

SITE ACCESS LICENSE AGREEMENT

THE LICENSE dated January 22, 2009 governed by and construed under the laws of the Province of Ontario

BETWEEN

ATRIA NETWORKS LP (the "Licensee")

AND

METCALFE REALTY COMPANY LIMITED (the "Licensor")

FOR

700 Industrial Avenue (the "Building")

WHEREAS:

- A. *Mercalfe Realty Company Limited* is the registered owner of the property known as *700 Industrial Avenue, Ottawa, Ontario (the "Building")*, legally described in **Schedule "A"** including the Building and all improvements located thereon and the surrounding Lands owned by the Licensor, including all easements and right of ways in favor of the Licensor; and
- B. *The Licensor grants to the Licensee the non-exclusive right to install and maintain certain fiber optic cable and such fixtures and attachments as necessary (the "Equipment") to the Building* (collectively the "Licensed Area") to provide high speed broadband telecommunications services and facilities, subject to the terms, conditions, and provisos conditional in this License Agreement.

IN CONSIDERATION of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. TERM AND FEES

The Term ("Term") of the License shall be four (4) years, and shall commence on the 1st day of December, 2008, (the "Commencement Date") and shall terminate the 30th day of November, 2012.

The Licensee shall pay to the Licensor an annual License Fee of one thousand dollars (\$1,000.00) payable in advance in one lump sum payment on the Commencement Date, and thereafter on each anniversary of the Commencement Date of the herein License.

In addition to the annual License Fee, the Licensee shall pay the Licensor any costs reasonably incurred by the Licensor for providing additional services in connection with the installation, maintenance, removal and operation of the Licensee's Equipment and Trade Fixtures (plus the cost of the Licensor's administrative fee of 15%). Such charges may include, without limitation, the fees charged by engineers, or other experts retained by the Licensor (including the Licensor's employees) for review and approval of plans, safety and security measures, escorted access, supervision, receiving, storing and handling of materials and articles, moving of materials and articles, removal of items or substances deposited or discharged on, in or about the Licensed Area or elsewhere in the Building as reasonably determined by the Licensor from time to time.

2. LICENSE

The Licensor grants to the Licensee, its employees, contractors, agents or representatives;

- (a) the right to install and maintain certain fibre optic cable and such fixtures and attachments as necessary (the "Equipment") and to install a wall mount service distribution box with a 15A circuit in the Building in accordance with the Plans and specifications found in **Schedule "B", "B1" and "B2"** attached hereto.
- (b) at the Licensee's sole expense, access to the Building and Licensed Area, and to those areas that contain the conduit and cabling connecting the Equipment for the installation, replacement, servicing, testing, connecting, disconnecting, operating, maintaining and repairing of the Equipment, cables or points of interconnection subject to security procedures as required by the Licensor, and as amended by the

Licensor from time to time. The Licensor will provide if necessary, at the Licensee's expense, access keys, swipe cards, combinations, security escort, and such other security requirements of the Licensor that are necessary to accommodate such access, and in the case of an emergency the Licensee shall, at the Licensee's sole expense and subject to the Licensor's security procedures, have access to the Licensed Area including the Equipment, 24 hours a day, 365 days a year; and

- (c) the right to provide, on a non-exclusive basis and that for which it has been licensed, the communications services to tenants and occupants of the Building at their request and option, provided that the Licensor has approved in writing the cabling routes and areas of connection within the Building to such tenants and occupant's premises. Where possible such connections shall be through the Building's riser systems, common areas and communications room (s).

The foregoing rights shall be for the use and enjoyment of the Licensee, its' assignees, licensees and their respective employees, servants, contractors, subcontractors and agents pursuant to the License and any renewals thereof.

3. APPROVAL BY LICENSOR OF LICENSEE'S PLANS

Prior to the initial installation of the said fibre optic cable or any related equipment, apparatus, fixtures or attachments and prior to any subsequent installation or modification, the Licensee shall submit to the Licensor for its written approval, detailed plans complete with installation notes and routing schematics.

Any of the Licensee's work that may affect the structure of the base operating systems of the Building may, at the Licensor's election with prior consultation and written approval from the Licensee, be completed by the Licensor and the Licensee shall reimburse the Licensor for any reasonable costs (plus the cost of the Licensor's administration fee of 15%) of completing the work. The Licensee shall also reimburse the Licensor for the fees charged by engineers or other experts retained by the Licensor (including the Licensor's employees), for review and approval of plans and specifications for any contemplated installation or work (plus the cost of the Licensor's administration fee of 15%).

The Licensee shall provide to the Licensor on an ongoing basis, a detailed inventory of all the cabling and equipment which the Licensee has installed in the Building.

4. TRADE FIXTURES

Without limiting the generally or the foregoing, the fibre optic cable conduit and related Equipment provided by the Licensee within the Licensed Area will be deemed Trade Fixtures (the "Trade Fixtures"). Trade Fixtures will be for the exclusive use of the Licensee and will remain the property of the Licensee. All installation and maintenance of the said Trade Fixtures shall be carried out by the Licensee at its own expense and upon the termination of the License the Licensee shall be entitled to and shall remove same at its expense and, at the request of the Licensor and at the Licensee's expense, return any part of the Building affected by the installation of the said Trade Fixtures to its original condition as it existed before the commencement of this License, save and except for reasonable wear and tear.

The Licensee shall remove all unnecessary cabling and conduit upon termination of agreements with its customer(s) in the Building. If the Licensee fails to perform its obligations with respect to restoration or removal of cabling, then on not less than ten business days notice to the Licensee, the Licensor shall perform such obligation without liability to the Licensee for any loss or damage to the Licensee thereby incurred, and the Licensee shall pay the Licensor the cost thereof, plus 15% of such cost for overhead and supervision, within ten business days of receipt of the Licensor's invoice therefor.

Should the said Trade Fixtures not be removed from the Building, then the Licensee shall transfer title to any such Trade Fixtures not removed from the Building to the Building Owner and take reasonable steps including, without limitation, execution of documentation necessary to evidence the transfer of ownership of the applicable Trade Fixtures to the Building Owner.

5. UTILITIES

The Licensee shall be responsible for the payment of the power consumption for its Equipment if

said power consumption exceeds \$100.00 per year. In such event and if required by the Licensor acting reasonably, the Licensee shall, at its expense install a hydro check meter for its exclusive use. Regular readings of the hydro check meter shall be made by the Licensor, and the Licensee shall be billed and shall pay for its hydro consumption at actual cost plus an administration fee of 15%.

6. MAINTENANCE AND REPAIRS

Licensor shall repair the systems necessary for the proper operation of the Building provided that:

- (a) if all or part of such systems, facilities and equipment are destroyed, damaged or impaired, Licensor shall have a reasonable time in which to complete the necessary repair or replacement, and during that time shall be required only to maintain such services as are reasonably possible in the circumstances;
- (b) Licensor may temporarily discontinue such services or any of them at such times as may be necessary due to causes (except lack of funds) beyond the reasonable control of Licensor;
- (c) Licensor shall use reasonable diligence in carrying out its obligations under this Section, but shall not be liable under any circumstances for any consequential damage to any person or property for any failure to do so; and
- (d) no reduction or discontinuance of such services under this paragraph shall be construed as an eviction of Licensee or (except as specifically provided in this License) release of Licensee from any obligations of Licensee under this License.

7. INTERFERENCE

Should the fiber optic cable installation under the herein License cause an interference with the base Building operation of the Licensor or its Tenants then the Licensor will immediately inform the Licensee of such and the Licensee will promptly act to rectify the situation.

The Licensor agrees to use reasonable efforts to notify the Licensee if at any time it 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 Trade Fixtures.

8. GOVERNMENT RELATIONS

The Licensee shall comply, at its own expense, with all governmental laws, regulations and requirements pertaining to the installation contemplated in the herein License, the condition of the Equipment installed by or on behalf of the Licensee therein and the making by the Licensee of any repairs, changes or improvements therein;

- (i) to conduct and maintain its business and operations so as to comply in all respects with common law and with all present and future applicable federal, provincial, municipal, government or quasi-government laws, by-laws, rules, regulations, licenses, orders, guidelines, directives, permits, decisions or requirements concerning occupational or public health and safety or the environment and any order, injunction, declaration, notice or demand issued hereunder, (Environmental Laws);
- (ii) not to permit or suffer any substance which is hazardous or is prohibited, restricted, regulated or controlled under any Environmental Law to be present unless it has received the prior written consent of the Licensor.

The Licensee shall comply with and conform to all laws, by-laws, building codes, fire codes, legislative and regulatory requirements of any and all governmental authorities relating to the matters contemplated by the License including, but not limited to, the applicable rulings and decisions of the C.R.T.C. and regulations of Industry Canada.

9. INSURANCE

During the Term of this License the Licensee shall, at its own expense, provide and maintain the following insurance:

Comprehensive General Liability Insurance covering all of the Licensee's business liabilities and shall include the Licensor as an additional insured. The Limit of Liability shall not be less than Five Million Dollars (\$5,000,000.00) inclusive in any one occurrence or series of occurrences arising out of one cause.

apply in the event the Licensee is required by law to comply with the CRTC disclosure guidelines of the CRTC decision 2003-45.

25. ACCEPTANCE

This License constitutes the entire agreement between the Licensor and the Licensee and supersedes all prior arrangements and understandings whether written or oral relative to the subject matters thereof. Except as otherwise specifically set forth in this License neither party makes any representation or warranty, express or implied, statutory or otherwise to the other. The License may not be amended or modified except by a written instrument executed by both parties.


26. COUNTERPARTS

This Site Access License Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. The parties agree that executed counterparts may be transmitted by facsimile machine and that such counterparts shall be treated as originally executed instruments. Each party undertakes to provide the other with a copy of the original Agreement bearing actual signatures and initials within a reasonable time after all conditions have been waived.


IN WITNESS WHEREOF the Licensor and the Licensee have executed this License as of the date first above written.

DATED at the City of Ottawa this 9th day of February, 2009.

**LICENSOR:
METCALFE REALTY COMPANY LIMITED**


Per: 
Name: John C. McKenna
Title: Vice-President, Leasing

I have the authority to bind the corporation


Per: 
Name: Jan Hautrich
Title: Vice-President, Finance

I have the authority to bind the corporation

**LICENSEE:
ATRIA NETWORKS IP
BIRCH HILL TELECOM G.P. CORP.**

Per: 
Name: Gilles Bourgeois
Title: Manager Implementation & Maintenance

I have the authority to bind ~~the limited partnership~~ ^{the Corporation which has the authority to bind the limited partnership}

Per: 
Name: Robert Corney
Title: Manager Field Operations

I have the authority to bind the ~~limited partnership~~ ^{limited partnership which has authority to bind the limited partnership}

SCHEDULE "A"

700 INDUSTRIAL AVENUE

Legal Description

All and singular that certain parcel or tract of land and premises situate lying and being in the City of Ottawa, in the Regional Municipality of Ottawa-Carleton, and being composed of:

FIRSTLY

Parts of Lots 65, 66, 67, 68, 69, 70, 71 and 72 according to Registered Plan No. 560, formerly in the Township of Gloucester and now in the City of Ottawa, Regional Municipality of Ottawa-Carleton and designated as Parts 1, 2, 3, 4, 5, 6 and 7 on the Reference Plan deposited in the Land Registry Office for the Land Registry Division of Ottawa-Carleton (No. 5) as Plan 5R-6661; Part 1 being subject to easements more particularly described in Instruments numbered 5757, 27600 and 28065; Part 4 being subject to an easement more particularly described in Instrument No. 5757.

SECONDLY

Part of Lot 74 according to Registered Plan No. 560, designated as Parts 1, 2, 3 and 4 on a Reference Plan deposited in the Land Registry Division of Ottawa-Carleton (No. 5) as Plan 5R-6578; Parts 2, 3 and 4 being subject to easements in favour of Ontario Hydro according to Registered Instrument No. OT 5757.

