

TELECOMMUNICATIONS LICENSE AGREEMENT

THIS AGREEMENT dated this 3rd day of November, 2008.

BETWEEN:

IVANHOE CAMBRIDGE INC.

(the "Owner")

- and -

BELL CANADA

(the "Licensee")

WHEREAS:

- (a) the Owner is the manager of a certain property as more particularly described in Schedule A of this Agreement and municipally known as 550 King Street North, Waterloo, Ontario;
- (b) the Owner has agreed to grant to the Licensee a license to install, operate, maintain, repair and replace certain communications equipment in the Owner's building, as more particularly described in this Agreement, on the terms and conditions set out in this Agreement; and
- (c) the Licensee has provided In-Building Wire in the Building, as further described in Schedule B, for the use of the Licensee and other Licensee(s), at Licensee's sole cost and expense.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the Owner and the Licensee agree as follows:

1.1 **Definitions** In this Agreement, unless the context requires otherwise, the following terms shall have the following meanings, respectively:

"Agreement" means this Agreement and the Schedules attached hereto and all subsequent changes, modifications and amendments to this Agreement and the attached Schedules made in accordance with the provisions of this Agreement.

"Buildings" means this Agreement and the Schedules attached hereto and all subsequent changes, modifications and amendments to this Agreement and the attached Schedules made in accordance with the provisions of this Agreement.

"Building Risers" means the electrical, mechanical or communications spaces or other pathways in the Building.

"Business Day" means a day other than Saturday, Sunday or any other day on which the principal commercial banks in Ontario are not open for business during normal banking hours.

"Commencement Date" means the date on which the Term commences, which shall be November 3, 2008.

"Communications Equipment" means the communications equipment of the Licensee and its affiliates, including, without limitation, cabinets, racks, electronic equipment and other similar equipment.

"Connecting Equipment" means the cables, conduits, inner ducts and connecting hardware of the Licensee that are connected to the Communications Equipment.

"CRTC" means the Canadian Radio-television and Telecommunications Commission or its successor.

"Entrance Link" means the core sleeve penetration through the foundation of the Building.

"Equipment Room" means the space for the Licensee's Equipment located on the Ground Level of the Building and shown hatched on the floor plan attached to this Agreement as Schedule C, which shall be provided by the Owner to the Licensee for the non-exclusive use of the Licensee.

"GST" means the Goods and Services Tax established under the Excise Tax Act (Canada) or a successor tax imposed by the Government of Canada under lawful authority.

"In-Building Wire" as defined by the CRTC constitutes copper wires and other facilities which originate in the Equipment Room and run to the telephone closets and from there to the tenant's space but not within the premises of the tenant's or occupants in the Building.

"Lands" means the lands situated in the City of Waterloo, in the Province of Ontario, on which the Building is constructed, as more particularly described in the attached Schedule A.

"Licensee's Equipment" means, collectively, the Communications Equipment and the Connecting Equipment.

"Notice" means any notice, request, consent or other communication provided, required or permitted under this Agreement, as contemplated in section 13.1 of this Agreement.

"Term" means the continuous period of ten (10) years commencing on the Commencement Date.

1.2 **Interpretation** For the purposes of this Agreement, except as otherwise expressly provided, the following shall apply:

- (a) Words importing the singular include the plural and vice versa, and words importing gender include all genders and firms or corporations where applicable.
- (b) Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- (c) The headings inserted 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 this Agreement.
- (d) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

1.3 **Schedules** The following are the Schedules attached to and forming part of this Agreement:

Schedule A – Legal Description of Lands

Schedule B – Description of In-Building Wire Installation

Schedule C – Floor Plan

ARTICLE 2 – LICENSE

2.1 **License** The Owner grant to the Licensee an non- exclusive license to:

- (a) install, operate, maintain, repair and replace the Communications Equipment in the Equipment Room, at the Licensee's sole expense and risk;
- (b) install, operate, maintain, repair and replace the Connecting Equipment in the Building, at the Licensee's sole expense and risk, together with the right to pull the Connecting Equipment through the Entrance Link and through the Building Risers as necessary to reach from the Entrance Link to the Equipment Room and from the Equipment Room to the Licensee's customers in the Building, as required by the Licensee from time to time to provide communications services to the Licensee's customers in the Building; and
- (c) use the Entrance Link and existing In-Building wiring, as further detailed in Schedule B, as required by the Licensee for the purpose of connecting the Licensee's Equipment to the Licensee's customers in the Building.

2.2 **Equipment Room** The Owner shall provide Licensee with space in the Equipment Room, for the non-exclusive use of the Licensee, which space shall be used by the Licensee only for the provision of communications services to the Licensee's customers in the Building.

2.3 **Nature of Interest** The right granted to the Licensee under this Agreement is a license only, and shall not constitute a partnership, joint venture or lease between the parties.

2.4 **Non-Exclusivity** The Licensee acknowledges and agrees that, subject to section 2.2 of this Agreement, the license granted to the Licensee pursuant to section 2.1 of this Agreement is not exclusive to the Licensee, and that the Owner has the right to grant similar rights and privileges in respect of the Building to other parties.

3.1 **Term** Notwithstanding the date of its execution, this Agreement shall come into effect on the Commencement Date, and, subject to the provisions of this Agreement, shall remain in effect for the Term.

3.2 **Renewal Term** Provided that the Licensee is not in default of any of its obligations under this Agreement, this Agreement will automatically be renewed for the Renewal Term(s) unless the Licensee gives the Owner at least one hundred and twenty (120) days written notice prior to the end of the Term or a Renewal Term of the Licensee's intention not to renew.

3.3 **Overholding** If the Licensee remains in occupation of the Equipment Room following the expiration of the Term or a Renewal Term, such continued occupation by the Licensee shall not have the effect of renewing or extending this Agreement for any period of time, and the Licensee shall be deemed to be occupying the Equipment Room as a licensee on a month-to-month basis upon the same terms and conditions as set out in this Agreement.

4.1 **License Fee** In consideration of the Licensee providing In-Building Wire as set forth in Schedule "B", at the sole cost of the Licensee the Owner agrees to waive the License Fee under this Agreement.

5.1 **Use of Equipment Room** The Licensee shall use the Equipment Room only for the purpose of the installation, operation, maintenance, repair and replacement of the Licensee's Equipment as required by the Licensee for the purpose of providing communications services to the Licensee's customers in the Building.

5.2 **Title** The Owner acknowledges and agrees that title to, and ownership of, the Licensee's Equipment shall remain with the Licensee at all times, notwithstanding that the Licensee's Equipment may be affixed to a part of the Building for the time being.

6.1 **Access** The Licensee and its authorized representatives shall have access to the Equipment Room on a seven (7) days a week, twenty-four (24) hours per day basis for the purpose of installing, operating, maintaining, repairing and removing the Licensee's Equipment. The Licensee and its authorized representatives further shall have such access to the driveways, walkways, entrances, exits and hallways associated with the Building as may be required in order for the Licensee and its authorized representatives to access the Equipment Room. The Owner acknowledges that the nature of the Licensee's communications services requires such access for servicing purposes and in emergency situations. The Licensee and its authorized representatives shall have ingress and egress to the Building Risers at such times as specified by the Owner, acting reasonably, provided that in the event of an emergency, the Licensee shall have the right to enter the Building Risers upon notification to the Owner. All entry and access to the Equipment Room and the Building including the Building Risers, by the Licensee and its authorized representatives shall be subject to the Owner's reasonable security procedures.

6.2 **Electrical Power** The Licensee shall have the right to connect the Licensee's Equipment to the electric power distributing system within the Building at the sole cost and expense of the Licensee. Where the Licensee's Equipment consumes more than approximately one (1) kilowatt per hour, the Owner may require the Licensee to pay for all electricity consumed by the Licensee on a load and usage basis. The Licensee agrees that the Owner has no obligation or responsibility to provide emergency or backup power to the Licensee.

6.3 **Telephone Service** The Licensee, at its sole cost and expense, shall have the right to install a telephone in the Equipment Room if required by the Licensee.

6.4 **Nuisance** The Licensee shall not use nor permit the Licensee's Equipment or any part of the Equipment Room to be used in such a manner as to annoy, disturb or cause nuisance to the Owner or the occupiers, tenants or other licensees of the Building, or in a manner that constitutes a contravention of law.

6.5 **Compliance with Laws** The Licensee, in installing, maintaining operating, repairing and replacing the Licensee's Equipment in the Equipment Room and the Building Risers shall comply at all times with all applicable laws, regulations, by-laws, rules, orders and ordinances of all federal, provincial and municipal governmental authorities, including, without limitation, the rulings and decisions of the CRTC.

7.1 **Approval of Plans** Prior to the commencement of the installation of the Licensee's Equipment in the Equipment Room and in the Building Risers, the Licensee shall prepare and submit plans, specifications and working drawings to the Landlord in respect of such installation for the approval of the Owner, which approval may not be unreasonably withheld or delayed.

7.2 **Installation** Upon receipt of the Owner's written approval pursuant to section 7.1 above, delivery of Insurance Certificate required under Article 9 to the, the Licensee, at its sole expense and risk, shall be entitled to commence the installation of the Licensee's Equipment, which installation shall be performed in a responsible and workmanlike manner and in accordance with all applicable laws, regulations, by-laws, orders, rules and ordinances of all federal, provincial and municipal governmental authorities. Upon completion of the installation of the Licensee's Equipment, the Licensee will provide the Owner with as built drawings showing all of the Licensee's Equipment.

7.3 **Cables** The Licensee shall label each cable placed by the Licensee in the Building Risers and any telecommunications closets through which the Licensee's cable passes with an identification number assigned by the Owner to the Licensee.

7.4 **Repairs and Maintenance** The Licensee, at its own cost and expense, shall keep the Equipment Room and the Licensee's Equipment in a safe and properly maintained condition.

7.5 **Liens** The Licensee shall be responsible for the satisfaction or payment of any liens registered against the Building by any supplier of labour, material or services to the Licensee.

Any such liens shall be discharged by the Licensee within fifteen (15) days of receipt of notice from the Owner, provided that the Licensee may contest, in good faith, any such liens, after having discharged such liens.

8.0 INDEMNITY

8.1 Licensee will indemnify, keep indemnified, defend and save harmless each of the Released Persons from any and all loss, claims, costs, actions, damages, liabilities and expenses in connection with loss of life, personal injury, or damage to or loss of property or infringement of any right, privilege or easement, arising out of, or alleged to arise out of, or contributed to by Licensee's performance of, or failure to perform, its obligations under this Agreement, or by Licensee's act in contravention of the provisions of this Agreement, except to the extent that such damage or injury results, partially (in which case Licensee's liability shall be apportioned accordingly) or completely, from the negligence of the Licensor, its employees or its contractors from the use or performance of the Equipment or the loss of use of the Equipment.

8.2 Licensee shall be held as fully responsible to the Released Persons for the acts or omissions of its sub-contractors and persons directly or indirectly employed or retained by its sub-contractors, and for the acts or omissions of persons directly employed by Licensee.

8.3 In this Agreement, "**Released Persons**" means the following: Ivanhoe Cambridge Inc., Ivanhoe Cambridge I Inc. and Ivanhoe Cambridge II Inc., every mortgagee, chargee, secured lender or other entity with a secured financial interest in the Building, and the officers, directors, employees, agents, and contractors of each of the entities mentioned in this sentence. For the purpose solely of any release, exculpatory provision or indemnity provided for this Agreement, Ivanhoe Cambridge Inc. acts as agent or trustee for each of the Released Persons with the intent that each Released Person, may enforce the benefit of each release, exculpatory clause or indemnity, as the case may be, against Licensee.

8.4 Under no circumstances will the indemnifying party be liable to the indemnified party or Released Persons or any third party for any indirect, incidental, special or consequential damages, expenses, costs, liability, or losses, whatsoever (including, lost profits, anticipated or lost revenue, loss of data, loss of use of any information system, failure to realize expected savings or any other commercial or economic loss), whether arising in negligence, tort, statute, equity, contract, common law, or any other cause of action or legal theory even if the indemnifying party has been advised of the possibility of such loss or damage. The indemnified party and Released Persons agrees, acknowledges and confirms that the limitations of liability set out in this section are fair and reasonable in the commercial circumstances of this agreement and the indemnifying party would not have entered into this agreement but for the indemnified party's or Released Person's agreement to limit the indemnifying party's liability in the manner, and to the extent, provided for herein.

9.0 INSURANCE

9.1 Licensee shall, at times during the Terms, arrange, pay for and keep in force and in effect:

- a) Comprehensive General Liability Insurance, on an "occurrence" basis for legal liability imposed by law arising from personal injury, bodily injury, physical damage to tangible property including blanket contractual liability, and non-owned automobile. Such policy shall be written with inclusive limits of not less than Five Million Dollars (\$5,000,000), shall contain a cross liability clause, a severability of interest clause, and shall include the Released Persons as additional insured limited to the extent of the negligence of the Licensee and others over whom it is responsible in law, subject to a deductible of the first \$10,000 in coverage. Such insurance shall be composed of any combination of primary and excess (umbrella) insurance policies.

- b) Property Insurance upon tangible property of every description and kind owned, by the Licensee or for which the Licensee is legally liable located on or in the Equipment and Building with a deductible of the first \$10,000. Such Property Insurance policy or policies shall contain a waiver of subrogation rights which the Licensee's insurers may have against the Released Persons. Further the Licensee releases, and waives any and all claims against, the Released Persons with respect to occurrences or perils including any amounts which are self-insured including the deductible (if any), solely with respect to losses attributable to the Property insurance regardless of cause.
- c) Automobile Liability Insurance coverage of not less than \$2,000,000 for each occurrence covering all vehicles owned or licensed in the name of the Licensee or for whom the Licensee is responsible in law Such insurance shall be composed of any combination of primary and excess (umbrella) insurance policies.

9.2 Licensee shall provide certificates of insurance evidencing the insurance policies noted above to the Licensor prior to the commencement of the Term and are to include thirty (30) days notice of policy cancellation to the Licensor. Upon expiry, Certificate of Insurance documents of renewed coverage are again to be provided.

ARTICLE 10 – TERMINATION

10.1 **Termination by Licensee** The Licensee shall have the right to terminate this Agreement during the Term and any Renewal Period upon 60 days written notice to the Owner in the event of the occurrence of any of the following:

- (a) the Licensee is unable to secure, on terms and conditions reasonably satisfactory to the Licensee, all necessary consents, approvals, permits and authorizations of any federal, provincial or municipal governmental authority having jurisdiction over the installation, operation, maintenance, repair, removal and use of the Licensee's Equipment;
- (b) the Licensee's Equipment is damaged or destroyed and the Licensee determines that it will not effect repairs to, or replace, the Licensee's Equipment;
- (c) the Licensee no longer requires the Equipment Room or the Building Risers for the purpose of providing its communications services to customers in the Building;
- (d) the Owner defaults in the observance or performance of any of the Owner's obligations under this Agreement, and such default continues for more than thirty (30) days after receipt of written notice of such default by the Licensee to the Owner, unless such default cannot reasonably be cured within such thirty (30) day period, in which event the period for curing such default shall be extended for the minimum period of time reasonably required to effect such cure, provided that the Owner promptly commences such cure with reasonable diligence; or
- (e) the Owner makes an assignment for the benefit of creditors or becomes bankrupt, or takes the benefit of, and becomes subject to, the legislation in force relating to bankruptcy or insolvency, it being understood that the appointment of a receiver, receiver/manager or trustee or the property and the assets of the Owner is conclusive evidence of insolvency.

10.2 Termination by the Owner The Owner shall have the right to terminate this Agreement during the Term and any Renewal Period upon 60 days written notice to the Licensee in the event of the occurrence of any of the following:

- (a) the Licensee defaults in the observance or performance of any of the Licensee's obligations under this Agreement and such default continues for more than thirty (30) days after receipt of written notice of such default by the Owner to the Licensee, unless such default cannot reasonably be cured within such thirty (30) day period, in which event the period for curing such default shall be extended for the minimum period of time reasonably required to effect such cure, provided that the Licensee promptly commences such cure with reasonable diligence; or
- (b) the Licensee makes an assignment for the benefit of creditors or becomes bankrupt, or takes the benefit of, and becomes subject to, the legislation in force relating to bankruptcy or insolvency, it being understood that the appointment of a receiver, receiver/manager or trustee of the property and the assets of the Licensee is conclusive evidence of insolvency.

10.3 Surrender Upon the expiration or earlier termination of this Agreement, the Licensee shall remove the Licensee's Equipment from the Equipment Room and the Building, and shall be responsible for repairing any damage caused by the installation and removal of the Licensee's Equipment all within 60 days of such expiration or earlier termination.

ARTICLE 11 – DAMAGE OR DESTRUCTION OF BUILDING

11.1 Right to Terminate 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 Owner under this Agreement, the Owner, at its sole option and expense, may attempt to repair such damage within one hundred eighty (180) days. In the event the Owner elects not to repair the damage within one hundred eighty (180) days, the Licensee shall have the right to terminate this Agreement upon providing thirty (30) days' prior written notice to the Owner, in which event the Licensee shall remove the Licensee's Equipment in accordance with the provisions of section 10.3 of this Agreement.

ARTICLE 12 – FORCE MAJEURE

12.1 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 labour 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.

ARTICLE 13 - NOTICES

13.1 **Notices** Any Notice pursuant to this Agreement shall be sufficiently given if in writing and personally served, or delivered, or sent by facsimile or registered mail, and addressed or sent as specified below:

- (a) If to the Owner:
IVANHOE CAMBRIDGE INC.
550 King Street North
Waterloo, Ontario
N2L 5W6

Attention: General Manager
Tele copier number:

With Copy To:
Ivanhoe Cambridge Inc.
95 Wellington Street
Suite 300
Toronto, Ontario M5J 2R2

Attention: Corporate Secretary

- (b) If to the Licensee:

NEXACOR REALTY MANAGEMENT INC.

87 Ontario West, 2nd Floor
Montreal, QC
H2X 1Y8
Telecopier number:
Attention: Lease Administration

With a copy to:

BELL CANADA

5115 Creekbank Rd

Mississauga, ON
L4W 5R1
Telecopier number:
Attention: Asset Management

13.2 **Receipt** Where a Notice is delivered personally, or by courier or by facsimile, it shall be deemed to have been received the same Business Day, or if the day on which the Notice was sent is not a Business Day, the Notice shall be deemed to have been received on the next Business Day. Where a Notice is sent by registered mail, it shall be deemed to have been received three (3) Business Days after the date of mailing. In no event should any Notice be sent by mail during any period of interrupted or threatened interruption of postal service.

13.3 **Change of Address** Either party may change its address or particulars for purposes of the receipt of any Notices in connection with this Agreement by giving notice in the same manner as provided in this Article 13.

ARTICLE 14 – MISCELLANEOUS

14.1 **CRTC Decision** In the event the CRTC issues any ruling or decision in respect of building access rights while this Agreement is in effect, this Agreement shall be amended by the parties in such a manner so as to give effect to such ruling or decision, and all appropriate adjustments in respect of any amounts paid under this Agreement shall immediately be made between the parties to ensure that this Agreement is brought into conformity with such ruling or decision, including, without limitation, the termination of this Agreement if necessary.

14.2 **Entire Agreement** This Agreement cancels, replaces and supersedes as of its effective date all existing agreements and understandings, written or oral, between the parties relating to the subject matter of this Agreement. The whole contract between the parties is contained in this Agreement and no preliminary proposals, written or oral, form any part of this Agreement.

14.3 **Amendments** Any amendments or modifications to this Agreement must be in writing and signed by both parties hereto.

14.4 **Waiver** No failure by either to exercise any right under this Agreement or to insist upon full compliance by the other party with its obligations under this Agreement will constitute a waiver of any provision of this Agreement. No waiver shall be effective unless made in writing by an authorized officer of the party.

14.5 **Successors and Assigns** This Agreement shall not be assigned by the Licensee, in whole or in part, without the express written consent of the Owner, which consent shall not be unreasonably withheld or unduly delayed, provided that the Licensee shall be entitled to assign this Agreement to an affiliate of the Licensee, as defined in the Canada Business Corporations Act, upon written notice to the Owner.

Notwithstanding any assignment by the Licensee, the Licensee shall continue to be liable under the Agreement and any assignee will enter into a tri-party agreement with the Licensee and Owner agreeing to be bound by all the terms and conditions of this Agreement as of the effective date of the assignment.

14.6 **Counterparts and Facsimile** This Agreement may be executed and delivered by facsimile and/or in counterparts, delivery of which shall constitute an original.

14.7 **Enurement** This Agreement shall be binding upon, and shall enure to the benefit of, the parties hereto and their respective successors and permitted assigns.

14.8 Relocation

- (a) If the Owner shall redevelop, remodel, renovate or otherwise modify the Buildings so as to interfere with the operation of the Licensee's Equipment, Licensee shall at the equally shared reasonable cost and expense between Owner and Licensee relocate all or part of the Licensee's Equipment to such other location within the Buildings acceptable to the Owner providing that if Licensee cannot find an alternative location acceptable to the Owner, then Licensee may terminate this Agreement upon giving thirty (30) days written notice to the Owner.

- (b) If the Owner's plans to redevelop, remodel, renovate or otherwise modify the Buildings require the relocation and/or removal of any of the Licensee's Equipment, Owner will give the Licensee notice thereof and the Owner and the Licensee will, within the 60 day period following Licensee's receipt of such notice, attempt to agree upon an alternative location for all or part of the Licensee's Equipment (as required). If the Owner and the Licensee agree upon such alternative location within such 60 day period, Licensee shall relocate all or part of the Licensee's Equipment (as required) to such other agreed upon alternative location within forty-five (45) days after the date in which Owner and Licensee agreed upon the alternative location. If the Owner and Licensee have not agreed upon such alternative location within such thirty (30) day period, or if such relocation has not been completed for any reason whatsoever to the satisfaction of the Owner within such forty-five (45) day period, then the Owner (providing that in the interim it has not abandoned its plans to redevelop, remodel, renovate or otherwise modify the Building as aforesaid) may terminate this Agreement upon giving ten (10) days notice to Licensee.
- (c) Licensee agrees that any relocation carried out pursuant to the provisions of this Section shall be subject to the applicable provisions of this Agreement.

d)

IN WITNESS WHEREOF the parties have executed this Agreement by the hands of their respective officers duly authorized in that behalf.

IVANHOE CAMBRIDGE INC.

Per: _____
Name:
Title: Senior Vice President Central Region

Per: _____
Name:
Title: Senior Legal Counsel

I/We have authority to bind the corporation

BELL CANADA

Per: _____
Name:
Title: Associate Director - Asset Management

Per: _____
Name:
Title:

I/We have authority to bind corporation

SCHEDULE A

LEGAL DESCRIPTION OF LANDS:

City of Waterloo, Regional Municipality of Waterloo, being:

Firstly: Part of Block C, Registered Plan 1434, designated as Parts 1 and 2, Plan 58R2220

SAVE AND EXCEPT that part of Block C, Registered Plan 1434, designated as Part 1, Plan 58R-10992.

Secondly: Part of Lot 8, German Company Tract, and part of Conestoga Road closed by By-Law 78-135, registered as Instrument No. 633771 (being part of Lot 8, German Company Tract), designated as Parts 2, 3, 4, 5 and 6, Plan 58R-2116

Subject to an easement in favour of Bell Canada, registered as Instrument No. 633780

Thirdly: Blocks A and B, Registered Plan 1434.