

Bell
ABRIDGED

May 9, 2003

Delivered via e-mail (ljamieson@bumac.com)

Private and Confidential

Lakeburn Land Capital Corporation

21 St. Clair Ave. E. Suite 1300
Toronto, Ontario M4T 1L9

Dear Mr. Emad Pasha,

Re: Bell Canada Telecommunications Access and Marketing

This letter agreement (the "Agreement") provides the terms and conditions between Bell Canada and its respective affiliates (as defined in the *Canada Business Corporations Act*, as amended), employees, agents, contractors and sub-contractors (collectively, "Bell") and Lakeburn Land Capital Corporation (the "Owner") upon which Bell wishes to gain access to the planned condominium sales centre located at (please insert municipal address) and as further described in Schedule "A" (the "Sales Centre") and as applicable, access to the multi-unit dwelling building to be constructed by Owner at 85 Bloor St. E and as further described in Schedule "A" (the "Building").

Owner hereby grants to Bell throughout the Term and any Renewal Term, a right and license to enter on and gain access in, over or under the Sales Centre or Building as the case may be, and any other equipment and/or telecommunications room, the roof, existing cabling owned by the Owner, if any, which connects central riser wiring to individual units within the Building, the common elements and other common "areas of the Building or the Sales Centre to:

- (a) install, at no cost to the Owner, basic telephony equipment in the Sales Centre, to allow Bell to provide prospective condominium purchasers with access to telephone services to order Bell Services;
- (b) make Bell telephone and telecommunications services (collectively the "Bell Services") available to prospective purchasers of residential units and to deliver the Bell Services to those Residents in the Building who agreed to subscribe to applicable Bell Services;
- (c) develop and implement reasonable marketing programs to promote and sell Bell Services to prospective purchasers and Residents (the "Marketing Programs") which Programs, after registration of the Condominium, shall be subject to the approval of the Board of Directors or its property management, in writing, including but not limited to the following activities:
 - (i) conducting not more than two information meetings to inform prospective purchasers or Residents, as the case may be, of the availability of Bell Services;
 - (ii) distribution by the Owner or Bell, with the consent of the Owner, of information packages to prospective purchasers or Residents;
 - (iii) with the approval of the Owner, displaying and/or distributing information and/or advertising material regarding Bell's respective Bell Services on or within the Sales Centre or Building;
 - (iv) provision of promotional information regarding their respective Bell Services to

superintendents, property managers and other employees or agents active in the Sales Centre or Building;

(v) entering onto the Sales Centre and/or Building by Bell for the purpose of providing information, demonstrations or any other information to prospective purchasers and Residents regarding the Bell Services, but only with proper identification and at dates and times approved by the Owner or the Board of Directors all in accordance with this Agreement and the *Condominium Act*;

(d) conduct pre-installation tours and inspections of the Sales Centre and/or Building, at dates and times approved by the Owner, in order to determine the technical, operational and economic feasibility of installing Equipment (as defined below) in the Sales Centre and Building for the purpose of delivering Bell Services to prospective purchasers and Residents;

(e) install all equipment, infrastructure or otherwise, necessary and incidental to the delivery of Bell Services including, without limitation, switches, routers, racking, backboards, cabling, wiring and other networking and fibre optic equipment used to enable and distribute Bell Services (including VDSL technology but excluding television services) (the "Equipment") to the Sales Centre and to tenants, owners or Residents in the Building (collectively the "Residents"). For greater certainty Equipment excludes (1) any cabling owned by the Owner or any other third party, and (2) individual receiver - decoders, whether VDSL or otherwise, or any other equipment that can be individually addressed either electronically or manually by Bell (each an "IRD"), which will be sold or rented to Residents by Bell or any other authorized sales agent. Owner shall allow Bell to gain access to the Building, (but access to a suite shall only be with the express permission of the Resident), for the purpose of picking up any IRD no longer required by a Resident.

(f) operate, maintain, repair or replace any component forming a part of the Equipment and any other item of equipment necessary or incidental to perform its obligations under this Agreement and/or to enjoy the rights granted herein and such installation, maintenance, repair or replacement of the Equipment and any other item of equipment shall not unnecessarily impede or damage the equipment of any other service provider; and

(g) make the Bell Services generally available to Residents including such other equipment to be furnished to those Residents who agree to subscribe to applicable Bell Services.

(collectively, the "Access Terms").

In consideration of Owner granting Bell the exclusive right to market some or all of the Bell Services at or through the Sales Centre and the Building to promote Bell Services to prospective purchasers and Residents. However, nothing in this Agreement shall be construed or interpreted as granting Bell any other exclusive rights or privileges in or to the Building, particularly relating to access or installation rights to the exclusion of any other third parties.

Owner also agrees to provide to Bell, at no charge, non-exclusive access to and use of, one or more rooms or other segregated enclosed spaces (the "Equipment Space"), as needed and mutually agreed upon by the parties acting in good faith, which is suitable in all respects for the purpose of housing or storing the applicable Equipment. Upon request, Bell shall promptly provide the Owner Bell's specifications for the Equipment Space, in order that the Owner may arrange for construction of same in an efficient and cost effective manner. The Equipment Space shall have the adequate power supply and adequate natural or artificial ventilation for the proper operation of the Equipment and Bell shall promptly furnish the Owner with particulars in this regard upon request. Bell shall have reasonable and continuous access into the Building and to the Equipment Space subject to giving reasonable notice to the Owner or its building manager, property manager or superintendent, as applicable, of its intention to enter the Sales Centre or Building in order to install, operate, maintain, repair or replace the Equipment, provided that entry will be made during normal business hours except in the case of emergency.

Bell shall ensure that all Equipment is installed at its cost and expense in accordance with all relevant government requirements, including fire and building code requirements and that no construction lien will be registered on the property with respect to the installation of Equipment. Bell shall, at no cost to Owner, be responsible for the maintenance and repair of the Equipment installed by Bell during the Term and any Renewal Term, although each individual Resident may incur charges (at Bell's then applicable rates) relating to post-installation activities specific to such Resident's in-suite requirements. Bell shall provide a warranty on all work and materials constituting the in suite wiring and jacks for a period of one year from the date that the suite is substantially completed by the Owner and is transferred to the purchaser for occupancy (the "Closing Date"). Bell shall provide a warranty on all

work and materials constituting the riser wiring from the Equipment Space to the suite for a period of one year from the date of turnover of the Building to the condominium corporation. The Equipment will remain the property of Bell at all times, and will not become a fixture despite any legal principle to the contrary. Owner agrees that it has no legal or equitable ownership interest in the Equipment nor any of the items specified or reasonably contemplated by Paragraphs (a)-(g) above and shall not make any claim to the contrary.

To be clear, Bell further agrees that upon the Closing Date, the in suite cabling and jacks become the property of the suite owner. Similarly upon registration of the condominium, the cabling in the vertical risers and horizontal suite cabling will be owned by the condominium corporation save and except any unique wiring (i.e. fibre optic cabling) which Bell has installed to maintain speciality services. The Owner acknowledges that Bell has the right to maintain ownership over the distribution equipment required for their services but limits that ownership so that it does not include the (UTP) cables as described above.

Owner agrees that it has no legal or equitable ownership interest in the Equipment nor any of the items specified or reasonably contemplated by Paragraphs (a)-(g) above and shall not make any claim to the contrary, subject to subsections 22(11) and (13) of the *Condominium Act* 1998. Bell shall maintain a policy of general liability insurance in respect of personal injury contractual liability and owners' and contractors' protective insurance coverage with respect to Bell Canada's use of the Building or any portion thereof with not less than \$5,000,000.00 coverage for each occurrence involving bodily injury, death or property damage. Bell shall provide the Owner with a certificate evidencing such insurance upon request.

The Owner represents and warrants that: (1) it has full right, power and authority to enter into and perform its covenants and obligations in this Agreement; (2) it is under no obligation to a property manager, any Resident or any third party, statutory, contractual or otherwise, which could interfere with the complete performance of its covenants and obligations herein; (3) it is validly organized and existing under the name indicated on this Agreement; and (4) no rule or by-law created by the Owner is in force that would prevent or limit Bell from providing the Bell Services or conducting the Marketing Program under this Agreement.

Except as otherwise agreed in writing, Bell shall obtain and/or retain all title, ownership rights and intellectual property rights in or to all forms of intellectual property resulting from the provision of Bell Services or in connection with the Access Terms or Marketing Programs. Such intellectual property constitutes confidential information and shall be treated in accordance with the terms of this Agreement. Owner shall not use Bell's logo, trade names, trademarks, or any other intellectual property unless Owner obtains the prior written consent of Bell. Owner and Bell shall provide the other with reasonable advance notice of any public announcements or publications with respect to the general intent or existence of this Agreement or the business obtained under this Agreement and agree to obtain the other party's prior approval and incorporate the other Party's comments before release. All public announcements or publications concerning any term of this Agreement shall explicitly name or refer to Bell and the Owner.

The Owner hereby agrees that this Agreement and any information provided by Bell to the Owner herein, including, without limitation, information relating to third parties obtained through Bell, shall remain the confidential information of Bell and the Owner shall not disclose such confidential information without the prior written consent of Bell, or unless disclosure of such confidential information is compelled by judicial or regulatory process or otherwise by law or if the confidential information has been made public without any action by the Owner. For greater certainty, this provision shall not be construed to prevent the Owner from disclosing any of the terms of this Agreement to or to any third party, to the extent such disclosures is required pursuant to the *Condominium Act*, as well as to its auditors, financial and legal advisors, or to its employees, officers, directors, shareholders and affiliates on a "need-to-know" basis, or as may otherwise be required by law.

Bell agrees to perform its work in a good and workmanlike manner, and further agrees to indemnify and save the Owner, its directors, officers, servants, agents and employees harmless, on a joint and several basis, from any damage to persons or property caused by reason of the improper installation, repair or maintenance of the Equipment.

Bell shall release, save harmless and indemnify the Building Owner from and against all actions, suits, claims, damages, expenses, costs and liabilities as a result of any damage to the Building or injury to or death of any person or damage to or destruction or loss of property resulting directly from its fault or negligence in the installation, operation, maintenance or removal of equipment, from the Building or Equipment Space or that of its subcontractors, and those for whom it is responsible in law. In no event shall any party be liable to any other party for any consequential damage, economic loss, loss of profits, indirect damage or for any punitive, special or exemplary damages of any kind whatsoever.

Both Bell and Owner acknowledge and agree that this Agreement is effective as of the date last signed by both parties below and shall continue up to the registration of the condominium corporation (the Term r. This Agreement shall automatically renew for an additional term equal in duration to the Term (the "Renewal Term") unless either party notifies the other party in writing at least sixty (60) days prior to the expiration of the Term or Renewal Term, as the case may be. that it does not wish to extend the provisions of this Agreement beyond the initial Term or Renewal Term. Either party may terminate this Agreement: i) for a material breach hereof, where such breach is not cured within thirty (30) days of receipt of written notice by the other party of such breach, or ii) immediately, in the event of bankruptcy, reorganization, assignment, petition or appointment of a trustee or such other act of insolvency of the other party: This Agreement shall also be subject to the termination provisions provided in the *Condominium Act* 1998, as amended from time to time. Bell further acknowledges and agrees that following the registration of the proposed Condominium Corporation for the Building and its turnover to the unit owners, the Owner will no longer control the Building. The Building and its activities thereon will thereafter be controlled by the new Condominium Board of Directors, the Declaration, the By-Laws, Rules, etc. Accordingly, the Owner shall have no obligation to Bell regarding the Building following turnover, and Bell and the Owner shall be deemed to have released each other from any further obligations hereunder. Notwithstanding the foregoing, the newly elected Board of Directors may adopt this Agreement and assume all the rights and obligations of the Owner contained herein in which case the terms and conditions of this Agreement shall continue in full force and effect.

This Agreement is subject to all applicable federal, provincial and local laws, and regulations, ruling and orders of governmental agencies, including, but not limited to, the *Telecommunications Act*, the *Broadcasting Act*, and any amendments thereto or the Canadian Radio-Television and Telecommunications Commission (-CRTC-) and the obtaining and continuance of any required approval or authorization of the CRTC, or any other governmental body. Either party may terminate its obligations under this Agreement if ordered to do so by the final order or ruling of a court, or any governmental tribunal or agency or if any such order or ruling is inconsistent with the terms of this Agreement or would make it impractical or uneconomical for either party to carry out its obligations under this Agreement. In addition, if at any time during the Term of this Agreement, the action of a governmental agency requires modification of Bell's Services or the terms in which they are provided hereunder which is inconsistent with the terms of this Agreement or impairs Bell's ability to provide Bell's Services in a economical and technically practical fashion, Bell may terminate this Agreement upon thirty (30) days' written notice to Owner.

Owner and Bell agree that where a provision of this Agreement conflicts with a Schedule attached hereto, the provision of this Agreement shall prevail and both the Agreement and Schedules will be governed by the laws of the Province of Ontario and the applicable laws of Canada therein, excluding any conflict of laws rule or principle which might refer such construction to the laws of another jurisdiction. Any of the rights and obligations contained herein may not be assigned or transferred by Owner, without the prior written consent of Bell such consent not to be unreasonably withheld.

Should a dispute arise between Bell and Owner as to any issue hereunder, every effort will be made to resolve the dispute within ten (10) days. If resolution cannot be achieved, the dispute will be referred to the senior management of each of Bell and Owner who shall try to reach agreement within five (5) days, failing which, either party can pursue any remedy it sees fit.

This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings whether written or oral relative to the subject matter hereof. Except as otherwise specifically set forth in this Agreement, neither party makes any representation or warranty express or implied, statutory or otherwise to the other. This Agreement may not be amended or modified except by a written instrument executed by both parties.

Bell shall not register this Agreement or notice thereof on title to the Building without the prior consent of the Owner.

If you are in agreement with the foregoing terms and the attached documents, please sign and return this Agreement to Bell on before May 31,2003.

Between

Lakeburn Land Capital Corporation

and

Bell Canada

Signed on the 4th day of June, 2003

Schedule "A"

Description of Sales Centre

Municipal Description:

Description of Building

Municipal Description: 85 Bloor St. E.