

CORPORATION OF THE TOWNSHIP OF WHITEWATER REGION

BY-LAW # 10-05-430

Being a By-Law to authorize the Mayor and CAO to execute an Agreement with Cogeco Cable Canada Inc.


WHEREAS pursuant to the Municipal Act, R.S.O. 1990 Chapter M.45, as amended, a Council may enter into agreements;


AND FURTHER that the Municipal Council for the Township of Whitewater Region deems it necessary to enter into an agreement with the Cogeco Cable Canada Inc for the utilization of space on the Township Water Tower.

THEREFORE the Council of the Corporation of the Township of Whitewater Region enacts that:

1. The Head of Council and the CAO are hereby authorized to enter into an agreement (Schedule "A") with the Cogeco Cable Canada Inc for the utilization of space on the Township Water Tower.

READ a First, Second and finally passed on the Third Reading this 19th day of May, 2010


MAYOR


CAO/CLERK

THIS INDENTURE made the 1st day of November, Two Thousand.
IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT BETWEEN:

THE TOWNSHIP OF WHITEWATER REGION

Hereinafter called the "Lessor"

OF THE FIRST PART AND

COGECO CABLE CANADA LP.

Hereinafter called the "Lessee"

OF THE SECOND PART

WITNESSETH:

1) That in consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of the Lessee to be paid, observed, and performed, the Lessor doth demise and lease unto the Lessee Part of 44 Gould Street being composed of space on the water tower of the Lessor on the said lands for the installation of a microwave equipment, hereinafter referred to as the "leased premises".

TERM:

2) TO HAVE AND TO HOLD the leased premises for and during the term of three (3) years to be computed from and inclusive of November 1, 2010 and thenceforth next ensuing and fully to be completed and ended on October 31, 2013.

RENT:

3) YEILDING AND PAYING unto the Lessor, its successors and assigns yearly and every year during the said term hereby granted, subject to the rent adjustment clause hereinafter provided, unto the Lessor the sum of Three Thousand Seven Hundred and Fifty (3,750) Dollars per annum. Payable in advance, one installment of \$3,750 each (plus applicable taxes) in October of each year during the said term,

the first payment to be made immediately for the term of November 1, 2010 to October 31, 2011.

INSURANCE:

- 4) The Lessee agrees to provide to the Lessor a certificate of insurance, showing the Lessor as a named insured and in an amount no less than \$2,000,000, to be adequately insured for all public liability and property damage.

COVENANTS OF THE LESSEE:

5) THE LESSEE COVENANTS WITH THE SAID LESSOR

- a) to pay rent;
- b) to prepare and submit to the Lessor for its approval, prior to erection, drawings and specifications pertaining to the antennas and associated equipment;
- c) to pay for the cost of electrical power supplied to the leased premises required to power the Lessee's equipment. This shall be at the discretion of the Landlord to impose as currently there is no structure in place. Any such future enactment shall not be retroactive, but rather current from such point in time.
- d) not to assign or sublet without leave, provided that the consent of the Lessor shall not be unreasonably or arbitrarily withheld;
- e) that the Lessee will, at the expiration, or other sooner termination of the said term peaceably surrender and yield up unto the Lessor and the leased premises;
- f) to observe, abide and comply with all Federal and Provincial statutes, laws, orders, and regulations, and all municipal by-laws, rules and regulations respecting the use and occupation of the leased premises, and to save harmless the Lessor from all costs, charges or damages to which the Lessor may be put or suffer by reason of the breach by the Lessee of any statutes, laws, orders, regulations, by-laws, and rules;
- g) to pay all business taxes in respect of the business carried on by the Lessee in and upon and by reason of its occupancy of the leased premises if so applicable.

COVENANTS OF THE LESSOR:

6) THE LESSOR COVENANTS WITH THE LESSEE

- a) for quiet enjoyment;
- b) that the Lessee may, at its own expense, erect and install, operate and maintain a microwave communication system including a broadcasting and receiving tower with antennas with associated cables, equipment and A.C. power source necessary for the transmission and receipt of microwave signals, provided, however, that all such fixtures, erections and equipment installed and erected by the Lessee shall not become the property of the Lessor and the Lessee shall remove such fixtures, erections and equipment upon vacating the leased premises and shall make good any damages occasioned thereby at its own expense;
- c) that the Lessee shall have the right to select a contractor or contactors of its choice to perform the work of erecting, installing and maintaining its fixtures, erections, and equipment, in, on and upon the said lands during the term of this Lease;
- d) the Lessee, its servants, agents and employees, shall have the right of access to its fixtures, erections and equipment 24 hours per day, 7 days per week throughout the entire term of this lease excepting when the leased premises are inaccessible due to acts of God, acts of the Queen's enemies, riot, military or usurped power, sabotage, vandalism, wanton or negligent acts or accidents on the part of persons not under, or by causes beyond, the control of the Lessor;
- e) to allow the Lessee access to connect the microwave equipment on the leased premises to the cables or lines of the Lessee or any party with whom the Lessee has an agreement.

PROVISIO:

7) PROVIDED AND IT IS HEREBY EXPRESSLY AGREED by and between the parties that:

- a) in the case of the water tower of the Lessor or any part thereof shall, at any time during the said term, be damaged so as to render the same unfit for the purpose of the said Lessee, then this lease shall terminate;
- b) if the Lessee duly and regularly pays the rent and performs all covenants, provisos and agreements contained herein on the part of the Lessee to be performed, the Lessor shall, at the expiration of the term hereof, on a written request of the Lessee six months prior to the termination of this Lease, grant to the Lessee, an extension of this Lease for a further period of 3 (three) years, upon the same terms as contained in this Lease save the right to a further extension and save for the rent which shall be adjusted for the period of extension.
- c) proviso for re-entry by the said Lessor on non-payment of rent or non-performance of covenants;
- d) the Lessee will indemnify and save harmless the Lessor from all liabilities, fines, suits, claims, demands, or actions of any kind or nature for which the Lessor shall or may become liable by reason of breach, violation or non-performance by the Lessee of any covenants, terms or provisions of this Lease or by reason of any injury or death resulting there from, occasioned to or suffered by any person or any property by reason of any act, neglect, or default on the part of the Lessee or any other servants, agents, or employees; such indemnification in respect of any such breach, violation or non-performance, damage to property, injury or death occurring during the term of the Lease shall survive any termination of the Lease;
- e) the Lessor shall not be liable or responsible in any way for any personal or consequential injury of any kind that may be suffered or sustained by the Lessee or any of its servants, agents, or employees, or any other person who may be upon the leased premises.

- f) 1. In the event of any dispute or disagreement between the parties hereto as to the meaning or interpretation of anything herein contained or as to the performance or non-performance by either of such parties of any of the provisions hereof or as to the respective rights and obligations of the parties hereto hereunder, or if the parties are unable to agree on an adjustment of the rate (6b), either of such parties may refer such dispute or disagreement to arbitration under the provisions of subparagraph 2.
2. Whenever the Municipal Arbitration's Act (R.S.O. 1990, C.M. 47) shall extend and apply to the Township of Whitewater Region, any reference to arbitration pursuant to the provisions of subparagraph (1) hereof shall be to the Official Arbitrator appointed under the Act and shall be governed by the provisions of the Act. At any other time the procedure upon an arbitration pursuant to the provisions of the said subparagraph shall be as follows.

Within twenty (20) days after the written request of either of the parties hereto for arbitration, each of them shall appoint one arbitrator and two so appointed, shall within twenty (20) days after the expiring of such twenty-day period select a third.

In case either of the parties hereto fail to name an arbitrator within twenty (20) days after the expiry of the first twenty-day period above mentioned, application shall be made as soon as reasonably possible to a Senior Judge of the County Court of the Judicial District of Renfrew County for the appointment of such third arbitrator. The arbitrator or arbitrators so appointed shall have the powers accorded arbitrators by The Arbitration Act (R.S.O. 1990, c.A.23) as from time to time amended or any Act in substitution therefore. The decision of the said arbitrator or arbitrators (or of a majority of such arbitrators) shall be final and binding of the parties hereto.

THIS INDENTURE and everything herein contained shall extend to and bind and ensure the benefit of the parties hereto and their respective successors and assigns.

