

TELECOMMUNICATION AND BUILDING ACCESS LICENSE

This License is made as of the 16th day of December, 2004.

Between:

DOWNING STREETHOLDINGS (425 BLOOR STREET EAST) INC.,
a corporation incorporated under the laws
of ONTARIO
(the "Licensor")

- and -

BELL CANADA,
a corporation incorporated under the laws
of ONTARIO
(the "Licensee")

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) the parties hereto, agree as follows:

1. Application of License

1.1. This License shall apply only so long as the Building is an MDU and the Licensee is a LEC and except as otherwise provided for in this License, the terms of this License shall apply to:

- (a) Licensee Equipment installed, owned, operated and/or controlled by the Licensee in the Building; and
- (b) the rights granted and uses permitted as set out in Article 3.

3. Grant and Use

3.1 Pursuant to the terms and conditions of this License, the Licensor grants the Licensee the non-exclusive right to provide the Licensee Services which includes the Licensee's right to construct, install, test, operate, maintain, repair, service, upgrade, modify, remove and replace Communications Equipment in the POP Space and Connecting Equipment in the Lands and Building.

3.2 The Licensee, its employees, agents, contractors and those for whom it is responsible for in law shall be permitted to use and access all portions of the Building, Pathways and Lands necessary for the provision of the Licensee Services and for the matters as provided in Section 3.1. The Licensee shall be responsible for the acts or omissions of its employees, agents, contractors and those for whom it is responsible in law, which use and access the Building, Pathways and Lands.

3.3 All rights granted and uses permitted herein shall be available to the Licensee twenty-four (24) hours per day, three-hundred and sixty-five (365) days per year subject to the Licensor's reasonable requirements.

3.4 The Licensee acknowledges and agrees that unless otherwise agreed to in writing by the parties:

- (a) that this License does not allow the installation or operation by or on behalf of the Licensee, of any type of rooftop or wireless communication equipment; and
- (b) not to use any part of the Licensee Equipment as a network hub facility, switch hotel, switch node, or similar facility that functions as an integral part of a network to serve persons outside of the Building.

4. Term and Renewal Term

4.1 The grant of this License is for the term as provided in Schedule "C" unless earlier terminated in accordance with Article 23 or subsequently renewed as provided in Section 4.2.

- 4.2 Provided that the Licensee is not in default of any of its obligations under this License, this License will be automatically renewed and extended unless the Licensee gives the Licensor at least one hundred eighty (180) days written notice prior to the end of the Term of the Licensee's intention not to renew. The renewal shall be governed by the same terms and conditions set out in this License, except for any further right to renew and the POP Space Fee. The POP Space Fee, upon renewal, shall be based on the then prevailing fee for the alternate use of the POP Space, taking into account: (i) the location and the class of the Building; and (ii) the location and amount of space comprising the POP Space. In the event the parties are unable to agree to the POP Space Fee payable upon renewal, then such fee shall be determined pursuant to Section 29.1.
5. POP Space Fee
- 5.1 The Licensee agrees to pay the Licensor the POP Space Fee as provided in Schedule "D".
6. Fees for use of IBW under responsibility and control of the Licensor
- 6.1 The use of IBW under the responsibility and control of the Licensor shall be at the sole option of the Licensee and where the Licensee elects to use such IBW the fee payable by the Licensee to the Licensor for the use of such IBW shall be based upon the unrecovered capital cost reasonably incurred by the Licensor for the installation of such IBW.
- 6.2 Where the Licensor has acquired IBW at no capital cost, the Licensor shall not charge the Licensee any payment or fee for the use of such IBW.
7. Transfer of IBW under responsibility and control of the Licensee
- 7.1 The transfer of IBW under the responsibility and control of the Licensee to the Licensor shall be only at the sole option of the Licensee. Where the Licensee elects to transfer IBW under its responsibility and control to the Licensor, such transfer shall be on terms and conditions acceptable to the Licensee in its sole discretion.
8. Utilities Costs
- 8.1 Subject to the terms and conditions of this License, the Licensee shall have the right to connect the Licensee Equipment to the electric power distribution system within the Building at the sole cost and expense of the Licensee. Either party, at its sole cost, expense and option may install a check meter to measure the electricity consumption of the Licensee and Licensor acknowledges and agrees that such electricity consumption shall be billed to ALLIANZ CANADA ("Allianz") in accordance with the terms and conditions contained in the Licensor's current lease agreement with Allianz (the "Allianz Lease"), and that Licensee shall have no further liability for such electricity consumption during the Term. In the event the Licensee elects not to install a check meter and in the event the electrical consumption is not included in the POP Space Fee, the Licensor shall, acting reasonably, estimate the amount of electricity consumed by the POP installation, which amount shall be paid by Allianz in accordance with the terms and conditions of the Allianz Lease, and Licensee shall have no further liability for such electricity consumption during the Term.
- 8.2 Except in the case of an emergency, the Licensor shall provide to the Licensee 10 Business Days notice of any planned construction, maintenance, utility outages or other Building repairs that may affect the Licensee Equipment or provision of Licensee Services.
- 8.3 The Licensee agrees that the Licensor has no obligation or responsibility to provide emergency or backup power to the Licensee, unless the Licensor agrees to provide emergency or backup power to the Licensee on such terms and conditions as may be mutually agreed to by the parties in writing.
9. Plan Approval and Other Costs
- 9.1 If required by the Licensor, the Licensee will:
- (a) provide Engineered Plans for approval by the Licensor, prior to any construction, installation, modification or replacement of Connecting Equipment which requires penetration of the Building foundation or which impacts the structural elements of the Building. Such plans to be prepared by a Licensor approved engineer or a Licensee approved engineer at the option of the Licensee;
 - (b) provide Working Drawings for approval by the Licensor, prior to any construction of the POP Space or installation, modification or replacement of Licensee Equipment which impacts the base Building systems or base Building. Such plans to be prepared by the Licensee or its contractors, or by the Licensor's contractors, at the option of the Licensee; and

- (c) provide Working Drawings for approval by the Licensor, prior to a material installation of IBW which would materially impact the availability of space within the riser.
 - (d) Provide 'as built' drawings of the installation to the Licensor.
- 9.2 In addition to the POP Space Fee, the Licensee agrees to pay the Licensor, on a one time basis, within sixty (60) Days of receipt of an invoice from the Licensor, the cost for the review of Engineered Plans and Working Drawings referred to in Subsections 9.1 (a), (b) and(c), except where:
- (a) regarding Subsection 9.1 (a), a Licensor approved engineer is used by the Licensee to prepare the Engineered Plans; or
 - (b) regarding Subsection 9.1 (b), the Licensor's contractor is used by the Licensee to prepare the Working Drawings.
- 9.3 In addition to the POP Space Fee, the Licensee agrees to reimburse the Licensor for costs of other similar services reasonably required in connection with the installation and operation of the Licensee Equipment, as agreed to by the parties.
- 9.4 Any costs reasonably incurred by the Licensor as provided in Sections 9.2 and 9.3 shall be consistent with telecommunications industry standards.
- 9.5 The Licensee agrees to pay the Licensor for security escorted access to the Pathways, if requested by the Licensor, and as consistently applied by the Licensor to all utilities and persons accessing the Building's Pathways, within sixty (60) days of receipt of an invoice from the Licensor. Such fees shall be cost based and shall not be charged if recovered by the Licensor from the tenants or occupants of the Building.
10. Building Access Policies and Procedures
- 10.1 The Licensee agrees to abide by the Licensor's Building access policies, standards, and procedures, which shall be consistent with the class and use of the Building.
- 10.2 The Licensee agrees to abide by the Licensor's security procedures which shall be consistently applied by the Licensor to all persons accessing the Building.
11. Licensee Representations, Warranties and Covenants
- 11.1 Licensee represents and warrants:
- (a) that this License constitutes a legal and binding obligation of the Licensee enforceable against the Licensee in accordance with its terms, except as may be limited by the laws of bankruptcy, the laws affecting the rights of creditors and the jurisdiction of any Court or the CRTC; and
 - (b) subject to the terms and covenants contained in this License, the Building, Pathways and Lands are accepted by the Licensee on an as is basis.
- 11.2 Licensee covenants:
- (a) to pay the Fees on the Commencement Date and thereafter as required by this License;
 - (b) to observe and perform all of its obligations set forth herein;
 - (c) to install, operate, maintain, repair, remove and replace the Licensee Equipment in a safe and proper condition and in accordance with telecommunication industry standards;
 - (d) to install the Licensee Equipment in accordance with the Working Drawings or engineered plans as approved or amended by the Licensor;

- (e) to reasonably limit space required by the Licensee Equipment and to cooperate with the Licensor and any other LEC to accommodate any other LEC in available space in the Building so as to minimize impact on the Building;
- (f) that any consent or approval of the Licensee pursuant to the terms of this License shall not be unreasonably withheld, conditioned or delayed;
- (g) to abide by all Applicable Laws;
- (h) to repair, at its sole expense, any damage to the Building, Pathways and Lands, where the damage is caused by the Licensee, its employees, agents, contractors and those for whom it is responsible in law;
- (i) not to block access to, or obstruct or hinder the use of the Building's loading docks, halls, stairs, elevator, entranceways or sidewalks around the Building during construction or otherwise; and
- (o) that any installation construction, maintenance, repair, removal or replacement by the Licensee of the Licensee Equipment shall be performed in a neat, responsible, good and workmanlike manner.

12. Licensor's Representations, Warranties and Covenants

12.1 Licensor represents and warrants that:

- (a) it has sufficient right, title and interest in the Building and lands to grant this license; and
- (b) this license constitutes a legal and binding obligation of the Licensor enforceable against the licensor in accordance with its terms, except as may be limited by the laws of bankruptcy, the laws affecting the rights of creditors and the equitable jurisdiction of any Court or CRTC, as applicable.

12.2 Licensor covenants:

- (a) the use and access by the Licensee of the POP Space shall be unencumbered;
- (b) to observe and perform all of its obligations set forth herein;
- (c) to operate, repair and maintain the Building and Building systems and the lands in a safe and proper operating condition and in accordance with accepted building industry standards;
- (d) to not enter the POP Space unaccompanied by a representative of the Licensee except in the case of an emergency;
- (e) that any consent or approval of the Licensor pursuant to the terms of this License shall not be unreasonably withheld, conditioned or delayed;
- (f) to cooperate with the Licensee in obtaining all necessary consents, permits and authorizations as may be required by any federal, provincial and municipal or other governmental authority having jurisdiction over the licensee's construction, installation, connection, testing, operation, maintenance, repair, modification, disconnection, replacement and removal of the Licensee Equipment, and the provision of the licensee Services. To this end, the Licensor will, without restricting the generality of the foregoing, execute, in a timely fashion, all necessary authorizations to enable the licensee to obtain building permits, plans, drawings, site plan approvals and zoning and bylaw amendments and variances, and other similar matters and to obtain the release of any information with respect to the POP Space, Building or Lands from any person; and
- (g) to abide by all Applicable Laws.

13. Insurance

13.1 Licensee will, without limiting its obligations or liabilities under this License, at its own expense, obtain and maintain, during the Term or any renewal:

- (a) Commercial general liability insurance in an amount not less than Two Million (\$2,000,000.00) Dollars inclusive per occurrence against liability for bodily injury, personal injury, death and property damage including contingent employer's liability, contractual liability and non-owned automobile liability relating to Licensee's use and occupation of the POP Space, the Building and the Lands pursuant to this License. The required insured amount shall be composed of any combination of primary and excess (umbrella) insurance policies. Such insurance shall name Licensor as an additional insured limited to the extent of the negligence of Licensee or those for whom Licensee is responsible in law and include both cross-liability and severability of interest clauses.
- (b) "All risks" property insurance in an amount not less than the replacement cost of Communications Equipment in the POP Space.
- (c) Boiler and machinery insurance for electrical and mechanical breakdown of heating, ventilation and air conditioning machinery and equipment of the Licensee.

Licensee shall provide Licensor with a certificate evidencing the insurance required above, as well as any renewal certificates thereafter for the duration of the License recording that Licensor shall receive thirty (30) days written notice prior to cancellation to the detriment of Licensor.

13.2 Licensor will, without limiting its obligations or liabilities under this License, at its own expense, obtain and maintain during the Term or any renewal:

- (a) Commercial general liability insurance in an amount not less than Two Million (\$2,000,000.00) Dollars inclusive per occurrence against liability for bodily injury, personal injury, death and property damage relating to Licensor's ownership, use, occupation, operation, management and/or maintenance of the Building, POP Space and Lands. The required insured amount for comprehensive general liability shall be composed of any combination of primary and excess (umbrella) insurance policies.
- (b) "All risks" property insurance in an amount not less than the replacement cost of the Building and POP Space.
- (c) Boiler and machinery insurance for electrical and mechanical breakdown of heating, ventilation and air conditioning machinery and equipment in the Building.

14. Indemnification/Liability

14.1 The Licensee will be liable for and will indemnify and save harmless the Licensor, its directors, officers, employees, and contractors, and those for whom it is responsible in law (collectively, the "Licensor Indemnitees"), from and against any and all losses, suits, actions, causes of action, proceedings, damages, costs, claims and expenses (collectively, the "Losses") arising from physical damage to any tangible property or bodily injury, including death, to any person caused by or arising out of any breach by the Licensee of its obligations under this License or any negligent act or omission relating to the Licensee's use and occupation of the POP Space, the Building or the Lands under this License, provided that the Licensee will not be required to indemnify the Licensor Indemnitees to the extent any such Losses are caused by any negligent or willful act or omission of any of the Licensor Indemnitees. Notwithstanding the foregoing, in no event will the Licensee be liable for or indemnify and save harmless any of the Licensor Indemnitees from and against any indirect, special, incidental or consequential damages, including loss of revenue, loss or profits, loss of business opportunity or loss of use of any facilities or property, even if advised of the possibility of such damages.

14.2 The Licensor will be liable for and will indemnify and save harmless the Licensee, its directors, officers, employees, and contractors, and those for whom it is responsible in law (collectively, the "Licensee Indemnitees"), from and against any and all losses, suits, actions, causes of action, proceedings, damages, costs, claims and expenses (collectively, the "Losses") arising from physical damage to any tangible property or bodily injury, including death, to any person caused by or arising out of any breach by the Licensor of its obligations under this License or any negligent act or omission relating to the Licensor's ownership or management of the Building or the Lands under this License, provided that the Licensor will not be required to indemnify any Licensee Indemnitees to the extent any such Losses are caused by any negligent or willful act or

omission of any of the Licensee Indemnitees. Notwithstanding the foregoing, in no event will the Licensor be liable for or indemnify and save harmless any of the Licensee Indemnitees from and against any indirect, special, incidental or consequential damages, including loss of revenue, loss or profits, loss of business opportunity or loss of use of any facilities or property, even if advised of the possibility of such damages.

15. Construction

15.1 Subject to Section 16.1, the Licensor acknowledges and agrees that the Licensee shall not be charged for any costs associated with the construction, maintenance, operation or repair of the MTR or Pathways of the Building or the Lands.

15.2 In the event the Licensee wishes to install Licensee Equipment during the construction of the MDU, the Licensor shall give reasonable access to the Licensee or its agents or contractors for the installation of the Licensee Equipment. Prior to access to install any Licensee Equipment, the Licensee shall provide the Licensor with notice of its intention to provide Licensee Services. Upon receipt of such notice, the Licensor shall within ten (10) Business Days provide the Licensee with suitable copies of site plans to enable the Licensee to develop an installation plan for the installation of the Licensee Equipment. The Licensee shall submit Working Drawings or engineered plans if reasonably required by the Licensor, for approval by the Licensor and the Licensee agrees to pay to the Licensor any costs reasonably incurred by the Licensor for the approval of such Working Drawings or engineered plans. Any costs of approval of such Working Drawings or engineer drawings if required, shall be in accordance with Section 9.2.

15.3 Upon agreement by the parties that the Licensor shall install the Licensee Equipment as requested by the Licensee, the Licensee shall be responsible for such installation costs reasonably incurred by the Licensor for such purpose.

15.4 The Licensee agrees to provide to the Licensor, Working Drawings or engineered plans for that Communications Equipment requiring connection or attachment to the base Building systems, or material installations of Connecting Equipment, for the approval of the Licensor.

15.5 The Licensee shall, at its sole cost and expense, prior to undertaking construction and other work in the Building, Lands and Pathways, obtain any necessary, consents, approvals, permits and authorizations of any federal, provincial, municipal or other governmental authority having jurisdiction.

16. Construction and Provision of Additional Facilities

16.1 In the event the Licensee requests the Licensor to construct or provide facilities such as floor space, ventilation or any other building facilities, beyond those provided in the normal course of constructing an MDU, the Licensee shall reimburse the Licensor for costs reasonably incurred by the Licensor for the provision, installation, construction and construction supervision of such facilities, on a cost basis.

17. Installation of In-building Wire

17.1 The Licensee shall, have the option to install IBW or upgrade its IBW and related facilities within the Building at its sole cost. The Licensor shall provide reasonable access to the Licensee as required, to carry out the work of installing or upgrading the IBW, provided that the Licensee provide the Working Drawings as required by Subsection 9.1 (b) or (c), for the approval of the Licensor.

17.2 Both parties agree that any IBW installed subsequent to the signing of this License shall be labeled at the MTR, with respect to identification and safety, in accordance with accepted telecommunication industry standards.

17.3 If there is insufficient space in the Pathways to install IBW, the Licensee shall be permitted to construct additional riser space, at the sole cost of the Licensee, if such space can be accommodated within the Building as determined by the Licensor acting reasonably, or upgrade or replace existing IBW such that existing Pathways may be used more efficiently.

18. Industry Standards

18.1 Connecting Equipment installed by either the Licensee or Licensor shall, at a minimum, meet accepted telecommunication industry standards.

19. Riser management

19.1 The Licensor acknowledges and agrees with the Licensee that:

- (a) the Licensee shall not be required to use the RMS of the Owner, any other third party or any RMC for any IBW regardless of who has responsibility or control of IBW unless agreed to in writing by the Licensee in its sole discretion. In the event the Licensee does not use the RMS then the Licensor and those for whom it is responsible for in law shall not interfere with the Licensee's access to and use of Cable;
- (b) should the Licensee elect in writing to use the RMS of the Licensor the Licensee agrees to pay the Licensor a fee for such usage, which shall be cost based, such costs to be reasonably incurred;
- (c) in the event RMS are provided by the Licensee any other LEC has the sole option of using these services; and
- (d) any clean-up and inventorying of IBW that is under the responsibility and control of the Licensee shall be mutually agreed to by the parties in writing.

20. Assignment, Sublicensing and Sharing of Space and Equipment

20.1 The Licensee may assign this License with the consent of the Licensor, provided that the Licensee may without the consent of the Licensor, assign this License, to a party that is the transferee of all or substantially all of the assets of the Licensee or to an Affiliate, or by way of security to a creditor.

20.2 The Licensor may assign this License with the consent of the Licensee, provided that the Licensor may without the consent of the Licensee, assign this License, to a party that is the transferee of all or substantially all of the assets of the Licensor or to an Affiliate, or by way of security to a creditor.

20.3 Notwithstanding Section 20.2, it will be a condition of any conveyance, transfer or assignment of the Licensor's interest in the POP Space, the Building or the Lands that this License will be assigned to the party in whose favour the conveyance, transfer or assignment is made and such party agrees in writing to be bound by the terms and conditions of this License. The Licensor agrees to provide a copy of the Assignment to the Licensee upon execution.

20.4 A change of control of the Licensor or the Licensee will not be considered an assignment for the purposes of this License.

20.5 The Licensor acknowledges and agrees that the Licensee is permitted to allow other LECs to connect to and use copper IBW under its responsibility and control, at no cost.

20.6 The Licensee shall not sub-license all or any part of the POP Space, or enter into any co-usage or sharing arrangement in respect of the POP Space or any part of it, save and except that directed by the CRTC, or any other governing body having jurisdiction, without the prior written consent of the Licensor.

21. Hazardous Substances

21.1 Each of the parties agree not to install, bring upon or use any hazardous substance within or on the Building except for those hazardous substances commonly used in the telecommunications or building operations industries. Any such hazardous substances or situation shall be in compliance with all Applicable Laws.

21.2 The Licensor agrees to disclose knowledge of any hazardous substances or situations existing prior to the Commencement Date. Any such substances or situations shall be in compliance with all Applicable Laws.

22. Events of Default

22.1 Each of the following events shall be an event of default by the Licensor or Licensee, as the case may be pursuant to the terms of this License:

- (a) the Licensee defaults in the payment of the POP Space Fee or any other sum due under this License and such default continues for more than fifteen (15) days after receipt of written notice of such default by the Licensor to the Licensee;
- (b) either party defaults in the observance or performance of any of its material obligations under this License and such default continues for more than thirty (30) days after receipt of written notice from the non-defaulting party of such default, unless such default cannot be reasonably cured within such thirty (30) day period, in which event the period for curing such default will be extended for the period of time reasonably required to effect such cure, provided that the defaulting party promptly commences and pursues such cure with reasonable diligence immediately upon receipt of the notice; or
- (c) either party becomes insolvent, ceases to do business as a going concern, is adjudged a bankrupt or makes an assignment for the benefit of creditors, or if a receiver or receiver-manager is appointed for that party and no steps are taken to discharge such receiver or receiver-manager, or if that party takes the benefit of any statute in force for the winding up or liquidation of corporations.

22.2 Upon the occurrence of an event of default pursuant to Section 22.1, the non-defaulting party may terminate this License forthwith on giving written notice to the defaulting party.

23. Rights of Termination

23.1 The Licensee may terminate this License without liability to the Licensor, if:

- (a) any structures, facilities or other works of any nature or kind whatsoever, including third party telecommunications equipment or facilities, screen, shield or interfere in any manner with the signals transmitted or received by the Licensee Equipment; or
- (b) In the event the Building is damaged to such an extent that the Licensee is unable to effectively exercise its rights pursuant to the License granted by the Licensor under this License, the Licensor, at its sole option and expense, may attempt to repair such damage within one hundred eighty (180) days after the date of damage to the Building. In the event the Licensor elects not to or is unable to repair the damage within such one hundred eighty (180) days, the Licensee shall have the right to terminate this License upon providing thirty (30) days prior written notice to the Licensor, in which event the Licensee shall remove the Licensee's Equipment in accordance with Section 24.1. The Licensee shall have no obligation to pay the POP Space Fee or any other amounts under this License during the thirty (30) day notice period, and the portion of the POP Space Fee paid by the Licensee in advance shall be refunded by the Licensor to the Licensee on a pro-rated basis to the date of damage of the Building.

23.2 Either party may terminate this License without liability to the other party, upon reasonable notice to the other in any of the following circumstances:

- (a) in the event the Licensee does not install any Licensee's Equipment in the Building;
- (b) the Licensee no longer provides Licensee's Services in the Building;
- (c) the revocation of the Licensee's LEC status by the CRTC;
- (d) the Licensee is unable to secure, on terms and conditions reasonably satisfactory to it, all necessary consents, approvals, permits and authorizations of any federal, provincial, municipal or other governmental authority having jurisdiction over the provision of Licensee Services or any other matters required by the Licensee to provide Licensee Services; or

(e) the Building is no longer an MDU.

Reasonable notice of either party with respect to subsections (a) and (b) above shall be three hundred sixty five (365) days following notice where the POP Space is not required by an entering LEC and one hundred eighty (180) days following notice where the POP Space is required by an entering LEC.

24. Restoration Obligations on Termination or Expiration of the license
- 24.1 Upon expiration of the license or termination in accordance with Sections 23.1 and 23.2, the licensee agrees to remove the Communications Equipment from the POP Space within thirty (30) days after receiving written notice by the Licensor requesting such removal and where applicable, repair any damage to the Building caused by such removal. If the Licensee fails to remove its Communications Equipment within the thirty (30) days as required above, the Licensor may remove such Communications Equipment and repair any damage occasioned thereby, at the sole cost and expense of the licensee.
- 24.2 The Licensee shall not be required to remove the IBW under its responsibility and control unless the Licensee deems such IBW unusable for future use.
25. Licensor's Alterations
- 25.1 The Licensor reserves the right, upon reasonable advance notice to the Licensee, to relocate the POP Space to another area of the Building similar in size and condition to the POP Space, in which event the Licensor will pay the costs of relocation, except where such relocation is required by Applicable Laws, provided that the Licensor acknowledges that the Licensee's obligation to provide Licensee's Services shall be paramount and further acknowledges that any relocation may require the installation and activation of the licensee's Equipment in the relocated area prior to dislocation from the existing POP Space.
- 25.2 Where relocation is required by Applicable Laws the allocation of the cost of such relocation shall be as agreed to by the parties and if the parties are unable to agree such allocation shall be determined pursuant to Section 29.1.
26. Liens
- 26.1 Each party shall be responsible for the satisfaction or payment of any liens for any provider of works, labour or materials, or services claiming by, through or under such party regarding each party's interest pursuant to this License. Upon notice from the other party any lien shall be removed within ten (10) Business Days of the request by the other party, by payment of sufficient money to the Court to obtain the removal of such lien.
27. Interference
- 27.1 The Licensee Equipment and the equipment of those for who the Licensee controls and is responsible for at law, shall not interfere with the use and enjoyment of the Building by the Licensor, or Building tenants or occupants. If such interference shall occur, the Licensor shall give the Licensee written notice thereof and the Licensee shall use commercially reasonable efforts to correct the same, forthwith after receipt of such notice. In the event Licensee fails to correct such conditions after proper notification and waiting period, Licensor reserves the rights to take any reasonable actions to correct the interference.
- 27.2 The Licensor's Building systems or any of the tenants or occupants in the Building for whom the Licensor controls and is responsible at law shall not interfere with the provision of Licensee Services. If such interference shall occur the Licensee shall give the Licensor written notice thereof and the licensor shall use commercially reasonable efforts to correct same forthwith after receipt of such notice within the time frame as dictated by the nature of the interference. In the event the Licensor fails to correct such interference after using reasonable commercial efforts after written notice, the Licensor shall use its best efforts to correct such interference forthwith. If such interference is not corrected after the best efforts of the Licensor, the resolution of such interference shall be determined pursuant to Section 29.1.
- 27.3 In the event interference is caused by a party to this License the party which did not cause the interference shall be entitled to recover the cost of detection and rectification of the interference from the other party.

28. Governing Law

28.1 The construction, interpretation and performance of this License shall be in accordance with the laws of the Province in which the Building is located and the laws of Canada applicable therein.

29. Dispute Resolution

29.1 The parties agree to use commercially reasonable efforts to resolve any dispute, failing which any party may refer the dispute, or the application or performance or obligations of the parties to this License to the CRTC or a Court of competent jurisdiction.

30. Applicable Law

30.1 This License, including the actions and obligations of the parties are subject to all Applicable Laws.

31. Severability

31.1 Should any provision of this License be illegal, unenforceable, or inconsistent with Section 30.1, that provision shall be considered separate and severable from the remaining provisions of this License and the remaining provisions shall remain in force and be binding upon the parties.

32. CRTC

32.1 The parties hereto acknowledge and agree that the Licensee and the provision of Licensee Services are subject to compliance with the orders, decisions including the Decision, guidelines, rules, regulations and directions (collectively, the "Order") of the CRTC. In the event the CRTC issues any Order in respect of the subject matter of this License, and such Order affects the rights and/or obligations of either party, such party shall be entitled to require that this License or portions thereof, as required, be amended in a reasonable manner so as to give effect to such Order and in the event the parties cannot agree upon the appropriate amendment required to make this License consistent with any CRTC Order, then such amendment required shall be determined by the CRTC. Notwithstanding anything contained in this License, in no event shall this License be interpreted as limiting the rights of the Licensee or the Licensor, to avail itself of the provisions of the *Telecommunications Act*.

33. Interest

33.1 In the event any Fee is not paid within the time period required by this License, in addition to any other rights and remedies available to the Licensor in law or equity, the Licensor shall be entitled to recover all accrued but unpaid Fees together with interest thereon at a rate equal to two percent (2.0%) per annum above the prime commercial loan rate most recently published by the Licensor's principal bank.

34. Force Majeure

34.1 Without limiting or restricting the applicability of any Applicable Law governing frustration of contracts, in the event either party fails to meet any of its obligations under this License within the time prescribed as a result of Force Majeure, such failure shall be deemed not to be a breach of the obligations of such party under this License, and the time for the performance of such obligation shall be extended accordingly as may be appropriate under the circumstances.

35. Notice

35.1 Any notice or demand by or from the Licensor to the Licensee, or by or from the Licensee to the Licensor, shall be in writing and shall be deemed given upon (a) personal delivery to the addressee, (b) five (5) days after sending by registered mail, postage prepaid, return receipt requested, or (c) successfully sent by facsimile during normal business hours. Until notified otherwise, the addresses and facsimile numbers for delivery of notice are:

In the Case of the Licensor.

Downing Street Holdings (425 Bloor Street East) Inc.
425 Bloor Street East, Suite 100,
Toronto, Ontario M4W 3R5

Fax:
Attention:

In the Case of the Licensee:

Nexacor Realty Management Inc.
87 Ontario Street West Montreal,
Quebec H2X 1Y8

Fax:
Attention: Director of Realty Transactions and Director of Lease Administration

With a copy to:

Bell Canada
87 Ontario Street West,
Montreal, Quebec H2X 1Y8

Fax:
Attention: General Manager, Asset Management

36. Disclosure

36.1 Both parties acknowledge that the terms and conditions of this License, including Fees, shall be made available on the website of the Licensee. The Licensee shall remove all end user information, wiring maps and building plans from the License that is posted to the website.

37. Currency

37.1 All amounts contained in this License are in Canadian dollars.

The parties hereto have executed this License as of the day and year first above written.

Licensor

Per: _____

Name:

Title: President

I am authorized to bind the Licensor

Licensee

Per: _____

Name:

Title: Regional Manager – Asset Planning

I am authorized to bind the Licensee

Schedule "A"

DESCRIPTION OF LANDS

In the City of Toronto, being composed of part of Lots 1, 2, 3, 4 and part of Back Road as stopped up and closed by Judgement of the High Court of Justice Chancery Division, registered in the Land Registry Office for the Registry Division of Toronto as Instrument 10647 N.E. See A9903Q9 according to Plan 44 registered in the said Land Registry Office, designated as Parts 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20, 21, 22,23,24,25 and 26 on a plan of survey deposited in the Land Registry Office for the Land Titles Division of Toronto as Plan 66R-13151.

Subject to an easement or right or licence in the nature of an easement in favour of The Municipality of Metropolitan Toronto over said Parts 6,8, 10, 12,14,16,18,20,22,24 and 26 on said Plan 66R - 133151 for subway purposes as set out in A999878.

Subject to a right of way in favour of The Municipality of Metropolitan Toronto over said Parts 3, 7, 8, 9, 10, 13 and 14 on said Plan 66R - 13151 for the purposes of a public sidewalk as set out in A999878.

Schedule "C"

TERM

1. The grant of this License is for the term of one (1) year and eight (8) months commencing on the later of: (i) the 1st day of January, 2005; or (ii) the date the Licensor provides its final approval of the Engineered Plans or Working Drawings, as applicable, for the installation of the Communications Equipment and ending on August 31, 2006.

Schedule "D"

POP SPACE AND POP SPACE FEE

1. The POP Space contains 64 square feet.
2. The Licensor's GST number is 866957277 RT0001.
3. Licensor acknowledges and agrees that Allianz has agreed to pay the sum of \$1.00 per month, to the Licensor, for the POP space located in the basement of 425 Bloor St. E. and all applicable construction and hydro costs relating to this installation up until the end of the Term (the "Pop Space Fee") and that Licensee shall have no further liability for such POP Space Fee during the Term.
4. The parties understand and agree that after the expiration of the Term and upon Allianz vacating the premises on August 31, 2006, Licensee has the option to lease the POP space in accordance with the terms and conditions of this License Agreement, at a cost of \$150.00 + GST per month, plus the agreed hydro costs, payable to the Licensor, for continued use of the POP space.
5. The Licensee agrees to pay for hydro consumption at an estimated rate, at the time of the establishment of a new term after Allianz has vacated the Building and the Licensee has entered into a new license agreement with the Licensor on substantially the same terms and conditions as this License Agreement.
6. After the expiration of the Term of this agreement and pursuant to Allianz vacating the premises, should the Licensee not want to continue to serve the building utilizing this POP space, the POP space shall be restored to its original state pursuant to the terms and conditions of this License Agreement, less reasonable wear and tear. All associated equipment shall be removed at the Licensee's cost in accordance with the terms of this License Agreement.

Schedule "E" - Definitions

In this License, the capitalized terms and phrases shall mean the following:

- 1.1 "Affiliate" means, as each term is defined in the *Canada Business Corporations Act*, as amended, collectively, an affiliate, subsidiary or associate which in the case of the Licensee must be a LEC;
- 1.2 "Applicable Law(s)" means all present and future laws, statutes, regulations, judgments, orders and decrees applicable to the parties or the transaction contemplated herein and having the force of law;
- 1.3 "Building" means the MDU building(s) municipally described in Recital A and located on the Lands;
- 1.4 "Business Day" means a day other than a Saturday, Sunday or statutory holiday in the Province in which the Building is situated;
- 1.5 "Cable" means fibre optic, coaxial and copper cables and wires, or any of them;
- 1.6 "Commencement Date" means the date on which the term commences as provided in Section 4.1;
- 1.7 "Communications Equipment" means such Licensee telecommunications equipment and facilities including, but not limited to, cabinets, racks, electronic equipment, electrical power equipment and other similar and related equipment as the Licensee may require for the provision of the Licensee Services;
- 1.8 "Connecting Equipment" means the licensee Cable under the responsibility and control of the Licensee, connecting hardware and other similar and related equipment that is connected to the Communications Equipment which may include Entrance Cable and IBW;
- 1.9 "CRTC" means the Canadian Radio-television and Telecommunications Commission;
- 1.10 "Decision" means Telecom Decision CRTC 2003-45 entitled, *Provision of telecommunications services to customers in multi-dwelling units*, dated 30th June 2003;
- 1.11 "Engineered Plans" means plans prepared by an engineer;
- 1.12 "Entrance Cable(s)" means the Cable(s) owned and/or controlled by the Licensee that connects the Licensee's network through the Entrance Link(s) to the Licensee Equipment located in the POP Space and the Licensee Equipment located in the POP Space to the Main Distribution Frame and includes the tie Cables between the POP Space and the Main Distribution Frame;
- 1.13 "Entrance Link(s)" means the core sleeve(s) penetration through the foundation of the Building used to bring Cable(s) located within the Lands into the Building and that contains the Entrance Cable(s);
- 1.14 "Fee" means the POP Space Fee or any cost or fee payable by the Licensee as provided in Articles 5, 6, 8 and 9 of this License;
- 1.15 "Force Majeure" means any act or event of God, war, terrorism, natural calamities, strikes, lockouts or other labour stoppages or disturbances, civil commotions or disruptions, riots, epidemics, 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, except that the lack of funds on the part of such party shall not be deemed to be an act or event of Force Majeure;
- 1.16 "IBW" or "In-building Wire" means Cable under the responsibility and control of the Licensee, the Building Owner or any third party, which run from the MTR to the riser closet, and in some geographic regions from the riser closet to, but not within, a tenant or occupant's suite;
- 1.17 "Lands" means the land legally described in Schedule "A" attached hereto;
- 1.18 "LEC" means a telecommunication common carrier that has obtained local exchange carrier status from the CRTC to provide local exchange services in the geographic region in which the Building is located;

- 1.19 "License" means this Telecommunication and Building Access License, including the right(s) and license(s) granted herein, including any Recitals and all attached Schedules, attachments and appendices and every instrument executed by the parties that amends, modifies or supplements it or them;
- 1.20 "Licensee" means the party as provided on page (1) one;
- 1.21 "Licensee Equipment" means, collectively, the Communications Equipment and the Connecting Equipment owned by the Licensee and/or controlled by the Licensee;
- 1.22 "Licensee Services" means the telecommunication or other communication services provided by the Licensee, as permitted by the CRTC, to one or more tenants or occupants of the Building or to another telecommunication service provider;
- 1.23 "Licensor" means the Owner of the Lands or its duly authorized agent;
- 1.24 "MDU" or "Multi-Dwelling Unit" means a building with at least two units and at least one unit occupied by a tenant;
- 1.25 "MTR" means the area(s) located in the Building which contain the cross-connection point between the Entrance Cable and the IBW;
- 1.26 "Main Distribution Frame" or "MDF" means the frame(s) on which the Entrance Cable terminates and the IBW originates;
- 1.27 "Owner" means the registered legal owner of the Lands;
- 1.28 "Pathways" means electrical, mechanical or communications spaces, risers, conduits, ducts, trays, raceways, and other common areas located in the Building and the Lands;
- 1.29 "POP Space" means the exclusive use area occupied by the Communications Equipment in the approximate location as provided in Schedule "B" attached hereto, which area contains the square feet as provided in Schedule "F". Such area may be a point of presence room separate from the MTR or, alternatively or in addition, a defined area within the MTR occupied by the Communications Equipment which area mayor may not be caged;
- 1.30 "POP Space Fee" means the fee payable by the Licensee to the Licensor as provided in Section 5.1 ;
- 1.31 "Riser Management Company" or "RMC" means an entity or company involved in the provision of Riser Management Services;
- 1.32 "Riser Management Services" or "RMS" means services provided by the Owner, or on behalf of the Owner, for the maintenance or wiring management of Cable or the management of any other aspect of the Licensee Services;
- 1.33 "Term" means the term as provided in Section 4.1; and
- 1.34 "Working Drawings" means a drawing or sketch that describes the proposed installation of the Licensee's Equipment.