



NEXACOR REALTY MANAGEMENT INC.  
Real Estate Brokerage  
10032 - 103 Street  
Edmonton, Alberta  
Canada T5J 0X2

January 4, 2009

**Aspen View Public Schools**  
3600 48<sup>th</sup> Avenue  
Athabasca, AB  
T9S 1M8



Attn: Dave Holler, Director of Business Services

RE: Lease Assignment & Amending Agreement pertaining to Newbrook School,  
Newbrook, AB (the "Agreement")

Respecting is discussed and respecting a voice message to you, attached for your files is one (1) fully executed original copy of the above named Agreement.

Please contact me directly at 780-231-5547 or via email at [lloven@nexacor.ca](mailto:lloven@nexacor.ca) for any clarifications you may require in this matter.

Thank you,

**NEXACOR REALTY MANAGEMENT INC.**

Per Larry Loven  
Transaction Manager  
Licensed Real Estate Associate

FILE COPY

Voice: 780-231-5547

cc. Northgate Industries Ltd., 12345 – 121 Street, Edmonton, Alberta T2P 5H1 (via courier)

## POINT OF PRESENCE LICENSE AGREEMENT

This AGREEMENT (the "Agreement") is made as of August 10, 2004

BETWEEN: ASPEN VIEW REGIONAL DIVISION NO. 19 (the "Owner") and BELL WEST INC. (the "Operator")

WHEREAS:

- A. The Owner is the owner of the lands and all improvements thereon as more particularly described in this Agreement; and
- B. The Owner has agreed to grant to the Operator a License to install, operate, maintain, repair and replace certain communications equipment (the "Equipment"), including, without limitation, cables, conduits, connecting hardware, cabinets, racks, antenna equipment and electronic equipment, in the Owner's building as more particularly described in this Agreement (the "Building") on the terms and conditions set out in this Agreement, in order to provide access to the Government of Alberta's Alberta SuperNet network.

NOW THEREFORE, in consideration of the mutual agreements hereinafter expressed and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. **Grant of License.** Subject to the terms and conditions set forth in this Agreement, the Owner hereby grants to the Operator an exclusive License (the "License") to construct, install, operate, maintain, repair, supplement, upgrade, replace, connect and remove the Equipment on and in those portions of the Building necessary for the provision of telecommunication services (the "Services"), including, without limitation, those portions of the Building as identified in Schedule B and the roof, risers and utility closets of the Building.

2. **Term.** The term of the Agreement shall be for an initial term of five (5) years (the "Initial Term") commencing on the earlier of the first day of the month after the start of construction or November 1, 2004, (the "Commencement Date"). The Agreement may be renewed by the Operator, without notice, for three (3) consecutive five (5) year terms (each, an "Extension Term") and the provisions of the Agreement shall apply to any Extension Term except that the Rent in each Extension Term shall be equal to the Rent prevailing in the immediately preceding term changed by an amount equal to the change in the Canadian Consumer Price Index (all items) in such immediately preceding period.

3. **Rent and G.S.T.** A fee shall be paid by the Operator to the Owner (the "Fee") annually in advance beginning on the Commencement Date in the amount of one thousand five hundred dollars (\$1500.00) per annum plus any applicable G.S.T. The Owner's GST number is 140872144 RT0001

4. **Access.** The Operator and its independent contractors, agents, assigns, and authorized third parties shall be entitled to 24 hour, seven day per week use of and access to the common areas of the Building including, without limitation, the elevators, stairwells, basement, telephone closets, risers, rooftop and conduits, subject only to the Owner's reasonable security requirements, as identified in Schedule "C". Such access shall be for the purpose of providing the Services and purposes incidental thereto, including, but not limited to, constructing, installing, operating, maintaining, repairing, supplementing, upgrading, replacing, connecting and removing the Equipment, and for no other purpose.

5. **Prior Access.** The Operator and its independent contractors shall have reasonable access to the Building at any time prior to installing any Equipment to assess whether the Building is appropriate for the installation of the Equipment and the delivery of the Services. Any damage or injury to the Building caused by tests or inspections carried out by or on behalf of the Operator in respect thereto shall be promptly repaired by the Operator at its own expense.

6. **Approval of Plans.** Prior to installation of any of the Equipment, the Operator shall submit basic plans for such installation (the "Plans") to the Owner for the Owner's approval, such approval not to be unreasonably withheld or delayed. The Owner shall review and approve

the Plans (with such modifications as the Owner deems necessary) within five (5) days of receiving the Plans. Once approved, the Plans shall become a schedule to and shall form a part of this Agreement.

7. **Title to Equipment.** The Equipment shall at all times remain the sole and exclusive property of the Operator notwithstanding the attachment or affixation of any such Equipment to the Building(s) in any manner or the rule of law or equity to the contrary.

8. **Utility and Other Costs.** The utilities required for the operation of the Equipment shall be the sole responsibility of the Operator. Electrical consumption shall be determined either by: (check appropriate box)

☐ included in the rent or not applicable

☒ (X) check meter installed by the Operator with invoices from the Owner at the then applicable rates charged by the local utility or, if unavailable, by submitting to the Owner an evaluation of electrical consumption which shall be billed to the Operator at then applicable rates charged by the local utility.

9. **Non-Interference.** The Owner shall not cause or permit others to interfere with or impair the Equipment or the Operator's ability to offer the Services

10. **Termination.** The Operator may terminate this Agreement for any reason without penalty upon thirty (30) days prior written notice to the Owner. Either party may terminate this Agreement immediately if the other party is in breach of a material term or condition of this Agreement and such party does not remedy the breach to the other party's satisfaction, acting reasonably, within thirty (30) days of receiving notice thereof.

11. **Insurance.** The Operator, at its own expense, shall take out and maintain in force while this Agreement is in effect, comprehensive general liability insurance in a minimum amount of Two Million Dollars (\$2,000,000) per occurrence for injury, death or property damage arising out of the Operator's operations pursuant to this Agreement, which insurance shall contain cross liability and severability of interest clauses.

12. **Compliance with Law.** The Operator shall ensure that the installation, operation and maintenance of the Equipment comply with applicable law including, where applicable, building code, environmental law and Industry Canada and Transport Canada requirements.

13. **Indemnification.** Each party shall indemnify and hold harmless the other party and its officers, directors, employees, agents and shareholders from and against any and all costs, expenses, claims, damages, injury and losses to person or property which result from or are attributable to the unlawful or negligent use of the Building or the Equipment by such indemnifying party or its lawful representatives.

Neither party shall be responsible for any indirect or consequential damages whatsoever.

14. **No Conflict.** The Owner warrants that the rights granted hereunder do not conflict with any rights previously granted by the Owner to others.

15. **Notices.** All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be effective upon receipt, if delivered personally at the address set forth below, or, if sent by facsimile transmission, upon confirmation of delivery.

16. **Governing Law.** This Agreement shall be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

17. **Assignment by Operator.** This Agreement shall be assignable in whole or in part by the Operator without the prior written consent of the Owner.

18. **Transfers and Assignment by Owner.** The Owner shall have the right to transfer and assign, in whole or in part, all of its rights and obligations hereunder, together with all or part of its interest in the Building ~~and, in the event of a transfer of its interest in the Building, shall have the obligation to obtain the agreement of its successor in interest to assume and be bound by all of the obligations of the Owner hereunder.~~ *OK RS*

19. **Force Majeure.** Notwithstanding any other term or provision of this Agreement, neither party shall be in default under this Agreement or liable to the other for any act or failure due to or resulting from any strikes, riots, acts of God, shortages of labor or materials (not caused by the party seeking the benefit of this paragraph), war, governmental laws, regulations or restrictions or any other cause whatsoever beyond the reasonable control of such party (other than a lack of finances).

20. **Entire Agreement.** This Agreement contains all of the agreements and understandings of the parties in respect of the subject matter hereof and supersedes all prior oral or written understandings or agreements between the parties. This Agreement shall not be modified or amended, except as agreed in writing by the parties.

21. **Benefit of the Agreement.** This Agreement and the recitals hereto shall enure to the benefit of and be binding on the parties hereto and their respective heirs, representatives, successors and assigns (as the case may be).

22. **Severability.** If any term or provision of this Agreement is determined to be invalid, illegal or unenforceable in whole or in part, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable term or provision had not been contained herein.

23. **Interpretations.** Wherever necessary or appropriate in this Agreement, the plural shall be interpreted as singular, the masculine gender as feminine or neuter and vice versa; and when there are two or more persons bound by the Owner's covenants contained in this Agreement, their obligations shall be joint and several.

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

25. **Schedules.** The schedules and other documents attached or referenced in this Agreement, including, without limitation, the Schedules indicated below are an integral part of this Agreement.

- ☐ Schedule "A" – Description of the Building
- ☐ Schedule "B" – Identification of the Building
- ☐ Schedule "C" – Security Requirements

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement.

Dated this 1st day of November 2004.

OWNER: ASPEN VIEW REGIONAL DIVISION NO. 19

Per: R. Seguela  
Name:

Per: D. T. Holler  
Name: DAVE HOLLER  
Title: SECRETARY - TREASURER

I/We have the authority to bind the corporation

Contact Address: 3600 – 48<sup>th</sup> Avenue, Athabasca, AB T9S 1M8  
Attention: Chief Deputy Superintendent  
Contact Telephone: 780-675-7080  
Contact Facsimile: 780-675-3660

OPERATOR: BELLWEST INC.

Per: B. Parkinson  
Name: Bernard Parkinson  
Title: Director, Business Operations

I/We have the authority to bind the corporation Nov 1/04

Contact Address: 2100, 5 Avenue South West, Calgary, AB T2P 3Y6  
Attention: Pam Bunnin, SuperNet Leasing/Permit Manager  
Contact Telephone: 403-410-8604  
Contact Facsimile: 403-410-8978  
Courtesy Copy to Bell West Legal: 403-410-8978

**SCHEDULE "A"**

**DESCRIPTION OF THE BUILDING**

**NEWBROOK SCHOOL LOCATED IN THE HAMLET OF NEWBROOK IN THE COUNTY OF THORHILD NO. 7 IN  
THE PROVINCE OF ALBERTA AND LEGALLY DESCRIBED AS:**

**PLAN 7300KS  
LOT A**

## **SCHEDULE "B"**

### **IDENTIFICATION OF THE BUILDING**

Site Description and Sketch:

Upon approval by the Owner, the Plan shall become part of Schedule "B" hereto and shall form a part of this Agreement.

## **SCHEDULE "C"**

### **Security Requirements**

**Access to the Building by the Operator or its independent contractors, agents, assigns and authorized third parties at times other than the normal business hours shall be subject to the reasonable security procedures of the Owner. The Operator acknowledges that in the event access is required outside normal business, the Owner may assess a fifty dollar (\$50.00) call out fee, such fee shall be payable by the Operator within 45 business days.**