

**IN WITNESS THEREOF** the parties through their duly authorized representatives have executed this License as of the date last signed by both parties below.

MTCC 649

BELL CANADA

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

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

Name:

Name:

Title: REC & COMMON REP

Title: Senior Director, Wireline Video Sales

Date: November 20<sup>th</sup> 2006

Date: November 20<sup>th</sup> 2006

Schedule "A"

ADDRESS AND DESCRIPTION OF BUILDING

A. **For the Building:**

This License applies to the following Building:

570 Wellington Street West, Toronto, ON M5V 2X5