

Contract No. _____

POINT OF PRESENCE LICENCE

This AGREEMENT entered into between **CT Management Corporation**, of Suite 300, 905 West Pender Street, Vancouver B.C., ("Licensor") and **GT Group Telecom Services Corp.** ("Licensee"), of 300 – 840 Howe Street, Vancouver B.C.

NOW THIS AGREEMENT WITNESSES that in consideration of the mutual promises and covenants contained in this Licence, the sufficiency of which is agreed to by the parties, the parties agree as follows:

1. PREMISES

- (a) The Licensor is the registered owner of those lands situated in the City of Vancouver, in the Province of *British Columbia*, which are municipally described as 905 West Pender St., Vancouver B.C. and described in detail in Schedule "A" (the "Lands");
- (b) There is erected on the Lands a building.
- (c) The Licensee wishes access to that portion of the Licensor's Building containing approximately 100 square feet of rentable area identified on the attached Schedule "B" (the "Premises") for use by the Licensee for installation, maintenance and operation of the Licensee's communications systems in accordance with the terms of this Licence and the Licensee wishes to have non-exclusive access to other portions of the Lands and the Building to operate the Licensee's communications systems; and;
- (d) This agreement and the attached schedules (the "Licence") contains the terms and conditions upon which the Licensor shall permit access to the Premises by the Licensee for the use by the Licensee and grant to the Licensee non-exclusive access to portions of the Lands and the Building[s].

2. TERM

The term of the Licence shall be for ten (10) years, commencing **May 1, 1999** (the "Commencement Date") and expiring **May 1, 2009** (the "Initial Term"), unless earlier terminated according to this Licence.

3. LICENCE FEE

The Licensee shall pay to the Licensor, for the licence of access to the Premises by the Licensee for use by the Licensee and for the non-exclusive access to portions of the Lands and the Building[s], an annual gross fee as set forth in schedule "C" plus all applicable government taxes (the "Licence Fee"). The License Fee shall be reviewed at the option of the Licensor at the conclusion of the second (2nd), fifth (5th) and seventh (7th) years of the Term, and if not consistent with then fair market rates payable for similar licenses in similar buildings in downtown *Vancouver*, will be revised accordingly. The Licensor shall be permitted to request that the Licensee test meter the Equipment's hydro consumption from time to time and provide the Licensor with the results. The Licensor may require the Licensee to separately meter such electrical consumption if the Licensor's estimate of the electrical consumption is higher per square foot per year than is estimated and paid by the other tenants in the Building.

4. LICENSEE'S COVENANTS

- (a) On the Commencement Date, the Licensee shall pay to the Licensor the pro-rated portion of the License Fee for the period from the Commencement Date through **April 30, 2000**. Thereafter, the Licensee shall pay to the Licensor the License Fee on or before **May 1**, for that calendar year. All License Fee payments shall be made payable to **CT Management Corp** at the following address: **Suite 300, 905 West Pender St., Vancouver B.C. V6C 1L6**.
- (b) The Licensee agrees to observe and perform all the covenants and obligations of the Licensee herein.

5. LICENSOR'S COVENANTS

- (a) Given that the parties recognize and understand the activities that take place in a co-located (if applicable) telecommunications area, the Licensor covenants with the Licensee to take such actions as it reasonably can to provide for uninterrupted access to the Premises by the Licensee and nondisturbance of the Equipment by the Licensor and those over whom the Licensor can reasonably exercise control.
- (b) The Licensor shall maintain in good order and condition the Premises and the Building, including providing, if available, access to heat, hydro and cooling, and inter building duct or conduit passageways to the extent required having regard to the Licensee's intended purpose therein. Any modifications shall be to the Licensee's account and under the approval process as described in Section 7 of this Licence.
- (c) The Licensor agrees to negotiate in good faith with the Licensee and third parties, where requested by the Licensee, for roof-top access to the Building, if available and at market, and access to any and all existing steam tunnels and underground passageways in and about the Lands.
- (d) The Licensor agrees to cooperate with Licensee in obtaining all necessary consents of the municipality, the Department of Industry Canada, the Department of Transport and other governmental authorities having jurisdiction with respect to the construction, operation, maintenance, repair and replacement of the Cable, Equipment and Trade Fixtures and to this end, provided that it is not considered confidential or private and that it is understood that this is not a Licensor cost, the Licensor will, without restricting the foregoing, execute all necessary authorizations to enable the Licensee to obtain building permits, site plan approvals, zoning and by-law amendments and to obtain the release of information with respect to the Premises, Building or Lands from any such authorities and to enable the Licensee to obtain any plans or drawings from the municipality or any architect or engineer. All costs related to the foregoing shall be borne by the Licensee.
- (e) The Licensor agrees to observe and perform all the covenants and obligations of the Licensor herein.

6. PERMISSION TO PERFORM WORK

The Licensor shall permit the Licensee, its employees, contractors and agents, in accordance with the approval process described in Section 7 and at the Licensee's sole expense, to:

- (a) install fiber optic or copper cable ("Cable") and such equipment, apparatus, fixtures and attachments within the Premises ("Equipment") as may be necessary for the Licensee to operate its communications systems; and
- (b) install Cable and such equipment, apparatus, fixtures and attachment in or on the Building and in or on the Lands ("Trade Fixtures") as may be necessary for the Licensee to operate its communications systems, electric power and communications lines, in order for the Licensee to operate its communications system. All Cable installed shall be clearly *coded* as to its purpose at each end and all appropriate points throughout the Building.
- (c) No work shall be performed prior to approval as described in Section 7.
- (d) All work shall be performed strictly in accordance with the Plans approved by the Licensor, and will comply with all applicable permits, licenses, bylaws or like requirements of municipal, provincial, federal or other applicable authorities. The Licensee shall, in performing the work, be responsible for and pay all reasonable costs related to clean-up of the Building and the Premises and reasonable security during the construction process. In addition, the Licensee shall provide the Licensor with proof of applicable insurance as required by Section 12 hereof prior to commencing such work.

7. APPROVAL PROCESS

The Licensee will submit to the Licensor, for approval by the Licensor, detailed plans of location and installations (the "Plans") of the matters contemplated in Section 6 and provide details on the anticipated contractors and their union affiliation. The Licensor will notify the Licensee within seven (7) business days, or as reasonably negotiated between the parties, whether the Plans have been approved. The approval by the Licensor shall not be unreasonably withheld, delayed or conditioned, however, it is hereby understood that the Licensor may withhold approval when the proposed installation is, in the *reasonable* opinion of the Licensor, unsightly or likely to interfere with the operations of the Building or its tenants.

8. USE BY LICENSEE AND GRANT OF ACCESS

The Licensor shall permit the Licensee, its employees, contractors and agents, at the Licensee's sole expense and in accordance with CRTD regulations, to:

- (a) use the Premises for the purposes of providing communications services to tenants and other occupants of the Building;
- (b) provide communications services to tenants and other occupants of the Building;
- (c) connect the Equipment to other equipment in the Building provided the equipment is either owned by the Licensee or appropriate permission has been granted by the owner;
- (d) in the instance of an emergency or power outage, access the Premises 24 hours per day, 365 days per year by notifying the Licensee of same at (604)688-3010. If the Licensee becomes aware of an emergency situation it shall notify the Licensor's Security Department of same at 604 685 2661. The Licensee shall file a report with the Licensor detailing the emergency and its remedy in a timely manner;
- (e) access the Premises 24 hours per day, 365 days per year, subject to the Licensor's reasonable security requirements (to that end Licensee may receive any keys or access cards required for such access), along with the right to perform installation, maintenance and subsequent service, testing, repairs, connects and/or disconnects on the Licensee's communications systems, as may be required; and
- (f) access portions of the Building and the Lands, including, but not limited to, existing risers, cables, chases, pedways, raceways and above-ceiling common areas, as may be necessary to enable the Licensee to install, use and maintain the Cable, Equipment, Trade Fixtures, interior or exterior grounding, electric power and communications lines, in order for the Licensee to operate its communications system. The Licensee shall be subject to the same rules and procedures governing work in the Building as the Licensor imposes on contractors working on or about the Building.

9. EQUIPMENT AND TRADE FIXTURES

- (a) The Licensor and the Licensee agree that the Cable, Equipment and Trade Fixtures are for the exclusive use of the Licensee and the Licensee's customers and will remain the property of the Licensee during the Term and any renewals or extensions.
- (b) The Licensee will maintain the Cable, Equipment and Trade Fixtures in proper condition and will promptly repair any damage.
- (c) Subject to the following provisions of this Section 9, all installations in the Building(s), excluding the Equipment and Cable, will remain the property of the Licensor at the expiry or earlier termination of this Agreement. In addition, the Licensor shall have the option of requiring the Cable to be left in place at the expiry or earlier termination of this Agreement, provided the Licensor so notifies the Licensee by written notice at least thirty (30) days prior to the expiration of this Agreement or within ten (10) days of termination of this Agreement where this Agreement is terminated by either party. The Equipment and Trade Fixtures may be removed by the Licensee at the expiry or earlier termination of this Agreement, and shall be removed if the Licensor so notifies the Licensee in writing.
- (d) Save to the extent the Licensee is permitted or required to leave installations, Equipment, Cable and/or Trade Fixtures in place at the expiry or earlier termination of this Agreement, the Licensee shall at its own cost and expense remove all installations, Equipment, Cable and Trade Fixtures from the Premises at the expiration or earlier termination of this

Agreement, and shall make good any damage caused to the Premises or the Building as a result of the installation or removal thereof.

- (e) If the CRTC rules, at any time, that the wire and Cable outside of the Premises shall be deemed to be the property of the Licensor, the Licensee and the Licensor agree that this Agreement shall be modified to reflect such ruling, but no such modification shall affect the obligations of the Licensee under Section 9(d) above.

10. DEFAULT BY LICENSEE

- (a) The Licensor and the Licensee agree that in the event that the Licensee fails to perform its obligations as set out in this Licence, the Licensor shall notify the Licensee of the default.
- (b) Save for unavoidable delay, the Licensee will have thirty (30) calendar days from receipt of the notice provided in Section 10(a), to remedy the default. If the Licensee does not remedy the default within such thirty (30) day period, the Licensor may immediately terminate this Licence and notify the Licensee of the termination.

11. INDEMNITY

The Licensee shall defend, indemnify and hold harmless the Licensor and its property manager and their respective affiliates, and their directors, officers, employees and agents against any and all fines, liabilities, claims, costs, expenses (including attorneys' fees), liens, demands and causes of action of any kind or nature, including without limitation any judgement, penalty, interest, charge or fee, in any way arising out of or resulting from:

- (a) any breach, violation or non-performance of any covenant, condition or agreement in this Agreement set forth and contained on the part of the Licensee to be fulfilled, kept, observed and performed;
- (b) any damage to or destruction of property, including property of the Licensee, occasioned by the operations of the Licensee's business on, or the Licensee's occupation of the Lands or the Premises, including the loss of use resulting therefrom;
- (c) injury of any nature whatsoever to person or persons, including bodily injury, personal injury, sickness, disease or death, and the resulting loss of income, arising at any time therefrom, occasioned by the operations of the Licensee's business on or the Licensee's occupation of the Lands or the Premises; or
- (d) any loss or damage including personal injury or death, against which the Licensee is required to insure hereunder or has in fact insured, whether or not the same arises as a result of the negligence or wilful act of the Licensor or those for whom the Licensor is in law responsible.

12. INSURANCE

The Licensee agrees that it shall, during the Initial Term and any renewals or extensions, purchase and maintain the following insurance at the Licensee's sole expense in such form and with such insurance companies as the Licensor shall reasonably approve:

- (a) Property Insurance on an "All Risks" policy form to the full replacement cost on Cable Equipment, Trade Fixtures, leasehold improvements and all other property owned by the Licensee. The Property Insurance shall include a clause providing a waiver of subrogation in favour of the Licensor and its property manager, and their respective directors, officers, employees, agents and those for whom they are responsible in law;
- (b) Comprehensive Boiler and Machinery Insurance of not less than \$500,000 if the Licensee operates a boiler or pressure vessel; and
- (c) Comprehensive General Liability Insurance against claims for bodily injury, including death, personal injury and property damage and loss of use thereof, arising out of the use and/or occupation of the Lands and Premises. Such insurance shall be in an amount of not less than \$5,000,000 inclusive limits and shall contain Blanket Contractual Liability, Broad Form Property Damage, Contingent Employers' Liability Cross Liability/Severability of Interest, Employees as Additional Insureds, Independent Contractors, Non-Owned Automobile and Personal Injury

endorsements and clauses. The policy shall also contain "All Risks" Tenant's Legal Liability Insurance to the extent of four times the annual License Fee.

Such policies of insurance shall not be cancelled or materially changed without the insurers providing to the Licensor and its property manager thirty (30) days prior written notice by registered mail stating when such cancellation shall be effective. Evidence of all such insurance coverage shall be provided to the Licensor within seven (7) days of the renewal of the policies and upon reasonable request.

Notwithstanding anything contained herein, in the event that any loss or damage is not fully covered by such insurance because of the existence of deductible provisions or because the amount of the loss or damage exceeds the policy limit, the Licensor shall not be liable for and the Licensee shall release and save the Licensor harmless from and against all claims for the portion of the amount of loss or damage which is not so covered.

The Licensee shall not do, permit to be done, or omit to do anything upon the Premises that shall cause or have the effect of causing the cost of insurance of the property or any part of the property to be increased, whether such insurance has been taken out by the Licensor or by any other tenant or occupant. If the insurance rate is thereby increased, the Licensee shall not store or permit to be stored upon or in the Premises anything of a dangerous, flammable or explosive nature nor anything that would have the effect of increasing the Licensor's insurance costs or of leading to the cancellation of insurance. It is agreed that if any insurance policy upon the Premises or the Building be cancelled by the insurer(s) by reason of the use and occupation of the Premises by the Licensee or by any assignee, subtenant, concessionaire or licensee of the Licensee or by anyone permitted by the Licensee to be upon the Premises, the Licensor may at its option terminate this Agreement by written notice to the Licensee, whereupon this Agreement shall forthwith terminate (notwithstanding Section 10 hereof) and the provisions of Section 9 shall apply.

13. ASSIGNMENT

- (a) The Licensor may sell, convey, assign, pledge or otherwise deal with the Building, subject only to the rights of the Licensee pursuant to this Licence, without the consent of the Licensee.
- (b) The Licensee may assign this Licence with the consent of the Licensor, which shall not be unreasonably withheld, delayed or conditioned.
- (c) Notwithstanding Section 13(b), the Licensee may assign its rights or obligations in this Licence to any affiliate or by way of security to a creditor without the consent of the Licensor, but with notice to the Licensor.
- (d) A change of control of the Licensee is considered an assignment for the purposes of this Licence and approval shall not be unreasonably withheld.
- (e) The Licensee shall remain liable for the performance of the obligations in the event that an assignment takes place. No assignment shall be effective unless the assignee enters into an agreement with the Licensor to observe and perform the obligations of the Licensee hereunder.

14. INTERFERENCE

- (a) If the operation of the Cable or Equipment is causing the electronic equipment of the Licensor or tenants of the Building to function improperly, then the Licensor will immediately notify the Licensee, and, notwithstanding Section 10, and prior rights of the Licensee, the Licensee will immediately act to rectify the situation. If the situation is incapable of being remedied or is not, in fact, remedied within a reasonable period of time (not to exceed ten (10) calendar days), the Licensor may at its option terminate this Agreement.
- (b) The Licensor agrees to immediately notify the Licensee at (604) 688-3010, if at any time the Licensor becomes aware of any occurrence or event which results in, or could be expected to result in, interference with the operation of the Licensee's communications systems, the Cable, Equipment or Trade Fixtures. And, for greater clarity, in instances of scheduled power outages, the Licensor will provide the Licensee with timely notice (as it would for any other tenant in the building) of such scheduled power outages. To this end, the Licensee requests that it be placed on any mailing and/or telephone notification lists.

- (c) If the interference referred to in Section 14 (b) is the result of the wilful act or negligence of the Licensor, its employees, contractors or agents, then, notwithstanding Section 10 and if the actions are not necessary for the proper operation of the Building assuming the Licensor is acting reasonably, the Licensor will immediately act to rectify the situation.

15. GOVERNMENT REGULATIONS

- (a) The parties to this Licence shall comply with and conform to all laws, by-laws, legislative and regulatory requirements of any governmental authority relating to the matters contemplated by this Licence. Such governmental authorities shall include but not be limited to the City of *Vancouver*, in the Province of *British Columbia*. Should any provision of this Licence be illegal or unenforceable, that provision shall be considered separate and severable from the remaining provisions of this Licence and the remaining provisions shall remain in force and be binding upon the parties. Where the Licensor incurs any cost, expense or fees arising out of a CRTC decision connected with this Licence, the Licensor shall be entitled to recover such costs from the Licensee. The Licensee shall be entitled to benefit from any and all decisions effecting this agreement.
- (b) Notwithstanding Section 15(a), should a government decision, law, bylaw or regulation, prohibit, or curtail the Licensee's commercial viability the Licensee may terminate this Licence at any time by providing the Licensor with 180 days notice.

16. NOTICE

Except in the instance of an emergency or power outage as described in Sections 8(d) and 15(b), any notice, request, demand, consent or other communication provided or permitted by this Licence shall be in writing and given by personal delivery, or sent by single-registered mail, or transmitted by facsimile, addressed to the party for which it is intended at the address on the below, provided, however, that either party may change its address for purposes of receipt of any such communication by giving ten (10) days prior written notice of such change to the other party in the manner prescribed above. Any notice so given shall be deemed to have been received on the date on which it was delivered or transmitted by facsimile,

to the Licensor at the following address:

Address: CT Management Corporation, Suite 300, 905 W Pender St., Vancouver B.C., V6C 1L6.
Attention: General Manager
Telephone: (604) 687 8882
Facsimile: (604) 687 1476

and to the Licensee at the following address:

Address: **Group Telecom Sevices Corp.**, PO Box 40, suite 300 – 840 Howe Street, Vancouver B.C., V6Z 2L2.
Attention: Corporate Secretary
Telephone: (604) 688 - 3010
Facsimile: (604) 688 - 3011

17. OPTION TO EXTEND

The Licensee has the option to extend the Licence for an additional one (1) term of five (5) years each (the "Option Term(s)"), subject to and in accordance with the following terms and conditions:

- (a) upon the same terms and conditions as are contained in this Licence, excepting the License Fee and excepting any other provisions clearly applicable only to the Initial Term. For the Option Term(s), the License Fee shall be consistent with the then market rate charged to similar communications systems providers in similar sized Building in the vicinity of the Building and in accordance with the foregoing guidelines.
- (b) The Licensee shall notify the Licensor of the Licensee's intention to exercise the Licensee's option to extend this Licence no less than six (6) months prior to the expiry of the current term.

18. SCHEDULES

The Schedules referred to in this Licence and attached herewith are deemed to be incorporated herein and includes the following:

Schedule "A"	-	"Lands"
Schedule "B"	-	"Premises"
Schedule "C"	-	"Fees"

19. GENERAL

- (a) Time is of the essence of this Licence.
- (b) This Licence, together with the schedules attached hereto, constitutes the entire agreement of the parties and supersedes all previous and contemporaneous communications, representations, understandings or agreements related to the subject matter of this Licence.
- (c) The invalidity or unenforceability of any provision of this Licence or any covenant herein contained shall not affect the validity or enforceability of any other provision or covenant herein contained and any such invalid or unenforceable provision or covenant shall be deemed to be severable.
- (d) This Licence shall be governed by and construed under the laws of the Province of *British Columbia*. The parties hereby attorn to the jurisdiction of the *British Columbia* courts.
- (e) The parties confirm that it is their wish that this Licence, as well as all other documents relating hereto, including all notices, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tout avis, qui s'y rattachent, soient rédigés en langue anglaise.

20. CENTRAL DISTRIBUTION SYSTEM AND MANAGED RISERS

The Licensee acknowledges that the Licensor may, in future, consider the installation and management of a shared central telecommunications cable distribution system ("CDS") to be used by one or more telecommunications service providers for the purpose of distributing telecommunications services throughout the Building. The Licensor may undertake this CDS on its own or may engage a third party company. The commencement date for installation of the CDS is not presently known, however, if or when this CDS is available and is deemed capable of providing equivalent services to those that the Licensee is providing under this Agreement as determined by the licensor, or its technically competent agent capable of making such determination, then the Licensor shall provide written notice to the Licensee and both the Licensee and the Licensor agree to act in good faith to negotiate a transfer of services, under reasonable terms and condition, to the CDS. The parties understand that such terms and conditions shall include, among other things: (a) that the Licensor shall charge all competitive service providers (including Licensee) a fee for each CDS cable-pair used ("CDS Fee"), and (b) that such CDS Fees shall be non-discriminatory among competitive service providers for the use of cable pair within the CDS, ordered for similar terms and in similar quantities. In the event that the parties are unable to reasonably agree to such a transfer of services to the CDS within 120 days of such notice by the Licensor, at the request of either party, the parties agree that the terms and condition of such a transfer shall be determined by a sole arbitrator who is reasonably acceptable to both parties or is appointed by the arbitration legislation in effect in the Province where the Building is located, in any event, such person shall be experienced in such matters.

IN WITNESS WHEREOF the parties hereto have executed this Licence.

LICENSOR: CT Management Corp.
Corp.

Licensee [*"TELCO"*]: GT Group Telecom Services

Name of Signatory

Name of Signatory

DIRECTOR / SECRETARY
Title
APRIL 19, 1999 Date

Vice President, Sales and Marketing
Title
Date

**GT Group Telecom Service Corp, CT Management Corp.
Licence agreement**

Schedule "A" - Lands

- A) CT Management Corp., Corporate office is known and registered as,
300 – 905 West Pender Street, Vancouver, British Columbia.

- B) The service addresses to be used by GT Group Telecom Services Corp. for the
provision of communications services to its Clients and that have been licenced under
this agreement, are as follows:
 - 1. 905 West Pender Street, Vancouver British Columbia.



**GT Group Telecom Service Corp, CT Management Corp.
Licence agreement**

Schedule "C" – Licence fees

**Grouptelecom/ CT Management Corp.
Access and space fees**

Space & equipment room fees [See schedule "B"]

Room space on 7th Floor telephone room **\$500/yr.**

1. Wall space base fee is based on 4 sq. ft. max.
2. Grouptelecom will sustain costs for facility installation, termination and improvements as required.
3. Any facility to be placed within the Bentall complex must be placed within conduit, NOT plenum.
4. The Landlord will provide access to existing in building copper at no charge to Grouptelecom until the demarcation issue is resolved by the CRTC.

Schedule A

Addressee: • CT Management Corporation

Assigned Agreements:

1. Point of Presence License Agreement between Group Telecom Services Corp. and CT Management Corporation, regarding 905 West Pender Street, Vancouver, British Columbia, dated April 19, 1999.