

# **LICENSE AGREEMENT**

**BETWEEN:**

**GT GROUP TELECOM SERVICES CORP.**

(the "Licensee")

and

**GROSVENOR CANADA LIMITED and  
ADMNS BROADMEAD INVESTMENT CORPORATION**

(collectively the "Licensor")

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## LICENSE AGREEMENT

THIS AGREEMENT made as of the 1<sup>st</sup> day of May, 2001.

BETWEEN:

**GT GROUP TELECOM SERVICES CORP.**, having an office at Suite 700,  
20 Bay Street, in the City of Toronto, in the Province of Ontario M5J 2N8

(the "Licensee")

OF THE FIRST PART

AND:

**GROSVENOR CANADA LIMITED** a corporation amalgamated under the laws of the Province of British Columbia and **ADMNS BROADMEAD INVESTMENT CORPORATION**, a corporation incorporated under the laws of Canada, both having an office at #2000 - 1040 West Georgia Street, in the City of Vancouver, in the Province of British Columbia V6E 4H1

(the "Licensor")

OF THE SECOND PART

### RECITALS:

- A. The Licensor is the owner of the Lands.
- B. The Licensor has agreed to grant to the Licensee a non-exclusive license to install and operate the Equipment (defined in Schedule "C") on the Site of the Shopping Centre so as to offer and provide the Services to the Tenants and other occupants of the Shopping Centre, on the terms and conditions herein set forth.

NOW THEREFORE, in consideration of the fees, mutual promises and undertakings of the Parties and other good and valuable consideration exchanged by the Parties, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE 1 GRANT AND TERM OF LICENSE

#### Section 1.1 – Grant

The Licensor hereby grants to the Licensee, upon and subject to the terms and conditions herein set forth, during the Term hereof, the non-exclusive right and license to install, maintain, repair and replace the Equipment on the Site of the Shopping Centre, so as to offer and provide the Services to the Tenants and other occupants of the Shopping Centre.

#### Section 1.2 – Term

Subject to Article 11, the Term of this License shall be for a period of five (5) years commencing upon May 1, 2001 and shall expire on April 30, 2006.

#### Section 1.3 – No Partnership

Nothing herein contained shall constitute the Licensor and Licensee as joint venturers, legal representatives, partners or employees of the other; and the Licensee shall have no right or power to and shall not bind or obligate the Licensor in any way, manner or thing whatsoever nor represent to anyone a right to do so. In all public records and dealings with Tenants or other persons, the Licensee shall indicate the true ownership of the business being carried on by it and will in no event represent that the Licensee is a partner of the Licensee in the conduct of its business, or otherwise, or a member of a joint enterprise with the Licensee.

#### Section 1.4 – Options to Renew

##### (a) First Option to Renew

Provided the Licensee is not in default of the terms of this License, and subject to the receipt of a written request by the Licensee not less than six (6) months and not more than twelve (12) months prior to the expiration of the Term of this License, the Licensor will on the expiration of the Term, grant the Licensee a renewal of the Term of this License for a period of two (2) years (the "First Renewal Term") on the same terms and conditions as herein contained save and except that there will be no further right to renew the Term of this License (except as provided in (b) below) and for the license fee for the First Renewal Term which will be agreed upon by the Parties based on the then current market fee for comparable suppliers, provided that the License Fee for the First Renewal Term will not be less than the License Fee paid by the Licensee during the Term of this License and provided further that if the license fee for the First Renewal Term has not been agreed to in writing by the Parties three (3) months prior to the expiry of the Term, the

license fee for the First Renewal Term will be subject to arbitration under the terms of the Commercial Arbitration Act S.B.C. 1986, c.3 and any statutory modifications or re-enactments thereof.

(b) **Second Option to Renew**

Provided the Licensee is not in default of the terms of this License, and subject to the receipt of a written request by the Licensee not less than six (6) months and not more than twelve (12) months prior to the expiration of the First Renewal Term of this License, the Licensor will on the expiration of the First Renewal Term, grant the Licensee a renewal of the Term of this License for a period of two (2) years (the "Second Renewal Term") on the same terms and conditions as herein contained save and except for the license fee for the Second Renewal Term, which will be agreed upon by the Parties based on the then current market fee for comparable suppliers in comparable Shopping Centres in downtown Victoria, provided that the License Fee for the Second Renewal Term will not be less than the license fee paid by the Licensee during the First Renewal Term and provided further that if the license fee for the Second Renewal Term has not been agreed to in writing by the Parties three (3) months prior to the expiry of the Term, the license fee for the First Renewal Term will be subject to arbitration under the terms of the Commercial Arbitration Act S.B.C. 1986, c.3 and any statutory modifications or re-enactments thereof.

## **ARTICLE 2 LICENSE FEE**

### **Section 2.1 – License Fee**

In consideration for the license granted hereby, the Licensee covenants and agrees to pay to the Licensor, an annual license fee (the "License Fee") equal to:

- (a) from and including the Commencement date to and including . Three Thousand Six Hundred Seventy-One Dollars and 65/100 cents (\$3,671.65) plus GST per year, payable on or before the Commencement Date and thereafter in advance on or before the commencement of each Year.

Notwithstanding the foregoing, there shall not be a reduction in the License Fee, if the Equipment is installed for less than twelve (12) months in any Year of the Term.

### **Section 2.2 – Additional Costs**

The Licensee covenants to pay all costs, charges, impositions and expenses of every nature and kind, plus an Administration Fee and GST thereon, incurred by the Licensor in relation to the Licensee's use of the Site, the Services and/or the installation, operation, maintenance and replacement of the Equipment in the Shopping Centre, ("Additional Costs") and including, without limitation, the following:

- (a) any increase in realty taxes, other taxes, rates, duties and assessments whether municipal, federal, provincial or otherwise, charged, levied, rated or assessed to the Shopping Centre, attributable to the Licensee's use of the Site, the conduct of the Services and/or the installation, operation, maintenance, repair and replacement of the Equipment in the Shopping Centre;
- (b) a Utilities Charge attributable to the Licensee's use of the Site, the conduct of the Services and/or the installation, operation, maintenance, repair and replacement of the Equipment in the Shopping Centre; and the Licensee hereby agrees to install a separate meter, if available, or a separate check meter at its own cost monitoring the consumption of such Utilities in the Shopping Centre, or failing the installation of such separate meter or check meter monitoring such consumption, an equitable portion of all Utilities in respect of the Shopping Centre, as reasonably attributed by the Licensor to the Licensee. Notwithstanding anything herein contained to the contrary, if the Licensee has a separate meter in respect of any Utilities, no Administration Fee shall be payable;
- (c) any increase in the Licensor's operating expenses attributable to the Licensee's use of the Site, the conduct of the Services and, or, the installation, operation, maintenance, repair and replacement of the Equipment in the Shopping Centre;
- (d) all costs incurred to install cooling equipment in the Shopping Centre required as a result of the production of heat by the Equipment in excess of the level, quantity or standard of heat in the Shopping Centre prior to the installation of the Equipment;
- (e) all costs incurred to install electrical service in the Shopping Centre required as a result of the use of electricity by the Equipment in excess of the level, quantity or standard of electricity in the Shopping Centre prior to the installation of the Equipment;
- (f) all increases in insurance premiums with respect to the insurance which may be placed by the Licensor from time to time in respect of the Shopping Centre and attributable to the Licensee's use of the Site, the conduct of the Services and, or, the installation, operation, maintenance, repair and replacement of the Equipment in the Shopping Centre; and
- (g) all fees and costs of consultants, interior designers, architects, engineers and any other professionals retained by the Licensor in relation to the Licensee's use of the Site, the conduct of the Services and, or, the installation, operation, maintenance, repair and replacement of the Equipment in the Shopping Centre.

All Additional Costs shall be satisfied and discharged directly by the Licensee (where applicable) as the same become due or, if requested by the Licensor, shall be paid directly to the Licensor in lieu thereof. The Licensee will otherwise pay the Utilities Charge and all other Additional Costs to the Licensor within fourteen (14) days after receipt of an invoice on account thereof.

The Licensee shall, from time to time, at the request of the Licensor, produce to the Licensor, satisfactory evidence of the due payment by the Licensee of all payments required to be made by the Licensee under this License.

### **Section 2.3 – Interest**

The Licensee shall pay to the Licensor interest at the rate of one and one-half percent (1-1/2%) per month calculated daily and compounded monthly in arrears (the equivalent rate calculated annually being 19.56% per annum,) on any amount not paid as and when due hereunder, until paid, whether or not demand be made therefore.

### **Section 2.4 – Late Charges**

The Licensee acknowledges that late payment of the License Fee or Additional Costs or any portion thereof will cause the Licensor to incur costs not contemplated in this License Agreement, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing and accounting charges and late charges that may be imposed on the Licensor by the terms of any encumbrance covering the Shopping Centre. Therefore, if any License Fee or Additional Cost due from the Licensee is not received by the Licensor on the date the same becomes due, the Licensee shall pay to the Licensor on demand the Licensor's out-of-pocket expenses incurred in obtaining or attempting to obtain payment of the amount in arrears and in addition the Tenant agrees to pay to the Landlord as a late charge with respect to each amount of License Fee or Additional Cost in arrears either:

- (a) five percent (5%) of the amount in arrears; or
- (b) sixty (\$60) dollars

whichever is the greater, and such amount shall become payable immediately with respect to the amount becoming in arrears and shall thereafter be calculated and paid on the first day of each month with respect to the aggregate amount in arrears so long as any License Fee or Additional Cost remains in arrears. The Parties agree that this late charge represents a fair and reasonable estimate of the costs that the Licensor will incur by reason of such late payment by the Licensee. Acceptance of any late charge shall not constitute a waiver of the Licensee's default with respect to the overdue amount, or prevent the Licensor from exercising any of the other rights and remedies available to the Licensor.

## **ARTICLE 3 USE AND OPERATION**

### **Section 3.1 – Use**

Subject to Articles 3, 7 and 8, the Licensee shall, at its sole cost and expense, use and operate the Equipment on the Site of the Shopping Centre for the purpose of providing Services to those Tenants of the Shopping Centre who agree to purchase such Services.

For greater certainty, it is understood and agreed that the Licensee shall not have the exclusive right to provide Services to Tenants in the Shopping Centre, nor to install, use or operate any equipment in the Shopping Centre providing Services to Tenants in the Shopping Centre. The Licensee further agrees that any other party may install, use or operate equipment in the Shopping Centre that is the same as or similar to the Equipment in the Shopping Centre.

### **Section 3.2 – Non-Interference**

The Licensee undertakes not to interfere with or adversely affect the Licensor or any Tenant of the Shopping Centre or any Common Elements, Facilities or any item of equipment of the Licensor or tenant, including without limitation, any existing communications equipment, in the course of the provision of Services or the use and operation of the Equipment. Should the Licensee interfere with or adversely affect the Licensor or any Tenant of the Shopping Centre, the Licensee shall forthwith, upon notice from the Licensor, which may be oral, cease such interference or other adverse act or omission and immediately take such steps, at its sole cost and expense, as are necessary to eliminate such interference or other adverse act or omission.

### **Section 3.3 – Secured Claim**

The Licensee shall not permit any Secured Claim to be placed on the Shopping Centre or Lands and in the event any Secured Claim is placed on the Shopping Centre or the Lands, the Licensee shall forthwith take such steps as are necessary to have the registration or filing of the Secured Claim discharged within fifteen (15) days of registration, failing which the Licensor may, at its option, have such Secured Claim discharged and all costs (including legal fees) incurred thereby shall on demand be paid for with by the Licensee to the Licensor, plus an Administration Fee.

### Section 3.4 – Observance of Law

The Licensee will promptly comply with all governmental requirements from time to time in effect relating to its ability to enter into and comply with this License or which pertains to the Equipment, the Licensee's use and operation of the same, or the doing of Alterations or other work in the Shopping Centre by the Licensee. The Licensee shall at all times obtain all necessary licenses, permits and consents required from any governmental authorities for the installation and, or, operation of the Equipment and provide copies of same to the Licensor.

### Section 3.5 – Performance Standard

The Licensee undertakes and agrees to use and operate the Equipment and to provide the Services in a professional, efficient and first-class manner in accordance with this License.

### Section 3.6 – Repair

The Licensee will keep the Equipment and the Licensed Area in first-class condition and state of repair. The Licensee will, at its own cost and expense, properly carry out all maintenance, repairs and replacement of the Equipment and the Licensed Area.

The Licensee will not permit any vibrations, noise, electronic interference or other undesirable effects to emanate from the Equipment or the Site, which in the Licensor's opinion are objectionable or cause any interference with the safety, comfort or inconvenience of the Tenants of the Shopping Centre.

### Section 3.7 – Access

Subject to Sections 3.2 and 7.2, the Licensee shall have twenty-four (24) hours a day, seven (7) days a week access to the Site and the Equipment, provided that such access will be subject to the Licensor's reasonable security requirements and be limited to not more than three (3) persons, whose names shall be supplied by the Licensee to the Licensor in writing upon the execution of this License, and replacements therefor, whose names shall be supplied by the Licensee to the Licensor in writing from time to time. Arrangements for such access shall be made with and through the Licensor, or its designee, with prior written notice being given to the Licensor for routine visits, installations and equipment maintenance, as set out in this License, however in the event of an emergency, the Tenant shall only be obligated to provide one hour's prior verbal notice to the Landlord.

## ARTICLE 4 INSURANCE

### Section 4.1 – Insurance

The Licensee shall, prior to the Commencement Date and the installation of the Equipment, at its sole cost and expense, take out and maintain, (or cause to be taken out and maintained) in full force and effect and at all times throughout the Term of this License, the following insurance:

- (a) "all risks," including floor, sewer back-up, earthquake and sprinkler leakage, property insurance upon property of every description and kind owned by the Licensee, or for which the Licensee is legally liable, or which is to be installed, is being installed, or is installed by or on behalf of the Licensee within the Shopping Centre in an amount not less than the full replacement cost thereof from time to time. In the event that there shall be a dispute as to the amount of the full replacement cost, the decision of the Licensor or its Mortgagee shall be conclusive and binding;
- (b) commercial general liability insurance, including personal liability, contractual liability, products and completed operations liability, non-owned automobile liability and owners and contractors protective insurance coverage, which coverage shall include the activities and operations conducted: (A) by the Licensee and those for whom the Licensee is in law responsible in any part of the Shopping Centre; and (B) by the Licensee or any other person or entity performing work on behalf of the Licensee. Such policies shall be written on a comprehensive basis with coverage for any one occurrence or claim of not less than Ten Million Dollars (\$10,000,000) and in the annual aggregate for products and completed operations liability, or such higher limits as the Licensor or its Mortgagee may require from time to time;
- (c) Automobile liability coverage covering all automobiles owned by or leased (under a lease with a duration of 30 days or more) to the Licensee, for a limit of not less than Ten Million Dollars (\$10,000,000) for each accident;
- (d) Errors and omissions liability insurance, for a limit of not less than Five Million Dollars (\$5,000,000) for any one claim, and in the annual aggregate; and
- (e) Any other form of insurance as the Licensor or its Mortgagee may require from time to time, in amounts and for insurance risks against which a prudent operator of the Licensee's business would protect itself.

Each policy of insurance taken out by the Licensee in accordance with this License shall be taken out with insurers and be in such form and on such terms as are satisfactory to the Licensor, and each such policy shall, except with respect to subparagraphs (c) and (d), add the Licensor, the Released Persons and any others designated by the Licensor as additional insureds, as their respective interests may appear, and each of such policies shall contain, in form satisfactory to the Licensor:

- (i) the standard mortgage clause as required by the Licensor's Mortgagees with respect to subparagraph (a) only;
- (ii) except with respect to subparagraphs (c) and (d,) a waiver by the insurer of any rights of subrogation or indemnity or any other claim over, to which such insurer might otherwise be entitled against the Licensor and, or, the Released Persons and their respective agents, employees or those for whom they are in law responsible, whether or not the damage is caused by their act, error, omission or negligence;
- (iii) an undertaking by the insurer to notify the Licensor and its Mortgagees in writing not less than thirty (30) days prior to any proposed material change adverse to the Licensor, cancellation or other termination thereof;
- (iv) except with respect to subparagraphs (c) and (d,) provisions that the Licensee's insurance: (1) is primary and shall not call into contribution any other insurance available to the Licensor and, or, its mortgagees and (2) will not be invalidated in respect of the interests of the Licensor and, or, the Released Persons by reason of any breach or violation of warranty, representations, declarations or conditions contained in the policies; and
- (v) a severability of interests clause and a cross-liability clause, where applicable.

The Licensee shall provide to the Licensor and its Mortgagees, prior to the Commencement Date and the installation of the Equipment, and thereafter on demand and from time to time, satisfactory evidence that the policies of insurance required to be maintained by the Licensee in accordance with this License are in fact being maintained, which evidence shall be in the form of certificates of insurance, or if required by the Licensor or its Mortgagee, certified copies of each such insurance policy. If the Licensor fails to take out or keep in force any insurance referred to in this Section, the Licensor shall have the right, without assuming any obligation in connection therewith, to effect such insurance at the sole cost of the Licensee, and all outlays by the Licensor shall be payable by the Licensee to the Licensor upon demand, together with an Administration Fee.

#### **Section 4.2 – Increase in Insurance Premiums**

If the conduct of business by the Licensee, the installation, use or operation of the Equipment by the Licensee, or anything done or omitted by the Licensee results in an increase in premiums for any insurance carried by the Licensor, the Licensee will pay the increase to the Licensor on demand. In determining whether the Licensee is responsible for any increased premiums in the amounts for which the Licensee is responsible, a schedule issued by the organization that computed the insurance rate on the Shopping Centre, showing the components of the rate, will be conclusive evidence of the items that make up the rate.

#### **Section 4.3 – Cancellation of Insurance**

The Licensee will not allow or cause anything to occur that results in the cancellation or threatened cancellation or a reduction of coverage under any of the Licensor's insurance policies on the Shopping Centre or any part of it.

#### **Section 4.4 – Release**

Despite anything to the contrary, none of the Released Persons is liable for: (i) death or injury arising from any occurrence in, near, or relating to all or any part of the Shopping Centre; or (ii) damage to or loss of (or loss of use of) property of the Licensee or of others wherever located however caused, including any failure in the supply of any services, systems or Utilities, the existence of any Hazardous Substances anywhere or the exercise by the Licensor of any of its rights under this License unless death, injury, damage or loss results from the gross negligence of the Released Persons or those for whom they are legally responsible.

#### **Section 4.5 – Indemnity**

The Licensee hereby agrees to indemnify and hold harmless the Licensor and its officers, employees, agents, directors and assigns, from and against all losses, claims and expenses, including, without limitation, any loss or damage attributable in whole or in part to the Licensee or any of their employees, servants, agents or contractors, or arising out of the performance of any Alterations or other work by the Licensee or any of their contractors or subcontractors, or arising out of the failure or malfunction of the Licensee's Equipment for whatever reason or cause, or arising out of the Licensee's installation, operation, maintenance, repair or replacement of the Equipment, including indirect or consequential damages and all legal fees.

### **ARTICLE 5 CONTRACTS WITH TENANTS**

#### **Section 5.1 – Tenant Contracts**

The Licensee shall have the responsibility to negotiate and contract with the Tenants of the Shopping Centre for the provision of the Services. The Licensor shall have no responsibility, express or implied, for any of the Licensee's liabilities and obligations with respect to such agreements and the Licensee shall indemnify and save the Licensor harmless from all claims, costs, expenses, demands, actions, or causes of actions brought or threatened by any Tenant of the Shopping Centre to whom the Licensee is providing Services in the Shopping Centre and arising out of the act or omission or negligence of the Licensee or their servants, agents, employees, contractors or



subcontractors with respect to the provision of the Services to such Tenants of the Shopping Centre or the installation or operation of the Equipment.

### **Section 5.2 – Disclaimer**

The Licensee will include provisions in its agreements with all Tenants that any cessation or interruption of Services or any other breach of such agreement by the Licensee shall not constitute a default or a breach under any lease between such Tenant and the Licensor. The agreements with all Tenants will indicate that such agreement is entirely separate and distinct from and independent of any lease between the Tenant and the Licensor.

### **Section 5.3 – Promotion**

In addition to Section 1.3, the Licensor will not participate in any marketing, promotion or public relations efforts of the Licensee whatsoever to promote the Licensee's Services to potential Tenants.

## **ARTICLE 6 REMOVAL AND RESTORATION**

### **Section 6.1 – Removal**

- (a) Upon the expiry or termination of this License for any reason, the Licensee shall, at the Licensor's sole option, remove the Equipment or any individual component thereof from the Shopping Centre at the Licensee's sole cost. If the Licensor elects to have the Licensee remove the Equipment or any individual component thereof upon the expiry or termination of this License, the Licensee shall do so and undertake during such removal not to interfere with or adversely affect the Licensor or any Tenant or Facilities, Common Elements, leasable premises or any item of equipment of the Licensor or any item of equipment of any Tenant and to forthwith repair any damage to the Shopping Centre caused by such removal.
- (b) The Licensor may elect at its sole option to remove the equipment or any component thereof on behalf of the Licensee and repair any damage caused thereby. The Licensee shall pay the Licensor's costs plus an Administration Fee and GST thereon for the removal and repair of such Equipment or any component thereof.
- (c) If the Licensor directs that the Licensee shall remove the Equipment or any component thereof in accordance with Section 6.1 (a) above, but the Licensee has not repaired the damage caused thereby either prior to the expiry of the Term or immediately after termination thereof, the Licensor shall, at its option repair the damage caused thereby and the Licensee shall pay to the Licensor, the Licensor's repair costs plus an Administration Fee and GST thereon.

## **ARTICLE 7 INSTALLATION**

### **Section 7.1 – Licensee's Work**

The Licensee shall not be permitted to use the Shopping Centre for a purpose not specifically described herein, or to install any equipment, cables or any other material in or on the Shopping Centre, other than the Equipment, which shall only be installed and operated in accordance with this License, including, without limitation, Schedule "F" attached hereto, in a good and workmanlike manner. The location, size, weight and method of installation of the Equipment and the plans and specifications therefore shall be subject to the Licensor's prior written approval, which approval shall not be unreasonably withheld or delayed. At the time of submitting a written request for such approval to the Licensor, the Licensee shall provide the Licensor with complete information relating to the Equipment and its installation, operation, repair and maintenance (including, without limitation, all permits, government approvals, technical plans and specifications, drawings, weight, proposed installation, location and power supply sources and all ancillary and related work.) (collectively the "Plans.") The Licensee shall pay for all costs incurred by the Licensor in connection with the review and supervision of the Plans and any other costs incurred by the Licensor in connection with the Site, the Services or the Equipment, plus an Administration Fee. The Licensor acknowledges and agrees that the Licensor may arbitrarily, despite the foregoing, withhold its approval to the use of the existing vertical conduits, sleeves or risers in the Shopping Centre and the Licensee will, in such event, install all separate conduits, sleeves or risers, as required by the Licensor, at the Licensee's sole cost. Within thirty (30) days after the completion of any installation, "as built" plans and specifications will be prepared by the Licensee and delivered to the Licensor.

### **Section 7.2 – Supervision**

The Licensee shall not enter or attempt access to any part of the Shopping Centre, including without limitation, the Site, the Equipment or the Shopping Centre's air ducts, electrical, mechanical or telephone systems, conduits, sleeves, risers or horizontal or vertical spaces, without forty-eight (48) hours prior written notice and the supervision of the Licensor. In the case of a bona fide emergency, the Licensee may access the Equipment provided it gives the Licensor at least one (1) hour prior notice (in writing and by telephone) and is supervised by the Licensor. The Shopping Centre's personnel or any other designated representative of the Licensor must accompany the Licensee's employees into such areas at all times and all costs of supervision of the Licensee's installation, maintenance, repair, replacement of and acceptance to the Equipment, including all professional fees, plus an Administration Fee shall be paid for by the Licensee on demand to the Licensor. Except for emergencies, no Licensee's work or Alterations shall be initiated without first delivering to the Licensor Plans in accordance with Sections 7.1 and 8.1, of the proposed work or Alterations. No oral approval of these Plans shall be deemed effective; only evidence of written

approval, which has been received by the Licensor's Shopping Centre manager, will permit access to any part of the Shopping Centre by the Licensee. No monitoring or inspection of the Licensee's work by the Licensor's representatives shall be deemed supervision of the Licensee's employees or shall be deemed to be a representation or warranty of any expertise of the Licensor's representative. The Licensee shall monitor and supervise its own employees and shall assume responsibility for the expertise and quality of their work, and shall not rely upon the Licensor for same. Except for emergencies, the Licensee shall not carry on any of its work or the installation of the Site or the Equipment during the hours of 8 a.m. to 6 p.m., Mondays through Fridays, exclusive of statutory holidays, without the Licensor's prior written consent, which consent may be arbitrarily withheld, or granted on such conditions as the Licensor may in its sole option elect.

### **Section 7.3 – Acceptance**

The Licensee acknowledges and agrees that the Licensor has no responsibility or liability to make any renovations, alterations or improvements in or to the Shopping Centre to accommodate the Licensee or the installation of the Equipment or the provision of Services. The Licensor does not represent or covenant that the Shopping Centre's base Shopping Centre systems, structural elements or any other element of the Shopping Centre are adequate for the Licensee's use.

### **Section 7.4 – Overloading**

The Licensee will not install any part of the Equipment which will exceed or overload the capacity of any base Shopping Centre systems in or serving the Shopping Centre and the Licensee will not bring into the Shopping Centre or install any utility, electrical or mechanical facility or service of which the Licensor does not approve in writing, acting reasonably. The Licensee agrees that if any part of the Equipment to be installed by the Licensee requires additional utility, electrical or mechanical facilities, or otherwise affects base Shopping Centre systems, structural elements or the roof of the Shopping Centre, the Licensor may, if they are available and not contrary to the best interests of the Tenants and the Shopping Centre in the Licensor's opinion, elect to install them in accordance with Plans to be approved in advance in writing by the Licensor. The Licensee shall pay the Licensor, upon demand, the total cost incurred by the Licensor in connection with any such installation plus an Administration Fee.

If any machinery, equipment, article or thing because of its weight, size or use brought upon the Shopping Centre by the Licensee overloads the floors or capacity of the Shopping Centre, any damage caused thereby will be repaired by the Licensor, at the Licensee's cost, plus an Administration Fee.

### **Section 7.5 – Requirement After Performance of License Work**

The Licensee shall, upon the request of the Licensor, provide the Licensor with a statutory declaration:

- (a) stating that the Licensee's work has been performed strictly in accordance with the plans and specifications approved by the Licensor and that all deficiencies (if any) which the Licensor has brought to the Licensee's attention have been corrected;
- (b) stating that there are no Secured Claims in respect of work, services and materials relating to the Licensee's work;
- (c) listing each contractor and subcontractor who did work or provided materials in connection with the Licensee's work; and
- (d) confirming the date on which the last work was performed and materials were supplied.

For modification, replacements or upgrades, the Licensee shall also provide the Licensor with a certificate of a professional engineer acceptable to the Licensor, certifying that the installation of the Equipment has been carried out in accordance with the Plans approved by the Licensor and its consultants.

### **Section 7.6 – Labour**

All Licensee's work and Alterations, modifications and upgrades will be performed by competent workers whose labour union affiliations are compatible with others employed by the Licensor and its contractors and in a good and skillful manner in accordance with the approved Plans and the Licensor's reasonable requirements.

### **Section 7.7 – Backup Power**

The Licensee acknowledges that interruptions in the supply of any services, systems or Utilities are not uncommon in Shopping Centres and the Licensee further acknowledges that any sensitive electronic Equipment in and on the Shopping Centre will be protected by the Licensee from any failure in supply or interruptions through the use of backup power supplies, surge protectors and other appropriate safety systems.

### **Section 7.8 – Licensor's Option**

The Licensor may, at its sole option, elect to install that portion of the Equipment comprised of the interconnecting cabling, wiring or conduits between the Licensed Area and a location within a Tenant's premises, provided the Licensor shall contract the services of an installing party acceptable to the Licensee, acting reasonably and designated by the Licensor as an approved contractor to install such interconnection. If the Licensor receives a warranty from the above-mentioned installing party, the Licensor shall assign such warranty to the Licensee.

## Section 7.9 – Installation of Common Telecommunication Infrastructure

- (a) Subject to Section 7.9 (b), the Licensee acknowledges and agrees that the Licensor may at its sole option, at any time during the Term of this License, or any renewal thereof, elect to install a common telecommunication infrastructure to satisfy the collective cabling, wiring or conduit requirements of all service providers and Tenants of the Shopping Centre (the "Common Telecommunication Infrastructure.") The Common Telecommunication Infrastructure shall be the sole property of the Licensor and shall be made available to all other licensees acting as telecommunications service providers operating within the Shopping Centre. The Licensor shall have the obligation to maintain, repair, replace and upgrade the Common Telecommunication Infrastructure, following its installation and activation, in order to maintain the quality of service standards dictated by the Canadian Radio-Television and Telecommunication Commission ("CRTC") and, or, any other governing body having jurisdiction in respect of the Common Telecommunication Infrastructure. The Licensor shall use all reasonable commercial efforts as a prudent Licensor to repair and, or, remedy as soon as is reasonably possible any problems that the Licensee may report to the Licensor with respect to the Licensee's use of the Common Telecommunication Infrastructure. The Licensee shall pay to the Licensor, for the connection to, and the use of, the Common Telecommunication Infrastructure, a fee (the "Common Fee,") which will be posted and applied uniformly to all licensees acting as telecommunication service providers in the Shopping Centre using the Common Telecommunication Infrastructure.
- (b) Subject to compliance with any decisions or rulings affecting the Common Telecommunication Infrastructure imposed by the CRTC and, or, any other governing body having jurisdiction, once the Common Telecommunication Infrastructure becomes active, the Licensee will not be permitted to install any further wiring, cabling, conduits or any other element of the Raceway in the Shopping Centre.
- (c) Upon the installation and activation of the Common Telecommunication Infrastructure, the Licensee shall not be obligated to use the Common Telecommunication Infrastructure, nor to pay the Common Fee for the balance of the initial Term of this License or any then existing renewal term, provided however, following the installation and activation of the Common Telecommunication Infrastructure during any renewal term thereafter the Licensee shall utilize the Common Telecommunication Infrastructure, in lieu of its Raceway, for the delivery of its Services from the Licensed Area to the Tenants of the Shopping Centre.

## ARTICLE 8 MODIFICATIONS AND IMPROVEMENTS

### Section 8.1 – Alterations

There shall be no Alterations, modifications or upgrades to the Site or the Equipment without the prior written approval of the Licensor, which approval may not be unreasonably or arbitrarily withheld. If the Licensee intends to modify or improve the Site or the Equipment, the Licensee shall notify the Licensor in writing and shall submit complete Plans and all other relevant details as may be necessary for the Licensor to make its decision. If the Licensor grants its approval in writing, the Licensee shall bear the cost of such Alterations, modifications or upgrades and all costs incurred by the Licensor in reviewing the Plans and details submitted by the Licensee, and supervising any such Alterations, modifications or upgrades, together with an Administration Fee, shall be paid forthwith by the Licensee to the Licensor. If any Alterations, modification or upgrades shall affect the infrastructure or base Shopping Centre systems of the Shopping Centre, the Licensor has the option to perform or cause same to be performed, at the sole cost of the Licensee, plus an Administration Fee.

The Licensee will not make any Alterations, modifications or upgrades to the Site or the Equipment unless the Licensee has obtained the Licensor's approval, as aforesaid and if such approval is obtained, the Licensee must meet the then current standards for the Shopping Centre and obtain all requisite government approvals. The Licensee shall, upon the expiry or termination of this License, remove all Alterations, modifications or upgrades to the Site or the Equipment in accordance with Section 6.1 of this License.

## ARTICLE 9 TRANSFER

### Section 9.1 – Transfer

- (a) The Licensee shall not be permitted to Transfer this License or any interest herein without the prior written consent of the Licensor, which consent may not be unreasonably or arbitrarily withheld.
- (b) Notwithstanding anything herein contained to the contrary, the Licensee shall be permitted to obtain financing in connection with its business undertaking, subject to the terms of this License, provided (i) the Licensee shall be responsible for all costs incurred by the Licensor (including all legal fees), together with an Administration Fee as a result thereof, (ii) the rights of the Licensor shall not be prejudiced, (iii) the Licensor shall have no obligation to any such lender, and (iv) the financing will not affect the Licensor's interest in the Shopping Centre.
- (c) Acceptance by the Licensor of Additional Costs or other payments by a Transferee is not a waiver of the requirement for the Licensor to consent to the Transfer, acceptance of the Transferee as Licensee, or a release of the Licensee from its obligations under this License.

- (d) If the Licensor transfers or disposes of all or any part of the Shopping Centre or the Licensor's interest under this License, the Licensor will be released from any obligations under this License as of the date of the transfer or disposition.
- (e) Provided the Licensee is not then in default under this License, the Licensee shall have the right to Transfer this License to an affiliate of the Licensee (an "Affiliate") (within the meaning of the *Canada Business Corporation Act*), but only so long as such company remains an Affiliate, without the consent of the Licensor, or a sale of all or a material portion of the assets of the Licensee to a reputable telecommunications service provider (the "Purchaser") whose covenant is acceptable to the Licensor, acting reasonably provided that the Licensee has given prior written notice of such Transfer to the Licensor and further provided that the Licensee and its Affiliate or Purchaser have first entered into an agreement directly with the Licensor in a form satisfactory to the Licensor, acting reasonably, whereby such Affiliate or Purchaser agrees to perform and observe each and every covenant, condition and agreement in this License on the part of the Licensee to be performed and observed.
- (f) Where the Licensee is (i) a public corporation whose shares are listed on and traded on any recognized stock exchange in Canada or the United States, or (ii) a subsidiary body corporate (as currently defined under the *Canada Business Corporations Act*) of a Public Corporation (and not the Licensee or any of its Affiliates as defined in subsection (e) above) are transferred or issues then a change in effective control of such Corporation shall not be deemed to be a Transfer.

## ARTICLE 10 LICENSOR'S RIGHTS

### Section 10.1 – Relocation of the Site and, or, Equipment

The Licensor reserves the unrestricted right for any reason, to require the Licensee to relocate the Licensed Area, the Raceway and, or, Equipment to an alternative site (the "Relocated Site") within the Shopping Centre, which is equally suitable for the Licensee's use and purposes. The Licensor will give the Licensee written notice of its intention to require the Licensee to relocate the Licensed Area, the Raceway and, or, Equipment, and the Licensee will complete such relocation at its sole cost within thirty (30) days after receipt of such written notice. The Licensee will not be required to relocate to accommodate another telecommunications carrier or service provider. The Licensee shall only be permitted to relocate the Licensed Area, the Raceway and, or Equipment in accordance with Plans, which have been approved in writing by the Licensor and in accordance with the provisions of this License. If such relocation of the Licensed Area, the Raceway and, or Equipment shall affect the base Shopping Centre systems of the Shopping Centre, the Licensor has the option to perform or cause to be performed, the relocation at the sole cost to the Licensee, plus an Administration Fee. Upon relocation, all references to the Site, the Licensed Area or the Raceway in this License will be deemed to be references amended in accordance with the Relocated Site. Notwithstanding the foregoing, in no event will the relocation of the Licensee and, or its Licensed Area, the Raceway and, or Equipment alter, modify or otherwise change any of the terms and conditions of this License.

### Section 10.2 – Control of Shopping Centre

Notwithstanding anything contained in this License to the contrary, the Licensor will have the right to control the management and operation of the Shopping Centre. In doing so, the Licensor will have, among its other rights, the right to:

- (a) temporarily obstruct or close off parts of the Shopping Centre for maintenance, repair or construction;
- (b) employ personnel, including supervisory personnel and managers for the operation, maintenance and control of the Shopping Centre, which may be managed by any person that the Licensor designates;
- (c) perform any act as, in the use of good business judgment, the Licensor determines to be advisable for the more efficient and proper operation of the Shopping Centre;
- (d) make changes or improvements to all or any part of the Shopping Centre; and
- (e) to control and manage telecommunications.

### Section 10.3 – Right of Entry

The Licensor shall have the right at any time to inspect the Site and, or, the Equipment and to make desired, permitted or required repairs, alterations, improvements or additions to any part of the Shopping Centre.

### Section 10.4 – Damage to the Shopping Centre

Despite anything to the contrary in this License if the Shopping Centre or any portion thereof is damaged, destroyed or expropriated, whether or not the Site and, or, the Equipment is affected, to such an extent that in the Licensor's opinion the repair or replacement of the Shopping Centre or any portion thereof is impractical, then the Licensor may, upon thirty (30) days prior notice to the Licensee given within ninety (90) days after the damage, destruction or expropriation, terminate this License and all payments will abate as of the effective date of the termination. If the Licensor does not terminate this License, the Licensor may rebuild or repair the Shopping Centre to the extent of its obligations under its leases for leasable premises but the rebuilt or repaired Shopping Centre may be different in configuration or design from the Shopping Centre before the damage, destruction or expropriation.

## ARTICLE 11 EXCUSABLE DELAY OR INTERRUPTION

### Section 11.1 – Excusable Delay

Save for the Licensee's obligation to pay the License Fee and the Additional Costs pursuant to this License, either Party shall be relieved from liability for non-performance due to an act of God or the public enemy, riots, labour disputes, severe weather, fire or flood. In the event of such cause for delay, the Party so affected shall take all commercially reasonable steps to avoid or remove such cause of non-performance and both Parties shall recommence performance as soon as such cause is removed or ceases.

## SECTION 12 TERMINATION

### Section 12.1 – Termination

Notwithstanding Section 12.2, but upon five (5) days prior written notice by the Licensor to the Licensee, the Licensor, may at any time during the Term of this License, at its sole and unfettered discretion, but acting reasonably, terminate this License, without any penalty, for any of the following reasons:

- (a) the gross negligence or willful misconduct of the Licensee in the performance of its rights and obligations under this License;
- (b) a second or the repeated failure on the part of the Licensee to perform in a competent manner its obligations under this License, provided the Licensee has received notice for its past failure in accordance with Section 12.2 (b) and whether or not the Licensee has cured any such failures to perform within such ten (10) day period following receipt of notice from the Licensor;
- (c) if the Licensee or any person or entity under its control or affiliated with it, whether as a partner, shareholder, lender, employee or otherwise, engages in, directly or indirectly, a business or activity whereby the rights granted under this License to the Licensee are made available to any other person or entity for profit, without the prior consent of the Licensor pursuant to Section 9.1 of this License; or
- (d) if the Licensee fails to act in the best interest of the Shopping Centre and, or, disobeys reasonable instructions or rules or regulations given by the Licensor to the Licensee in the course of carrying out the Licensee's rights and obligations under this License.

If the Licensor elects to terminate this License in accordance with this Section, the Licensee shall have thirty (30) days to vacate the Shopping Centre in accordance with the provisions of this License. The Licensee may request relief against forfeiture on any appropriate grounds or justifications.

### Section 12.2 – Right to Terminate

If,

- (a) the Licensee has failed to pay any sums due hereunder within five (5) days of the date notice of default is given; or
- (b) the Licensee fails to observe or perform any other of the terms, covenants or conditions of this License to be observed or performed by it and has failed to rectify same within ten (10) days of written notice by the Licensor (unless a longer period is reasonably required having regard for the nature of the default); or
- (c) the Licensee becomes bankrupt or insolvent or takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement or compromise; or
- (d) a receiver or a receiver and manager is appointed for all or a portion of the Licensee's property or business;
- (e) any steps are taken or any action or proceedings are instituted by the Licensee or by any other party including without limitation any court or governmental body of competent jurisdiction for the dissolution, winding-up or liquidation of the Licensee or its assets;
- (f) this License or any of the Licensee's assets are taken under any writ of execution; or
- (g) the Licensee affects or attempts to affect any Transfer of this License without the consent of the Licensor (where consent is required under this License,)

then the Licensor in addition to any other rights or remedies it has pursuant to this License or by law, shall have to the extent permitted by law, the immediate right to terminate this License and, subject to Section 6.1, unless the Licensee shall have removed the same within ten (10) days of termination, the Licensor shall have the right to remove all property of the Licensee from the Shopping Centre and such property shall be removed and sold or disposed of by the Licensor as it deems advisable or may be stored in a public warehouse or elsewhere at the cost and for the account of the Licensee, all without service of notice or resort to legal process and without the Licensor being considered guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

The Licensors right to terminate the License upon the default of the Licensee is without prejudice to its right to recover all payments required to be made under this License. Notwithstanding any termination, the Licensors shall also be entitled to recover damages from the Licensee, including, without limitation, damages for all other payments required to be made under this License by reason of this License having been prematurely terminated and the Licensors legal costs, together with an Administration Fee.

### **Section 12.3 – Legal Costs**

All legal costs incurred by the Licensors to terminate this License, to recover any amount due under the provisions of this License, or because of the breach of any other covenants herein contained on the part of the Licensee to be kept or performed, shall be paid by the Licensee to the Licensors.

### **Section 12.4 – Remedies Generally**

Mention in this License of any particular remedy of the Licensors in respect of the default by the Licensee does not preclude the Licensors from any other remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this License. No remedy shall be exclusive or dependant upon any other remedy, but the Licensors may from time to time exercise any one or more of such remedies generally or in combination, such remedies being cumulative and not alternative.

### **Section 12.5 – Non-Waiver**

No receipt of monies by the Licensors from the Licensee after the expiry or termination of this License in any lawful manner shall reinstate, continue or extend the term, or affect any notice previously given to the Licensee or operate as a waiver of the right of the Licensors to enforce the payment of all costs then due or thereafter falling due, it being agreed that after the service of a notice to terminate this License and the expiration of the time therein specified, and after the commencement of any suit, action, proceeding or other remedy, the Licensors may demand, receive and collect all monies due, or thereafter falling to judgement; and any and all such monies so collected shall be deemed payments on account of the Licensees liability therein.

### **Section 12.6 – Licensors May Cure Licensee Default**

If the Licensee defaults in the payment of money that is required under this License to be paid to a third party, the Licensors may, after five (5) days' notice to the Licensee, without assuming any obligation therefor, pay all or part of the amount payable. If the Licensee otherwise defaults under this License, the Licensors may give the Licensee at least ten (10) days' prior notice and if the Licensee does not, within such period, commence diligently and then proceed diligently to cure the default, the Licensors may perform or cause to be performed all or part of what the Licensee failed to perform. The Licensee will pay to the Licensors on demand, the Licensors expenses incurred under this Section, plus an Administration fee.

## **ARTICLE 13 NOTICES**

### **Section 13.1 – Notice**

Whenever any notice is required to be given hereunder, such notice shall be given in writing and delivered personally or by courier or facsimile or sent by certified or registered mail, return receipt requested. Notice shall be deemed to have been given at the time of receipt, if delivered personally, or by courier or confirmed facsimile, or provided postal service is not or is not expected to be interrupted, or three (3) days after mailing if sent by certified or registered mail to the addresses set out below:

- (a) if sent by the Licensors to the Licensee:

GT Group Telecom Services Corp.  
Suite 700, 20 Bay Street,  
Toronto, Ontario M5J 2N8

- (b) if sent by the Licensee to the Licensors:

#2000 – 1040 West Georgia Street,  
Vancouver, British Columbia V6E 4H1

Either Party may change the address at which it is to receive notice by giving written notice of the change to the other Party pursuant to this Article.

## **ARTICLE 14 STATUS STATEMENT, ATTORNMENT AND SUBORDINATION**

### **Section 14.1 – Status Statement**

Within ten (10) days after written request therefor by the Licensors, or in the event that upon any sale, assignment, lease or mortgage of the Shopping Centre and, or, the Lands by the Licensors, a status statement shall be required from the Licensee, and the Licensee agrees to deliver in a form supplied by the Licensors or its authorized agent, a certificate to any proposed Mortgagee or purchaser, or to the Licensors, stating (if such be the case):

- (a) that this License is unmodified and in full force and effect (or if there have been modifications, that this License is in full force and effect as modified and identify the modification agreements) or if this License is not in full force and effect, the certificate shall so state;
- (b) the Commencement Date of this License;
- (c) the date to which the Additional Costs pursuant to this License have been paid;
- (d) whether or not there is any existing default by the Licensee in the payment of any sum of money under this License, and whether or not there is any existing default by either party under this License with respect to which a notice of default has been served and if there is any such default, specifying the nature and extent thereof; and
- (e) whether there are any setoff, defenses or counter claims against enforcement of the obligations to be performed by the Licensee under this License.

#### **Section 14.2 – Attornment**

The Licensee shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage, charge, lease on sale and leaseback transaction, deed or trust of the lien resulting from any other method of financing or refinancing made by the Licensors covering the Shopping Centre and, or, the Lands, attorn to the Mortgagee, chargee, lessee, trustee, other encumbrancer or the purchaser as the Licensor under this License in return for such Mortgagee's standard non-disturbance agreement.

#### **Section 14.3 – Subordination**

This License and all of the rights of the Licensee hereunder are, and shall at all times, be subject and subordinate to any and all mortgages, trust deeds or the charge or lien resulting from any other method of financing or refinancing, or any renewals or extensions thereof, now or hereafter in force against the Lands and, or, Shopping Centre or any part thereof, and the Licensee upon request of the Licensor will subordinate this License and all of its rights hereunder in such form or forms as the Licensor may require to any such mortgages, trust deeds or the charge or lien resulting from any other method of financing or refinancing and to all advances made or hereafter to be made upon the security thereof and will, if requested, attorn to the holder thereof all in return for the lender's standard non-disturbance agreement.

#### **Section 14.4 – Attorney**

The Licensee upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of Sections 14.2 and 14.3 above as shall be requested by the Licensor. If within ten (10) business days after the date of a request by the Licensor to execute such instruments or certificates (with such factual corrections as may be necessary), the Licensee shall not have executed the same, the Licensee will be deemed to be in default of this License and the Landlord may terminate this License if the Licensee has not executed the same within five (5) days of the date notice of default is given.

### **ARTICLE 15 MISCELLANEOUS**

#### **Section 15.1 – Registration**

The Licensee will not allow or cause this License or any assignments or other documents evidencing the interest of the Licensee in this License to be registered against title to the Lands.

#### **Section 15.2 – Shopping Centre Rules**

The Licensee shall comply with all rules and regulations of the Shopping Centre as adopted and altered by the Licensor from time to time.

#### **Section 15.3 – Approvals and Licenses**

The Licensee shall, at its own cost and expense, obtain all required approvals and licenses in respect of the installation, operation, maintenance, repair, replacement and Alterations of the Site, the Equipment and the provision of the Services from all authorities having jurisdiction, and shall submit proof of such approvals and licenses to the Licensor before commencing the work to which they relate.

In making any determination, calculation, estimate, or allocation or in granting any consent or approval under this License, where reasonable, the Licensor may designate any architect, engineer, accountant or other professionals employed or retained by the Licensor, to render such determination, calculation, estimate, allocation or grant such consent or approval, and the cost thereof, plus an Administration Fee, shall be payable by the Licensee to the Licensor.

#### **Section 15.4 – Health and Environmental Hazards**

- (a) Notwithstanding anything in this License to the contrary, if required by the Licensor or any governmental agency, the Licensee will remove from the Shopping Centre any Hazardous Substances which are located, stored or incorporated in or on any part of the Shopping Centre, which the Licensee, or those for whom it is in law responsible, brings onto or generates from the Shopping Centre or which the Licensee, or those for

whom it is in law responsible, suffers of permits to be brought onto or generated from the Shopping Centre, at any time and for whatever reason (but this shall not imply any authority to bring onto or generate from the Shopping Centre, any Hazardous Substances.) The Licensee warrants and represents that the Equipment emits no amounts of radiation whatsoever. The foregoing obligation to remove Hazardous Substances will survive the expiration of the Term or earlier termination of this License.

- (b) Notwithstanding anything in this License to the contrary, if during the term of this License, the Licensor, in its sole and absolute judgment, believes that the Licensee's use of the Site on the Shopping Centre or the operation of the Equipment poses a human health hazard or environmental hazard or involves any Hazardous Substances that cannot be remediated or has not been remediated within thirty (30) days, after the Licensee has been notified thereof, then
  - (i) the Licensee shall immediately cease all operations in the Shopping Centre;
  - (ii) this License shall forthwith terminate; and
  - (iii) the Licensee shall, at the option of the Licensor remove the Equipment or any part thereof within thirty (30) days thereafter and repair all damage caused thereby, all at its sole cost.

#### **Section 15.5 – Waiver**

The waiver by either Party of any default or breach hereunder of the other Party shall not be deemed a waiver of subsequent default or breach. For any waiver to be binding it must be in writing and signed by the Party waiving such default or breach.

#### **Section 15.6 – Accord and Satisfaction**

No payment by the Licensee or receipt by the Licensor of a lesser amount than the License Fee and, or, Additional Costs herein stipulated shall be deemed to be other than an account of the earliest stipulated License Fee and, or, Additional Costs, nor shall any endorsement or statement or any cheque or any letter accompanying any cheque or payment as License Fee and, or, Additional Cost be deemed an accord and satisfaction, and the Licensor may accept such cheque or payment without prejudice to the Licensor's right to recover the balance of such License Fee and, or Additional Costs or pursue any other remedy in this License.

#### **Section 15.7 – Partial Invalidity**

If any provision(s) or portion thereof of this License shall be invalid, illegal or unenforceable, the validity, legality and enforceability of remaining provisions or severable portions thereof shall not in any way be affected or impaired thereby.

#### **Section 15.8 – Captions, Article and Section Numbers**

Captions, article numbers and section numbers used in this License are only for convenience of reference to the provisions to which such captions, article numbers and section numbers refer and shall in no way define, limit or affect the language of such provisions.

#### **Section 15.9 – Time**

The Parties agree that time shall be of the essence of this License.

#### **Section 15.10 – Grammatical Changes**

Words importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations and vice versa.

#### **Section 15.11 – Successors and Assigns**

This License shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

#### **Section 15.12 – Governing Law**

This License shall be governed by the laws in effect in the Province of British Columbia.

#### **Section 15.13 – Other**

- (a) Provisions of this License which by their sense or context are intended to survive performance by either or both Parties shall so survive the completion, expiration, termination or cancellation of this License.
- (b) This License shall not be modified except in writing and signed by the Parties.
- (c) Each Party represents that it has full power and authority to enter into and perform this License, that it knows of no impediment to its performance hereunder and that the person signing this



License on its behalf has been properly authorized and empowered to enter into this License.

- (d) During the Term of this License, neither Party may utilize the trademarks, trade names, insignia, symbols or identifications of the other Party unless it receives the prior written approval of the other Party.
- (e) The Parties agree that this License, including its Schedules, is the complete and exclusive statement of the agreement between the Parties, which supersedes any and all proposals and prior agreements, oral or written, and all other communications between the Parties relating to the subject matter of this License and its Schedules.

IN WITNESS WHEREOF, the Parties have caused this License to be executed by their duly authorized representatives as of the date and year first above written.

SIGNED, SEALED AND DELIVERED  
In the presence of:

**GT GROUP TELECOM SERVICES CORP.**

\_\_\_\_\_  
Authorized Signatory

*DIRECTOR FACILITIES*

\_\_\_\_\_  
Authorized Signatory

**GROSVENOR CANADA LIMITED**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

**ADMNS BROADMEAD INVESTMENT CORPORATION**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

**SCHEDULE "A"****LEGAL DESCRIPTION**

City of Victoria  
Parcel Identifier 017-632-641  
Lot 1 Section 8A Lake District Plan VIP53456

## SCHEDULE "D"

### DEFINITIONS

In this License, the following terms will have the following meanings:

"Additional Costs:" the meaning attributed to Section 2.2 hereto.

"Administration Fee:" 15% of the amounts to which the fee is applied.

"Alterations:" the initial installation of the Equipment and any changes thereto, from time to time, and any additions, subtractions, repairs, alterations, replacements or improvements thereto.

"Business Days:" all days except Saturdays, Sundays and Statutory holidays.

"Commencement Date:" the meaning attributed to it in Section 1.2 hereto.

"Common Elements:" the structural elements and the Facilities (a) in the Shopping Centre that, from time to time, are not designated or intended to be leased to the Tenants of the Shopping Centre, (b) in leasable premises that are provided for the benefit of the Tenants of the Shopping Centre and their employees, customers and other invitees, in common with others, or (c) designated from time to time as Common Elements by the Licensor, including any Facilities outside the Shopping Centre that serve the Shopping Centre.

"Equipment:" the equipment described in Schedule "C" hereto and shown on Schedule "B" hereto.

"Facilities:" the areas, facilities, Utilities, improvements, equipment, fixtures and installations.

"GST:" goods and services taxes, value-added taxes, multi-stage taxes, business transfer taxes or other similar taxes however they are characterized.

"Hazardous Substances:" any hazardous or toxic substances or materials including any products of waste, asbestos, urea formaldehyde foam insulation, radon gas and PCBs, or any other contaminant or pollutant, including any substance or material under any environmental law.

"Lands:" the lands described in Schedule "A" hereto.

"License:" the license set out in this Agreement.

"Licensed Area:" the space consisting of approximately Fifty (50) square feet, to be used solely for the installation of the whole or any part of the Equipment, located in the area of the Shopping Centre shown on Schedule "B" hereto.

"Mortgagee:" a creditor that holds all or part of the Shopping Centre as security, but a creditor, chargee or security holder of a Tenant is not a Mortgagee.

"Owner:" any owner of freehold or leasehold titles(s) of all or a part of the Shopping Centre, but a Tenant of leasable premises is not an Owner.

"Party:" the Licensor or the Licensee or any successor or assign of either of them as permitted hereunder.

"Plans:" the meaning attributed to it in Section 7.1 hereto.

"Prime Rate:" the annual rate of interest from time to time publicly quoted by the Licensor's bank as its reference rate of interest (commonly known as its "prime rate") for determining rates of interest chargeable in Victoria on Canadian dollar demand loans to commercial customers.

"Raceway:" a vertical and, or, horizontal space or riser, sleeve or conduit in the Shopping Centre of not more than one and one half inches (1 1/2) in diameter (unless a greater size is approved in writing by the Licensor, in accordance with the provisions of this License,) whether separately installed by the Licensee for the purpose of the installation of the Equipment in accordance with this License or forming a part of the existing risers, sleeves or conduits of the Shopping Centre as herein permitted, through which cable, as outlined in Schedule "E," (unless other materials are expressly approved in writing by the Licensor, which approval may not be reasonably or arbitrarily withheld, pursuant to the provisions of this License,) will be installed in the location shown on Schedule "B." The Raceway does not include any connections to any Tenants of the Shopping Centre.

"Released Persons:" the Licensor and any Owner or Mortgagee, and each of their respective directors, officers, employees (while in the ordinary course of their employment) and agents. In connection with any release or other exculpatory language or an indemnity in favour of the Released Persons, the Licensor is the agent or trustee of and for the benefit of the Owner, the Mortgagee and all of the directors, officers, employees and agents mentioned above.

"Relocated Site:" the meaning attributed to it in Section 10.1 hereto.

"Secured Claim:" a construction or other lien or claim, a fixed or floating charge, mortgage, security interest, debenture or other encumbrance, or a notice of any of them.

"Services:" those services listed in Schedule "F" hereto.

"Shopping Centre:" the property municipally known as Broadmead Village Shopping Centre, 777 Royal Oak Drive, Victoria, B.C. V8X 4V1 including the Lands and the structures, Shopping Centre, Common Elements, Facilities and all leaseable premises located on them from time to time.

"Site:" Licensed Area and Raceway.

"Stipulated Rate:" the annual rate of interest that is the lesser of (a) the Prime rate plus 5 percentage points and (b) the maximum rate permitted by law.

"Tenants:" any tenant or other occupant, individually or collectively, who have entered into an agreement to lease, a lease, sublease or any other occupancy agreement from time to time in the Shopping Centre.

"Term:" the term set out in Section 1.2 hereto.

"Transfer:" (a) an assignment, sale, conveyance, sublicense or other disposition, or a mortgage, charge or debenture (floating or otherwise) or other encumbrance of this License or any rights of the Licensee; (b) a parting with or sharing of any rights of the Licensee under this License Agreement; (c) a transfer or issue by sale, subscription, assignment, bequest, inheritance, operation of law or other disposition, of all or part of the shares of the Licensee or any of its affiliates (as currently defined under the *Canada Business Corporation Act*) which results in a change in the effective voting control of the Licensee; or (d) a merger, amalgamation or other similar corporate reorganization involving the Licensee. Notwithstanding anything contained herein to the contrary, a change in effective voting control of the Licensee will not be deemed to be a Transfer if the Licensee is a corporation whose shares are traded or listed on a recognized stock exchange in Canada or the United States, or an Affiliate of such Corporation.

"Transferor" and "Transferee:" have corresponding meanings.

"Utilities Charge:" the total, without duplication of : (a) the cost of power and any other utilities used in the Shopping Centre allocated to the Licensee by the Licensor in accordance with this Agreement ("Utilities;") (b) the Licensor's cost of determining the Utilities Charge, including without limitation, professional engineering and consulting fees; and (c) Administration Fee on the cost described in paragraphs (a) and (b.)

"Year:" a period of time, the first Year commencing on the Commencement Date and ending twelve calendar months after the Commencement Date. Thereafter each Year shall consist of consecutive periods of twelve calendar months.

## SCHEDULE "E"

### SITE TECHNICAL STANDARDS

#### 1. General

The location and installation of the Licensed Area, Equipment and raceway will be designated by the Licensor or by the Licensor's technical representative. These locations will be shown pursuant to Schedule "B" herein and updated no less than biannually and submitted to the Licensor by the Licensee. The Licensor or the Licensor's technical representative must approve all changes in writing. Any cable failing to meet the standards described below will be immediately removed from the Shopping Centre at the Licensee's expense.

To the extent applicable:

**The Licensee shall furnish the following to the Licensor prior to installation of any equipment:**

Site appliances.

Copies of Industry Canada licenses and construction permits.

Accurate block diagrams showing operating frequencies, all system components (active or passive) with gains and losses in dB, along with power levels.

Copies of manufacturer's equipment specifications.

Structural Engineering specifications.

City of Victoria construction permits.

Manufacturer and model number of all Telecommunications Equipment.

Type and length of cable.

The name, address and telephone number of the individual or group directly responsible for compliance with terms of this License.

**The following will not be permitted without the express written consent of the Licensor:**

Equipment which does not conform to Industry Canada Rules and Regulations.

Any equipment without Industry Canada type acceptance.

Non-continuous duty rated transmitters used in continuous duty applications.

Equipment not designed for high-density site applications.

Nickel-plated connectors.

Add-on power amplifiers.

Digital/analog abrading in exciters, unless type-accepted.

Transmitter outputs without a harmonic filter and antenna matching circuitry.

Ferrite devices looking directly at an antenna.

Active or passive devices hidden in inconspicuous locations.

Cascaded receiver multi coupler/preamps.

Hybrid equipment with different manufacturer's RF designated markings.

Equipment with crystal oscillator modules, which have not been temperature compensated.

Open rack mounted receivers and transmitters.

Change in operating frequency(ies.)

#### 2. RADIO FREQUENCY INTERFERENCE PROTECTIVE DEVICES

**In general, the following minimum specifications will apply:**

For: 30 – 88 MHz

Isolators – minimum 20 dB isolation, TX output cavity – minimum of 20 – dB rejection at + or – 5 MHz  
High power type, continuous duty for all paging transmitters

For: 130 – 174 MHz

Isolators – minimum of 30 dB with at least one bandpass cavity set to the highest insertion loss allowable.

For 220 – 222 MHz

Isolators – minimum of 30 dB with at least one bandpass cavity set to the highest insertion loss allowable.

For 406 – 512 MHz

Isolators -- minimum of 60 dB with at least one bandpass cavity set to the highest insertion loss allowable.

For 806 or greater

Isolators -- minimum of 60 dB with at least one bandpass cavity set to the highest insertion loss allowable.

It should be emphasized that the above specifications are minimum requirements. Additional protective devices may be required based upon evaluation of the following information:

Theoretical transmitter mixes, especially second and third order products.  
 Antenna location and type  
 Combiner/multi coupler configurations  
 Transmitter specifications  
 Receiver specifications  
 Historical problems  
 Transmitter to transmitter(s) or receiver(s) isolation  
 Calculated and measured level of intermod products  
 Transmitter output power and ERP  
 Spectrum analyzer measurements  
 VSWR measurements  
 Existing cavity selectivity

### 3. CABLE

- (a) Where troughs or cable trays exist, all cable must be tied and bundled at not less than 2 foot intervals.
- (b) No kinked or cracked cable
- (c) Any cable fasteners exposed to weathers must be by nylon ultraviolet resistant type, stainless steel or jacketed #16 copper.
- (d) All inside cable must be run in trays where provided.
- (e) All unused lines must be tagged at both ends showing termination points.
- (f) All transmit interconnecting cables/jumpers must be jacketed solid copper outer conductor ( ½ squared superflex or equivalent,) and not exceed 8 feet in length.
- (g) All receiver intercabling must be 100%shielded coax.
- (h) All rooftop cable must be run in trays or PVC conduit.
- (i) All AC power cords must be 3 conductor with grounding plugs.
- (j) The use of extension cords will not be allowed.
- (k) All Distribution Raceway Cable must be Teflon (or of City approved fire retardant material) jacketed type cable, and secured by either stainless steel clamps or approved equal when not run in EMT type conduit. All excess Cable is to be removed.
- (l) Each Cable or conduit shall be identified with stainless steel tags that identify it as the Licensee's at the following locations: (1) at the equipment cabinet; (2) as the line traverses the Shopping Centre on an every numbered floor; and (3) at the termination point(s.)

### 4. CONNECTORS

- (a) Must be Teflon insulated, UHF or N type or DIN, including all chassis/bullhead connectors
- (b) Must be properly fabricated (soldered if applicable) if field installed
- (c) Must be taped, butyl rubberized, taped again then "Scotchkoted" at least 4 squared onto jacket if exposed to weather
- (d) Male pins must be proper in length
- (e) Female contacts may not be spread
- (f) Connectors must be tightened mechanically and not just "hand tight"
- (g) Must be silver-plated or brass
- (h) Must be electrically and mechanically equivalent to standard OEM connectors

### 5. RECEIVERS

- 1. No RF preamps permitted in front end unless authorized by Licensor
- 2. All shields must be in place
- 3. VHF and higher must be helical resonator type front ends
- 4. Must meet manufacturer's specifications, specifically regarding bandwidth, discriminator, drift width and spurious responses
- 5. Crystal filters/preselectors/cavities must be installed in receiver ports and inputs where required

### 6. TRANSMITTERS

- (a) Must meet original manufacturer's specifications
- (b) All shielding must be in place and secure
- (c) Must have a visual indication of transmitter operation
- (d) Must be tagged with Licensee's name, equipment model number, serial number and Operating frequencies
- (e) All low level pre-driver and driver stages in exciter must be shielded
- (f) All power amplifiers must be shielded
- (g) Output power may not exceed 250 watts

### 7. COMBINERS/MULTI COUPLERS

- (a) Shall at all times meet manufacturer's specifications
- (b) Must be tuned using manufacturer's approved procedures
- (c) Must provide minimum of 80 - dB transmitter to transmitter isolation
- (d) Unused combiner ports must be terminated with the proper length shorted stubs or loads

## 8. CABINETS

- (a) All cabinets must be bonded together and grounded to the supplied ground cable
- (b) All doors must be on and closed
- (c) All non-original holes larger than one square inch must be covered with copper screen or solid metal plates

## 9. INSTALLATION PROCEDURES

- (a) Installation may take place only after the Licensor has been notified of the date and time, and only during normal working hours unless otherwise specifically authorized
- (b) Equipment may not be operated until the Licensor or the Licensor's technical representative, whose approval shall not be unreasonably withheld, has approved the installation
- (c) Equipment must remain within its designated floor space at all times

## 10. MAINTENANCE AND TUNING PROCEDURES

- (a) All external indicator lamps must be working
- (b) Equipment parameters must meet manufacturer's specifications
- (c) All cover, shield and rack fasteners must be in place and securely tightened
- (d) Local speakers must be turned off except during service

## 11. INDUSTRY CANADA LICENSING

- (a) All Industry Canada licenses must be current

## 12. INTERFERENCE DIAGNOSING PROCEDURES

- (a) The Licensee must cooperate in a timely fashion with the Licensor or the Licensor's technical representative when called upon to investigate a source of interference, whether or not it can be conclusively proven that the Licensee's equipment is involved
- (b) The Licensor or the Licensor's technical representative will provide best efforts to assist in locating and curing all interference problems as brought to the Licensor by the Licensee. If a specific interference problem as brought to the Licensor by the Licensee is found to be existing in the Licensee's equipment, then the Licensee will reimburse the Licensor for technical assistance at a rate of \$150 per hour for a 4-hour minimum, plus any reasonable expenses, plus taxes.

## 13. MISCELLANEOUS

- (a) All installations must be maintained in a neat and orderly manner
- (b) Doors to equipment and antenna spaces shall be closed and locked at all times
- (c) Access to equipment and antennas shall be by authorized personnel only, and only for purposes for installation, service or maintenance
- (d) Any back-up battery system must not generate any fumes or hydrogen or other flammable gas(es) during any stage of charging or discharging
- (e) All trash and boxes must be removed from the radio equipment room once work is complete
- (f) There is to be no storage of parts, hardware, cable or miscellaneous items within the radio equipment room or any part of the Shopping Centre or the rooftop.

## **SCHEDULE "F"**

### **SERVICES**

The services to be provided by the Licensee shall include only the following services:

#### **1. Telephone Services**

- Provision of telephone equipment
- Access to local telephone services at competitive rates
- Access to long distance services at competitive rates
- Provision of voice mail services
- Call forwarding to pagers and cellular telephones

#### **2. Data Networks and Desktop Management Services**

- Designing and setting up networks
- Connecting networks to the Licensee's networks
- Network backup
- File restoration from network backup
- File sharing services
- Printer sharing and queuing services
- Hardware and software support
- Security and access control of the network

#### **3. Internet Access and Intranet Services**

- High speed access to the internet for web browsing and e-mail services
- Provision of intranet services
- Provision of security and access control to the internet and intranet